

Washington State Register

AUGUST 19, 1998

OLYMPIA, WASHINGTON

ISSUE 98-16



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filed not later than August 5, 1998

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 (360) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

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

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of August 1998 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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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 nine 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) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **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.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

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. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. 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].

1997 - 1998
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

<u>Issue No.</u>	<u>Closing Dates¹</u>			<u>Distribution Date</u>	<u>First Agency Hearing Date³</u>	<u>Expedited Adoption⁴</u>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS			
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
97-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9	Oct 4
97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23	Oct 18
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7	Nov 1
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21	Nov 15
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4	Nov 29
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25	Dec 20
97-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9	Jan 3, 1998
97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23	Jan 17, 1998
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998	Jan 31
98-01	Nov 26	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 27	Feb 21
98-02	Dec 10	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 10	Mar 7
98-03	Dec 24, 1997	Jan 7, 1998	Jan 21	Feb 4	Feb 24	Mar 21
98-04	Jan 7	Jan 21	Feb 4	Feb 18	Mar 10	Apr 4
98-05	Jan 21	Feb 4	Feb 18	Mar 4	Mar 24	Apr 18
98-06	Feb 4	Feb 18	Mar 4	Mar 18	Apr 7	May 2
98-07	Feb 18	Mar 4	Mar 18	Apr 1	Apr 21	May 16
98-08	Mar 4	Mar 18	Apr 1	Apr 15	May 5	May 30
98-09	Mar 25	Apr 8	Apr 22	May 6	May 26	Jun 20
98-10	Apr 8	Apr 22	May 6	May 20	Jun 9	Jul 4
98-11	Apr 22	May 6	May 20	Jun 3	Jun 23	Jul 18
98-12	May 6	May 20	Jun 3	Jun 17	Jul 7	Aug 1
98-13	May 20	Jun 3	Jun 17	Jul 1	Jul 21	Aug 15
98-14	Jun 3	Jun 17	Jul 1	Jul 15	Aug 4	Aug 29
98-15	Jun 24	Jul 8	Jul 22	Aug 5	Aug 25	Sep 19
98-16	Jul 8	Jul 22	Aug 5	Aug 19	Sep 8	Oct 3
98-17	Jul 22	Aug 5	Aug 19	Sep 2	Sep 22	Oct 17
98-18	Aug 5	Aug 19	Sep 2	Sep 16	Oct 6	Oct 31
98-19	Aug 26	Sep 9	Sep 23	Oct 7	Oct 27	Nov 21
98-20	Sep 9	Sep 23	Oct 7	Oct 21	Nov 10	Dec 5
98-21	Sep 23	Oct 7	Oct 21	Nov 4	Nov 24	Dec 19
98-22	Oct 7	Oct 21	Nov 4	Nov 18	Dec 8	Jan 2, 1999
98-23	Oct 21	Nov 4	Nov 18	Dec 2	Dec 22	Jan 16, 1999
98-24	Nov 4	Nov 18	Dec 2	Dec 16, 1998	Jan 5, 1999	Jan 30

¹All 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.

²A 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.

³At 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.

⁴A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230, as amended by section 202, chapter 409, Laws of 1997.

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;

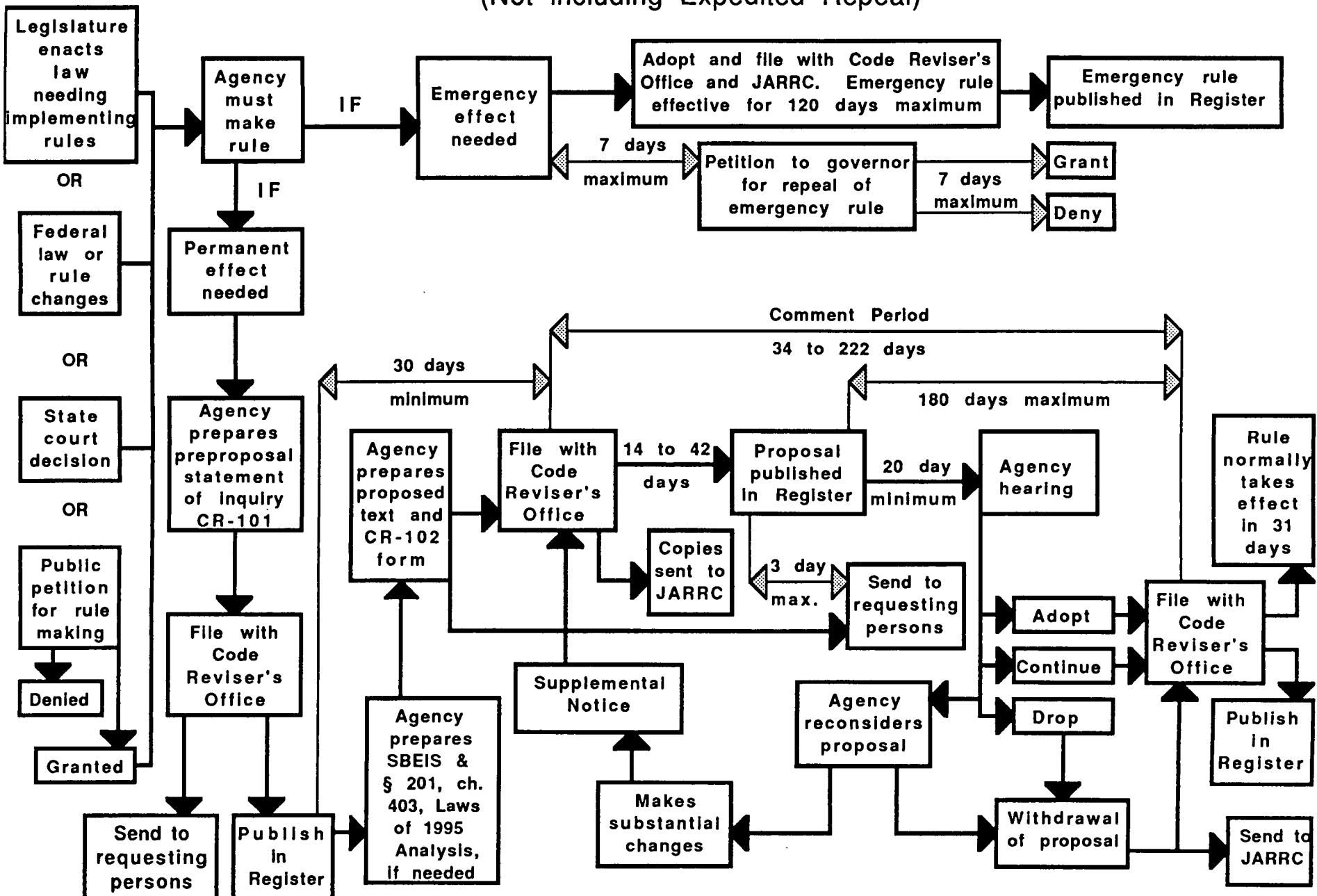
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

(Not including Expedited Repeal)



WSR 98-16-010**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed July 24, 1998, 2:26 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-150, 308-96A-201, 308-96A-207, and 308-96A-208.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.070, 46.16.135, 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

July 24, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

WSR 98-16-011**PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION**

[Commission's Docket No. UG-980962—Filed July 24, 1998, 3:20 p.m.]

Subject of Possible Rule Making: Natural Gas Pipeline Safety - examine the need to adopt existing federal rules for liquefied natural gas facilities and gas pipeline amendment by reference to bring state rules into conformity with existing federal rules. Review of rule WAC 480-93-010 pursuant to the Governor's Executive Order 97-02 on Regulatory Improvement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, chapter 450, Laws of 1985; RCW 80.04.160, chapter 14, Laws of 1961; RCW 80.28.210, chapter 210, Laws of 1969; and Federal Pipeline Safety Law, 49 U.S.C. § 60101, et seq.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission has been certified by the United States Department of Transportation - Office of Pipeline Safety (OPS). The commission has assumed jurisdiction for safety regulation of natural gas and liquefied natural gas facilities, and is therefore required to incorporate federal standards into its safety regulations in order to maintain certification under the Pipeline Safety Law, 49 U.S.C. § 60105, et seq.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The OPS is charged by federal law to regulate liquefied natural gas facilities and gas pipeline companies. OPS has certified the commission to assume that responsibility for intrastate gas facilities. The commission will contact the Department of Ecology and the Energy Facility Site Evaluation Council for their input and suggestions.

Process for Developing New Rule: Agency study; and the commission will call for written comments and provide the opportunity for comments. The commission will schedule if necessary an informal workshop with interested persons in a manner designed to develop consensus on any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 664-1160, fax (360) 586-1150. Such persons may submit comments, as specified below, or may ask to be included in the commission's list of interested persons for the proceeding.

Written Comments: Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. UG-980962, not later than August 26, 1998. All commenters are asked, but not required, to file an original and 10 copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0 or 6.1, labeled with the docket number of this proceeding, the title of the submission, the commenter's name, and the type of software used. The commission may file additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. After reviewing comments and levels of interest, commission staff will determine whether a workshop would assist in the sharing of information or the discussion of interests. Interested persons may also attend and participate in any such workshop. The commission will provide written notice of any preproposal workshops, and of all future phases of this proceeding, to all commenters and to any other persons specifically asking to receive notice in this rule-making proceeding.

July 22, 1998

Terrence Stapleton
for Carole J. Washburn
Secretary

WSR 98-16-014
**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed July 27, 1998, 1:06 p.m.]

Subject of Possible Rule Making: Chapter 468-18 WAC, State aid was changed to city/county project coordination and updated to reflect the current Washington State

Department of Transportation procedures and changes in federal regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.01.101.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarifies responsibilities for state routes in relation to city and county roadways.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dennis B. Ingham, Assistant Secretary, TransAid, Washington State Department of Transportation, P.O. Box 47390, Olympia, WA 98504-7390, (360) 705-7371, fax (360) 705-6822.

July 24, 1998

Gerald E. Smith

Deputy Secretary, Operations

WSR 98-16-015
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed July 27, 1998, 1:39 p.m.]

Subject of Possible Rule Making: Chapter 16-160 WAC, Registration of materials for organic food production.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.86.060 and 15.86.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The registration process and criteria for approving materials for organic food production needs to be updated in light of changes to national and international organic food standards.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture national organic program and the National Organic Standards Board are developing national organic standards. The department's organic food program is proposing amendments that reflect those standards.

Process for Developing New Rule: The department is developing the proposal in coordination with the Organic Advisory Board.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its amendments to the rule(s). You may comment by writing to the Washington State Department of Agriculture, Organic Food Program, P.O. Box 42560, Olympia, WA 98504-2560, or fax at (360) 902-2087, or e-mail organic@agr.wa.gov. Comments should be made by September 30, 1998.

July 22, 1998
Candace Jacobs, DVM
Assistant Director

WSR 98-16-016
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed July 27, 1998, 1:41 p.m.]

Subject of Possible Rule Making: Chapter 16-154 WAC, Organic crop production standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.86.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The organic crop production standards need to be updated in light of changes to national and international organic food standards.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture national organic program and the National Organic Standards Board are developing national organic standards. The department's organic food program is proposing amendments to the organic crop production standards that reflects those standards.

Process for Developing New Rule: The department is developing the proposal in coordination with Organic Advisory Board.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its amendments to the rule(s). You may comment by writing to the Washington State Department of Agriculture, Organic Food Program, P.O. Box 42560, Olympia, WA 98504-2560, or fax at (360) 902-2087, or e-mail organic@agr.wa.gov. Comments should be made by September 30, 1998.

July 22, 1998
Candace Jacobs, DVM
Assistant Director

WSR 98-16-022
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed July 28, 1998, 9:24 a.m.]

Subject of Possible Rule Making: AASA is reviewing those portions of Washington Administrative Code, chapters 388-15 and 388-17 WAC, that pertain to the provision of social services for disabled adults. Specifically, portions of chapter 388-15 WAC to be reviewed consist of WAC 388-15-120, 388-15-145, 388-15-194, 388-15-203 through 388-15-206, 388-15-500 through 388-15-568, 388-15-580, and 388-15-690 through 388-15-810. All sections of chapter 388-17 WAC will be reviewed. This review may result in the repeal or amendment of existing rules or the adoption of new rules that affect AASA services. A full list of rules under review may be requested by contacting the individual listed below.

Statutes Authorizing the Agency to Adopt Rules on this Subject: General statutory authority is derived from RCW 74.04.015, 74.04.050, 74.04.057, 74.04.200, and 74.08.090.

Specific statutory authority will be provided for each rule filing that follows from this review.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In compliance with the Executive Procedures Act, Executive Order 97-02, and the (DHS) Secretary's Order on Regulatory Improvement, AASA will assure, through this review, that the above cited rules are written in a simple, clear, effective style, targeted to the intended audience; developed through a public process, involving clients, vendors, advocates, government agencies and other interested parties; streamlined and consolidated to the extent possible; and repealed to the extent that they are not needed for effective program operation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Health Care Financing Administration, Social Security Administration, Office of the Attorney General, Department of Health, Department of Services for the Blind, Department of Veteran's Affairs, Health Care Policy Board, Department of Community, Trade and Economic Development, Governor's Committee on Disability Issues and Employment, Developmental Disabilities Planning Council, Long-Term Care Ombudsman and other administrations within the Department of Social and Health Services. AASA to work with all other affected agencies: Include them in mailings, invite meeting participation regarding these rule changes and any other rule development activities. When possible, opportunities to collaborate will be published in the Washington State Register and posted on agency Internet pages.

Process for Developing New Rule: As described in detail in AASA's regulatory improvement review plan, AASA will seek the opinion of all stakeholders as to which of the above cited rules should be considered for repeal or revision. Based on public input and priorities outlined in the Order on Regulatory Improvement, AASA will set a schedule for in-depth review of the rules selected. If warranted, AASA will then convene stakeholder workgroups around topic areas to develop recommendations. Upon determining proposed WAC changes, AASA will implement the agency's official rule-making process, including scheduled, formal and informal meetings to allow for advisory committee and public input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tom Kearns, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 493-2544, TTY (360) 493-2637, fax (360) 438-8633, e-mail tkearns@dshs.wa.gov.

July 24, 1998

Edith M. Rice, Chief
Office of Legal Affairs

WSR 98-16-023

PREPROPOSAL STATEMENT OF INQUIRY

HIGHER EDUCATION COORDINATING BOARD

[Filed July 28, 1998, 10:06 a.m.]

Subject of Possible Rule Making: Graduate fellowship program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.10.883.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Legislation in 1998 (SSB 6727) provided a new source of appropriated funds for the graduate fellowship trust fund. This bill was signed by the governor and is effective June 11, 1998. The public four-year higher education institutions have requested a revised distribution system for the available funds.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Consulted with public four-year institutions who will be receiving this award.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patricia Mosqueda, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, (360) 753-7863, Pattym@hecb.wa.gov.

July 27, 1998

Patricia Mosqueda
Policy Associate

WSR 98-16-024

PREPROPOSAL STATEMENT OF INQUIRY

HIGHER EDUCATION COORDINATING BOARD

[Filed July 28, 1998, 10:08 a.m.]

Subject of Possible Rule Making: Distinguished professorship program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.10.869.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Legislation in 1998 (SSB 6727) provided a new source of appropriated funds for the distinguished professorship trust fund. This bill was signed by the governor and is effective June 11, 1998. The public four-year higher education institutions have requested a revised distribution system for the available funds.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Consulted with public four-year institutions who will be receiving this award.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patricia Mosqueda, 917 Lakeridge

Way, P.O. Box 43430, Olympia, WA 98504-3430, (360) 753-7863, Pattym@hecb.wa.gov.

July 27, 1998
Patricia Mosqueda
Policy Associate

scribe and/or regulate fees are clear, up-to-date, economically viable, and structured to serve public demands.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The state Parks and Recreation Commission has sole jurisdiction over the rules being reviewed.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To request additional information or to comment in writing contact Pam McConkey, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8595, fax (360) 586-5875, e-mail pamm@parks.wa.gov.

July 30, 1998

Jim French

Senior Policy Analyst

WSR 98-16-033

PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed July 30, 1998, 11:42 a.m.]

Subject of Possible Rule Making: Chapter 352-65 WAC, Boating safety program approval.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.12.385, 88.02.040, 43.51.400, and 43.52.050 [43.51.050].

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To rewrite the rules for clarity and to provide for distribution of unallocated vessel registration funds consistent with current practice. The expected results include: Achieving better compliance by improving greater local government understanding of the rule and provide for equitable distribution of unallocated vessel registration funds.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The state treasurer releases funds to approved boating safety programs based upon notification by state parks that the county has an approved program.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Public comments are encouraged. To comment in writing or request additional information, contact James Horan, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, e-mail jamesH@parks.wa.gov, phone (360) 902-8580, fax (360) 753-1594.

July 30, 1998

Jim French

Senior Policy Analyst

WSR 98-16-035

PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed July 30, 1998, 11:46 a.m.]

Subject of Possible Rule Making: Chapter 352-64 WAC, The state boating safety grant and contract program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.51.400.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To rewrite the rules for clarity and to streamline the process of awarding funding for boating safety programs including; boating safety education, information, and law enforcement programs. The expected results include: Reduction of staff, advisory committee, commissioner and applicant time committed to the grant evaluation process and increased emphasis on recruiting and funding priority programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Funds awarded by the commission for boating safety programs include federal funding from the aquatic resources trust fund, boating safety account. State parks coordinates with the managing federal agency, the United States Coast Guard, through an annual federal funding application and cooperative program agreement.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Public comments are encouraged. To comment in writing or request additional information, contact James Horan at Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8580, fax (360) 753-1594.

July 30, 1998

Jim French

Senior Policy Analyst

WSR 98-16-034

PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed July 30, 1998, 11:45 a.m.]

Subject of Possible Rule Making: Chapter 352-32 WAC, Public use of state park areas.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.51 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is conducting a review of this chapter to ensure that those sections that pre-

WSR 98-16-054**PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC DISCLOSURE COMMISSION**

[Filed August 3, 1998, 11:07 a.m.]

Subject of Possible Rule Making: Soliciting or accepting contributions during the legislative session freeze period.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During a legislative session and the thirty days before and after session as well as during any special session, RCW 42.17.710 prohibits a state official or a person employed by or acting on behalf of a state official from soliciting or accepting contributions to a public office fund, a candidate or candidate's authorized committee or to retire a campaign debt.

In September of 1997, the Washington Supreme Court issued a decision interpreting this statute. On December 9, 1997, the commission adopted, on an emergency basis, an amendment to WAC 390-17-400 implementing the court's decision. That amendment expired in April of 1998. The commission will, in the near future, determine whether a permanent rule is warranted. The rule would clarify the court's finding that caucus political committees may solicit or accept contributions during a legislative freeze period so long as those contributions are not used to benefit incumbent officials or individuals who become candidates during the freeze period.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The commission is expected to discuss whether to move forward with permanent revisions to WAC 390-17-400 at its meeting on August 25, 1998, and public comment will be welcome at that time.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission Assistant Director Vicki Rippie at P.O. Box 40908, Olympia, WA 98504, 711 Capitol Way, Room 403, (360) 586-4838, fax (360) 753-1112, e-mail pdc@wln.comm. A public hearing on any proposed change will likely occur on Tuesday, October 27, 1998. Public testimony will be welcome at that time, or written comment may be submitted by October 16, 1998, for consideration at the hearing.

July 30, 1998
Melissa Warheit
Executive Director

WSR 98-16-062**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**
(Board of Hearing and Speech)

[Filed August 3, 1998, 4:46 p.m.]

Subject of Possible Rule Making: Procedure for processing requests for waiver of the required hearing instrument fitter/dispenser apprenticeship training.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.35.040 and 18.35.161.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A rule would provide the Department of Health and the Board of Hearing and Speech with direction in the adjudication and processing of applications for hearing instrument fitter/dispensing licensing in which the applicant is requesting the apprenticeship training requirements be waived.

Process for Developing New Rule: The board and program will work closely with the profession and consumer groups in developing rules. A public work group was held to provide an opportunity for public input. The board promoted participation from the professional associations for hearing instrument fitter/dispensers and audiologists. Further input has been requested from members of the public who attended the public work groups. From these efforts draft language will be developed and shared for on-going direction from interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Diane Young, Program Manager, Board of Hearing and Speech, 1300 Quince Street S.E., P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 753-1817, fax (360) 586-7840.

July 8, 1998

Delores E. Spice
Executive Director

WSR 98-16-063**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed August 3, 1998, 4:48 p.m.]

Subject of Possible Rule Making: There is a need to implement the 1998 legislation to mandate continuing competency requirements for the counseling professions (chapter 246-810 WAC) of certified marriage and family therapists, certified mental health counselors, and certified social workers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: SSB 6550.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This effort will establish continuing competency requirements which has been mandated by the 1998 legislation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Collaborative rule making. Develop in consultation with stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tonya G. Stauffer, Department of

Health, Counselor Programs, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 664-3004, fax (360) 753-0739.

July 22, 1998

K. Van Gorkom
Deputy Secretary

writing contact Pam McConkey, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8595, fax (360) 586-5875, e-mail pamm@parks.wa.gov.

August 4, 1998

Jim French

Senior Policy Analyst

WSR 98-16-068

PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed August 4, 1998, 1:40 p.m.]

Subject of Possible Rule Making: Wind/sand sailing on ocean beaches, chapter 352-37 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.51.040(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently this activity is prohibited in state parks except under special permit. State parks would like the opportunity to allow this recreational activity under certain circumstances.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To request additional information or to comment in writing contact Pam McConkey, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8595, fax (360) 586-5875, e-mail pamm@parks.wa.gov.

August 4, 1998

Jim French
Senior Policy Analyst

WSR 98-16-069

PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed August 4, 1998, 1:43 p.m.]

Subject of Possible Rule Making: Flying of remote controlled aircraft in state parks, chapter 352-32 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.51.040(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently this activity is prohibited in state parks. State parks would like the opportunity to allow this recreational activity under certain circumstances.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The FAA may have rules and/or regulations regarding the use of recreational remote controlled aircraft and will be included on our contact list.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To request additional information or to comment in

WSR 98-16-071

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed August 4, 1998, 3:15 p.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-335, 308-56A-340, 308-56A-345, 308-56A-350, 308-56A-355, 308-56A-360, and 308-56A-365.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

August 4, 1998

Nancy Kelly, Administrator
Title and Registration Services

WSR 98-16-072

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed August 4, 1998, 3:17 p.m.]

Subject of Possible Rule Making: Chapter 308-93 WAC, Vessel registration and certificate of title, to include but not limited to WAC 308-93-520, 308-93-530, 308-93-540, 308-93-550, 308-93-560, 308-93-570, 308-93-580, 308-93-590, and 308-93-600.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.070, 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

August 4, 1998

Nancy Kelly, Administrator
Title and Registration Services

WSR 98-16-073

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed August 4, 1998, 3:17 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-205, 308-96A-206, and 308-96A-220.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.070, 46.16.135, 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

August 4, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

WSR 98-16-074

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed August 4, 1998, 3:18 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licensing, including but not limited to WAC 308-96A-100, 308-96A-105, 308-96A-106, 308-96A-110, 308-96A-120, 308-96A-135, 308-96A-136, and 308-96A-145.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.16.276, 46.16.600, 46.01.110, 43.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

August 4, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

WSR 98-16-082

PREPROPOSAL STATEMENT OF INQUIRY CENTRAL WASHINGTON UNIVERSITY

[Filed August 5, 1998, 8:58 a.m.]

Subject of Possible Rule Making: Parking and traffic regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12) and 28B.10.528.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: So the rules accurately reflect the increased rates approved by the board of trustees, eliminate unnecessary language, and clarification and simplification of rules.

Process for Developing New Rule: Administrative review.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jill M. Orcutt, Rules Coordinator, President's Office, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7501.

July 31, 1998

Ivory V. Nelson
President

WSR 98-16-084

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Filed August 5, 1998, 9:41 a.m.]

Subject of Possible Rule Making: Modify forest practices rules, chapter 173-202 WAC, to incorporate new public resource protection requirements. Probable categories of rule making include riparian protection for fish-bearing and non-

fish-bearing streams; SEPA policies; water typing; wetlands; Class IV-Special; roads; slope stability; pesticides; small landowner issues; enforcement; monitoring; adaptive management; watershed analysis. (Note: Chapter 173-202 WAC adopts language by reference from Title 222 WAC.)

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040, [76.09.]050, chapter 34.05 RCW, and RCW 43.21C.060, [43.21C.]120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Modifications to forest practices rules are needed to better protect Washington's public resources and to implement the policies of the Forest Practices Act and SEPA. The goals of the forestry module negotiations being conducted by timber, fish and wildlife participants are: (1) To provide compliance with the Endangered Species Act for aquatic and riparian-dependent species; (2) to restore and maintain riparian habitat on state and private forest lands to support a harvestable supply of fish; (3) to meet the requirements of the Clean Water Act for water quality on state and private forest lands; and (4) to keep the timber industry economically viable in Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State: Forest Practices Board, Department of Natural Resources, Department of Fish and Wildlife.

Federal: Environmental Protection Agency, National Marine Fisheries Service, United States Fish and Wildlife Service, United States Forest Service.

Process for Developing New Rule: Agency study; and timber, fish and wildlife participants may bring a consensus rule proposal to the board. See above. This process is similar to negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending comments to Doug Rushton, Forest Practices Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6180, fax (360) 407-6426, e-mail DRUS461@ecy.wa.gov.

August 5, 1998
Steven M. Carley
for Megan White
Program Manager

WSR 98-16-089
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)
[Filed August 5, 1998, 10:24 a.m.]

Subject of Possible Rule Making: The department is adding electronic benefit transfer as a method of delivering cash and food assistance benefits to public assistance clients. The department will be amending rules in chapter 388-412 WAC and any other related rules that describe methods of delivering these benefits to include electronic benefit transfer.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.510, 74.08.370, 74.08.090, 74.04.050, 74.05.055, and 74.04.057.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clients currently receive cash by warrants and food assistance by food coupons or food coupon authorizations (FCA). The department will now issue benefits by electronic benefit transfer as well. Warrants will continue to be issued in certain circumstances. However, food coupons and FCA will be eliminated.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The Department of Social and Health Services welcomes the public to take part in developing the rule(s). Anyone interested in participating should contact the staff person indicated below. After the rule(s) is drafted, the Department of Social and Health Services will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Betty Brinkman, Program Manager, WorkFirst Division, 1009 College Street S.E., Lacey, WA 98504, (360) 413-3091, fax (360) 413-3482.

August 4, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 98-16-090

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)
(Division of Child Support)
[Filed August 5, 1998, 10:25 a.m.]

Subject of Possible Rule Making: Amendment to WAC 388-14-490, removing the exemptions from employer reporting, and providing that the employer may comply with employer reporting program by filing a copy of the employee's W-4 form.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 26.23.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under the former version of RCW 26.23.040, employers assigned certain standard industrial classification (SIC) codes were exempt from the requirements of the employer reporting program. The federal requirements for employer reporting mandate that Washington state remove those exemptions and require every employer to report new hires. However, for employer convenience, the Division of Child Support will accept a copy of the employee's W-4 form as sufficient information under the employer reporting program.

Process for Developing New Rule: Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) Headquarters as soon as possible. DCS will post information regarding this rule development project and others on its web site, which can be found at www.wa.gov/dshs/dcs/csrc.html, or on the DSHS Economic Services Administration's regulatory improvement web site, which can be found at www.wa.gov/dshs/esarules. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the DCS Rules Coordinator, Nancy Koptur, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, fax (360) 664-5055, TTY/TDD (360) 664-5011, e-mail nkoptur@dshs.wa.gov.

August 4, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 98-16-094

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed August 5, 1998, 10:38 a.m.]

Subject of Possible Rule Making: New section WAC 180-08-007 Scheduled review of rules, at least once every three years, the State Board of Education shall review all rules adopted under Title 180 WAC, and the related authorizing statutes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.04 [34.05] RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A scheduled review of state board rules will assure timely review and, as needed and necessary, updating of regulatory provisions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

August 4, 1998

Larry Davis
Executive Director

WSR 98-16-095

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed August 5, 1998, 10:39 a.m.]

Subject of Possible Rule Making: WAC 180-27-056 Funding during the period of a priority approval process order by State Board of Education.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Adopting the proposed rule change will allow the state board to release funds based on cash balance which is in line with capital budget proviso language. This allows more funds to be distributed to school districts than under the current rule.

The Objective of the Rule: The existing rule limits release of state funds for school construction to a revenue formula based on fund balance. The proposed rule amendment would allow the calculation to be based on a cash balance which would allow a higher release amount.

Whether Changes to Other Rules or Statutes Would Achieve the Same Objective: No.

How the Provisions of the Proposed Rule will be Coordinated with Other Rules in the Agency and Rules of Other State Agencies, Local Governments, and the Federal Government: Agency staff will assure that calculations of matching fund release is in accordance with capital budget conditions.

Whether the Agency has Chosen a Reasonable, Cost-Effective Manner to Achieve the Regulatory Objective: RCW 28A.525.020 cites the statutory authority allowing the State Board of Education to approve/disapprove rule changes which deal with changes in K-12 school construction. This action, along with selected agency staff directed to review and draft possible new or amended rule changes to WAC for state board approval, is the current process which is followed.

The Anticipated Environmental and Fiscal Consequences of Adopting and Not Adopting the Proposed Rule, Recognizing the Difficulty of Quantifying Some Consequences: There are no environmental consequences to this rule amendment. Adopting the proposed rule change will allow the state board to release funds based on cash balance which is in line with capital budget proviso language. This allows more funds to be distributed to school districts than under the current rule.

If a Rule Proposed in Order to Comply with Federal Law Contains Significant Differences from a Comparable Federal Rule or Standard, or if a Proposed Rule Provides Differences in Application to Public and Private Entities, Provide a Written Analysis Explaining the Nature of the Differences, Evaluating Their Consequences and Providing a Rationale for Adopting the Rule as Drafted: N/A.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Rules are coordinated with the Office of the Superintendent of Public Instruction.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

August 4, 1998

Larry Davis
Executive Director

WSR 98-16-096
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed August 5, 1998, 10:41 a.m.]

Subject of Possible Rule Making: WAC 180-77-122 Appeal procedures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of the proposed amendment is to clarify existing provisions and repeal unnecessary wording.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

August 3, 1998

Larry Davis
Executive Director

WSR 98-16-097
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed August 5, 1998, 10:42 a.m.]

Subject of Possible Rule Making: WAC 180-77A-170 Program area studies.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment ensures that individuals completing programs in marketing education will be able to plan and implement a marketing education program that follows national and state guidelines.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

August 3, 1998

Larry Davis
Executive Director

WSR 98-16-098
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed August 5, 1998, 10:44 a.m.]

Subject of Possible Rule Making: Chapter 180-16 WAC, State support of public schools; chapter 180-78A WAC, Approval standards for performance-based preparation programs for teachers, administrators, and educational staff associates; chapter 180-79A WAC, Standards for teacher, administrator, and educational staff associate certification; new chapter 180-82 WAC, Certificate endorsements and assignment of certificated personnel; and chapter 180-85 WAC, Continuing education requirement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130 (1) and (2), 28A.410.010, 28A.150.220(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendments to these rules will (1) do one or more of the following, as deemed appropriate: make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules, and (2) eliminate the instructional specialist certificate and expand the conditional certificate, and (3) allow for national certification as qualification for certification as a school psychologist, and (4) revise policies and requirements for endorsements on teacher certificates, and (5) establish rules for the renewal of the professional teacher certificate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA

98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

August 3, 1998

Larry Davis
Executive Director

lification by sending comments to Judith Holter, Forest Practices Board, Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1412, fax (360) 902-1784, e-mail forestpractices.board@wadnr.gov.

August 5, 1998

Jennifer M. Belcher
Commissioner of Public Lands

WSR 98-16-099

PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed August 5, 1998, 10:47 a.m.]

Subject of Possible Rule Making: Modify forest practices rules (Title 222 WAC) to incorporate new public resource protection requirements. Probable categories of rule making include riparian protection for fish-bearing and non-fish-bearing streams; SEPA policies; water typing; wetlands; Class IV-Special; roads; slope stability; pesticides; small landowner issues; enforcement; monitoring; adaptive management; watershed analysis.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040, [76.09.]050, chapter 34.05 RCW, and RCW 43.21C.060, [43.21C.]120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Modifications to forest practices rules are needed to better protect Washington's public resources and to implement the policies of the Forest Practices Act and SEPA. The goals of the forestry module negotiations being conducted by timber, fish and wildlife participants are: (1) To provide compliance with the Endangered Species Act for aquatic and riparian-dependent species; (2) to restore and maintain riparian habitat on state and private forest lands to support a harvestable supply of fish; (3) to meet the requirements of the Clean Water Act for water quality on state and private forest lands; and (4) to keep the timber industry economically viable in Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State: Department of Ecology, Department of Fish and Wildlife.

Federal: Environmental Protection Agency, National Marine Fisheries Service, United States Fish and Wildlife Service, United States Forest Service.

Others: Indian tribes, counties, environmental community, large and small landowners.

Process: Timber, fish and wildlife participants (including all of the above agencies and groups) have been negotiating the forestry module, conceptual elements of improved protection for public resources since November 1997. They are attempting to reach consensus to deliver a proposed rule package to the Forest Practices Board. Should consensus not be reached, the Department of Natural Resources will develop rules for the board to propose.

Process for Developing New Rule: Agency study; and timber, fish and wildlife participants may bring a consensus rule proposal to the board. See above. This process is similar to negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before pub-

WSR 98-16-101

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UT-980083—Filed August 5, 1998, 11:22 a.m.]

Subject of Possible Rule Making: The commission proposes to expand its initial inquiry into its processes regarding applications for registration, petitions for competitive classification, filing of price lists, and withdrawal and revocation of registration for telecommunications companies. The commission's expanded inquiry also would reexamine the appropriate public policy considerations to effect essential consumer protections in its regulation of telecommunications companies doing business in Washington state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 80.04.160, and chapter 337, Laws of 1998.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission previously noticed its intention to explore integrating parts of the application process which may reduce burdens on the process of entry and increase ease in compliance, and to conduct a review of rules pursuant to Executive Order 97-02. In the expanded inquiry, the commission additionally will consider the need for stricter consumer protection standards to assure adequate safeguards exist to prevent abuse of customers by regulated companies.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study; and the commission will ask for initial written comments, and will provide the opportunity to make additional comments if appropriate. The commission may schedule one or more workshops with industry representatives to develop consensus regarding any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, (360) 664-1174, fax (360) 586-1150. Such persons may submit comments, as specified below, or may ask to be included in the commission's list of interested persons for the proceeding.

Written Comments: Written comments in response to the expanded CR-101 inquiry may be filed with the secretary, referencing Docket No. UT-980083, not later than August 28,

1998. All commentors are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0, or 6.1, labeled with the docket number of this proceeding and the commentor's name and type of software used. The commission may offer additional opportunities to provide written comments. The commission may schedule a workshop style meeting if comments indicate that such a session is appropriate.

August 5, 1998
Terrence Stapleton
for Carole J. Washburn
Secretary

WSR 98-16-102**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed August 5, 1998, 11:28 a.m.]

Subject of Possible Rule Making: Chapter 260-44 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Conform to nationally accepted uniform rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study; and Association of Racing Commissioners International.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Batson, Executive Secretary, Washington Horse Racing Commission, 7912 Martin Way, Suite D, Olympia, WA 98506, phone (360) 459-6462, fax (360) 459-6461.

August 5, 1998
Bruce Batson
Executive Secretary

NO EXPEDITED REPEALED FILED IN THIS ISSUE

EXPEDITED REPEAL



WSR 98-15-035
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed July 8, 1998, 8:10 a.m.]

Original Notice.

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

Title of Rule: Amending WAC 356-05-055 Board, 356-05-210 Law enforcement personnel, 356-05-375 Scheduling plan, 356-05-390 Seniority, 356-05-477 Washington general service, 356-06-003 Scope, 356-06-020 Exemptions, 356-06-040 Classified service, 356-06-050 Exempt service, 356-06-080 Powers—Duties of the board, 356-06-100 Director—Powers—Duties, 356-06-110 Federal preemption—Fair Labor Standards Act, 356-06-120 Americans with Disabilities Act of 1990—Federal and state preemption, 356-07-030 Description and location of departmental organization, 356-07-040 General method of operation, 356-09-040 Affirmative action program—Responsibilities—Department of personnel, 356-10-020 Classification plan—Revision, 356-10-045 Employee appointment status—Lateral reallocation, 356-10-050 Employee appointment status—Upward reallocation, 356-10-060 Allocation—Request for review, 356-14-010 Compensation plan—General provisions, 356-14-026 Salary surveys—Application—Indexing, 356-14-031 Compensation plan—Adoption, 356-14-045 Salaries—Comparable worth, 356-14-070 Salary—Limits, 356-15-020 Work period designations, 356-15-130 Special pay ranges, 356-15-125 Assignment pay provisions, 356-18-050 Sick leave credit—Purpose—Accrual—Conversion, 356-22-180 Examination—Oral examining panel, 356-22-220 Veterans preference in examinations, 356-22-230 Examinations—Noncompetitive, 356-26-030 Register designation, 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements, 356-30-143 Intergovernmental mobility, 356-30-260 Probationary period—Provisions—Status of employee, 356-30-320 Trial service—Reversion—Status, 356-34-090 Protests—Requirements for applicants, examinees, and eligibles, 356-34-100 Agency hearings—General provisions, 356-34-260 Appeals—Correction of rating, 356-37-010 Board hearings—Procedure—Record, 356-37-020 Prehearing procedures—Exhibits, 356-37-030 Filing of pre-hearing statements, 356-37-040 Scheduling of hearings, 356-37-070 Ethical conduct before the board, 356-37-080 Service of process, 356-37-130 Quashing, 356-37-140 Orders for discovery, 356-37-150 Proof of charges, 356-37-160 Prehearing conference, 356-39-020 Human resource development—State-wide philosophy/definition, 356-39-060 Human resource development planning, 356-39-080 Review of agencies' human resource development reports, 356-42-010 Membership in employee organization, 356-42-020 Determination of bargaining unit, 356-42-055 Arbitration—Grievance—Procedure, 356-42-080 Unfair labor practice, 356-42-082 Filing unfair labor practice charge, 356-42-083 Investigation of and disposition of unfair labor practice charges, 356-42-084 Answer to complaint—Unfair labor practice, 356-42-085 Amendment of complaint or answer—Unfair labor practice, 356-42-086 Hearing—Unfair labor practice, 356-42-088 Hearings and investigation—Unfair labor practice, 356-42-089 Enforcement—Unfair labor practice, 356-42-100

Impasse arbitration, 356-42-105 Requests for arbitration, 356-46-030 Disclosure of political, religious affiliations—Prohibited, 356-46-060 Agencies—Personnel and payroll records, 356-46-125 Drug testing—Limitations—uses, 356-49-010 Inter-system employment—Purpose, 356-49-020 Application of rules, 356-49-030 Eligibility—Definition, 356-49-040 Intersystem movement, 356-56-010 Application of rules, and 356-56-035 Definitions; new WAC 356-05-178 Higher education system or higher education rules, 356-05-198 Institutions of higher education, and 356-05-358 Related boards; and repealing WAC 356-06-060 Personnel board—Composition—Appointment, 356-06-070 Personnel board—Procedure—Quorum, 356-06-090 Director—Appointment—Removal, 356-14-015 Salary and fringe benefit surveys—Requirements, 356-14-021 Salary and fringe benefit survey plans—Intentions—Content, and 356-14-035 Compensation plan submittal—Intentions—Content.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These rules are for clarification and are housekeeping in nature.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are for clarification and are housekeeping in nature.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 1998, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 1, 1998

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 84-17-042 (Order 209), filed 8/10/84)

WAC 356-05-055 Board. The ((state)) Washington personnel resources board.

NEW SECTION

WAC 356-05-178 Higher education system or higher education rules. The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW and exclusively under those chapters of Title 251 WAC that are adopted by the board.

NEW SECTION

WAC 356-05-198 Institutions of higher education. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

AMENDATORY SECTION (Amending WSR 90-03-044 (Order 337), filed 1/16/90, effective 3/1/90)

WAC 356-05-210 Law enforcement personnel. Employees who meet the Fair Labor Standards Act requirements for the section 7(K) special exemption as described and limited by chapter 29, Code of Federal Regulations, sections 553.211 and 553.212, and who are designated as law enforcement work period designation by the ((personnel)) board.

NEW SECTION

WAC 356-05-358 Related boards. The state board for community and technical colleges; and such other boards, councils, and commissions related to institutions of higher education as may be established.

AMENDATORY SECTION (Amending WSR 84-17-042 (Order 209), filed 8/10/84)

WAC 356-05-375 Scheduling plan. A series of schedules, approved for specific positions by the director of personnel or the ((personnel)) board, through which schedules the incumbents move in an established pattern.

AMENDATORY SECTION (Amending WSR 98-06-012, filed 2/20/98, effective 4/1/98)

WAC 356-05-390 Seniority. A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the ((personnel resources)) board or the director. Service in positions brought under the jurisdiction of the ((personnel resources)) board or the director by statute is counted as though it had previously been under the jurisdiction of the ((personnel resources)) board.

Leaves of absence granted by agencies and separations due to reduction in force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is approved for the reasons cited in WAC 356-18-220(2), or statutes require it be credited. Time spent off the state payroll due to reduction in force will be credited for that period of time the employee is eligible to be placed on the reduction in force register, for a maximum of three years for each reduction in force occurrence. Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(26), WAC 356-06-055 and 356-30-330. Time spent under the jurisdiction of the higher education personnel rules will be added when the employee comes under the jurisdiction of the ((personnel resources)) board through the provisions of WAC 356-49-040. The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or the deceased veteran's spouse as defined in WAC 356-05-470.

AMENDATORY SECTION (Amending WSR 94-04-011, filed 1/21/94, effective 3/1/94)

WAC 356-05-477 Washington general service. The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW and exclusively under those chapters of Title 356 WAC that are adopted by the ((Washington personnel resources)) board.

AMENDATORY SECTION (Amending WSR 93-19-147 (Order 432), filed 9/22/93, effective 10/23/93)

WAC 356-06-003 Scope. The provisions of these rules shall apply to all personnel under the jurisdiction of chapter 41.06 RCW except those exempted under the provisions of WAC 356-06-020. These rules and the compensation and classification plans adopted hereunder shall continue to apply as before and shall not be used interchangeably with those adopted under the former higher education civil service law (chapter 28B.16 RCW). Further, these rules and compensation and classification plans shall continue to apply as before until such time as the ((Washington personnel resources)) board has had adequate time to review and consider changes to the existing rules and plans.

AMENDATORY SECTION (Amending WSR 95-19-054, filed 9/15/95, effective 10/16/95)

WAC 356-06-020 Exemptions—((Exceptions)). ((With the exceptions noted in subsection (19) of this section the provisions of these rules do not apply to:

(1) Members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature.

(2) Judges of the supreme court, of the superior courts or of the inferior courts or to any employee of, or position in the judicial branch of, state government.

(3) Officers, academic personnel and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board.

(4) Employees of the state printing office.

(5) The officers of the Washington state patrol.

(6) Elective officers of the state.

(7) The chief executive officer of each agency.

(8) In the departments of employment security and fisheries, the director and the director's confidential secretary.

(9) In the department of social and health services, the secretary, the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors and one confidential secretary for each of the above named officers; not to exceed six bureau directors and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: *Provided*, That each such confidential secretary must meet the minimum qualifications for the class of secretary as determined by the state personnel board.

(10) In all departments except those mentioned in subsection (8) above, the executive head of which is appointed by the governor, the director, the director's confidential secretary, and the statutory assistant directors.

(11) In the case of a multimember board, commission or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or otherwise chosen.

(a) All members of such boards, commissions or committees.

(b) If the members of the board, commission or committee serve on a part time basis and there is a statutory executive officer:

(i) The secretary of the board, commission or committee.

(ii) The chief executive officer of the board, commission or committee.

(iii) The confidential secretary of the chief executive officer of the board, commission or committee.

(e) If the members of the board, commission or committee serve on a full time basis:

(f) The chief executive officer or administrative officer as designated by the board, commission or committee.

(g) The confidential secretary to the chairman of the board, commission or committee.

(d) If all members of the board, commission or committee serve ex officio:

(h) The chief executive officer.

(i) The confidential secretary of such chief executive officer.

(12) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state.

(13) Assistant attorneys general.

(14) Commissioned and enlisted personnel in the military service of the state.

(15) Resident, student, part time or temporary employees, and part time professional consultants as defined by the state personnel board to include:

(a) State and local officials serving ex officio and performing incidental administrative duties in the programs of the agency.

(b) Part time local health officers.

(c) Persons employed on a part time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties.

(d) Part time or temporary employees who are enrolled as full time students in recognized educational institutions and whose employment is largely to provide training opportunity, and all temporary employees not in federal grant aid programs.

(e) Patient and resident help in the covered institutions.

(f) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director of personnel to be equivalent.

(g) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol.

(16) All officers and employees in those commissions made exempt by legislative action, namely:

(a) Washington state fruit commission.

(b) Washington state apple commission.

(c) Washington state dairy products commission.

(d) Washington state wheat commission.

(e) Officers and employees of any commission formed under the provisions of chapter 15.66 RCW.

(f) Agricultural commissions formed under the provisions of chapter 15.65 RCW.

(17) Up to a total of five senior staff positions of the Western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit.

(18) In the department of information services, up to twelve positions in the planning component involved in policy development and/or senior professionals.

(19) Up to five employees of the Washington basic health plan.

(20) Executive assistants, for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law.

(21) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency head.

(22) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing after proper notice, on requests

PROPOSED

~~submitted pursuant to this subsection. If the personnel board determines that the position for which exempting is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty seven for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature all exemptions granted under this subsection and subsections (20) and (21) of this section, together with the reasons for such exemptions.~~

~~(23) While other provisions of these rules do not apply, the personnel board shall determine salaries and fringe benefits of incumbents in all exempt positions in agencies with positions under the jurisdiction of the personnel board, other than positions listed under subsections (5) through (8), (11)(a) and (b), and (12) through (16) of this section.)~~

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, employees of technical colleges, and state institutions of higher education, and the state board for community college education;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer

or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;

(aa) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045 (2)(m);

(2) In addition to the exemptions specifically provided by this chapter, the board may provide for further exemptions pursuant to the following procedures. The governor or other

appropriate elected official may submit requests for exemption to the board stating the reasons for requesting such exemptions. The board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the board shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v), (y), (z), and (2) of this section, shall be determined by the board. However, beginning with changes proposed for the 1997-99 fiscal biennium, changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 80-04-025
(Order 142), filed 3/14/80)

WAC 356-06-040 Classified service. Positions subject to these rules are in the classified service and will be designated by the ((personnel)) board as competitive or noncompetitive.

(1) The competitive service includes positions in classes for which a competitive examination is required prior to appointment.

(2) The noncompetitive service includes those unskilled, seasonal and temporary classes or positions for which the ((personnel)) board has determined ranked registers to be impracticable.

(3) The director of personnel may at any time review the duties and requirements of any class or position to determine the practicality of competitive examinations and after such studies, present to the ((personnel)) board for determination, the proper inclusion or exclusion from the noncompetitive service.

(4) No positions in agencies designated as grant-in-aid, will be included in the noncompetitive service except those positions that need not meet the federal merit system standards or positions which can be placed in the noncompetitive service according to the federal merit system standards.

AMENDATORY SECTION (Amending WSR 84-11-091
(Order 204), filed 5/23/84, effective 9/1/84)

WAC 356-06-050 Exempt service. The exempt service includes only the positions and agencies, officers and employees listed in WAC 356-06-020 who do not have appeal rights to ((#)) the personnel appeals board when demoted or separated by dismissal or reduction in force. Appointments to any exempt position in branches, departments, or agencies not exempted by statute shall be reported by the director of personnel to the ((personnel)) board and shall include such information as may be required to ascertain that the position is properly included in the exempt service. The director of personnel may at any time study the duties of a position in this service to determine the propriety of its continued inclusion in this service.

REPEALER

WAC 356-06-060 Personnel board—Composition—Appointment.

REPEALER

WAC 356-06-070 Personnel board—Procedure—Quorum.

AMENDATORY SECTION (Amending WSR 96-11-062, filed 5/10/96, effective 6/6/96)

WAC 356-06-080 ((Personnel board—))Powers—Duties of the board. It shall be the responsibility of the personnel board to:

(1) Establish general policies for the administration of merit system examinations and the hearing of personnel appeals.

(2) Make rules and regulations providing for employee participation in the development and administration of personnel policies.

PROPOSED

- (3) Hear personnel appeals.
- (4) Promote public understanding of the purposes, policies, and practices of the merit system.
- (5) Adopt and promulgate rules and regulations consistent with the purposes and provisions of the state civil service law and with the best standards of personnel administration, regarding the basis and procedures to be followed for:
- (a) The demotion, suspension, reduction in salary or dismissal of an employee and appeals therefrom.
 - (b) Certification of names for vacancies including departmental promotions.
 - (c) Examinations for all positions in the competitive and noncompetitive service.
 - (d) Appointments.
 - (e) Probationary periods of six to twelve months and rejections therein.
 - (f) Transfers.
 - (g) Sick and vacation leaves.
 - (h) Hours of work.
 - (i) Layoffs, when necessary, and subsequent reemployment.
 - (j) Agreements between agencies and certified exclusive representatives providing for grievance procedures and collective negotiations on personnel matters.
 - (k) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of duties and responsibilities of each position. In adopting these revisions the board shall comply with ((Senate Bill S6767 of 1996)) RCW 41.06.152, RCW 41.06.150(15), and chapter 43.88 RCW.
 - (l) Allocation and reallocation of positions within the classification plan.
 - (m) Adoption and revision of a state salary schedule to reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature, with adoption and revision subject to approval by the director of the office of financial management in accordance with the provisions of chapter 43.88 RCW.
 - (n) Training programs, including in-service, promotional and supervisory.
 - (o) Regular increments within the series of steps for each pay range, based on length of service for all employees whose standards of performance are such as to permit them to retain job status within the classified service.
 - (p) Compliance with existing veterans preference statutes.

REPEALER

WAC 356-06-090 Director—Appointment—Removal.

AMENDATORY SECTION (Amending WSR 95-19-098, filed 9/20/95, effective 11/1/95)

WAC 356-06-100 Director—Powers—Duties. (1) The director of personnel shall direct and supervise all the department of personnel's administrative and technical activities in accordance with the provisions of the state civil service law

and the rules and regulations approved and promulgated thereunder. The director shall prepare proposed rules and regulations for consideration by the board.

(2) The director shall establish a department completely separate from other state agencies and shall select a staff of assistants whose employment shall be subject to the provisions of these rules.

(3) The director shall serve as secretary to the board.

(4) The director may delegate authority to subordinates to act for him or her in carrying out duties duly assigned to the director in merit system rules. Such delegations of authority shall be in writing ((and the board shall be notified of them)).

(5) The director of personnel may delegate to any agency the director's authority to perform administrative and technical personnel activities if such authority is requested. When an agency requests a delegation of the director's authority, the requesting agency shall concurrently send a copy of the request to any affected exclusive representative. After an authority has been delegated, if an employee or the employee's exclusive representative files a written complaint with the director regarding a delegated authority, the director shall conduct a timely investigation. If the director of personnel determines that an agency is not appropriately performing delegated activities, the director may withdraw from the agency the authority to perform such activities.

AMENDATORY SECTION (Amending WSR 95-03-090, filed 1/18/95, effective 3/1/95)

WAC 356-06-110 Federal preemption—Fair Labor Standards Act. Agencies shall comply with the ((personnel resources)) board rules (Title 356 WAC) unless doing so causes them to violate the Fair Labor Standards Act.

AMENDATORY SECTION (Amending WSR 98-08-024, filed 3/20/98, effective 5/1/98)

WAC 356-06-120 Americans with Disabilities Act of 1990—Federal and state preemption. Agencies shall comply with the ((personnel resources)) board rules (Title 356 WAC) unless doing so would cause them to violate state laws, chapter 49.60 RCW, or the federal Americans with Disabilities Act of 1990.

AMENDATORY SECTION (Amending WSR 90-07-056 (Order 341), filed 3/20/90, effective 5/1/90)

WAC 356-07-030 Description and location of departmental organization. (1) The central office of the Department of Personnel is located at 521 Capitol Way S., Olympia, Washington. The staff at this location provides personnel services regarding affirmative action, recruitment, examination, examination development, certification, classification, hearings, compensation, salary surveys, compensation plan administration, research services, special projects, departmental fiscal management, facilities, word processing support.

((2) The staff is organized in six general areas:

(a) Operations division which provides for recruitment, examination, examination development, classification, hearings, certification, and agency services.

(b) Standards and surveys division which provides for salary surveys, compensation plan administration, research services, and special projects.

(c) Employee development and training division (located at 600 South Franklin Street, Olympia, Washington) which provides consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(d) The employee advisory service offices are at the following locations: 3400 Capitol Boulevard, Olympia, Washington; 613 - 19th Avenue E., Suite 101, Seattle, Washington; and at Suite 604, Northtown Office Building, Spokane, Washington.

(e) Administrative division which provides departmental fiscal management, facilities, word processing support, agency personnel services, affirmative action, and labor relations services.

(f) Information systems division (located at Building #1, Rowesix, Lacey, Washington) which administers the central personnel/payroll and insurance eligibility computer systems.)

(2) The staff located at 600 South Franklin Street, Olympia, Washington, provides labor relations services and appeal hearings, consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(3) The staff at the following locations provides employee advisory services: 3400 Capitol Boulevard, Olympia, Washington; 2825 Eastlake Avenue E., Suite 310, Seattle, Washington; and at 4407 Division, Suite 210, Spokane, Washington.

(4) The staff located at Building #1, Rowesix, Lacey, Washington, administers the central personnel/payroll and insurance eligibility computer systems.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-07-040 General method of operation.

(1) The general conduct of agency business is pursuant to the charter established in chapters 41.06 and 41.05 RCW, and Title 356 WAC.

(2) Provisions for all interested parties to participate in formulation of rules governing administration of the law is assured by a twenty-day notice requirement prerequisite to formal ((state personnel)) board action on any jurisdictional matter, except appeals.

(3) Special meetings may be called by the board subject to twenty-four hour notice, as required by law.

(4) Informal work sessions with interested parties are conducted by staff of the department of personnel as necessary to ensure representation from interested parties before proposals are made to the board.

(5) All business of the department of personnel will be conducted in facilities which are accessible and/or in a man-

ner which reasonably accommodates the needs of persons of disability.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-09-040 Affirmative action program—Responsibilities—Department of personnel. The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

(1) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.

(2) Provide agencies with the data required to develop and implement affirmative action goals and timetables.

(3) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirmative action guidelines, and recommend changes as appropriate.

(4) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.

(5) Monitor for adverse impact on protected group members in the areas of recruitment, testing, appointment, promotion, transfer, termination, formal disciplinary actions, and career development. Records in these areas will be maintained by protected group status.

(6) With the assistance of state agencies, initiate the recruitment of protected group members, including target recruitment when the representation of protected group members on the register is less than their availability.

(7) Monitor items submitted to the ((personnel)) board for possible negative effect on affirmative action.

(8) Monitor protected group participation in agencies' human resource development activities.

(9) Conduct an annual audit to assess agencies' progress in meeting goals and addressing problems identified in their affirmative action program. The audit will be conducted in accordance with the established department of personnel affirmative action program guidelines.

AMENDATORY SECTION (Amending WSR 96-11-062, filed 5/10/96, effective 6/6/96)

WAC 356-10-020 Classification plan—Revision. The director shall submit proposed revisions to the classification plan to the board for review and approval.

(1) The board shall hold open hearings on the proposals after 20 days' notice to employee organizations and agencies. The board may modify the proposals.

(2) In adopting these revisions the board shall comply with ((Senate Bill S6767 of 1996)) RCW 41.06.152, RCW 41.06.150(15), and chapter 43.88 RCW.

AMENDATORY SECTION (Amending WSR 84-17-042
(Order 209), filed 8/10/84)

**WAC 356-10-045 Employee appointment status—
Lateral reallocation.** Employees in positions that have been reallocated laterally (to a different classification with the same salary range) are affected as follows:

(1) The employee may elect to retain existing appointment status in a position that is reallocated laterally provided he/she meets the minimum or desirable qualifications as determined by the director of personnel or designee. No further qualifying examination will be required and the employee will retain existing appointment status.

(2) If it is determined the employee does not meet the minimum qualifications for the new classification as provided in subsection (1) of this section and he/she is not transferred, promoted, demoted, or otherwise retained in status within sixty days, the provisions governing reduction in force shall apply.

(3) The employee retains existing appointment status when a position is reallocated laterally based on a revision of a class series, a class series study, or an agency-wide or major subdivision-wide classification review planned, conducted, or authorized by the department of personnel in advance of ((personnel)) board action (if any), when the reallocation involves no change in duties or responsibilities.

(a) An employee in an underfill status will maintain that status.

(b) Subsection (1) of this section applies when a change in duties, responsibilities, or organization coincides with a revision of a class series.

(4) The director of personnel or designee may approve the retention of status for an incumbent in a laterally reallocated position when it is evident that the reallocation is, in effect, the correction of a long-term inequity. The application of this subsection shall not be denied in those cases where the employee has performed the duties of the lateral class for three continuous years or more.

(5) The effective date of an incumbent's appointment status as provided for in subsection (1) or (4) of this section shall be the date the director of personnel or designee approves the position reallocation.

(6) The salary and periodic increment date of an employee who continues in a position that is reallocated laterally shall remain unchanged.

AMENDATORY SECTION (Amending WSR 91-03-070
(Order 368), filed 1/16/91, effective 3/1/91)

**WAC 356-10-050 Employee appointment status—
Upward reallocation.** Employees in positions that have been reallocated upward are affected as follows:

(1) Employee must compete at the time of certification from the appropriate eligible register, unless otherwise determined by the director of personnel or designee, when the position is reallocated upward based on recent or impending changes in duties and responsibilities. The effective date of an incumbent's appointment status as provided in this subsection will be the date when he/she is appointed from a certification. If the employee is appointed from a certification, his/her salary is then determined in accordance with the rule

governing promotion. The employee will serve a probationary or trial service.

(2) Employees in positions that have been reallocated upwards based on duties of a higher level classification performed for over one year shall retain status in the reallocated position and shall have their salary adjusted in accordance with the rule governing promotion, provided:

(a) The incumbent meets the minimum or desirable qualifications for the new class; or, the incumbent meets acceptable qualifications as determined by the director of personnel or designee; and

(b) The department of personnel verifies that the incumbent has the knowledge, skills and abilities needed for the new class.

(3) If the employee is not certified from the appropriate eligible register, transferred, promoted, demoted or otherwise retained in status within ninety days, the provisions governing reduction in force shall apply. This shall not preclude the employee's eligibility for a temporary appointment under these rules up to thirty days after the register is established. Employees who do not achieve status in a reallocated position shall be paid for time worked in the higher class based on the rule governing promotion (up to a maximum of three years).

(4) The employee retains existing appointment status when the position is reallocated based on a revision of a class series, a class series study, or an agency-wide or major subdivision-wide classification review planned, conducted, or authorized by the department of personnel in advance of ((personnel)) board action (if any), when the reallocation involves no change in duties or responsibilities. The employee's salary then is adjusted to the same step in the new range as held in the present range.

(a) An employee in an underfill status will maintain that status.

(b) Subsection (1) or (2) of this section apply when a change in duties, responsibilities, or organization coincides with a revision of a class series.

(5) The director of personnel or designee may approve the retention of status without examination for an incumbent in a reallocated position when it is evident that the reallocation is, in effect, the correction of a long-term inequity. The employee's salary is adjusted in accordance with the rule governing promotion. The application of this subsection shall not be denied in those cases where the employee has performed duties at a higher class for three continuous years or more.

(6) In reallocations determined by the department of personnel's director or designee the effective date of an incumbent's appointment status as provided for in subsection (2) or (5) of this section will be the earliest date that a copy of the classification questionnaire, either submitted directly by the incumbent or by the agency, is received by the department of personnel. Receipt of such classification questionnaires shall be acknowledged by the department of personnel if the submitting party includes a self-addressed stamped envelope with the copy of the classification questionnaire furnished the department of personnel.

For positions reallocated by agencies under their delegated allocation authority, the effective date of an incumbent's appointment status as provided for in subsection (2) or

(5) of this section will be the earliest date that a copy of the classification questionnaire is received by the agency's personnel office or by the department of personnel.

(7) The department of personnel, the director of personnel, and the ((state personnel)) board shall not award additional compensation to an employee for any period prior to the date on which the classification questionnaire was received by the department of personnel.

AMENDATORY SECTION (Amending WSR 93-19-154 (Order 429), filed 9/22/93, effective 11/1/93)

WAC 356-10-060 Allocation—Request for review. A review by the director of personnel or designee of the allocation, reallocation of a position, or incumbent status may be requested by the incumbent in the position at the time the reallocation was requested, or on the date the allocation decision was issued, or at the conclusion of a class study, or by the agency director as follows:

(1) The written request for a review must be filed with the director of personnel within 30 calendar days following notification of the effective date of the action and must contain the reasons and basis for the review.

(2) The director of personnel or designee shall acknowledge receipt of the request and send a copy of the request to the agency.

(3) The agency shall make every effort to resolve the disagreement through agency procedures.

(4) During the review, the director of personnel or designee shall conduct a hearing and may investigate and obtain such information as may be deemed necessary.

(5) Within 30 days of the receipt of the request for review, the director of personnel or designee shall set a date for a hearing and shall notify the incumbent employee, employing agency, employee organization, and designated department of personnel analyst: *Provided*, That the notice shall not be less than 20 calendar days. The hearing shall be informal and any of the above designated parties may present their views. The director of personnel or designee will enter a written determination and provide each of the participating parties with a copy.

(6) An employee or agency may appeal the determination of the director of personnel or designee to the ((state)) personnel appeals board as provided in Title 358 WAC.

(7) Allocation or reallocation reviews which result from a class-wide or broader position survey need not be heard until the director of personnel or designee has had a reasonable period of time to reexamine the position in question and all pertinent facts.

(8) Wherever possible, agencies shall continue employee's duties unchanged, pending an allocation decision.

AMENDATORY SECTION (Amending WSR 86-14-071 (Order 253), filed 7/1/86, effective 8/1/86)

WAC 356-14-010 Compensation plan—General provisions. The director of personnel shall prepare a compensation plan for all classifications. The plan shall provide for:

(1) Full compensation to each employee for all work assigned and performed and consideration of all compensation to the employee in setting the employee's salary.

(2) Salary range schedules including the first, intervening, and maximum steps of each range.

(3) Assignment of each classification to a salary range giving full consideration to the prevailing rates in Washington state private industries, and other governmental units, for positions of a similar nature to provide like pay for like work.

(4) Work period designation of each classification, or individual positions within a classification.

(5) Rates of premium pay, shift premium, and standby pay schedules determined by the ((personnel)) board in the same manner as are basic salaries.

(6) Appropriate statistical standards and reporting requirements as outlined in chapter 356-14 WAC for comprehensive and trend salary/fringe benefit surveys.

REPEALER

WAC 356-14-015 Salary and fringe benefit surveys—Requirements.

REPEALER

WAC 356-14-021 Salary and fringe benefit survey plans—Intentions—Content.

AMENDATORY SECTION (Amending WSR 86-14-071 (Order 253), filed 7/1/86, effective 8/1/86)

WAC 356-14-026 Salary surveys—Application—Indexing. (1) ((*Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out of state sources when necessary to obtain statistically valid salary surveys.*)) *Comprehensive and trend salary surveys will be conducted in accordance with applicable portions of chapter 41.06 RCW.*

((2)) *Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparisons of survey data to individual state job classes.*

((3)) (2) All classes shall be identified and indexed (affixed) to a particular salary survey benchmark class (or group average of selected benchmark classes). Such indexing shall display the number of salary schedule ranges that each class is aligned above, the same, or below the respective benchmark class or group. Such class-by-class indexing shall be published on twenty-day notice and approved by the board.

((4)) (3) The salary relationships so established by indexing will remain the same upon application of the salary survey data to respective benchmark classes and groups: *Provided*, That the ((personnel)) board may approve exceptions to correct for inequities, substantial changes in duties and responsibilities, or recruiting and retention problems, consistent with other provisions of this chapter.

AMENDATORY SECTION (Amending WSR 86-14-071
(Order 253), filed 7/1/86, effective 8/1/86)

WAC 356-14-031 Compensation plan—Adoption.

(1) The compensation plan as developed under this chapter shall be presented to the board for review and adoption after consultation with and consideration of proposals from employee representatives and agencies affected.

(2) Twenty calendar days prior to the open hearing on the plan, the director of personnel shall circulate notice of the hearing to enable employee representatives and agencies affected to present their views either orally or in writing. The notice shall state the date, time, and place of the hearing, and either the terms or a description of the proposed plan. The ((personnel)) board may amend and adopt the plan at the hearing.

REPEALER

WAC 356-14-035 Compensation plan submittal—Intentions—Content.

AMENDATORY SECTION (Amending WSR 87-09-037
(Order 273), filed 4/14/87, effective 6/1/87)

WAC 356-14-045 Salaries—Comparable worth. (1) Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department of personnel ((in cooperation with the higher education personnel board)). Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under chapter 41.06 RCW shall be fully achieved not later than June 30, 1993.

(2) Comparable worth entitlements shall comply with the December 31, 1985 settlement agreement between the state of Washington and the American Federation of State, County and Municipal Employees (AFSCME), et al., as approved by federal district court and ratified by the Washington legislature.

(3) Upon the establishment of new classes, or redefinition of existing classes, the following policy shall apply:

(a) When an existing class or class series that is covered by the settlement agreement is substantially revised, the comparable worth salary range involvement shall be determined by reevaluating the classes using the Willis methodology.

(b) The comparable worth salary range involvement for classes that were not covered by the settlement agreement and newly created classes or class series shall be determined based on internal indexing, or Willis evaluation, whichever is determined most appropriate by the director.

(c) Salary ranges for new or revised classes which are substantially common with higher education personnel ((board)) system classes shall be equal, as applicable.

(4) Comparable worth evaluation committee:

(a) Comparable worth evaluations using the Willis methodology shall be conducted by an evaluation committee composed of at least eight member representatives from operating agencies, employee organizations, and department of personnel staff.

(b) Members shall be experienced in agency programs or personnel administration. Members must also attend meetings on a regular basis a majority of the time.

(c) The director shall process committee appointments, appoint officers, establish meeting agendas, call meetings, and schedule (or reschedule) evaluations as he/she deems appropriate. Affected agency or employee representatives must submit any requests for evaluations or reevaluations in writing to the director for disposition and written response.

(5) Other administrative requirements regarding comparable worth adjustments include, but are not limited to, the following:

(a) The process for determining comparable worth class salary range involvement, if any, will be made a part of the regular monthly ((state personnel)) board meeting agenda.

(b) Requesting agencies and organizations should submit new and revised class proposals in sufficient time to accommodate a possible two-month review and evaluation period requirement.

(c) Agency requests should include proposed salary survey indexing and proposed comparable worth involvement, if any, at time of item submission. Indexing and comparable worth information will be included in board meeting agenda publications.

(d) For purposes of legal, fiscal, and legislative disclosure, comparable worth involvement salary ranges will be tracked and recorded by class.

AMENDATORY SECTION (Amending Order 96, filed 12/10/76, effective 1/12/77)

WAC 356-14-070 Salary—Limits. No employee shall be compensated at a basic salary rate greater than the maximum or less than the minimum step of the salary range to which the class had been allotted, unless the director authorizes a different rate in cases of reallocation downward or in other cases involving unusual circumstances where equity requires a different rate of pay. On appeals from reallocation downward the decision of the ((board)) director or designee, and/or the personnel appeals board, may be made effective retrospectively to the effective date of the appealed reallocation. In all other cases the decision shall only be made effective prospectively. All such requests and justifications must be submitted to the board in writing within 15 calendar days from the effective date of the action from which the request originates.

AMENDATORY SECTION (Amending WSR 88-05-028
(Order 294), filed 2/12/88, effective 4/1/88)

WAC 356-15-020 Work period designations. (1) The ((personnel)) board shall assign a specific work period designation to each job class. In deciding which work period designation is appropriate, the ((personnel)) board shall consider the following factors:

(a) Whether the positions are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

(b) Whether the positions have been historically paid overtime by the state.

(c) Whether the private sector or other governmental jurisdictions have a historical or prevailing overtime pay practice for direct counterpart positions.

(d) Other factors it may deem to be appropriate.

(2) The ((**personnel**)) board may authorize a work period designation for an individual position which differs from the class-wide designation when the position has atypical working conditions. When two or more designations are indicated for a job class, the first designation listed shall constitute the class-wide designation. Each position shall be assigned only one designation. The work period designation for persons on "in-training" and "underfill" appointments shall be the same as that of the position to which they are appointed, except that if the position is designated "exceptions," the employee's work period designation will be "nonscheduled."

(a) Scheduled (S):

(i) Standard: Full-time positions with conditions of employment which may be completed within five consecutive work days, each having the same starting time and lasting not more than eight working hours.

(ii) Alternate: Full-time positions with conditions of employment which may be completed within:

(A) Five work days lasting not more than eight working hours within the same workweek but which, because of operational necessity, cannot be scheduled with the same daily starting time or with consecutive days off; or

(B) Four work days lasting not more than ten working hours each within the same workweek; or

(C) Four nine-hour work days and one four-hour work day; or

(D) Ten consecutive work days with four consecutive days off; or

(E) Ten work days lasting not more than eight working hours and occurring within a scheduled fourteen consecutive day period. Positions are restricted to employees in the registered nurse class series who work in an institutional hospital primarily engaged in the care of residents.

(F) Continuous five work-days-per-week shifts which rotate each 28 days to a different schedule of regular days and hours per week. The rotation involves extended or shortened time off between the ending shift of one schedule and the beginning shift of the next, but does not require more than eight hours work in any one 24-hour period within a schedule, nor more than fifty-two 40-hour workweeks per year. Positions are limited to communications officers and scheduled commercial vehicle enforcement officers of the state patrol.

After giving written notice to the employee and the certified exclusive representative, the employer may implement an alternate schedule provided the employer can document a program need for the alternate schedule or the alternate schedule is mutually agreeable to the employer and employee.

(iii) Unlisted: Full-time positions for which the director of personnel has approved a schedule or scheduling plan not allowed above. Such unlisted schedules may be approved by the director of personnel when both the agency and the affected employees are in agreement. Approval by the exclu-

sive representative shall constitute approval of employees within a certified bargaining unit.

(b) **Nonscheduled (NS):** Full-time positions with conditions of employment which necessitate adjustment of hours by employees within forty working hours within the workweek. These positions may have preset schedules or task assignments which require their attendance at certain hours, but are generally responsible to adjust their hours to best accomplish their workload.

(c) **Law enforcement (1):** Full-time positions which meet the law enforcement criteria of section 7(k) of the Fair Labor Standards Act. (Defined as law enforcement personnel in WAC 356-05-210.)

(d) **Exceptions (e):** Full-time positions which are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

AMENDATORY SECTION (Amending WSR 97-24-038, filed 11/26/97, effective 1/1/98)

WAC 356-15-130 Special pay ranges. The ((**personnel resources**)) board may allow for special pay ranges to equal or approximate prevailing rate practices found in private industry or other governmental units. An affected class is identified either by a letter designation following the basic salary range number or by a letter designation preceding a number. In the latter case, a special salary schedule will be used for such classes.

Details of the affected classes with a special pay range will appear in the salary schedule section of the compensation plan.

AMENDATORY SECTION (Amending WSR 92-20-024 (Order 409), filed 9/28/92, effective 11/1/92)

WAC 356-15-125 Assignment pay provisions. The ((**personnel**)) board may grant additional pay to recognize assigned duties that exceed ordinary conditions. Hazards, equipment operations and other specialized skills are examples of areas for ((**personnel**)) board consideration. Approved classes will have the letters "AP" appearing after their class title in the compensation plan.

Details of the affected classes or positions within a class, with the additional amount granted, will appear in the salary schedule section of the compensation plan.

AMENDATORY SECTION (Amending WSR 96-21-037, filed 10/10/96, effective 11/10/96)

WAC 356-18-050 Sick leave credit—Purpose—Accrual—Conversion. (1) Sick leave credits are granted as a form of insurance to minimize loss of compensation to employees due solely to reasons specified in WAC 356-18-060.

(2) Full-time employees shall be credited monthly with eight hours of sick leave under the following conditions:

(a) The employee must be employed for fifteen calendar days or more during the month.

(b) Any leave without pay taken during the month will not be counted toward the fifteen calendar day eligibility requirement.

(c) Holidays for which the employee is otherwise eligible that fall within the qualifying fifteen days count toward the minimum requirement.

Sick leave credit for other than full-time employees shall be computed and accrued in an amount proportionate to the time the employee is in pay status during the month to that required for full-time employment.

(3) Employees shall be eligible to receive monetary compensation for accrued sick leave as follows:

(a) In January of each year, and at no other time, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(i) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(ii) Monetary compensation for converted hours shall be paid at the rate of twenty-five percent and shall be based upon the employee's current salary.

(iii) All converted hours will be deducted from the employee's sick leave balance.

(iv) Hours which are accrued, donated, and returned from the shared leave program in the same calendar year, may be included in the converted hours for monetary compensation.

(b) Employees who separate from state service on or after September 1, 1979, due to retirement or death shall be compensated for their total unused sick leave accumulation at the rate of twenty-five percent. Compensation shall be based upon the employee's salary at the time of separation. For the purpose of this subsection, retirement shall not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(c) No contributions are to be made to the department of retirement systems (DRS) for such payments in (a) or (b) of this subsection, nor shall such payments be reported to DRS as compensation.

(4) Employees who separate for any reason other than retirement or death shall not be paid for their accrued sick leave.

(5) Former employees who are again employed within five years of their separation from service shall be granted all unused sick leave credits, if any, to which they were entitled at time of separation for the purpose of using sick leave for the reasons prescribed in WAC 356-18-060. Upon any subsequent retirement or death of a reemployed retiree, only that unused sick leave accrued since the original retirement minus that taken within the same period may be compensated per the conversion provisions of WAC 356-18-050 (3)(b).

(6) ~~(Employees coming under the jurisdiction of the state personnel board from the jurisdiction of the higher education personnel board by the provisions of) Higher education system employees moving to an agency in accordance with~~ WAC 356-49-040 shall be credited with their sick leave accumulated with the higher education system.

PROPOSED

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-22-180 Examination—Oral examining ((board)) panel. (1) The members of oral examining ((boards)) panels shall be chosen primarily for their ability to judge the qualifications of applicants objectively. At least one member by past experience and training shall be generally familiar with the nature of the work for which the examination is being given. Emphasis will be placed on including at least one protected group member on each oral examining ((board)) panel.

(2) No examining ((board)) panel shall have fewer than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such ((board)) panel.

(3) If conditions require establishing multiple ((boards)) panels, tests and instructions shall be structured to ensure uniformity of examining conditions and rating standards.

(4) Members of oral examining ((boards)) panels shall disclose each instance in which they know an applicant to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify themselves without rating the applicant or biasing the remaining members.

AMENDATORY SECTION (Amending WSR 96-11-060, filed 5/10/96, effective 6/6/96)

WAC 356-22-220 Veterans preference in examinations. (1) The term veteran as used in this rule shall include any person who has served in any branch of the armed forces of the United States during:

(a) World War II;
 (b) The Korean Conflict;
 (c) The Viet Nam Era, beginning August 5, 1964 (~~and ending~~) and ending May 7, 1975;

(d) The Persian Gulf War, beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(e) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor; or

(f) Who has received the armed forces expeditionary medal, Marine Corps expeditionary medal, or Navy expeditionary medal, for opposed action on foreign soil.

(2) Further, only persons who received an honorable discharge or who received a discharge for physical reasons with an honorable record or who were released from active duty under honorable circumstances shall be eligible for this veterans preference.

(3) In all competitive examinations, veterans shall be given a preference by adding to the passing grade, based upon a possible rating of 100 points as perfect, a percentage of such passing grade under the following conditions:

(a) Ten percent to a veteran who is not receiving any veterans retirement payments. This preference shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(b) Five percent to a veteran who is receiving any veterans retirement payments. This percentage shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(c) Five percent to a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be utilized on the first promotional examination only.

(4) The above preference provisions must be claimed within eight years of the date of release from active service.

AMENDATORY SECTION (Amending WSR 79-11-046 (Order 136), filed 10/15/79, effective 1/1/80)

WAC 356-22-230 Examinations—Noncompetitive.

(1) The noncompetitive service comprises those unskilled, seasonal and temporary classes or positions for which the ((personnel)) board has determined ranked registers to be impracticable. Although exactly the same selection procedures may be used as in the competitive service, they need not be applied beyond the point of determining that a given applicant achieves a passing score.

(2) The director of personnel may designate agency personnel officers to act in the director's behalf, as agents of the department of personnel, for purposes of establishing and maintaining unranked registers within the noncompetitive service for those positions approved by the ((personnel)) board. The director of personnel shall be responsible for developing necessary procedures which include yearly audit provisions. Applicants shall have appeal rights to the director of personnel in accordance with other provisions of these rules.

AMENDATORY SECTION (Amending WSR 94-10-008, filed 4/21/94, effective 5/31/94)

WAC 356-26-030 Register designation. (1) Agency reduction in force.

(a) Composition.

(i) The agency reduction in force register will consist of classes and the names of all employees who hold or have held permanent status in those classes and: (A) Have been notified they are scheduled for reduction in force; or (B) held permanent status prior to separation due to a reduction in force; or (C) who have accepted a voluntary demotion in a class in lieu of a reduction in force; or (D) were in a trial service period with another department and separated due to reduction in force; or (E) employees requesting to be placed on this register for classes held immediately prior to the position being reallocated downward; or (F) who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the director of personnel a current statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status since the employee's last separation other

than a reduction in force, or in which he/she served more than six months on a position which would have meant permanent status had it been under the jurisdiction of the ((state personnel)) board at the time.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(ii) An employee's name shall not appear for classes at or below the range level of a class in which the employee is serving on a permanent full-time basis, except:

(A) When the employee has accepted an option beyond a reasonable commuting distance in lieu of separation due to reduction in force. The employee's name may appear for classes at the same or lower range levels when the availability would return the employee back to his/her previous work location.

(B) When the employee has accepted a position in lieu of separation due to a reduction in force, in a different class series.

(C) Any other exceptions shall be approved by the director or designee.

(2) Service-wide reduction in force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction in force register, except for those requesting to be on the agency reduction in force register following a reallocation downward.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-agency reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or ((in a position under the jurisdiction of the)) higher education ((personnel board)) institution were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

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(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency promotional.

(a) Composition.

(i) This register will be established by appropriate classes for each agency and shall include the names of those current permanent employees of each agency who have served six months of a probationary period, or past permanent employees who have been separated due to reduction in force within the last year and who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months.

(5) Higher education reduction in force.

(a) Composition.

(i) This register shall contain the names of permanent employees ranked in order of seniority from higher education institutions or related boards laid off or scheduled for layoff and who have requested placement on this register. The employee's name shall appear for all classifications or equivalent classifications for which the employee held permanent status.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of the register.

(i) An eligible's name will normally remain on this register for two years from the date of placement on the register.

(d) Special provisions.

(i) The employee must request placement on this register within thirty calendar days of the effective date of layoff or previously have requested placement on the inter-system employment register due to layoff. The employee may request placement on lower classes in the same class series or equivalent classes and must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination for classes in which the employee has held permanent status, or lower classes in the same class series, or equivalent

classes. Employees appointed from this register shall be required to complete a trial service period of six months.

(6) Service-wide reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or ((in a position under the jurisdiction of the)) higher education ((personnel board)) institution were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

(7) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of ranking.

(i) This register will be unranked.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

(8) Voluntary demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of ranking.

(i) This register shall be unranked. However, employees subject to reduction in force shall have priority.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

(9) Service-wide promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees who have served six months of a probationary period or past permanent employees who have been separated due to reduction in force within the last year who have obtained a passing final grade in the total promotional exam-

ination. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months. Persons on this register will indicate the geographic areas and agencies for which they are available.

(10) Reemployment.

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within five years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction in force status and have been offered and declined employment. The director of personnel may extend the time during which an employee may apply for reemployment if the director of personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of ranking.

(i) This register shall be unranked.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.

(11) Inter-system employment.

(a) Composition. This register shall contain the names of permanent classified employees ((under the jurisdiction of the)) at higher education ((personnel board)) institutions who have submitted an application and who have passed the required examination.

(b) Method of ranking. This register shall be ranked according to final passing score from the highest to the lowest.

(c) Life of register. An eligible's name will normally remain on this register for one year.

(d) Special provisions. Employees appointed from this register will serve a six month trial service period.

(12) Open competitive.

(a) Composition.

(i) This register will contain the names of all persons who have passed the entrance examination.

(b) Method of ranking.

(i) This register shall be ranked by the final score.

(c) Life of register.

(i) An eligible's name will normally remain on this register for one year unless changed by the director of personnel.

(d) Special provisions.

(i) Persons on this register will indicate the geographic areas for which they are available.

AMENDATORY SECTION (Amending WSR 93-02-040 (Order 414), filed 1/5/93, effective 2/1/93)

WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements. (1) The director of personnel or designee may remove the name of an eligible from a register and/or certification for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived three offers of employment for a position in the class for which the register was established.

(e) If a candidate from a promotional or open competitive register has waived consideration three times for a position in the class for which the register was established.

(f) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(g) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(h) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of protected group members.

(i) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(j) If the appointing authority reports that the eligible was offered employment but could not comply with the personal identification and work authorization requirements of the federal Immigration Reform and Control Act (I.R.C.A.).

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b)

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or (c) of this section. The director of personnel or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the ((personnel)) board upon appeal.

AMENDATORY SECTION (Amending WSR 78-10-070
(Order 123), filed 9/26/78)

WAC 356-30-143 Intergovernmental mobility. In accordance with the intent of the Intergovernmental Personnel Act (P.L. 91-648) regarding mobility assignments and/or notwithstanding any other provisions of these rules, the ((state personnel)) board or designee may authorize appointments into the classified service from other governmental units when such appointments are for purposes of cross-training or sharing of expertise across governmental boundaries. Such appointments shall be time limited.

AMENDATORY SECTION (Amending WSR 91-20-029
(Order 383), filed 9/23/91, effective 11/1/91)

WAC 356-30-260 Probationary period—Provisions—Status of employee. (1) Employees who receive appointments to permanent positions from the open competitive register and the reemployment register shall serve a probationary period of six to twelve months as determined by the ((personnel)) board. The ((personnel)) board shall designate a probationary period of six months for all positions in a class unless they determine that job requirements of the class require a longer period (up to twelve months) to provide adequate training and/or evaluation. The ((personnel)) board shall apply the following criteria for approving probationary periods of longer than six months:

(a) The work of the majority of the positions in the class is of such a nature that performance of the full range of duties cannot be properly evaluated within six months after an appointment.

or

(b) Work of the class is cyclical in nature and the workload cycle cannot be completed within six months after an appointment.

or

(c) Work is of such a nature that extended formalized training is required prior to the full assumption of duties.

All positions in a class shall have the same probationary period.

(2) All persons at time of appointment shall be notified in writing by the agency of the length of their probationary period. When the probationary period for a class is increased beyond six months, the increased probationary period shall apply only to persons appointed after the effective date of the change.

(3) The probationary period will provide the appointing authority with the opportunity to observe a new employee's work, to train and aid the new employee in adjustment to the position, and to terminate any employee whose work performance fails to meet the required standards.

(4) Employees who, during their probationary period, go on leave without pay shall have their probationary period extended by the number of calendar days they are on leave without pay including any intervening nonworking days.

(5) Employees shall have their probationary period extended by the number of calendar days in excess of 30 in which the employee is not at work including any intervening nonwork days if:

(a) Work is missed due to sick leave, vacation leave, military training leave, shared leave or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (5)(a) and (b) of this section which when added together exceeds 30 calendar days.

(6) Work missed during the probationary period due to holidays shall be counted as part of the required probationary period.

(7) When an employee accepts a temporary appointment to a higher class in the same series in the same work unit while serving in a probationary period, the probationary period shall continue for the lower class.

(8) Permanent appointment of a probationary employee shall be automatic unless the person is dismissed under provision of WAC 356-30-270.

(9) Veterans and their widows who have not remarried and are in probationary status will be granted seniority preference only within ranks of probationary employees and will not be granted preference within the ranks of the permanent employees until they acquire permanent status.

AMENDATORY SECTION (Amending WSR 91-13-042 and 91-21-080 (Orders 376 and 376A), filed 6/14/91 and 10/18/91, effective 8/1/91 and 11/18/91)

WAC 356-30-320 Trial service—Reversion—Status.

(1) Employees who were appointed from a voluntary demotion register to a class not previously held or from a promotional register within the same agency and fail to satisfactorily complete the trial service period shall automatically revert to a position in the former classification.

(2) Employees who were appointed from a voluntary demotion register to a class not previously held or from a promotional register into another agency and who fail to satisfactorily complete the trial service period shall be given fifteen calendar days' written notice and placed on the dual-agency reversion register and the service-wide reversion register for their former class. If an employee waives consideration three times for a position in the class for which the register was established, the employee's name will be removed from the reversion register. The employee may then request his/her name be placed on the reemployment register.

(3) Employees who are reverted do not have the right of appeal.

(4) Former permanent employees who have promoted, demoted, or transferred to a position ((under the jurisdiction of the)) at a higher education ((personnel board)) institution

in accordance with provisions of ((their rules)) chapter 251 WAC and fail to complete ((their)) the trial service period may request their names be placed on the dual-agency reversion register and service-wide reversion register for ((their)) the former class.

(5) Employees who are reemployed from the service-wide reversion registers shall enter a trial service period. Employees reverted during this period may request their names be placed on the register from which they came.

(6) Employees who voluntarily revert to their former class may request the director of personnel to reactivate their promotional score for the class from which reverted. Employees involuntarily reverted to a former class shall have all examination grades nullified for the class from which they are reverted.

AMENDATORY SECTION (Amending WSR 93-02-040 (Order 414), filed 1/5/93, effective 2/1/93)

WAC 356-34-090 Protests—Requirements for applicants, examinees, and eligibles. (1) An applicant whose application has been rejected; an examinee who feels that the examination is unfair, or not applied uniformly, or that the score is in error or not uniformly derived; an eligible whose name has been removed from the register and/or certification; or an applicant who is not appointed following a background inquiry and review conducted pursuant to WAC 356-26-140 may request a review by the director of personnel or designee. The request must be in writing and received at the director of personnel's office within twenty calendar days following the postmarked date of the notification of the application rejection, examination score, removal from a register and/or certification, or the appointing authority's decision.

(2) The director of personnel or designee shall notify the party requesting a review of the date and place of the review at least ten calendar days prior to the review. The review shall be informal and conducted by the director of personnel or designee. The director of personnel or designee may limit attendance of other interested parties if good order, justice, and fairness will be promoted. Within ten calendar days following the review and the receipt of any additional necessary information, the director of personnel or designee shall issue a written determination and send a copy to each of the participating parties.

(3) An adversely affected party may request a hearing of the ((personnel)) board to review the determination of the director of personnel or designee. The request for a ((personnel)) board hearing must be in writing and received at the director of personnel's office within twenty calendar days following the postmarked date of the notification of the director's or designee's determination. A hearing before the ((personnel)) board shall be scheduled and each party shall be afforded not less than ten calendar days' notice. The ((personnel)) board will issue a written decision which will be final.

AMENDATORY SECTION (Amending Order 36, filed 7/1/71, effective 8/1/71)

WAC 356-34-100 Agency hearings—General provisions. (1) Agencies and appointing authorities may conduct

and take testimony concerning any actions for cause prior to demotion, suspension, reduction, dismissal, and abandonment; or during suspension or advance notice of such actions.

(2) No hearing shall be used to delay a person from appealing.

(3) Any employee with the right to appeal may request an agency to conduct a hearing concerning actions for cause prior to the effective date, or up to 30 calendar days after the effective date, provided the appeal has not been heard by the personnel appeals board. The appointing authority shall notify the director in writing of agency hearing dates if the agency grants the request for a hearing.

AMENDATORY SECTION (Amending WSR 86-08-035 (Order 244), filed 3/26/86, effective 5/1/86)

WAC 356-34-260 Appeals—Correction of rating. A correction of a rating shall not affect a certification or appointment which has already been made from the register. The decision of the ((personnel)) board in these matters shall be final.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-010 ((Personnel)) ((B))Board hearings—Procedure—Record. (1) Hearings before the ((personnel)) board shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the appellant so requests. Hearings shall be informal with technical rules of evidence not applying to the proceedings, except for the rules of privilege recognized by law.

(2) Hearings may be conducted by only two members of the board, provided that if the two members cannot agree on a decision, a second hearing may be held in the presence of all three members of the board or the third member may review the record and participate in the decision.

(3) All parties may present and cross-examine witnesses, and give evidence before the board.

(4) The board may, and shall at the request of either party, issue subpoenas duces tecum. All testimony shall be on oath administered by a member of the board.

(5) The board shall keep an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 96-07-093, filed 3/20/96, effective 5/1/96)

WAC 356-37-020 Prehearing procedures—Exhibits.

(1) At any hearing before the ((personnel resources)) board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the board members, for the court reporter, if any, and for the board's official file.

(2) The parties shall arrive at the hearing location at least thirty minutes before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. The parties shall pre-mark their exhibits for identification and present copies to other parties and the board's staff prior to commencement of the hearing.

AMENDATORY SECTION (Amending WSR 96-07-093, filed 3/20/96, effective 5/1/96)

WAC 356-37-030 Filing of prehearing statements. (1) Parties are encouraged to file prehearing statements of position with the ((~~personnel resources~~)) board. The board may request all parties to submit a prehearing statement. The statements should include a summary of the evidence the party intends to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition. Such documents shall be provided to the board and to the opposing party no later than fourteen calendar days prior to the scheduled hearing date. Any response by the opposing party shall be served no later than seven calendar days prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) A party submitting prehearing statement(s) shall provide the original and three copies to the board, and one copy to the opposing party.

(3) The board will determine whether to consider documents that are filed at the time of the hearing.

AMENDATORY SECTION (Amending WSR 96-07-093, filed 3/20/96, effective 5/1/96)

WAC 356-37-040 Scheduling of hearings. Prior to scheduling the hearing, the hearings coordinator will give the parties an opportunity to indicate preferred dates and amount of time allotted for the hearing. The hearings coordinator shall schedule all hearings before the ((~~personnel resources~~)) board with written notice, specifying the time, place, and length of the hearing. Notice of hearing shall be mailed not less than thirty calendar days prior to the date of the hearing, unless all parties agree to a shorter notice period. Primary and/or secondary hearings may be scheduled.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-070 Ethical conduct before the ((~~personnel~~)) board. All persons appearing in proceedings before the ((~~personnel~~)) board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to these standards, the board may decline to permit such person to appear in a representative capacity.

AMENDATORY SECTION (Amending WSR 94-08-024, filed 3/29/94, effective 5/1/94)

WAC 356-37-080 Service of process. (1) The ((~~personnel resources~~)) board shall cause to be served all orders, notices, and other papers issued by the board, together with any other papers which the board is required by law to serve. Every other paper shall be served by the party filing the notice, document or paper.

(2) All notices, documents, or papers served by either the ((~~personnel resources~~)) board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be made either personally or by first class, certified mail, or by electronic telefacsimile transmission and same-day mailing of copies. Correspondence between the ((~~personnel resources~~)) board and state agencies or institutions may be sent via the state mail service.

(3) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail upon deposit, properly stamped and addressed. Service by electronic telefacsimile transmission shall be regarded as complete upon production by the telefacsimile device of confirmation of transmission.

(4) When actual receipt is specified by rule, service upon the ((~~personnel resources~~)) board shall be regarded as complete when the papers are actually received in the office of the director of personnel. Service by electronic telefacsimile transmission shall be regarded as complete upon production by the telefacsimile device of confirmation of transmission. Filing at the department of personnel is only available between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding designated holidays. When actual receipt is not specified by rule, service by mail is complete when postmarked.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-130 Quashing. Upon motion promptly made by a party or by the person to whom the subpoena is directed and upon notice to the party who issued the subpoena, the ((~~personnel~~)) board may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(2) Condition denial of the motion upon just and reasonable conditions.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-140 Orders for discovery. The ((~~personnel~~)) board may issue orders for discovery by analogy to the superior court rules or the requirements of justice.

AMENDATORY SECTION (Amending WSR 90-07-057 (Order 342), filed 3/20/90, effective 5/1/90)

WAC 356-37-150 Proof of charges. At any hearing before the ((~~personnel~~)) board, the party seeking relief or filing charges shall have the burden of proof.

AMENDATORY SECTION (Amending WSR 96-07-093, filed 3/20/96, effective 5/1/96)

WAC 356-37-160 Prehearing conference. (1) The ((personnel resources)) board or its designee may direct the parties or their representatives to engage in an informal pre-hearing conference(s) to address the following:

- (a) Statement of issue;
- (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;
- (i) Scheduling the hearing before the board; and
- (j) Such other matters as may aid in the prompt disposition of the petition.

(2) Prehearing conferences may be held by telephone conference call or at a time and place mutually agreed upon by the parties.

(3) The parties are encouraged where possible to resolve their disputes. To facilitate such resolution, the board or its designee may recess the conference at any time to give the parties time to discuss settlement. In the event settlement is reached, the grievant/petitioner or representative shall sign a request to withdraw the petition.

AMENDATORY SECTION (Amending WSR 78-02-049 (Order 116), filed 1/19/78)

WAC 356-39-020 Human resource development—State-wide philosophy/definition. Optimum utilization of its human resources aids state government in providing effective and economic services. Therefore, it is the ((personnel)) board's philosophy that a highly productive, motivated workforce be achieved and maintained through a state-wide program of human resource development.

AMENDATORY SECTION (Amending WSR 80-13-047 (Order 147), filed 9/16/80)

WAC 356-39-060 ((Department of personnel))

((b))**Human resource development planning.** Each agency shall submit a summary of its biennial human resource development plan to the department of personnel for review.

(1) The department shall provide each agency with an evaluation of its plan. The evaluation shall include recommendations for sharing resources to meet common objectives among the agencies.

(2) Upon agency request, the department shall assist in the preparation of the agency's plan.

(3) The department shall prepare a human resource development plan with objectives and identification of resources to accomplish interagency human resource devel-

opment activities which have been proposed through agency plans. The department shall distribute its plan to the agencies.

(4) The department shall consider each agency's human resource development activities in preparation of the state's classification plan and in the department's testing process.

AMENDATORY SECTION (Amending WSR 78-02-049 (Order 116), filed 1/19/78)

WAC 356-39-080 ((Department of personnel))

((b))**Review of agencies' human resource development reports.** The department of personnel shall review each agency's annual evaluation as it relates to the agency's human resource development plan.

(1) The department shall summarize the agencies' reports, highlighting innovative techniques that have inter-agency application, and shall submit the summary to the agencies, the ((personnel)) board, the governor and the legislature.

(2) The department shall develop an evaluation process to determine the effectiveness of its human resource development activities. In its annual evaluation summary, the department shall include data from this evaluation process.

AMENDATORY SECTION (Amending WSR 89-02-011 (Order 312), filed 12/28/88, effective 2/1/89)

WAC 356-42-010 Membership in employee organization. (1) State employees shall have the right to affiliate with, be represented by and participate in, the management of employee organizations. State employees shall have the right to be represented by such organizations in collective negotiations with appointing authorities. No persons or parties shall directly or indirectly interfere with, restrain, coerce or discriminate against any state employee or group of state employees in the free exercise of these rights. However, the right not to affiliate with employee organizations shall be modified by the certification of a union shop representative according to WAC 356-42-043.

(2) Any employee organization or person desiring to represent state employees before the ((state personnel)) board or in collective negotiations with an appointing authority must first file a notice of intent to represent state employees with the director of personnel. Such notice of intent to represent state employees must set forth the name of the person or employee organization, and if the latter, the name of an agent authorized to speak on its behalf; a mailing address and telephone number; a general description of the types of employment falling within the intended area of representation; and a copy of a constitution, by-laws, or any other documents defining powers and authorizing representation of the parties filing the notice of intent.

(3) An employee organization which is, or desires to be, an exclusive bargaining representative for a bargaining unit which has chosen to be a union shop must have a written procedure concerning representation fees which complies with applicable statutory and constitutional requirements. Such employee organization must provide to the director a written opinion of the employee organization's attorney that its repre-

sentation fee procedure is in compliance with applicable statutory and constitutional requirements.

AMENDATORY SECTION (Amending WSR 96-13-074, filed 6/18/96, effective 8/1/96)

WAC 356-42-020 Determination of bargaining unit.
 (1) Determination, alteration, or modification of an appropriate bargaining unit shall be made by the ((personnel)) board upon petition from an employee organization, or upon the board's own motion after 20 days' notice has been given to the appointing authority and to affected employees and their representatives.

(2) Prior to an employee organization petitioning the ((personnel)) board for creation or modification of a bargaining unit, the petitioning employee organization will confer with the appointing authority on the proposed unit creation or unit modification.

(3) If an appointing authority has reason to believe that an existing bargaining unit in the appointing authority's agency or department is no longer appropriate, the appointing authority may request the ((personnel)) board to consider modification of the bargaining unit. However, if there is an employee organization certified as exclusive bargaining representative for that unit, the appointing authority will first confer with the certified employee organization on the proposed modification prior to presenting the request to the ((personnel)) board. The ((personnel)) board may choose to consider such unit modification questions and would act on its own motion as designated in WAC 356-42-020(1).

(4) In determining a bargaining unit, the ((personnel)) board shall consider the following factors:

(a) Duties, skills and working conditions of the employees.

(b) History of collective bargaining by the employees and their representatives.

(c) Extent of organization among the employees.

(d) Desires of the employees.

(5) Any petition filed hereunder should set forth all pertinent facts and supporting reasons, as comprehensively as possible, to aid the ((personnel)) board in its determination.

(6) At the hearing on a petition, the ((personnel)) board shall make an oral determination regarding the proposed action. Thereafter, the board shall enter an appropriate order containing findings of fact and conclusions of law reflecting the oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

(7) Bargaining units normally shall not include both supervisory and nonsupervisory employees unless such inclusion is justified by application of the criteria identified in subsection (4) of this section. Employees will not be excluded from a bargaining unit based solely on their supervisory status where supervisors have historically been included in the unit.

(8) Where all or part of a state agency is combined with another agency, the board may determine the continued appropriateness of existing bargaining units affected by that action and modify those units accordingly. The determination

of successorship of incumbent exclusive representatives shall be addressed.

AMENDATORY SECTION (Amending WSR 96-07-093, filed 3/20/96, effective 5/1/96)

WAC 356-42-055 Arbitration—Grievance—Procedure. Whenever arbitration of a grievance is requested of the ((personnel resources)) board pursuant to an agreement as authorized by WAC 356-42-050(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the specific issue(s) to be arbitrated.

(f) A statement of the relief sought.

(g) The signature and, if any, the title of the person filing the request for arbitration.

(h) A copy of the original grievance and the agency's last written response to the grievance shall be attached to the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) of this section. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) The board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) of this section. If the hearings coordinator determines the request is incomplete, the person filing the request is notified of the portions which need to be supplemented or changed to comply with subsection (1) of this section. When the hearings coordinator determines that the request substantially complies with subsection (1) of this section he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the board upon motion of the requesting party.

(4) After the request for arbitration is served on the opposing party(ies), the board or the board's designee may direct the parties or their representatives to engage in a pre-hearing conference(s) in accordance with WAC 356-37-160.

(5) The board's hearings coordinator shall schedule the arbitration for hearing pursuant to WAC 356-37-040.

(6) Within thirty calendar days from the date of service of the acknowledgment of the arbitration request, the respondent shall submit a written statement of issue(s) to be arbitrated. If no response is received, the petitioners' statement of issue(s) will be deemed to be the issue(s) at the arbitration hearing unless otherwise determined by the ((personnel resources)) board.

(7) Upon stipulation between the parties, the board or designee may grant the grievant's request to waive the right to an evidentiary hearing and thereafter require the parties to submit written evidence upon which the board or designee may act without a hearing.

(8) If the matter is heard directly by the board, a final and binding decision will be issued. If the matter is heard by the board's designee, a recommended decision will be issued. Within thirty calendar days of its service, either party may request the board to review the designee's decision. The review will be limited to specific areas of the decision to which the party takes exception. The requesting party must provide written argument in support of the exceptions. The board will consider the exceptions and may in its discretion hear oral argument. Thereafter, the board will issue a decision which shall be final and binding on the parties. The designee's decision will become final and binding forty calendar days after it was served on the parties if no exceptions are filed, unless the board calls a hearing to reconsider the decision.

(9) The grievant shall have the burden of proof and go forward with the evidence.

(10) The board or its designee shall be the judge of relevancy and materiality of evidence offered. Technical rules of evidence shall not apply to the proceedings.

(11) The provisions of chapter 356-37 WAC (Hearings—General procedures) shall apply to the conduct of grievance arbitration hearings, except as otherwise provided in this section.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-080 Unfair labor practice. The ((personnel)) board, or its designee whose final decision is appealable to the ((personnel)) board, is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

AMENDATORY SECTION (Amending WSR 88-18-010 (Order 307), filed 8/26/88)

WAC 356-42-082 Filing unfair labor practice charge. (1) A charge or charges that any employing agency or employee organization has committed an unfair labor practice, as defined in these rules and RCW 41.56.150, may be filed with the ((personnel)) board by any employee, group of

employees, employee organization, employing agency, or their authorized agents.

(2) Unfair labor practice charges shall be filed with the director of personnel within six months of the date on which the charging party reasonably could have known of the alleged unfair labor practice.

(3) Unfair labor practice charges shall be in writing in the form of a complaint of unfair labor practices, or on a form provided by the ((personnel)) board or its designee. The charge shall contain the following:

(a) The name, address and telephone number of the charging party, and the name, address and telephone number of the party's principal representative, if any.

(b) The name, address and telephone number of the party against whom the charge is being filed, and, if known, the principal representative of the charged party.

(c) Clear and concise statements of the facts constituting the alleged unfair labor practice(s), including times, dates, places and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-083 Investigation of and disposition of unfair labor practice charges. (1) Upon receipt of a properly completed unfair labor practice charge, the director of personnel's designee shall conduct an investigation to determine whether or not the charge(s) is frivolous or substantially without merit. If it is found that the charge(s) is not frivolous or is not without substantial merit, a complaint shall be issued. If the charge(s) is found to be frivolous or substantially without merit, the charge(s) shall be dismissed. Dismissal of the charge is appealable to the ((personnel)) board.

(2) If a charge does not contain all of the information required by WAC 356-42-082(3), the director of personnel or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director of personnel or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-084 Answer to complaint—Unfair labor practice. (1) The charged party shall have the right to file its answer to the unfair labor practice complaint with the ((personnel)) board within five days of service of the complaint, exclusive of Saturdays, Sundays, and holidays. After the expiration of such time period, the charged party shall no

longer have the right to file an answer and may do so only if the ((personnel)) board, for good cause shown, permits an answer to be filed. The charged party shall serve its answer on the charging party when it files its answer with the ((personnel)) board.

(2) The answer shall specifically admit, deny or explain each of the facts alleged in the complaint. If the charged party is without knowledge sufficient to form a belief as to the truth or falsity of any specific allegation, that fact shall be so stated and shall operate as a denial of that allegation. Failure to answer all or any part of the complaint within the time required shall, except for good cause shown, be deemed an admission of such allegation(s) not answered.

(3) Facts admitted in the answer, either by specific admission or failure to answer as required, except for good cause shown, shall be considered true for purposes of the remainder of the unfair labor practice proceeding, and shall constitute a waiver by the charged party of a hearing as to the facts so admitted.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-085 Amendment of complaint or answer—Unfair labor practice. The ((personnel)) board may allow a complaint or answer to be amended at any time before the close of the hearing, upon motion of the party concerned, for good cause shown and upon such terms as the ((personnel)) board may deem appropriate under the circumstances. Timeliness in making the motion shall be a factor in determining whether it will be granted.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-086 Hearing—Unfair labor practice. (1) After receipt of the answer of the charged party, the ((personnel)) board, or its designee, shall set the matter for hearing. The parties shall each be given at least twenty days notice of the hearing, unless they agree to waive such notice.

(2) The charging party shall prosecute the complaint and shall have the burden of proof.

(3) The hearing shall be limited to the issues and questions of fact raised by the complaint and answer of the parties.

(4) The technical rules of evidence prevailing in the courts need not be applied by the ((personnel)) board except for the rules of privilege.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-088 Hearings and investigation—Unfair labor practice. For the purpose of all hearings and investigations, which, in the opinion of the ((personnel)) board or its designee, are necessary and proper for the exercise of the powers vested in it by chapter 41.56 RCW, the ((personnel)) board or its designee shall, at all reasonable times, have access to, for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or lists of employees, of any person being

investigated or proceeded against that relates to any matter under investigation or in question. The ((personnel)) board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the ((personnel)) board or its designee. The ((personnel)) board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-089 Enforcement—Unfair labor practice. The ((personnel)) board or any party to the proceedings, at least thirty days after the ((personnel)) board has entered its findings of fact, conclusions of law and order, shall have power to petition the superior court for enforcement of its order and for appropriate temporary relief or restraining order, all as provided in RCW 41.56.190.

AMENDATORY SECTION (Amending WSR 82-22-020 (Order 177), filed 10/26/82)

WAC 356-42-100 Impasse arbitration. If the director of personnel is unable to bring the parties to agreement through mediation, the appointing authority or designee or the certified exclusive representative may submit the dispute to the ((personnel)) board. As soon as practicable after submission of the dispute to arbitration each party shall file with the ((personnel)) board a summary of:

- (1) The matters in dispute;
- (2) The position of the party on the matters in dispute; and
- (3) Desired contract language.

The ((personnel)) board shall then schedule and hold a hearing. The decision of the ((personnel)) board shall be final and binding.

AMENDATORY SECTION (Amending WSR 88-18-010 (Order 307), filed 8/26/88)

WAC 356-42-105 Requests for arbitration. A request for arbitration per WAC 356-42-055 shall not be allowed if the grievant(s) involved has the same charges or issues pending before the ((personnel)) board for processing per WAC 356-42-082 or before the personnel appeals board for processing per Title 358 WAC.

AMENDATORY SECTION (Amending WSR 78-10-070 (Order 123), filed 9/26/78)

WAC 356-46-030 Disclosure of political, religious affiliations—Prohibited. No recommendation of any applicant, eligible or employee involving a disclosure of political or religious opinions or affiliations shall be considered or filed by the agencies, the ((state personnel)) board or any office or employee concerned in making appointments or promotions.

AMENDATORY SECTION (Amending WSR 90-12-028
(Order 354), filed 5/30/90, effective 7/1/90)

WAC 356-46-060 Agencies—Personnel and payroll records. (1) Each agency shall maintain a record of each employee showing the name, title, position held, organizational assignment, salary, changes of employment status, attendance, leaves, annual performance evaluations, and such other information as may be necessary for the administration of regulations. Personnel and payroll records shall be open to the inspection of the ((personnel)) board, state auditor, and the director of personnel or designee. The original personnel and payroll file shall accompany the employee throughout his/her service career including inter-system movement.

(2) Agencies shall publish policies pertaining to the retention and confidentiality of personnel records in accordance with these rules and chapter 40.14 RCW which are consistent with the following requirements:

(a) Agencies shall designate the official depository and custodian of personnel records.

(b) Agencies shall ensure that employees have knowledge of all job performance information inserted into the personnel record pertaining to the employee.

(c) Employees and/or their representatives may review the employee's personnel records, subject to policies of the employing agency.

(d) Employees or their representatives contesting allegedly erroneous, prejudicial, or otherwise adverse information in the employee's personnel records may insert rebuttal or refuting documentation into their personnel records.

(e) Information in the personnel records relating to employee misconduct shall be destroyed in accordance with policies established in chapter 40.14 RCW in situations where the employee is exonerated or where the information is found to be false. The agency's record retention plan shall provide for the prompt destruction of this information.

(f) Information relating to employee misconduct committed in the performance of off-duty activities shall be placed in the personnel records and retained by the agency in accordance with policies established in chapter 40.14 RCW, only where said information has a reasonable bearing on the employee's job performance. Employees may request that such information be removed from their personnel record at the conclusion of the retention period. The information may be retained by the agency if it has a reasonable bearing on the efficient and effective management of the agency.

(g) Information relating to employee misconduct that is committed in the performance of state business shall be maintained by the agency for a minimum of six years or in accordance with policies established in chapter 40.14 RCW. Employees may request that such information be removed from their personnel record at the conclusion of the retention period. The information may be retained by the agency if it has a reasonable bearing on the efficient and effective management of the agency.

(h) Notwithstanding paragraphs (e), (f) and (g) of this section, agencies may retain information relating to employee misconduct or alleged misconduct if the employee requests that the information be retained or if agency management reasonably expects that the information will be needed in a pending or prospective legal action.

(3) The agency shall submit its policy relating to the retention and confidentiality of personnel records to the director of personnel for approval and filing.

AMENDATORY SECTION (Amending WSR 95-01-074, filed 12/15/94, effective 2/1/95)

WAC 356-46-125 Drug testing—Limitations—Uses.

Except as required by federal or state laws or as provided in subsection (1) of this section, no agency may perform or cause to be performed a drug test of any employee or prospective employee.

(1) An agency may require a specific employee to submit to drug testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

(a) The agency has specific, objective grounds stated in writing to believe the employee's work performance is impaired due to the presence of such substances in the body; and

(b) The employee is in a position where such impairment presents a danger to the physical safety of the employee or another; and

(c) The agency has a specific written policy authorizing such test, establishing procedures under which they may be conducted, and protecting the confidentiality of the results, provided the results may be disclosed in an action or proceeding challenging any disciplinary action arising from the incident which led to the test. The agency's proposed policy must be submitted to the affected exclusive bargaining representative or representatives and approved by the director of the department of personnel before implementation.

(2) An employee who is found to be impaired on the job due to the use of controlled substances may be subject to disciplinary action in accordance with existing laws and regulations, but the results of such drug test shall provide no independent basis for disciplinary action. However, the agency may use the results of a drug test to require an employee to successfully complete a rehabilitation plan. The rehabilitation plan terms may require the employee to pass all subsequent drug tests. In this situation, the independent use of a subsequent drug test may be the basis for disciplinary action.

(3) In the event an employee is found to have used controlled substances, the agency shall inform the employee of available assistance through the employee advisory service or other similar program.

(4) Nothing herein shall prevent an agency from conducting medical screening to monitor exposure to toxic or other unhealthy substances in the work place, provided such screenings are limited to the specific substances reasonably believed to be present.

(5) Except as expressly set forth above, nothing herein shall add to or detract from any agency authority under chapter 41.06 RCW or regulations of the ((personnel resources)) board to establish job performance standards, or conditions of employment, or to base continued employment on satisfactory job performance.

PROPOSED

AMENDATORY SECTION (Amending WSR 84-11-091 (Order 204), filed 5/23/84, effective 9/1/84)

WAC 356-49-010 Inter-system employment—Purpose. The general purpose of this chapter is to permit permanent classified employees of ((the)) higher education ((personnel board)) institutions to promote, transfer, or voluntarily demote to permanent classified positions ((under the jurisdiction of the state personnel board)) in agencies via the inter-system employment register.

AMENDATORY SECTION (Amending WSR 84-11-091 (Order 204), filed 5/23/84, effective 9/1/84)

WAC 356-49-020 Application of rules. Insofar as they do not conflict with the provisions of chapter 356-49 WAC, upon movement into the classified service under ((the jurisdiction of the state personnel board)) Title 356 WAC, the remainder of the merit system rules will apply.

AMENDATORY SECTION (Amending WSR 84-11-091 (Order 204), filed 5/23/84, effective 9/1/84)

WAC 356-49-030 Eligibility((—Higher education personnel board permanent classified employee))—Definition. An employee who is currently employed and who has gained permanent classified status at ((an)) a higher education institution ((governed by the higher education personnel board)).

AMENDATORY SECTION (Amending WSR 85-21-113 (Order 237), filed 10/23/85, effective 12/1/85)

WAC 356-49-040 Inter-system movement ((between higher education personnel board/state personnel board jurisdiction)). (1) Permanent classified employees of higher education institutions desiring to promote, transfer, or voluntarily demote to ((state personnel board)) agency classified positions must:

(a) Submit a Washington state application for employment in accordance with a current examination announcement.

(b) Successfully complete the designated examination.

(c) Have their name placed on the appropriate register as provided in WAC 356-26-070.

(d) Be certified to vacancy(ies) as provided in WAC 356-26-070.

(e) Serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the appropriate eligible list as provided by the higher education personnel ((board)) rules (Title 251 WAC).

(2) Permanent classified employees desiring to promote, transfer, or voluntarily demote to ((state personnel board)) agency classified positions will:

(a) Be unable to bump if laid off during such trial service period even though layoff seniority will move with employees to the new position.

(b) Bring their accumulated vacation leave, sick leave and seniority with them; however, continued accumulation will be governed by the appropriate merit system rules.

(c) Retain their former periodic increment date except upon promotion as provided by WAC 356-14-120.

(3) Classified employees ((under the jurisdiction)) of ((the)) higher education ((personnel board)) institutions who have been or are going to be separated because of reduction in force action shall be certified to any agency vacant classified positions ((under the jurisdiction of the state personnel board)), provided:

(a) The employees are qualified as determined by the director of personnel, or designee; and

(b) No other agency employees ((under the jurisdiction of the state personnel board)) are eligible to be certified from the reduction in force registers, or transferred, or promoted into vacancies; and

(c) The employees have greater seniority than other such qualified employees ((under the jurisdiction of the higher education personnel board)) involved in reduction in force action; and

(d) The employees are being offered the opportunity according to the department of personnel procedure established for that purpose.

AMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93, effective 1/18/94)

WAC 356-56-010 Application of rules. (1) These rules shall be separate from rules adopted by the ((Washington personnel resources)) board for other classified employees, and to the extent that the rules adopted apply only to managers, shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) The intent of the director of personnel in adopting the rules in this chapter is to comprehensively cover the personnel matters relating to Washington management service positions. Therefore, if a Washington management service issue is identified that the director has not specifically addressed by adopting rules, the ((Washington personnel resources)) board rules shall not be effective or take precedence in addressing the issue.

(3) Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the Washington management service:

WAC 356-05	Definitions
WAC 356-10	Classification
WAC 356-14	Compensation
WAC 356-15	Compensation plan appendix
WAC 356-22	Recruitment—Examination
WAC 356-26	Registers—Certification
WAC 356-30	Appointments—Separation
WAC 356-34	Disciplinary action—Appeals
WAC 356-37	Hearings
WAC 356-39	Human resource development
WAC 356-49	Intersystem employment

(4) Except where specifically stated otherwise, the following WAC chapters do apply to positions or employees included in the Washington management service:

WAC 356-06	General provisions
WAC 356-07	Operations and public records
WAC 356-09	Affirmative action program
WAC 356-18	Leave

WAC 356-35	Disability—Separation—Appeals—Procedures
WAC 356-42	Labor relations
WAC 356-46	Miscellaneous
WAC 356-48	State internship program

AMENDATORY SECTION (Amending WSR 94-12-055 [97-23-001], filed 5/27/94 [11/5/97], effective 7/1/94 [12/8/97])

WAC 356-56-035 Definitions. (1) Anchor positions. Generic anchor positions are those which are found in many agencies; they are commonly understood and similarly used from agency to agency. Agency-specific anchor positions are those anchor positions in each agency which are commonly understood and similarly used throughout the agency.

(2) Appointing authority. A person or group of persons designated by the agency head to make appointments, impose formal discipline or otherwise regulate personnel matters.

(3) Evaluation points. The points resulting from an evaluation of a position using the managerial job value assessment chart.

(4) Management bands. A series of management levels included in the Washington management service. Placement in a band reflects the nature of management, decision-making environment and policy impact, and scope of management accountability and control assigned to the position.

(5) Salary standard. The maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

(6) Transfer. Movement from one position to a different position with the same evaluation points.

(7) Washington general service. The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW and exclusively under those chapters of Title 356 WAC that are adopted by the ((Washington personnel resources)) board.

(8) Washington management service. The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500 and those chapters of Title 356 WAC that are adopted by the director of personnel.

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

**WSR 98-15-036
PROPOSED RULES
PERSONNEL RESOURCES BOARD**

[Filed July 8, 1998, 8:12 a.m.]

Original Notice.

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

Title of Rule: New WAC 251-01-018 Agency and 251-01-201 Higher education system or higher education rules; amending WAC 251-01-030 Annual performance evaluation, 251-01-045 Board, 251-01-110 Director, 251-01-150 Examinations, 251-01-160 Executive head exemption, 251-01-305 Principal assistant exemption, 251-01-365 Related

boards, 251-01-410 System examination, 251-04-030 Scope, 251-04-040 Exemptions, 251-04-050 Powers—Duties of the board, 251-04-060 Director, 251-04-070 Personnel officers, 251-04-160 Federal preemption—Fair Labor Standards Act, 251-04-170 Americans with Disabilities Act of 1990—Federal and state preemption, 251-05-010 Purpose, 251-05-030 Description and location of departmental organization, 251-05-040 Method of operation, 251-05-060 Records—Availability—Copies, 251-05-070 Exemptions—Public records, 251-06-020 Classification plan—Adoption, 251-06-070 Allocation appeal, 251-06-090 Probationary period—Duration, 251-07-100 Temporary appointment records, 251-08-021 Compensation plans—Salary survey, 251-08-051 Compensation plans—Implementation, 251-08-090 Salary—Periodic increment, 251-08-100 Periodic increment date, 251-08-160 Payroll certification, 251-10-030 Layoff, 251-10-035 Layoff—Special employment programs, 251-11-030 Demotion, suspension, reduction, dismissal—Cause for, 251-11-050 Dismissal—Grounds for—Notice, 251-11-090 Withdrawal or amendment of charges—Time limitation, 251-11-120 Probationary period—Rejection, 251-11-130 Trial service reversion, 251-12-073 Appeals from exempt status, 251-12-075 Appeals from alleged violations of higher education personnel law or rules, 251-12-076 Appeals from denial of parental leave requests, 251-12-080 Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissed, 251-12-099 Filing of prehearing statements, 251-12-100 Hearings before the board, 251-12-104 Prehearing procedures—Exhibits, 251-12-105 Scheduling of hearings, 251-12-220 Subpoenas—Quashing, 251-12-230 Discovery—Depositions—Interrogatories, 251-12-232 Prehearing conference, 251-12-260 Restoration of rights, 251-12-500 Relief from effect of board's order, 251-12-600 Remedial action, 251-14-052 Union shop representative election, 251-14-060 Contents of written agreements, 251-14-070 Unfair labor practices—Management—Employee organizations, 251-14-082 Investigation of and disposition of unfair labor practice charges, 251-14-085 Amendment of complaint or answer—Unfair labor practice, 251-14-087 Enforcement—Unfair labor practice, 251-14-130 Arbitration—Grievance—Procedure, 251-17-120 Examinations—Evaluation of, 251-19-060 Trial service period, 251-19-110 Permanent classified employee interinstitutional and intersystem movement, 251-19-120 Appointment—Temporary, 251-19-122 Written notification of temporary appointment, 251-19-140 Apprenticeship programs, 251-19-157 Workers' compensation—Return-to-work—Program, 251-20-010 Employee performance evaluation—Authority, purpose, use, 251-22-040 Holidays, 251-22-060 Vacation leave—Accrual, 251-22-165 Workers' compensation—Leave, 251-23-010 Affirmative action—Authority, 251-23-020 Affirmative action plans—Requirements—Approval, 251-23-030 Affirmative action plans—Monitoring progress—Reporting, 251-24-010 Employee development—Authority, purpose, objective, 251-24-030 Training and development programs—Contents, 251-24-040 Higher education system training, and 251-25-050 State internship program—Application of rules; and repealing WAC 251-01-205 Hearing examiner, 251-04-150 State Environmental Policy Act, 251-08-040 Compensation plans—Submission to governor, 251-12-085 Hearing exam-

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iners, 251-12-096 Declaratory orders, 251-12-097 Declaratory orders—Form, 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost, and 251-12-300 Superior court appeals—Consideration of record.

Purpose: See Title of Rule above.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These rules are for clarification and are housekeeping in nature.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are for clarification and are housekeeping in nature.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 1998, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 1, 1998

Dennis Karras
Secretary

NEW SECTION

WAC 251-01-018 Agency. An office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature. Unless the context otherwise requires, use of the term "agency" in WAC 251 means general government agencies and does not include institutions of higher education.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-030 Annual performance evaluation. The official annual performance rating of an employee recorded on a form approved by the ((board)) director.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-045 Board. The ((higher education)) Washington personnel resources board ((established under the provisions of the higher education personnel law)).

AMENDATORY SECTION (Amending WSR 87-21-089 (Order 163), filed 10/21/87)

WAC 251-01-110 Director. The director of the ((higher education)) department of personnel ((board)). ((The director may delegate in writing his/her authority to a higher education personnel board staff member.))

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-150 Examinations. Any measures or assessments used in the process of identifying names for certification to vacancies in accordance with chapter 41.06 RCW ((28B.16.100(2))) and WAC 251-18-240. Examinations include examination content, administration, and evaluation.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-160 Executive head exemption. Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice-presidents, deans and chairmen. Directors may be executive heads as determined by the ((higher education personnel)) board. An executive head is in charge of a separate budget unit and directs subordinates.

NEW SECTION

WAC 251-01-201 Higher education system or higher education rules. The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW and exclusively under those chapters of Title 251 WAC that are adopted by the board.

REPEALER

WAC 251-01-205

Hearing examiner.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-305 Principal assistant exemption. Individuals qualifying for exemption under this category

function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the ((higher education personnel)) board.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-365 Related boards. The state board for community and technical colleges; ((education, the council for postsecondary education, the higher education personnel board,)) and such other boards, councils, and commissions related to institutions of higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-410 System examination. An examination developed to meet the requirements of all institutions in the ((HEPB)) higher education system and approved by the director for use by all such institutions.

AMENDATORY SECTION (Amending WSR 93-19-147 (Order 432), filed 9/22/93, effective 10/23/93)

WAC 251-04-030 Scope. The provisions of these rules shall apply to all personnel of the higher education institutions/related boards except those exempted under the provisions of WAC 251-04-040. These rules and the compensation and classification plans adopted hereunder shall continue to apply as before and shall not be used interchangeably with ((those adopted by the former state personnel board)) Title 356 WAC. Further, these rules and compensation and classification plans shall continue to apply as before until such time as the ((Washington personnel resources)) board has had adequate time to review and consider changes to the existing rules and plans.

AMENDATORY SECTION (Amending WSR 94-16-049, filed 7/27/94, effective 9/1/94)

WAC 251-04-040 Exemptions. The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairs; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees

in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Are employed in a position directly related to their major field of study to provide training opportunity; or

(c) Are elected or appointed to a student body office or student organization position such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

(5) Persons employed to work one thousand fifty hours or less in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, exclusive of overtime or work time as described in subsection (2) of this section.

(6) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

(7) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(8) Printing craft employees in the department of printing at the University of Washington.

((7)) (9) The director, his/her confidential secretary, assistant directors, and professional education employees of the state board for community and technical colleges ((education)).

((8)) The personnel director of the higher education personnel board and his confidential secretary.)

((9)) (10) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the ((higher education)) personnel appeals board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, as determined by the ((higher education)) Washington personnel resources board: *Provided*, That no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the ((higher education)) Washington personnel resources board under this provision.

((10)) (11) ((Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.)) Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following right: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary. Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal to the personnel appeals board created by RCW 41.64.010 not later than thirty days after the effective date of such action.

((11)) (12) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment. A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

((12)) (13) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

AMENDATORY SECTION (Amending WSR 96-11-063, filed 5/10/96, effective 6/6/96)

WAC 251-04-050 ((Higher education personnel)) Powers—Duties of the board. ((1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. Each odd numbered year the governor shall appoint a member for a six year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(b) Certification of names for vacancies, including promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

(c) Examination for all positions in the competitive and noncompetitive service;

(d) Appointments;

(e) Probationary periods of six to twelve months and rejections therein depending on the job requirements of the class;

(f) Transfers;

(g) Sick leaves and vacations;

(h) Hours of work;

(i) Layoffs when necessary and subsequent reemployment according to seniority;

(j) Determination of appropriate bargaining units within any institution or related board. *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees;

(k) Certification and decertification of exclusive bargaining representatives;

(l) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization. *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties;

(m) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position. In adopting these revisions the board shall comply with SSB 6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW;

(n) Allocation and reallocation of positions within the classification plans;

(o) Adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC;

(p) Training programs including in-service, promotional, and supervisory;

(q) Increment increases within the series of steps for each pay grade; and

(r) Veteran's preference as provided by existing statutes.

(s) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.)

(t) It shall be the responsibility of the personnel board to:

(a) Establish general policies for the administration of merit system examinations and the hearing of personnel appeals.

(b) Make rules and regulations providing for employee participation in the development and administration of personnel policies.

(c) Hear personnel appeals.

(d) Promote public understanding of the purposes, policies, and practices of the merit system.

(2) The board shall adopt and promulgate rules and regulations consistent with the purposes and provisions of the state civil service law and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The demotion, suspension, reduction in salary or dismissal of an employee and appeals therefrom.

(b) Certification of names for vacancies including departmental promotions.

(c) Examinations for all positions in the competitive and noncompetitive service.

(d) Appointments.

(e) Probationary periods of six to twelve months and rejections therein.

(f) Transfers.

(g) Sick and vacation leaves.

(h) Hours of work.

(i) Layoffs, when necessary, and subsequent reemployment.

(j) Agreements between institutions/related boards and certified exclusive representatives providing for grievance procedures and collective negotiations on personnel matters.

(k) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of duties and responsibilities of each position. In adopting these revisions the board shall comply with RCW 41.06.152, RCW 41.06.150(15), and chapter 43.88 RCW.

(l) Allocation and reallocation of positions within the classification plan.

(m) Adoption and revision of a state salary schedule to reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature, with adoption and revision subject to approval by the director of the office of financial management in accordance with the provisions of chapter 43.88 RCW.

(n) Training programs, including in-service, promotional and supervisory.

(o) Regular increments within the series of steps for each pay range, based on length of service for all employees whose standards of performance are such as to permit them to retain job status within the classified service.

(p) Compliance with existing veterans preference statutes.

AMENDATORY SECTION (Amending WSR 95-19-099, filed 9/20/95, effective 11/1/95)

WAC 251-04-060 Director. ((1) The personnel director appointed by the governor shall be the chief staff officer

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~~for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the state board for community and technical colleges. When necessary, the director may request the creation of task forces drawn from the four year institutions of higher education, and representatives of the various state community colleges through the state board for community and technical colleges, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business.)~~

((2)) (1) The director shall periodically and at such other times as may be necessary, audit and review the personnel administration and management at each institution and related board.

All relevant files and records of appointing authorities and personnel officers shall be made available to the director at any time.

((3)) (2) The director shall take any action necessary to ensure and enforce compliance with ((the higher education personnel law)) chapter 41.06 RCW and these rules.

((4)) (3) The director of personnel may delegate to the personnel officer of any higher education institution or related board the director's authority to perform administrative and technical activities if such authority is requested. When an institution or related board requests a delegation of the director's authority, the requesting person shall concurrently send a copy of the request to any affected exclusive representative. After an authority has been delegated, if an employee or the employee's exclusive representative files a written complaint with the director regarding a delegated authority, the director shall conduct a timely investigation. If the director of personnel determines that an institution or related board is not appropriately performing delegated activities, the director may withdraw the authority to perform such activities. Delegation of the director's authority is separate from the statutory local administration in RCW 41.06.520.

AMENDATORY SECTION (Amending WSR 82-16-002 (Order 98), filed 7/22/82, effective 9/1/82)

WAC 251-04-070 Personnel officers. (1) Each higher education institution/related board shall designate an officer who shall perform duties as personnel officer. The personnel officer shall direct, supervise, and manage administrative and technical personnel activities for the classified service consistent with policies established by the institution/related board and in accordance with the provisions of ((the higher education personnel act)) chapter 41.06 RCW and the rules and regulations approved and promulgated thereunder. Institutions may undertake jointly with one another to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects.

(2) The state board for community and technical colleges ((education)) shall have general supervision and control over activities undertaken by the various state community colleges.

(3) Rules adopted by the ((higher education personnel)) board shall provide for local administration and management by the higher education institutions/related boards, subject to periodic audit and review by the board, of the following:

- (a) Appointment, promotion, and transfer of employees.
- (b) Dismissal, suspension, or demotion of employees.
- (c) Examinations for all positions in the competitive and noncompetitive service.
- (d) Probationary periods of six to twelve months and retention and rejections therein.
- (e) Sick leaves and vacations.
- (f) Hours of work.
- (g) Layoffs when necessary and subsequent reemployment.
- (h) Allocation and reallocation of positions within the classification plans.
- (i) Training programs.
- (j) Maintenance of personnel records.

REPEALER

WAC 251-04-150

State Environmental Policy Act.

AMENDATORY SECTION (Amending WSR 91-13-011, filed 6/7/91, effective 6/7/91)

WAC 251-04-160 Federal preemption—Fair Labor Standards Act. Institutions shall comply with ((higher education personnel)) the board rules (Title 251 WAC) unless doing so would cause them to violate the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

AMENDATORY SECTION (Amending WSR 98-08-024, filed 3/20/98, effective 5/1/98)

WAC 251-04-170 Americans with Disabilities Act of 1990—Federal and state preemption. Institutions shall comply with ((personnel resources)) the board rules (Title 251 WAC) unless doing so would cause them to violate state laws, chapter 49.60 RCW, or the federal Americans with Disabilities Act of 1990.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-05-010 Purpose. The purpose of this chapter shall be to insure compliance by the ((higher education)) department of personnel ((board)) with the provisions of chapter 42.17 RCW ((42.17.250 through 42.17.340)).

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-05-030 ((HEPB—Location—Organization—Jurisdiction)) Description and location of departmental organization. (1) The ((higher education personnel board is quartered at 1202 Black Lake Boulevard)) central office of the Department of Personnel is located at 521 Capitol Way S., Olympia, Washington ((98504)). The staff at this location provides personnel services regarding affirmative action, recruitment, examination, examination development, certification, classification, hearings, compensation, salary surveys, compensation plan administration, research services, special projects, departmental fiscal management, facilities, word processing support.

((2)) The staff is organized into six general areas:

(a) Classification and compensation which provides classification, compensation, and allocation services.

(b) Personnel services which provides for examination development, employee development, and affirmative action plans.

(c) Labor relations which provides for mediation and arbitration, creation of collective bargaining units, and certification of exclusive representatives.

(d) Field services which provides rules interpretation and development and institution audit services.

(e) Fiscal services which manages the operational cost of the higher education personnel board (Agency No. 383) and the higher education personnel board revolving fund.

(f) Administrative services which provides appeal services, and overall administration of agency operations.

(3) All classified employees of the twenty eight higher education institutions and three related boards are under the jurisdiction of the higher education personnel board.

(2) The staff located at 600 South Franklin Street, Olympia, Washington, provides labor relations services and appeal hearings, consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(3) The staff at the following locations provides employee advisory services: 3400 Capitol Boulevard, Olympia, Washington; 2825 Eastlake Avenue E., Suite 310, Seattle, Washington; and at 4407 Division, Suite 210, Spokane, Washington.

(4) The staff located at Building #1, Rowesix, Lacey, Washington, administers the central personnel/payroll and insurance eligibility computer systems.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-05-040 Method of operation. (1) The general conduct of agency business is pursuant to the charter established in chapter 41.06 RCW ((28B.16.100)) and Title 251 WAC.

(2) Provisions for all interested parties to participate in formulation of rules governing administration of the law is assured by a twenty-day notice requirement prerequisite to formal ((higher education personnel)) board adoption of any jurisdictional matter, except appeals.

(3) Special meetings may be called by the board subject to twenty-four hour notice, as required by law.

(4) Informal work sessions with interested parties are conducted by staff as necessary to insure maximum representation from employee organizations and institutions before proposals are made to the board.

AMENDATORY SECTION (Amending WSR 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-05-060 Records—Availability—Copies.

(1) Copies of all public records as defined in WAC 251-01-340 and identified in current indexes maintained in the Olympia office of the ((director of the higher education)) department of personnel ((board)), shall be made available upon written request to the staff member designated by the director or designee. Response to such requests will be made in the order received.

((2)) Available indexes shall include but not be limited to the following:

- (a) Rules—Title 251 WAC;
- (b) Twenty day notice and minutes of meetings—regular and special;
- (c) Board orders;
- (d) Findings, conclusions and order of hearing examiners;
- (e) Annual director's report;
- (f) Higher education personnel board budget;
- (g) Higher education personnel board revolving fund data;
- (h) Staff administrative procedures manual;
- (i) Higher education personnel board classification and compensation plan;
- (j) Documents filed with the board as required by Title 251 WAC or board order, i.e., reduction in force procedure, holiday schedule, collective bargaining agreement, etc.)

((3)) (2) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the agency and must be accomplished without excessive interference with the essential function of the agency.

((4))) (3) Copies of the records will be made available at actual cost to the agency.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-05-070 Exemptions—Public records. (1) The agency, through its designated public records officer, reserves the right to determine that a public record requested in accordance with these rules is exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the agency reserves the right to delete identifying details when making available or publishing any public record or any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 ((WAC)) RCW. The public records officer will justify any such deletion in writing.

PROPOSED

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld will be included.

AMENDATORY SECTION (Amending WSR 96-11-063, filed 5/10/96, effective 6/6/96)

WAC 251-06-020 Classification plan—Adoption. (1) The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board.

(2) In adopting these revisions the board shall comply with ((Senate Bill S6767 of 1996)) RCW 41.06.152, RCW 41.06.150(15), and chapter 43.88 RCW. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

AMENDATORY SECTION (Amending WSR 97-01-065, filed 12/13/96, effective 1/13/97)

WAC 251-06-070 Allocation appeal. (1) The employee or employee representative may file a written appeal with the director under provisions of WAC 251-06-050 or 251-06-060 when:

(a) The response required in WAC 251-06-060(2) is not issued to the employee or employee representative within the required sixty calendar day period following receipt of the employee request; or

(b) The response fails to address the specific reason(s) that the request was not approved; or

(c) The employee disagrees with the results of a position review conducted by the personnel officer. The written appeal should include information which will assist the ((board)) director in determining the proper allocation of the position.

(2) The director shall investigate and issue a determination. Within thirty calendar days of the date of service of the director's determination, the employee, employee representative or institution may file written exceptions with the personnel appeals board as provided in Title 358 WAC.

AMENDATORY SECTION (Amending WSR 82-16-002 (Order 98), filed 7/22/82, effective 9/1/82)

WAC 251-06-090 Probationary period—Duration. (1) The probationary period for all classes in the ((HEPB)) classification plan will be six months, unless the board approves a longer probationary period for the class.

(2) The director will prepare and revise for board adoption on a class-by-class basis any probationary periods which exceed six months. Procedures for requesting extended probationary periods will be developed by the director.

(3) Classes with longer probationary periods will be identified in the ((HEPB)) classification plan.

(4) When the probationary period for a class is approved for longer than six months, the longer period shall apply only to eligibles appointed after the effective date of the board's action.

AMENDATORY SECTION (Amending WSR 89-13-074 (Order 179), filed 6/21/89, effective 10/1/89)

WAC 251-07-100 Temporary appointment records. Each institution shall maintain information for temporary employees as specified in WAC 251-19-122. At least quarterly each institution shall produce a record which shows the cumulative hours worked for each temporary employee. This record shall be kept on file in the personnel office and shall be made available to the ((higher education personnel)) board staff upon request.

AMENDATORY SECTION (Amending WSR 87-08-056 (Order 155), filed 4/1/87, effective 5/1/87)

WAC 251-08-021 Compensation plans—Salary survey. Comprehensive and trend salary surveys will be conducted in accordance with applicable portions of chapter 41.06 RCW.

((1)) For purposes of reflecting in salary schedules and in the compensation plans the prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, the director shall undertake salary and fringe benefit surveys for the board with the assistance of the various personnel officers and on a joint basis with the department of personnel, with a comprehensive survey to be conducted in the year prior to the convening of every other regular session of the state legislature. A trend survey will be conducted in the year prior to the convening of each regular session of the state legislature for which a comprehensive survey is not conducted.

((2)) Salary and fringe benefit surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

((a)) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out of state sources when necessary to obtain statistically valid salary surveys; and

((b)) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparison of survey data to individual state job classes.

((3)) Salary and fringe benefit surveys shall be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of financial management, employee organizations, and the standing committees for appropriations in the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodie

~~survey required before regular legislative sessions. This comprehensive plan shall include, but not be limited to, the following:~~

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(e) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(4) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans shall be developed jointly by the higher education personnel board and the department of personnel. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel. The legislative budget committee shall review and evaluate all survey plans before final implementation.

(5) Any interim or special surveys conducted shall conform when possible to the statistical techniques and principles developed for regular periodic surveys.)

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

WAC 251-08-040

Compensation plans—Submission to governor.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-08-051 Compensation plans—Implementation. Implementation of the results of salary and fringe benefit surveys shall be subject to approval as to availability of funds by the director of the office of financial management and after consultation with the chief financial officer of each institution for that institution, or in the case of the various community colleges, by the chief financial officer of the state board for community and technical colleges ((education)).

AMENDATORY SECTION (Amending WSR 95-19-055, filed 9/15/95, effective 10/16/95)

WAC 251-08-090 Salary—Periodic increment. (1)

Employees whose performance permits them to retain job status in the classified service shall receive periodic increments within the steps of the salary range. The salary of each employee shall be increased two steps on the periodic increment date and annually thereafter on the periodic increment date, not to exceed the maximum step of the range. An exception to the two step movement on the periodic increment date are those employees who occupy classes included in the ((higher education personnel board)) locality special pay plan per WAC 251-09-090 which applies only to University of Washington hospitals. The salary of each employee under this plan shall be increased as specified in the ((higher education personnel board)) hospital special pay plan.

(2) When the periodic increment date falls on the same effective date as another salary action, the periodic increment shall be applied prior to, and in addition to, any other action resulting in a salary increase or decrease.

AMENDATORY SECTION (Amending WSR 88-15-023 (Order 170), filed 7/12/88)

WAC 251-08-100 Periodic increment date. (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of six months in the class for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in subsection (2) of this section;

(c) Upon reallocation under WAC 251-06-080 (1)(a) of an employee who is at the top step of the current salary range, the employee will be given a new periodic increment date which will be six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-165(5), 251-22-180, and 251-19-130;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time

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equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When a cyclic year position leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of (d) of this subsection shall apply to that period exceeding the ninety calendar days. Cyclic year position employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the ((board) director or the ((director) personnel appeals board orders remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in subsection (3)(c) of this section.

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-19-160.

AMENDATORY SECTION (Amending WSR 79-03-030 (Order 72), filed 2/27/79, effective 4/2/79)

WAC 251-08-160 Payroll certification. A disbursing officer shall not pay any employee holding a position covered by ((the higher education personnel law)) chapter 41.06 RCW unless the employment is in accordance with chapter ((28B.16)) 41.06 RCW and the provisions of these rules. The board and the institutions of higher education, including the state board for community and technical colleges ((education)) which shall act for the various community colleges, and the director of financial management shall jointly establish procedures for the certification of payrolls.

AMENDATORY SECTION (Amending WSR 98-03-051, filed 1/16/98, effective 3/1/98)

WAC 251-10-030 Layoff. (1) An appointing authority may layoff or reduce the number of working hours or the work year of an employee without prejudice because of lack of funds or lack of work and/or for good faith reorganization for efficiency purposes.

(2) Each institution shall develop for approval by the director a layoff procedure based upon layoff seniority as defined in WAC 251-01-245, to include as a minimum:

(a) Clearly defined layoff unit(s), in order to minimize the disruption of an institution's total operation, and

(b) Provision for veterans preference for eligible veterans and their unmarried widows/widowers as defined in WAC 251-10-045.

(3) A permanent status employee shall receive at least 20 calendar days written notice of layoff, including no less than

three working days in which to select placement on layoff list(s) and/or an option in lieu of layoff as provided in subsections (4) and (5) of this section. Such written notice shall be furnished directly to the employee during his/her scheduled working hours or mailed by certified letter to the employee's last known address because the employee is not available for personal service. If the notification is furnished directly to the employee, the day it is furnished shall not be counted as a day of notice. If the notification is mailed, the day of mailing shall not be counted as a day of notice, and the notice shall be considered to be received the day after it is postmarked. If the notification is mailed, the employee shall be given no less than five working days in which to select placement on the layoff list(s) and/or an option in lieu of layoff.

(4) Within the layoff unit, a permanent status employee scheduled for layoff shall be offered employment options to position(s):

(a) For which he/she meets any specific position requirements;

(b) Which are comparable, as determined by the personnel officer; and

(c) Which are in:

(i) Class(es) in which the employee has held permanent status which have the same or lower salary range maximum as the current class;

(ii) Lower class(es) in those same class series for which the employee is qualified.

The employee may exercise either option subsection (4)(c)(i) or (ii) of this section provided that the employee being replaced is the least senior in a comparable position in the class and has less layoff seniority than the employee replacing him/her. A vacant position, if available, should be considered to be the position in the class held by the least senior person. The employee may elect to have access to less-than-comparable positions by so notifying the personnel officer in writing.

(5) Except as provided in WAC 251-10-035, a permanent employee scheduled for layoff who has no options available under subsection (4) of this section shall be offered position(s) as follows:

(a) The personnel officer will offer in writing not less than three positions from among the highest available classes (unless the total available is less than three); provided that any position(s) offered must be:

(i) At the same level or lower than the class from which the employee is being laid off; and

(ii) Vacant or held by a provisional, temporary, or probationary employee; and

(iii) In a class for which the employee being laid off meets the minimum qualifications and can pass the appropriate qualifying examination.

(b) The employee will be required to indicate within three working days his/her interest in a specific class(es) so that the personnel officer may schedule the appropriate examination(s).

(c) Upon satisfactory completion of the examination(s) the employee will be offered option(s) to specific position(s), including salary information.

(d) Employees appointed to positions through provisions of this subsection will be required to serve a trial service period.

(6) In order to be offered a layoff option or return from layoff to a position for which specific position requirements have been documented in accordance with WAC 251-18-255(1), the employee must demonstrate a satisfactory level of knowledge, skill, or ability on the specific position requirements.

(7) In a layoff action involving a position for which a particular sex is a bona fide occupational requirement, as approved by the Washington state human rights commission, the most senior employee meeting the occupational requirements may be retained in the position over more senior employees in such class who do not meet the occupational requirement.

(8) When it is determined that layoffs will occur within a unit, the personnel officer will:

(a) Provide a copy of the institution's reduction in force procedure to all employees subject to layoff;

(b) Advise each employee in writing of available options in lieu of layoff;

(c) Advise each employee in writing of the specific layoff list(s) upon which he/she may be placed as required per WAC 251-10-055 and 251-10-035;

(d) Provide information about the process by which the employee may make application for state-wide layoff lists, as required per WAC 251-10-060(7);

(e) Advise each employee in writing of the right to appeal his/her layoff to the personnel appeals board per WAC 251-12-080.

(9) Layoff actions for employees of special employment programs as identified in WAC 251-19-150 shall be administered as provided in WAC 251-10-035.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 88-22-057 (Order 174), filed 11/1/88)

WAC 251-10-035 Layoff—Special employment programs. (1) Institutions participating in special employment programs qualifying under the conditions identified in WAC 251-19-150 shall establish a special employment program layoff unit.

(2) An appointing authority may layoff or reduce the number of working hours or the work year of a special employment program employee without prejudice because of lack of funds or lack of work, or when an incumbent must be laid off due to the salary or longevity requirements of Public Law 95-524.

(3) A permanent status special employment program employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in subsection (5) of this section. Employment options are limited to positions within the special employment program layoff unit and/or program for which the employee qualifies. The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or

be placed on the appropriate special employment program layoff list(s).

(4) The appointing authority must provide the employee at least fifteen calendar days written notice beyond the date of selection of an option or the completion of the option period, whichever is sooner. The notice shall inform the employee of his/her right to appeal the layoff action to the personnel appeals board per WAC 251-12-080.

(5) Within the special employment program layoff unit, a permanent status employee scheduled for layoff shall be offered the following:

(a) Except as provided in (b) of this subsection, employees who are being laid off shall be offered options within the layoff unit and placement on special employment program layoff lists in class(es) with the same or lower salary range maximum that are:

(i) Class(es) in which the employee has held permanent status;

(ii) Lower class(es) in the same class series for which the employee is qualified.

The employee may exercise either option provided that the employee being replaced is the least senior in the class and has less layoff seniority than the employee replacing him/her.

(b) Employees who are being laid off due to the expiration of the maximum allowable period of subsidized employment as provided in Public Law 95-524 shall not be afforded layoff options but shall be placed on the special employment program layoff list(s) for which they are eligible.

(6) The provisions of WAC 251-10-030 (7) and (8) relative to specific position and bona fide occupational requirements shall apply to special employment program layoff actions.

(7) The names of employees scheduled for layoff or actually laid off from service within a class shall be placed on the special employment program layoff list as provided in WAC 251-18-180.

AMENDATORY SECTION (Amending WSR 88-22-057 (Order 174), filed 11/1/88)

WAC 251-11-030 Demotion, suspension, reduction, dismissal—Cause for. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss an employee under their jurisdiction for just cause. Examples of activities which may result in such action are, but are not limited to: Neglect of duty, inefficiency, incompetence, insubordination, malfeasance, gross misconduct, willful violation of the published institution/((or)) related board or higher education personnel ((board)) rules or regulations, mistreatment or abuse of fellow workers or members of the public, conflict of interest, excessive absenteeism, failure to comply with union shop requirements per WAC 251-14-058, etc.

(2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to be just cause for dismissal as described in subsection (1) of this section.

PROPOSED

AMENDATORY SECTION (Amending WSR 88-22-057
(Order 174), filed 11/1/88)

WAC 251-11-050 Dismissal—Grounds for—Notice. Appointing authorities may dismiss a permanent employee for just cause as specified in WAC 251-11-030. The employee shall be provided written notice of the specified cause(s), specific charges, and the right to appeal the dismissal action to the personnel appeals board. The notice shall be furnished at least fifteen calendar days prior to the effective date of the action (unless the dismissal action is to be effective as provided in WAC 251-11-070) and shall be furnished directly to the employee during his/her scheduled working hours, or if this is not possible because of the absence of the employee during his/her regularly scheduled working hours, mailed by certified letter to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If the notification is mailed, the notice shall be considered received the same day as it is postmarked and the notice period shall be computed as provided in WAC 251-04-100.

AMENDATORY SECTION (Amending WSR 88-22-057
(Order 174), filed 11/1/88)

WAC 251-11-090 Withdrawal or amendment of charges—Time limitation. Appointing authorities may withdraw or amend demotion, suspension, reduction in salary, or dismissal actions, but not after an appeal of the action has been heard by the personnel appeals board.

AMENDATORY SECTION (Amending WSR 88-22-057
(Order 174), filed 11/1/88)

WAC 251-11-120 Probationary period—Rejection. An appointing authority may reject an employee who has not completed a probationary period. Written notice of the action must be given to the employee at least one workday (eight hours) prior to the effective date of the action. Written notice should be given directly to the employee. If the employee is unavailable, notification shall be by certified mail. Service of papers shall be as provided in WAC 251-04-105. A probationary employee ((may)) shall not have the right to appeal the rejection ((to the board)).

AMENDATORY SECTION (Amending WSR 88-22-057
(Order 174), filed 11/1/88)

WAC 251-11-130 Trial service reversion. An employee, prior to completing a trial service period, may be reverted by an employing official for failure to perform satisfactorily in the class. When such reversion becomes necessary, the written notice and employee rights upon reversion will be as provided in WAC 251-19-060(3). Trial service reversion is not appealable to the personnel appeals board when the conditions of WAC 251-19-060(4) have been satisfied.

AMENDATORY SECTION (Amending WSR 90-14-018,
filed 6/27/90, effective 8/1/90)

WAC 251-12-073 Appeals from exempt status. As indicated in WAC 251-04-040(10), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the personnel appeals board ((in the same manner as provided in WAC 251-12-080)) within thirty calendar days of the effective date of the action appealed.

AMENDATORY SECTION (Amending WSR 97-01-065,
filed 12/13/96, effective 1/13/97)

WAC 251-12-075 Appeals from alleged violations of higher education personnel law or rules. Any employee, employee representative or appointing authority desiring to appeal an alleged violation of the higher education personnel law or rules adopted thereunder, may appeal such alleged violation. Appeals must be in writing and must be filed with the personnel appeals board as provided in Title 358 WAC within thirty calendar days ((after)) of the effective date of the action appealed.

AMENDATORY SECTION (Amending WSR 89-22-020,
filed 10/24/89, effective 12/1/89)

WAC 251-12-076 Appeals from denial of parental leave requests. Any permanent employee who is denied parental leave per WAC 251-22-195 may appeal such action to the ((board)) director. The appeal must be in writing and submitted to the ((higher education)) department of personnel ((board office)) within seven calendar days following receipt by the employee of the personnel officer's written notification and rationale for denial. ((Appeals under this section will be heard by a board hearing examiner and a verbal decision will be rendered within forty-eight hours of the hearing, with a written decision to follow within thirty days.)) The ((hearing examiner's)) director's determination shall be final and binding.

AMENDATORY SECTION (Amending WSR 97-01-065,
filed 12/13/96, effective 1/13/97)

WAC 251-12-080 Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissal. Any permanent employee who is demoted, suspended, laid off, reduced in salary, separated or dismissed, may appeal such action. Appeals must be in writing and must be filed with the personnel appeals board as provided in Title 358 WAC within thirty calendar days ((after)) of the effective date of the action appealed.

REPEALER

REPEALER

WAC 251-12-096

Declaratory orders.

REPEALER

WAC 251-12-097

Declaratory orders—Form.

AMENDATORY SECTION (Amending WSR 96-09-055, filed 4/12/96, effective 6/1/96)**WAC 251-12-099 Filing of prehearing statements.**

(1) Parties are encouraged to file prehearing statements of position with the ((~~personnel resources~~)) board. The board may request all parties to submit a prehearing statement. The statements should include a summary of the evidence the party intends to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition. Such documents shall be provided to the board and to the opposing party no later than fourteen calendar days prior to the scheduled hearing date. Any response by the opposing party shall be served no later than seven calendar days prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) A party submitting prehearing statement(s) shall provide the original and three copies to the board, and one copy to the opposing party.

(3) The ((~~personnel resources~~)) board will determine whether to consider documents that are filed at the time of the hearing.

AMENDATORY SECTION (Amending WSR 96-09-055, filed 4/12/96, effective 6/1/96)**WAC 251-12-100 Hearings before the board.**

(1) Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests. On motion of the board or a party ((or on the hearing examiner's own motion)), witnesses may be excluded from any hearing except when testifying. Photographic and recording equipment may be permitted((, however, the hearing examiner may impose such conditions upon their use as he or she deems necessary to prevent disruption of the hearing)). Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) Members of the board or its designee may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board according to the provisions of RCW 5.28.020 through 5.28.060. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for

contempt committed before, or in connection with the proceedings of, the court.

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails.

AMENDATORY SECTION (Amending WSR 96-09-055, filed 4/12/96, effective 6/1/96)**WAC 251-12-104 Prehearing procedures—Exhibits.**

(1) At any hearing before the ((~~personnel resources~~)) board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the board members, for the court reporter, if any, and for the board's official file.

(2) The parties shall arrive at the hearing location at least thirty minutes before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. The parties shall pre-mark their exhibits for identification and present copies to other parties and the board's staff prior to commencement of the hearing.

AMENDATORY SECTION (Amending WSR 96-09-055, filed 4/12/96, effective 6/1/96)**WAC 251-12-105 Scheduling of hearings.**

Prior to scheduling the hearing, the hearings coordinator will give the parties an opportunity to indicate preferred dates and amount of time allotted of the hearing. The hearings coordinator shall schedule all hearings before the ((~~personnel resources~~)) board with written notice, specifying the time, place, and length of the hearing. Notice of hearing shall be mailed not less than thirty calendar days prior to the date of the hearing, unless all parties agree to a shorter notice period. Primary and/or secondary hearings may be scheduled.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)**WAC 251-12-220 Subpoenas—Quashing.**

Upon motion promptly made by a party or by the person to whom the subpoena is directed (and upon notice to the party who issued the subpoena), the board ((or hearing examiner)) may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(2) Condition denial of the motion upon just and reasonable conditions.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)**WAC 251-12-230 Discovery—Depositions—Interrogatories.**

Attorneys of record for a party to a hearing may

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use discovery procedures in a manner consistent with the civil rules for the superior courts of the state of Washington, or the members of the board ((~~the director, or a hearing examiner~~)) may issue orders for discovery upon petition of the party desiring discovery. Any motions, challenges or objections concerning discovery shall be ruled upon by the board ((~~or the hearing examiner assigned to the hearing~~)) or its designee.

AMENDATORY SECTION (Amending WSR 96-09-055, filed 4/12/96, effective 6/1/96)

WAC 251-12-232 Prehearing conference. (1) The ((personnel resources)) board or its designee may direct the parties or their representatives to engage in an informal pre-hearing conference(s) to consider the following:

- (a) Statement of issue;
- (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;
- (i) Scheduling the hearing before the board; and
- (j) Such other matters as may aid in the prompt disposition of the petition.

(2) Prehearing conferences may be held by telephone conference call or at a time and place mutually agreed upon by the parties.

(3) The parties are encouraged where possible to resolve their disputes. To facilitate such resolution, the board or its designee may recess the conference at any time to give the parties time to discuss settlement. In the event settlement is reached, the grievant/petitioner or representative shall sign a request to withdraw the petition.

AMENDATORY SECTION (Amending WSR 89-01-071 (Order 175), filed 12/20/88, effective 2/1/89)

WAC 251-12-260 Restoration of rights. (1) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits including back pay, sick leave, vacation leave accrual, retirement and OASDI credits.

(2) In instances of immediate dismissal as provided in WAC 251-11-070 where the institution is unable to justify under appeal the immediacy of the dismissal but the dismissal action itself is upheld, the employee's entitlement to recovery shall not exceed the fifteen calendar day period which would have served as the notice period had the dismissal been processed as provided in WAC 251-11-050. In instances where the personnel appeals board does not uphold the dismissal action but deems a suspension to have been warranted, the employee may be reinstated and a suspension ordered of up to fifteen calendar days.

REPEALER

WAC 251-12-290

Superior court appeals—Preparation of record—Time limitations—Cost.

REPEALER

WAC 251-12-300

Superior court appeals—Consideration of record.

AMENDATORY SECTION (Amending WSR 88-02-017 (Order 164), filed 12/30/87, effective 2/1/88)

WAC 251-12-500 Relief from effect of board's order.

(1) Employees who incur loss of position, seniority, salary or otherwise are caused to suffer directly by action of the board pursuant to rules set forth in chapters 251-17, 251-18, and 251-19 WAC may be considered to be aggrieved if the employee did not participate in the conditions as contributing to rules violation. Aggrieved employees may be provided by order of the board, such benefits as:

- (a) Permanent status when qualified by examination;
- (b) Salary maintenance or adjustment;
- (c) Seniority as appropriate;
- (d) Accrual of benefits.

(2) Upon receipt of written request for consideration from an employee, or upon initiation by the director, such action may be instituted as is required to provide appropriate relief under the rules for aggrieved employees when the employee is reduced in position or salary, laid off, or is otherwise caused to suffer as an indirect result of an order of the board and the employee was not a party to willful disregard of the rules. Such written request from the employee must be received within thirty calendar days of the action unless an extension in time is requested by the personnel officer.

(3) The director shall notify interested parties in writing of any recommended action and such order shall be binding unless a request for review is received by the ((higher education personnel)) board as provided in subsection (4) of this section.

(4) Request for board review of the action of the director must be made in writing by the employee, his/her representative, or the institution within fifteen calendar days of the mailing of such notice and must contain the reasons for such review. Within thirty calendar days of receipt of the notice the board will issue its ruling either affirming or modifying the director's action. The board's order shall be final and binding.

AMENDATORY SECTION (Amending WSR 97-13-045, filed 6/13/97, effective 8/1/97)

WAC 251-12-600 Remedial action. (1) The director may take remedial action when it is determined that the following conditions exist.

(a) The hiring institution has made an appointment that does not comply with higher education personnel ((board)) rules.

(b) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1, 1989, whichever is later. (These hours do not include overtime or work time as described in WAC 251-04-040(2).)

(c) The position or positions are subject to civil service.

(d) The employee has not taken part in any willful failure to comply with these rules.

(2) Remedial action includes the power to confer permanent status, set salary, establish seniority, and determine benefits accrued from the seniority date. Remedial action also includes other actions the director may require to meet the highest personnel standards.

(3) If the institution has complied with WAC 251-19-122, the employee must:

(a) Submit any request for remedial action in writing; and

(b) File the request within thirty calendar days after the effective date of the alleged violation of the conditions of employment which are to be specified in the written notification of temporary appointment.

(4) The director's order for remedial action shall be final and binding unless exceptions are filed with the personnel appeals board within thirty calendar days of the date of service of the order. Exceptions must state the specific items of the order to which exception is taken. The personnel appeals board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

AMENDATORY SECTION (Amending WSR 88-18-018 (Order 172), filed 8/29/88, effective 10/1/88)

WAC 251-14-052 Union shop representative election. (1) The director shall order a union shop representative election to be held upon petition from an employee organization which has been certified per WAC 251-14-040 as the exclusive representative of the employees of a bargaining unit. If the employee organization does not already have the opinion of counsel required by WAC 251-14-020(2) on file with the director, the petition shall not be considered complete until such an opinion is provided.

(2) The director shall, upon receipt of a petition for a union shop representative election, inform all affected employees of the union shop provisions contained in ((the state higher education personnel law, RCW 28B.16.100)) chapter 41.06 RCW.

(3) The director or designee, at a preelection conference, shall review with the employee organization and appointing authority or designee the standards and procedures for the conduct of the election and shall inform all affected employees of the conditions set forth therein.

(4) The election shall be held on state property during working hours unless otherwise agreed to by all parties during the preelection conference.

(5) All employees on the active payroll and employed within the bargaining unit on the date of election will be eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot.

(6) Absentee ballots may be requested prior to date of election but will be counted only if received by the director or

designee no later than two regular working days following the closing date of election.

(7) Transportation to official places of voting shall be provided to the degree practicable as determined by preelection conference.

(8) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of a union shop.

(9) The director will certify the employee organization as the union shop representative if a majority of employees in the bargaining unit vote in favor of requiring membership in the employee organization to be a condition of employment.

(10) Another union shop representative election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous union shop representative election.

AMENDATORY SECTION (Amending WSR 97-06-012, filed 2/25/97, effective 4/1/97)

WAC 251-14-060 Contents of written agreements.

(1) Written agreements may contain provisions covering all personnel matters over which the institution/related board may lawfully exercise discretion.

(2) Written agreements shall include a grievance procedure for processing individual and group grievances within the bargaining unit and shall provide for mediation by the director or designee and for arbitration by the board. Mediation by the director or designee and arbitration by the board of a grievance dispute shall not apply in those instances where the same complaint has been filed for hearing either through the unfair labor practice or appeal procedures of the ((Washington personnel resources)) board or the personnel appeals board rules.

(3) Written agreements may contain provisions for payroll deduction of employee organization dues and/or union shop representation fees upon written authorization from the employee. Any employee may cancel his/her payroll deduction of employee organization dues by filing a written notice with the appointing authority or designee and the employee organization thirty calendar days prior to the effective date of such cancellation.

(4) Written agreements shall be for a minimum of one year in duration and shall not exceed three years. Automatic renewal or extension provisions may extend the term of a contract for only one year at a time. An automatic renewal or extension provision in a contract cannot act as a bar to a request for an exclusive representative decertification election per WAC 251-14-050(1).

(5) Where there are collective bargaining agreements in effect in bargaining units which are combined per WAC 251-14-030, the board shall determine the application of such bargaining agreements or terms thereof when there is an impasse between the exclusive representative and the institution.

(6) Institutions shall file signed written agreements with the director. Provisions of such agreements shall not prevail if in conflict with the higher education personnel rules, the higher education personnel law or other applicable law.

AMENDATORY SECTION (Amending WSR 88-02-027 (Order 166), filed 12/31/87, effective 2/1/88)

WAC 251-14-070 Unfair labor practices—Management—Employee organizations. (1) It shall be an unfair labor practice for an institution:

(a) To interfere with, restrain, or coerce employees in the exercise of their collective bargaining rights guaranteed by ((the higher education personnel law)) chapter 41.06 RCW and the rules adopted thereunder as provided in this chapter ((251-14 WAC (Collective bargaining) and RCW 28B.16.230)).

(b) To control, dominate, or interfere with a bargaining representative.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

(2) It shall be an unfair labor practice for employee organizations:

(a) To interfere with, restrain, or coerce employees in the exercise of their collective bargaining rights guaranteed by ((the higher education personnel law)) chapter 41.06 RCW and the rules adopted thereunder as provided in this chapter ((251-14 WAC (Collective bargaining) and RCW 28B.16.230)).

(b) To induce an institution to commit an unfair labor practice.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

AMENDATORY SECTION (Amending WSR 86-14-042 (Order 153), filed 6/26/86, effective 8/1/86)

WAC 251-14-082 Investigation of and disposition of unfair labor practice charges. (1) Upon receipt of a properly completed unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules. If it is found that the charge(s) is frivolous or substantially without merit, the director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor. Dismissal of the charge is appealable to the ((higher education personnel)) board.

(2) If a charge does not contain all of the information required by WAC 251-14-080, the director or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

AMENDATORY SECTION (Amending WSR 86-14-042 (Order 153), filed 6/26/86, effective 8/1/86)

WAC 251-14-085 Amendment of complaint or answer—Unfair labor practice. The ((higher education personnel)) board may allow a complaint or answer to be

amended at any time before the close of the hearing, upon motion of the party concerned, for good cause shown and upon such terms as the ((higher education personnel)) board may deem appropriate under the circumstances. Timeliness in making the motion shall be a factor in determining whether it will be granted.

AMENDATORY SECTION (Amending WSR 86-14-042 (Order 153), filed 6/26/86, effective 8/1/86)

WAC 251-14-087 Enforcement—Unfair labor practice. The board or its designee whose final decision is appealable to the board, or any party to the proceedings, thirty days after the board or its designee has entered its findings of fact, shall have power to petition the superior court of ((the state, within the)) Thurston ((e)) County ((wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business,)) for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 97-01-065, filed 12/13/96, effective 1/13/97)

WAC 251-14-130 Arbitration—Grievance—Procedure. Whenever arbitration of a grievance is requested of the ((personnel resources)) board pursuant to an agreement as authorized by WAC 251-14-060(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the specific issue(s) to be arbitrated.

(f) A statement of the relief sought.

(g) The signature and, if any, the title of the person filing the request for arbitration.

(h) A copy of the original grievance and the institution's last written response to the grievance shall be attached to the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) of this section. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) The board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) of this section. If the hearings coordinator determines the request is incomplete, the person filing the request is notified of the portions which need to be supplemented or changed to comply with subsection (1) of this section. When the hearings coordinator determines that the request substantially complies with subsection (1) of this section, he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the board upon motion of the requesting party.

(4) After the request for arbitration is served on the opposing party(ies), the board or the board's designee may direct the parties or their representatives to engage in a pre-hearing conference(s) in accordance with WAC 251-12-232.

(5) The board's hearings coordinator shall schedule the arbitration for hearing pursuant to WAC 251-12-105.

(6) Within thirty calendar days from the date of service of the acknowledgment of the arbitration request, the respondent shall submit a written statement of issue(s) to be arbitrated. If no response is received, the petitioners' statement of issue(s) will be deemed to be the issue(s) at the arbitration hearing unless otherwise determined by the ((personnel resources)) board.

(7) Upon stipulation between the parties, the board or designee may grant the grievant's request to waive the right to an evidentiary hearing and thereafter require the parties to submit written evidence upon which the board or designee may act without a hearing.

(8) If the matter is heard directly by the board, a final and binding decision will be issued. If the matter is heard by the board's designee, a recommended decision will be issued. Within thirty calendar days of its service, either party may request the board to review the designee's decision. The review will be limited to specific areas of the decision to which the party takes exception. The requesting party must provide written argument in support of the exceptions. The board will consider the exceptions and may in its discretion

hear oral argument. Thereafter, the board will issue a decision which shall be final and binding on the parties. The designee's decision will become final and binding forty calendar days after it was served on the parties if no exceptions are filed, unless the board calls a hearing to reconsider the decision.

(9) The grievant shall have the burden of proof and go forward with the evidence.

(10) The board or its designee shall be the judge of relevancy and materiality of evidence offered. Technical rules of evidence shall not apply to the proceedings.

(11) The provisions of chapter 251-12 WAC (Appeals) shall apply to the conduct of grievance arbitration hearings, except as otherwise provided in this section.

AMENDATORY SECTION (Amending WSR 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88)

WAC 251-17-120 Examinations—Evaluation of. (1) The director shall specify the rating and/or scoring systems to be used to evaluate examinations, including the ratings, scores and/or percentiles required to pass an examination.

(2) Personnel officers shall evaluate examinations in accordance with the rating guides and rating/scoring instructions developed for each system and institutional examination.

(3) Rating guides shall be used to evaluate all job elements included in system and institutional examinations.

(4) Personnel officers shall develop rating guides for all examinations for which system rating guides are not available.

(5) Personnel officers shall assure that raters of examinations, including supplemental applications, performance tests and oral ((boards)) panels, shall have an adequate knowledge of the work required by the specific class or position.

(6) The personnel officer is responsible for the accuracy of the total examination ratings given by the raters of examinations and may disqualify a rater for good and sufficient reason(s). The personnel officer shall disqualify any rater who was biased, did not follow either the content or the intent of the rating guide, or did not possess the required technical knowledge to evaluate the examination.

(7) Applicants must obtain ratings of "satisfactory ability" or higher on all of the essential job elements in an examination in order to pass that examination.

(8) Applicants must pass the final phase of an examination in order to be placed on an eligible list.

AMENDATORY SECTION (Amending WSR 97-01-065, filed 12/13/96, effective 1/13/97)

WAC 251-19-060 Trial service period. (1) A trial service period of six months shall be required upon appointment of a permanent employee to a new class at the institution, unless

(a) During the current period of employment at the institution, permanent status has been held in the class to which the employee is moving, or

(b) The class is lower in that same class series, or

(c) The employee is being reallocated per the provisions of WAC 251-06-080 (1)(a), or

(d) The employee is moving to the class as part of a recognized apprenticeship program as provided in WAC 251-19-140(5).

(2) A trial service period of six months shall be required upon employee movement as specified in WAC 251-19-110.

(3) A trial service period shall be required upon appointment from an institution-wide promotional list as provided in WAC 251-18-180 (3)(b).

(4) The trial service period provides the employing official an opportunity to observe and evaluate the new employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

(a) With preemptive rights to the former position in which permanent status was last held, or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion or employee movement as specified in WAC 251-19-110). The personnel officer shall determine which position to preempt. However, if the employee was in a trial service appointment in another class prior to the current trial service period, the personnel officer may provide the employee the opportunity to complete the first interrupted trial service period.

(b) Reversion must be preceded by written notice at least one work day (eight hours), before the effective date.

(c) If the former position to which the employee has preemptive rights has been abolished and a vacant position in the class is not available, or if there is no class to which the reverted employee has preemptive rights, the affected employee shall be accorded such bumping rights and placement on layoff lists as would be provided in layoff from his/her former class.

(5) Reversion from trial service must be preceded by:

(a) Written notice detailing deficiencies in performance, which shall include the specific changes required; and

(b) A reasonable opportunity to overcome identified deficiencies.

(6) An employee who is reverted may appeal to the personnel appeals board regarding:

(a) Whether the employer complied with the requirements of subsection (5)(a) and (b) of this section; and

(b) Whether the claimed deficiencies existed at the time of reversion.

((7) The board may uphold the reversion action, extend the trial service period, overturn the reversion, grant permanent status or order such other actions as may be determined appropriate pursuant to the best standards of personnel administration.))

((8)) (7) In the event an employee is on leave without pay status and/or shared leave for more than ten work days during the trial service period, the completion date of the trial service period shall be extended by an amount of time equal to the period of leave without pay and/or shared leave.

((9)) (8) Successful completion of the trial service period shall result in permanent status in the class.

((10)) (9) Salary and periodic increment date shall be determined as follows:

(a) Upon promotional trial service appointment, the salary shall be established as provided in WAC 251-08-110; and the existing periodic increment date shall be eliminated and a new date established to be effective the date of completion of trial service;

(b) Upon trial service reversion the salary shall be established as provided in WAC 251-08-115(4) and the former periodic increment date shall be reestablished;

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged.

AMENDATORY SECTION (Amending WSR 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88)

WAC 251-19-110 Permanent classified employee interinstitutional and intersystem movement. Permanent classified employees desiring to promote, transfer, laterally move, or voluntarily demote to positions at other institutions/related boards or state agencies will:

(1) Have the responsibility for communicating their desires in writing to potential receiving institutions/related boards or the department of personnel.

(2) Be required to pass the examination for the class administered by the receiving institution/related board or department of personnel.

(3) Have their names placed on the appropriate eligible list as provided in WAC 251-18-180 or corresponding department of personnel register.

(4) Be certified to employing official(s) as provided in WAC 251-18-240 or corresponding department of personnel rule.

(5) Serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the institution-wide layoff list at the institution/related board from which he/she came or corresponding department of personnel register.

(6) Be unable to bump if laid off during such trial service period even though layoff seniority will move with employee to the new position.

(7) Retain vacation and sick leave balances. Vacation leave accrual rates shall be determined by the appropriate ((higher education personnel board or department of personnel)) Title 251 WAC or Title 356 WAC rules.

(8) Retain their former periodic increment date except upon promotion in accordance with WAC 251-08-100 (3)(a).

AMENDATORY SECTION (Amending WSR 91-10-002, filed 4/18/91, effective 6/1/91)

WAC 251-19-120 Appointment—Temporary. (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary appointment" in WAC 251-01-415.

(2) Temporary appointment to perform work in the absence of an employee on leave for more than six consecutive months shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this sub-

section are covered by chapter ((28B.16)) 41.06 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the one thousand fifty hours in any twelve consecutive month period from the original date of hire limitation, or October 1, 1989, whichever is later, identified in WAC 251-01-415(2) and 251-12-600.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-01-415 (2) and (3) may be made without regard to the rules governing appointment.

(5) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-01-415 (1), (2), and (3), shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

(6) At the conclusion of a temporary appointment made in accordance with these rules, a permanent employee shall have the right to revert to his/her former position or to an equivalent position.

(7) Each institution shall develop for director approval a procedure which indicates its system for controlling and monitoring exempt positions as identified in chapter 41.06 RCW ((28B.16.040(2))).

(8) An institution may petition the director in writing for approval of exceptions to these requirements. The director will annually review the appropriateness of exceptions granted and advise the board.

(9) No temporary appointment shall take the place of employees laid off due to lack of work or lack of funds.

AMENDATORY SECTION (Amending WSR 89-13-074 (Order 179), filed 6/21/89, effective 10/1/89)

WAC 251-19-122 Written notification of temporary appointment. (1) All temporary employees shall be notified in writing of the conditions of their employment prior to the commencement of each appointment and/or upon any subsequent change to the conditions of their employment.

(2) The written notification shall contain the following information:

(a) The reason for the temporary appointment (see WAC 251-01-415 (1), (2), and (3));

(b) The hours of work and the hourly rate of pay;

(c) The duration of appointment as adjusted by any current or former temporary appointments. The duration shall be expressed as a starting and expected end date;

(d) The name of the employee's supervisor;

(e) A statement regarding the receipt or nonreceipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received;

(f) The expected status of the employee ((within the higher education personnel board system)) upon completion of the appointment;

(g) The signature of the personnel officer and/or authorizing hiring official;

(h) The signature of the employee verifying receipt of the written notification;

(i) An identification of any current and/or previously held temporary positions at the institution;

(j) A statement of appeal rights for those positions in which a violation of WAC 251-01-415 may result in permanent status.

AMENDATORY SECTION (Amending WSR 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88)

WAC 251-19-140 Apprenticeship programs. (1) Apprentices shall be employed and compensated under conditions appropriate for the particular apprenticeable class which have been recommended by the joint apprenticeship committee as approved by the state apprenticeship council and the ((higher education personnel)) board. Each apprentice shall enter into a training contract with the joint apprenticeship committee and shall abide by its term and conditions.

(2) When an apprenticeship agreement is cancelled, the employee shall have the same reversionary employment rights he/she had available at the time of entering the apprenticeship program.

(3) When an employee moves into an apprenticeship program and he/she has a higher salary than is provided by the apprenticeship program, his/her salary shall be continued at the existing level until the employee has been in the apprenticeship program long enough to move onto the apprenticeship salary schedule without a reduction in salary.

(4) Incremental salary step increases shall be in accordance with the appropriate salary schedule but are not solely dependent upon time in grade. Objective evaluation of performance in on-the-job and related training may be justification to delay an incremental salary increase until training requirements for that step have been fulfilled. Conversely, objective evaluation of performance may be justification to advance incremental salary steps to the level equal to ability and training.

(5) Graduates from the apprenticeship program will be assigned to the mid-step of the journey scale and will remain until twelve months elapse before moving to the top step. Movement from the apprenticeship program into the journey class does not require competition and a trial service appointment is not required.

AMENDATORY SECTION (Amending WSR 95-19-099, filed 9/20/95, effective 11/1/95)

WAC 251-19-157 Workers' compensation—Return-to-work—Program. Each institution of higher education shall establish a state employee return-to-work policy. It will be the responsibility of each institution to:

(1) Adopt a written return-to-work policy and submit a copy to the ((higher education)) department of personnel ((board)) to be kept on file. Prior to adoption, the institution shall publish a copy of the proposed policy utilizing reasonable means of communication available to the institution and allow reasonable time for comment by interested parties.

(2) Take into consideration the special nature of employment in the institution.

(3) Name an institution representative responsible for coordinating the return-to-work program of the institution. At a minimum, the return-to-work coordinator will determine employee interests and availability regarding employment locations and types of employment, contact return-to-work coordinators at employment locations the employee has identified to facilitate identification of potential return-to-work opportunities, and submit completed forms to appropriate return-to-work coordinators.

(4) Provide all classified employees with information regarding the institution return-to-work policy.

(5) Train supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee.

(6) Coordinate participation of applicable employee assistance programs, as appropriate.

(7) Provide alternative work opportunities of limited duration to permanent employees who are eligible for the return-to-work program if possible. Such alternative employment opportunities may include work described under WAC 251-04-040.

AMENDATORY SECTION (Amending WSR 85-20-049 (Order 136), filed 9/25/85)

WAC 251-20-010 Employee performance evaluation—Authority, purpose, use. (1) The rules contained in this chapter follow from the authority of ((the higher education personnel law,)) chapter ((28B.16)) 41.06 RCW, which requires that standardized employee performance evaluation procedures and forms be used by institutions of higher education for the appraisal of employee job performance at least annually.

(2) Supervisors will conduct annual performance evaluations to record and inform employees regarding how well they have contributed to the fulfillment of institution and job objectives.

(3) Performance evaluation shall not be used to initiate personnel actions such as transfers, promotion, or discipline.

AMENDATORY SECTION (Amending WSR 95-19-099, filed 9/20/95, effective 11/1/95)

WAC 251-22-040 Holidays. (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

- (a) The first day of January (New Year's Day);
- (b) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (c) The third Monday of February (Presidents' Day);
- (d) The last Monday of May (Memorial Day);
- (e) The fourth day of July (Independence Day);
- (f) The first Monday in September (Labor Day);
- (g) The eleventh day of November (Veterans Day);
- (h) The fourth Thursday of November (Thanksgiving Day);
- (i) The day immediately following Thanksgiving Day; and

(j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community and technical colleges ((education)), may designate other days to be observed in lieu of the above holidays. Implementation of modified holiday schedules must be approved by the director. Schedules may be determined on a calendar or fiscal year basis. When an institution establishes a modified schedule, paid holidays shall be granted based on the modified schedule.

(2) Classified employees working twelve-month schedules or cyclic year position employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part-time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full-time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

AMENDATORY SECTION (Amending WSR 88-02-017 (Order 164), filed 12/30/87, effective 2/1/88)

WAC 251-22-060 Vacation leave—Accrual. (1) Full-time employees eligible for vacation leave shall accrue vacation leave, to be credited monthly, at the following rates:

- (a) During the first year of continuous state employment - 12 days (8.0 hours per month);
- (b) During the 2nd year of continuous state employment - 13 days (8 hours, 40 minutes per month);
- (c) During the 3rd and 4th years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment - 15 days (10 hours per month);

(e) During the 10th year of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment - 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment - 18 days (12 hours per month);

(h) During the 13th year of total state employment - 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment - 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment - 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full-time schedules shall accrue vacation leave credit on the same prorata basis that their appointment bears to a full-time appointment.

(3) Per the provisions of WAC 251-19-130(2), the scheduled period of cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of vacation leave accrual for cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(4) or employment (~~((under the state personnel board jurisdiction)) in a state agency~~ which is analogous to the conditions specified in WAC 251-04-040(4) shall not be credited;

(c) Each contract year of full-time faculty and/or administrative exempt employment within the higher education institutions shall be credited as a year of qualifying service;

(d) Employment in part-time classified positions shall be credited as full-time service.

(5) Vacation leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of vacation leave accrual.

AMENDATORY SECTION (Amending WSR 90-14-018, filed 6/27/90, effective 8/1/90)

WAC 251-22-165 Workers' compensation—Leave.

(1) Employees who suffer a work related injury or illness that is compensable under the state workers' compensation law may select time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and accrued paid leave.

(2) Employees taking sick leave during a period in which they receive workers' compensation under the industrial insurance provisions for a work related illness or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for workers' compensation is determined by the department of labor and industries, the institution may pay full sick leave, provided that the employee shall

return any overpayment to the institution when the salary adjustment is determined.

(b) Sick leave hours charged to an employee who receives workers' compensation, as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the institution during the claim period.

(3) During a period when an employee receives pay for vacation leave, compensatory time off or holidays and also receives workers' compensation for time loss, he/she is entitled to both payments without any deduction for the industrial insurance payment.

(4) When an employee receives workers' compensation payment for time loss and is on leave without pay, no deductions will be made for the industrial insurance payment.

(5) An employee who sustains an industrial injury, accident or illness, arising from employment by an institution under the jurisdiction of the ~~((higher education personnel))~~ board shall, upon written request and proof of continuing disability, be granted leave of absence without pay for up to six months without loss of layoff seniority or change in annual increment date. Leave without pay exceeding six months without loss of layoff seniority or change in annual increment date may be granted at the option of the employing institution.

AMENDATORY SECTION (Amending WSR 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86)

WAC 251-23-010 Affirmative action—Authority.

The rules contained in this chapter follow from the authority of ~~((the higher education personnel law, RCW 28B.16.100))~~ RCW 41.06.150, which provides in part, ". . . The ~~((higher education personnel))~~ board shall adopt rules, consistent with the purposes and provisions of this chapter . . . regarding the basis and procedures to be followed for . . ."; RCW ((28B.16.100)) 41.06.150(22), which provides in part, ". . . Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables . . ."

AMENDATORY SECTION (Amending WSR 90-02-054, filed 12/29/89, effective 2/1/90)

WAC 251-23-020 Affirmative action plans—

Requirements—Approval. (1) Each higher education institution/related board shall be required to develop and implement both an equal employment opportunity/ affirmative action policy statement and an affirmative action plan.

(2) Equal employment opportunity/affirmative action policy statements and affirmative action plans shall comply with applicable state and federal laws, regulations, and guidelines, and shall require the approval of the director ~~((of the higher education personnel board))~~ or designee.

AMENDATORY SECTION (Amending WSR 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86)

WAC 251-23-030 Affirmative action plans—Monitoring progress—Reporting. Each higher education institution/related board shall monitor progress under its affirmative action plan/program and shall submit a report to the director ((of the higher education personnel board)), at least annually, reflecting progress against goals and timetables and containing such other information as required by the director.

AMENDATORY SECTION (Amending Order 61, filed [8/30/77, effective] 10/1/77)

WAC 251-24-010 Employee development—Authority, purpose, objective. (1) The rules contained in this chapter follow from the authority of ((the higher education personnel law;)) RCW ((28B.16.100(1))) 41.06.150, which provides in part, ". . . the ((higher education personnel)) board shall adopt and promulgate rules and regulations consistent with the purposes and provisions of this chapter . . . regarding the basis for, and the procedures to be followed for . . . training ((programs including in-service, promotional and supervisory)) and career development . . ."

(2) It is the board's intent that institutions will establish, conduct and report employee training and development programs. The rules in this chapter provide the guidelines for such programs.

(3) The objective of these rules is to provide opportunity for the development of the potential occupational or professional ability of each employee to make the most effective and economic use of employee resources in accomplishing institution's goals.

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

AMENDATORY SECTION (Amending WSR 91-10-001, filed 4/8/91 [4/18/91], effective 6/1/91)

WAC 251-24-030 Training and development programs—Contents. ((Each)) Subject to approval by the director, each institution ((will)) shall develop ((and maintain on file with the board (subject to approval by the director))) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

- (a) New employee orientation;
- (b) Functional training, such as in accounting, data processing, office administration and job skills;
- (c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(g) Specific training in the prevention, transmission, and treatment of HIV and AIDS for those employees who have a substantial likelihood of on-the-job exposure to the human immunodeficiency virus or acquired immunodeficiency syndrome virus;

(h) Training of supervisors on implementation of the institution return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training and upgrading of skills of women and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance;

(13) Provision for access to in-house training and development programs for former permanent employees returning from separation as set forth in WAC 251-10-070.

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

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-24-040 ((HEPB sponsored)) Higher education system training. The administrative requirements of the higher education personnel system are such that periodic training programs or workshops may be required. In such cases, the ((higher education personnel board)) director will sponsor the program and provide the necessary resources. To the extent possible, the ((board)) director will respond to the needs of the institutions by holding training sessions in various regions of the state.

AMENDATORY SECTION (Amending WSR 86-14-041 (Order 152), filed 6/26/86, effective 8/1/86)

WAC 251-25-050 State internship program—Application of rules. Except for chapter 251-25 WAC and WAC 251-10-025(7), the ((higher education personnel board rules)) remainder of Title 251 WAC does not apply to positions or to the interns in the state internship program.

WSR 98-15-142
PROPOSED RULES
SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY
[Filed July 22, 1998, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-030 Definitions, the purpose of this section is to provide definitions for commonly used words or phrases in the rest of the regulation.

SWAPCA 400-040 General Standards for Maximum Emissions, the purpose of this section is to provide a minimum set of air emission standards for all sources.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from major combustion sources.

SWAPCA 400-060 Emission Standards for General Process Units, the purpose of this section is to provide a minimum set of air emission standards for general process units.

SWAPCA 400-070 Emission Standards for Certain Source Categories, the purpose of this section is to provide a minimum set of air emission standards for sampling emissions from certain defined source categories and activities.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, the purpose of this section is to adopt by reference the federal standards relating to hazardous air pollutant standards referred to generally as the MACT standards.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, the purpose of this section is to provide a reference to the toxic air pollutant rule and describe the permitting process.

SWAPCA 400-091 Voluntary Limits on Emissions, the purpose of this section is to provide a mechanism and process for sources to request a voluntary limit on emissions from their sources.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-030 Definitions, this section is the placeholder for definitions of words and phrases used throughout SWAPCA 400. Most definitions are identical to the federal definitions.

SWAPCA 400-040 General Standards for Maximum Emissions, this section contains the visible emission standard of 20% opacity, and other limits for fallout, fugitive emissions, odors, emissions detrimental to persons or property, sulfur dioxide, concealment and masking and fugitive dust sources.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, this section contains requirements for stack sampling of major combustion sources every two years to assist with preparation of the emission inventory which is submitted to EPA each year by SWAPCA.

SWAPCA 400-060 Emission Standards for General Process Units, this section identifies the maximum emission

standard of 0.1 grains per dry standard cubic feet of exhaust gas for any general process operation.

SWAPCA 400-070 Emission Standards for Certain Source Categories, this section [provides] additional emission standards and requirements for certain source categories including wigwam burners, hog fuel boilers, orchard heaters, catalytic cracking units, sulfuric acid plants, gasoline dispensing facilities, dry cleaning facilities and abrasive blasting operations.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, this section adopts the federal standards for sources emitting hazardous air pollutants contained in 40 CFR part 61 and part 63 by reference (MACT standards) as requirements for sources in SWAPCA jurisdiction for local implementation and enforcement.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, this section describes general requirements for toxic pollutant emission sources and provides a reference to the toxics rule chapter 173-460 WAC which is adopted by reference by SWAPCA under separate rule making.

SWAPCA 400-091 Voluntary Limits on Emissions, this section provides the authority and describes the process for a source to request a voluntary limit on emissions. This section provides the ability to have a federally enforceable emission limit to keep out of the Title 5 Operating Permit program.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest 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: SWAPCA 400-030 Definitions, this is an existing section. Proposed changes include adding more language to the definition of "air contaminant" to include "criteria pollutant"; updating dates of adoption for references to existing federal rules; adding a new definition for "PM_{2.5}" and "pollutant"; and adding additional substances to the exempt list of items for the definition of "volatile organic compound" consistent with the federal definition.

SWAPCA 400-040 General Standards for Maximum Emissions, this is an existing section. The proposed change is to add reference to a proposed method (SWAPCA Method 9 as an attachment to SWAPCA 400) for determining visible emissions. The method is similar to EPA Method 9 but contains the Washington state standard for data reduction. In addition, SWAPCA is proposing to delete the exemption for sources which are not capable of meeting the state standard for sulfur dioxide. Currently all sources in SWAPCA jurisdiction are capable of meeting the state standard.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources, this is an existing rule. The proposed change is to add reference to SWAPCA 400-106 which contains requirements on how to perform emissions sampling.

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SWAPCA 400-060 Emission Standards for General Process Units, this is an existing rule. The proposed change is to update the adoption date of the federal standard for source testing methods.

SWAPCA 400-070 Emission Standards for Certain Source Categories, this is an existing rule. The proposed changes are to remove reference to SWAPCA 400-110(8) for gasoline dispensing facilities because this section is proposed to be removed from the rules, and to adopt a new rule for dry cleaning operations to be consistent with the existing federal requirements.

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, this is an existing rule. The proposed changes include updating the adoption date of the federal standards for hazardous air pollutants and include source categories for which new federal standards have been promulgated.

SWAPCA 400-076 Emission Standards for Sources Emitting Toxic Air Pollutants, this is an existing rule. The proposed changes are to change the reference from SWAPCA 460 to chapter 173-460 WAC to be more precise about the adoption status by SWAPCA of the existing state rule.

SWAPCA 400-091 Voluntary Limits on Emissions, this is an existing rule. The proposed change is to add language to clarify that a voluntary limit may be requested for a process parameter of throughput in addition to emissions of air pollutants.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

AMENDATORY SECTION

SWAPCA 400-030 Definitions

[Statutory Authority: Chapter 70.94.030 RCW, 70.94.141 RCW and 70.94.331 RCW. Original adoption by Board 12/17/68 (Regulation 1); Amended by Board 10/29/69 (Regulation 2); Amended by Board 3/20/84; Amended by Board 12/16/86; 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

Except as provided elsewhere in this regulation the following definitions apply throughout the regulation:

(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. The 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) The 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 a 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. This includes any substance regulated as an air pollutant under WAC 173-460, NESHAPS, Section 112 of the Federal Clean Air Act Amendments or substance for which a primary or secondary National Ambient Air Quality Standard has been established and volatile organic compounds. "Air pollutant" means the same as "air contaminant". A criteria pollutant is an air pollutant for which a criteria document has been prepared by EPA and has a primary or secondary ambient air quality standard. These pollutants are identified at 40 CFR Part 50 and include sulfur oxides (measured as sulfur dioxide), particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead. Volatile organic compounds as a category are no longer identified as a criteria pollutant.

(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 regulation 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 various pesticides.

(5) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the 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, 61, or 63;

(b) Any applicable State Implementation Plan emission limitation including those with a future compliance date;

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date; or

(d) The emission rate specified by an applicable regulatory order.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" (AAQS) means an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple air contaminants in the ambient air which shall not be exceeded.

(8) "Authority" means the Southwest Air Pollution Control Authority (SWAPCA).

(9) "Best available control technology, (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each air pollutant subject to regulation under Chapter 70.94 RCW which would be emitted from or which results from any new or modified stationary source, which the 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 or treatment, clean fuels, 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 air pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60, Part 61, and Part 63 as they exist on August 1, 19968, or their later enactments as adopted by reference by the Authority 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 non-air 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) "Board" means the Board of Directors of the Southwest Air Pollution Control Authority.

(12) "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 SWAPCA 400-120.

(13) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(14) "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 potentially affected by emissions from sources within SWAPCA jurisdiction:

Alpine Lakes Wilderness;
Glacier Peak Wilderness;
Goat Rocks Wilderness;
Mount Adams Wilderness;
Mount Rainier National Park;
Mt. Hood Wilderness Area;
Mt. Jefferson Wilderness Area.

(15) "Closure" means permanently stopping or terminating all processes at a facility. Such termination of processes shall result in no emissions of pollutants to the ambient air. Closure does not mean temporary shutdown of operations. A facility shall be considered "permanently closed" if operations have ceased and registration fees are not paid as set forth in SWAPCA 400-100(2)(e). Process and pollution control equipment may remain in place and on site but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation). Closure of a facility requires notification to SWAPCA in accordance with SWAPCA 400-100(2)(d). New Source Review and applicable emission control technology requirements in accordance with current requirements for similar facilities will be required of the facility prior to restart if the annual registration fee is not paid.

(16) "Combustion and incineration sources" means emissions units using combustion for waste disposal, steam production, chemical recovery or other process requirements, but excludes open burning.

(17) "Commenced construction" means that an 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. (ref. 40 CFR 52.21)

(18) "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.

(19) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. (ref 40 CFR 52.21)

(20) "Control Officer" means the Executive Director of the Southwest Air Pollution Control Authority.

(21) "Director" means the director of the Washington State Department of Ecology or duly authorized representative.

(22) "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.

(23) "Ecology" means the Washington State Department of Ecology.

(24) "Emission" means a release of air contaminants into the ambient air.

(25) "Emission control technology" means emission control equipment integral or in addition to the emission unit or other technology, device, component or control parameter that is integral to the design of an emission unit or the basic design to the emission unit; i.e., low NO_x burner for a boiler or turbine.

(26) "Emission reduction credit (ERC)" means a credit granted pursuant to SWAPCA 400-131. This is a voluntary reduction in emissions beyond required levels of control. ERCs may be sold, leased, banked for future use or traded in accordance with applicable regulations. Emission reduction credits shall provide an incentive for reducing emissions below the required levels and to establish a framework to promote a market based approach to air pollution control.

(27) "Emission standard" and "emission limitation" mean a requirement established under the FCAA or Chapter 70.94 RCW or local regulation 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.

(28) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, Chapter 70.94 RCW or Chapter 70.98 RCW.

(29) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.

(30) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters (213.25 feet) or the calculated stack height described in SWAPCA 400-200(2).

(31) "Executive Director" means the Control Officer of the Southwest Air Pollution Control Authority.

(32) "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 deter-

mining 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*, 1987.

(33) "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, 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.

(34) "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(35) "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.

(36) "Fugitive dust" means a type of particulate emission made airborne by forces of wind, human 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.

(37) "Fugitive emissions" means emissions which do not pass and which could not reasonably be collected to pass through a stack, chimney, vent, or other functionally equivalent opening.

(38) "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.

(39) "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

(40) "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in SWAPCA 400-200 (2)(a)(ii).

(41) "Incinerator" means a furnace used primarily for the thermal destruction of waste.

(42) "In operation" means engaged in activity related to the primary design function of the source.

(43) "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.

(44) "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.

(45) "Maintenance Area" or "Maintenance Plan Area" means a geographical area of the jurisdiction of SWAPCA which was formerly designated as a nonattainment area and which has been redesignated as an attainment area as provided under 40 CFR 52. The maintenance area designation shall be in effect as long as there is a federal or state requirement to have a maintenance plan in effect.

(46) "Maintenance Pollutant" means a pollutant for which a maintenance plan area was formerly designated a nonattainment area.

(47) "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 Federal Clean Air Act. Any net emissions increase that is considered significant for volatile organic compounds or oxides of nitrogen 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 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 an Order of Approval for a Notice of Construction application; or

- (ii) The 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 an Order of Approval for a Notice of Construction application;

- (g) Any change in ownership at a stationary source.

(48) "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 Washington State or Federal Clean Air Acts;

- (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;

- (iii) 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

- (iv) Is located in a "serious" particulate matter (PM₁₀) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM₁₀ emissions.

- (b) Any physical change that would occur at a stationary source not qualifying under (a) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;

- (c) A major stationary source that is major for VOCs or NO_x shall be considered major for ozone;

- (d) 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 (a)(iii) or (iv) 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 (12,600,000 gallons);
- (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.

- (e) 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 con-

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sidered 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*, 1987.

(49) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas potentially affected by emissions from sources within SWAPCA jurisdiction are as follows:

Alpine Lakes Wilderness;
Glacier Peak Wilderness;
Goat Rocks Wilderness;
Mount Adams Wilderness;
Mount Rainier National Park;
Mt. Hood Wilderness Area;
Mt. Jefferson Wilderness Area.

(50) "Masking" means the mixing of a chemically non-reactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

(51) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(52) "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.

(53) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61 or Part 63.

(54) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(55) "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 the changes in actual emissions occur 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) The Authority or Ecology 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 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) The Authority has not relied on it in issuing any permit, regulatory order 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.

(56) "New source" means one or more of the following:

(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;

(b) Any other project that constitutes a new source under the Federal Clean Air Act;

(c) Restart after a lapse in one year or more in payment of registration fees or operating permit fees;

(d) Restart after a period of five years of non-operation where registration or operating permit fees have been paid.

(57) "New Source Performance Standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60 and adopted by the Authority in SWAPCA 400-115.

(58) "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.

(59) "Notice of Construction application (NOC)" means a written application from the source by which the Authority records and tracks requests from registered and nonregistered sources for the purpose of obtaining information regarding proposed changes or activities at a source. Types of changes may include modifications, alterations, changes to process or control equipment, establishment of emission limits, installation of new sources, control technology determinations, PSD determinations and other items specified by the Authority. A Notice of Construction application shall be submitted to the Authority for review and approval prior to construction of a

new source, modification of an existing stationary source or replacement or substantial alteration of control technology at an existing stationary source or portable source. A Notice of Construction application may be submitted to the Authority for activities not requiring New Source Review and shall not automatically impose New Source Review requirements. (For more information refer to SWAPCA 400-109.)

(60) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(61) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Open burning includes all forms of outdoor burning except those listed as exempt in SWAPCA 425-020. Wood waste disposal in wigwam burners is not considered open burning.

(62) "Order" or Regulatory Order means any order issued by the 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, compliance schedule order, consent order, order of denial, order of violation, order of prevention, order of discontinuance, administrative order, and regulatory order.

(63) "Order of Approval" and "Approval Order" mean a regulatory order issued by the Authority to approve a 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 or portable source. Note: For more information refer to SWAPCA 400-230 (1)(a).

(64) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(65) "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.

(66) "Parts per million (ppm)" means parts of a contaminant per million parts of gas or carrier medium, by volume. When calculating or measuring the ppm of a given gas or carrier stream, such measurement or calculation shall be exclusive of water and particulate matter.

(67) "Person" means an individual, firm, public or private corporation, owner, owner's agent, operator, contractor, association, partnership, political subdivision, municipality, or government agency.

(68) "PM₁₀" 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.

(69) "PM₁₀ 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.

(70) "PM2.5" means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in 40 CFR Part 50 or by a test method specified in the Washington State Implementation Plan.

(71) "Pollutant" means the same as air contaminant, air pollutant and air pollution. (Refer to definitions 3, 4 and 78)

(7(θ))2 "Potential to emit" means the maximum capacity (i.e., design 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.

(7((+)3) "Prevention of Significant Deterioration (PSD)" means the program set forth in SWAPCA 400-141 and WAC 173-400-141.

(7((2))4) "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.

(7((3))5) "Reasonably attributable" means attributable by visual observation or any other technique the Authority deems appropriate.

(7((4))6) "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 public notice and opportunity for comment are afforded. RACT shall apply to existing sources.

(7((5))7) "Regulatory order" means an order issued by the 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, the regulations of the Authority. Note: For further clarification refer also to the definition of Order and Order of Approval and SWAPCA 400-230.

(7((6))8) "Significant" or "significant emission rate" 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:

<u>Pollutant</u>	<u>Tons/Year</u>
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM ₁₀)	15
Volatile organic compounds (VOC)	40
Lead	0.6
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride)	40

((7))9) "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of a Class I area as defined in Section 162(a) of the FCAA. 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.

((78))80) "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous and 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*, 1987.

((79))81) "Source category" means all sources of the same type or classification as described in the *Standard Industrial Classification Manual*, 1987.

(8((θ))2) "Southwest Air Pollution Control Authority (SWAPCA)" or "Authority" means the local air pollution agency empowered to enforce and implement the Federal Clean Air Act (42 U.S.C. 7401, et seq.) and the Clean Air Washington Act (RCW 70.94) in Clark, Cowlitz, Lewis, Skamania and Wahkiakum Counties of Washington State.

(8((+)3) "Stack" means any emission point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

(8((2))4) "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

(8((3))5) "Standard conditions" means a temperature of 20 degrees C (68 degrees F) and a pressure of 29.92 inches (760 mm) of mercury except as otherwise specified.

((8((4))6) "State Implementation Plan, (SIP)" means a comprehensive plan developed/prepared by the Washington State Department of Ecology with assistance from the Southwest Air Pollution Control Authority, other regional air pollution control authorities and other interested planning and governing entities, and submitted to EPA for approval, which provides for implementation, maintenance and enforcement of the primary and secondary National Ambient Air Quality Standards.

((8((5))7) "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 non-road engine or non-road vehicle as defined in Section 216 of the FCAA.

(8((6))8) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

((8((7))9) "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.

((88))90) "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, 1998.

((89))91) "United States Environmental Protection Agency, (USEPA)" shall be referred to as EPA.

((90))92) "Upgraded" is defined only for gasoline dispensing facilities and means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overfill protection that involved removal of ground or ground cover above a portion of the product piping. "Modification" of a gasoline dispensing facility means the same as "upgraded".

((94))92) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

((92))93) "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.

((93))94) "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: acetone; ethane; methane; methyl acetate; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2-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); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5-decafluoropentane (HFC-43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C4F9OCH3); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C4F9Oc2H5); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); 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) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

((4))iv) 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, VOCs 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.

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.

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

SWAPCA 400-040 General Standards for Maximum Emissions

[Statutory Authority: Chapter 70.94.040 RCW, 70.94.141 RCW, 70.94.154 RCW, and 70.94.331 RCW. Original adoption by Board 12/17/68 (Regulation 1); Amended by Board 10/29/69 (Regulation 2); Amended by Board 12/18/79; Amended by Board 3/20/84; 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

All sources and emissions units are required to meet the emission standards of this section. Where an emission standard listed in another section is applicable to a specific emissions unit, such standard shall take precedent over a general emission standard listed in this section. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of this regulation or any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, the Authority shall, as provided in RCW 70.94.154, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) **Visible emissions.** No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity as determined in accordance with Appendix A by a Certified Observer certified in accordance with EPA Method 9 "Visual Determination of the Opacity of Emissions from Stationary Sources" as specified in 40 CFR 60 Appendix A except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the Authority shall be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, the Authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(2) **Fallout.** No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) **Fugitive emissions.** The owner or operator of any emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated.

(4) Odors.

(a) Any person who shall cause or allow the generation of any odor from any source, which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(b) A scentometer No. 1 odor strength or equivalent dilution in residential and commercial areas shall not be exceeded.

(c) A scentometer No. 3 odor strength or equivalent dilution in all other land use areas shall not be exceeded.

Scentometer Readings

Scentometer No.	Concentration Range No. of Thresholds
0	1 to 2
1	2 to 8
2	8 to 32
3	32 to 128
4	128

(d) A violation of this section shall have occurred when two measurements made within a period of one (1) hour, separated by at least fifteen (15) minutes, off the property surrounding the air contaminant source exceeds the scentometer limitations set hereunder.

(e) When the source is a manufacturing process, no violation of this section shall have occurred provided that Best Available Control Technology (BACT), Maximum Available Control Technology (MACT), or Lowest Achievable Emission Rate (LAER), as applicable for odor control and abatement, is provided and is operating in compliance with other applicable regulations and emission limits.

(f) When the source is using "good agricultural practices", as provided in RCW 70.94.640, no violation of this section shall have occurred.

(5) **Emissions detrimental to persons or property.** No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) **Sulfur dioxide.** No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen or twelve percent CO₂ as required by the applicable emission standard for combustion sources, and based on the average of any period of sixty consecutive minutes ((, except:

~~(a) When the owner or operator of an emissions unit supplies emission data and can demonstrate to the Authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the Authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results shall be made available upon request and a monthly summary shall be submitted to the Authority.~~

~~(b) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the Authority)).~~

(7) **Concealment and masking.** No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this section.

(8) Fugitive dust sources.

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a PM₁₀ nonattainment area shall be required to use reasonably available control technology (RACT) to control emissions. Significance will be determined by the criteria found in SWAPCA 400-113(3).

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

SWAPCA 400-052 Stack Sampling of Major Combustion Sources

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original adoption 93-21-003 filed 10/7/93, effective 11/8/93]

(1) **General Requirements.** No owner or operator of a major source which is also a combustion or incineration source shall operate the source except in compliance with the requirements of this section.

(2) **Applicability.** All sources that are designated as major as a result of the operation of a combustion or incineration unit (or units) where the combined emissions of a single pollutant from the combustion or incineration unit (or units)

are 100 tons per year or more of oxides of nitrogen, carbon monoxide, particulate matter, sulfur dioxide or volatile organic compounds.

(3) Emissions Sampling Requirements. The owner or operator of a major combustion or incineration source identified in (2) shall cause or conduct emissions tests at least once every two calendar years to quantify emissions of the pollutants for which the source has been designated major. In the event that the combined emissions of a single pollutant from several emissions units establishes the source as major, emissions tests shall be conducted at least once every two calendar years for all emissions units which emit 30 percent or more of the emissions of the pollutant for which the source has been designated major. Emissions testing shall be performed in accordance with SWAPCA 400-106.

(4) Sampling Methods. All emissions tests shall be conducted in accordance with the specific test methods approved in advance by the Authority.

(5) Additional Requirements. Nothing in this section shall be construed as to limit the ability of the Authority to impose additional or supplemental emissions testing requirements for any emissions unit within the Authority's jurisdiction in accordance with SWAPCA 400-105(4).

(6) Alternative Sampling Schedules. The Authority may on a case-by-case basis, accept or require an alternative emissions sampling schedule provided sufficient source-specific sampling data exists to adequately demonstrate that the source is capable of continuous compliance with any emission standards that are applicable to the source. Alternative sampling schedules shall be based upon measured emissions relative to the applicable emissions limitation. The Authority may reduce the frequency of the required emissions testing.

(7) Continuous Emissions Monitors. The use of continuous emissions monitors shall be acceptable as an alternative emissions sampling schedule.

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

SWAPCA 400-060 Emission Standards for General Process Units

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original adoption by Board 12/18/79; 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

General process units shall meet all applicable provisions of SWAPCA 400-040 and, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR Appendix A which are adopted by reference as in effect ((August)) July 1, 1996~~8~~ and any other appropriate test procedures approved in advance by the Authority shall be used to determine compliance.

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.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SWAPCA 400-070 Emission Standards for Certain Source Categories

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original adoption 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

The Authority finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed.

(1) Wigwam burners. The use of wigwam ("tee-pee", "conical", or equivalent type) burners is prohibited effective January 1, 1994.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of SWAPCA 400-040 and SWAPCA 400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary for efficient operation of these units. This practice is to be scheduled for the same specific times each day and the Authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

(4) Catalytic cracking units.

(a) All existing catalytic cracking units shall meet all provisions of SWAPCA 400-040:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall install BACT which may be more stringent than the provisions of SWAPCA 400-115.

(5) Sulfuric acid plants. No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.

(6) Gasoline dispensing facilities. All gasoline dispensing facilities shall meet all the provisions of ((SWAPCA 400-110(8) and)) SWAPCA 491 "Emission Standards and Controls for Sources Emitting Gasoline Vapors".

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(7) Dry Cleaning Facilities. All dry cleaning facilities shall meet all the provisions of SWAPCA 494 "Dry Cleaning Operations".

(78) Abrasive blasting.

(a) Abrasive blasting shall be performed inside a booth or structure designed to capture the blast grit, overspray, and removed material except that outdoor blasting of structures or items too large to be reasonably handled indoors or in an enclosure shall employ control measures such as curtailment during windy periods, wet blasting, and/or enclosure of the area being blasted with tarps.

(b) Outdoor blasting shall be performed with either steel shot or an abrasive material containing less than one percent (by mass) which would pass through a No. 200 sieve.

(c) All abrasive blasting with sand shall be performed inside a blasting booth, enclosure or structure designed to capture fugitive particulate matter.

(d) All abrasive blasting of materials that have a coating or that may contain a substance that is identified as a toxic air pollutant in SWAPCA 460 or a hazardous substance shall be analyzed prior to blast operations. If a toxic or hazardous material is present in the blast media or removed media, all material shall be handled and disposed of in accordance with applicable 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.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 12/18/79; Amended by Board 12/16/86; 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) The emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency (USEPA) as in effect August 1, 1996~~g~~, as contained in Title 40, Code of Federal Regulations, Part 61 and Part 63, are adopted by reference. The term "Administrator" in 40 CFR Part 61 shall mean the Administrator of EPA, the Director of Ecology and the Control Officer of the Authority.

(2) The Authority may require that source tests be conducted and require access to records, books, files, and other information specific to the control, recovery or release of those pollutants regulated under 40 CFR Part 61 and/or Part 63 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61 and/or Part 63, as in effect August 1, 1996~~g~~.

(4) This section shall not apply to any source operating pursuant to a waiver granted by EPA or an exemption granted by the President of the United States during the effective life of such waiver or exemption.

(5) Specific standards of performance referred to as Maximum Achievable Control Technology (MACT) have been promulgated by the USEPA. As of ((August)) July 1, 1996~~g~~ the following standards of performance as set forth in 40 CFR 63 are hereby adopted by reference:

Subpart A	National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions (40 CFR 63.1 et seq.)
Subpart B	National Emission Standards for Hazardous Air Pollutants for Source Categories: Equivalent Emission Limitation By Permit (ref. 40 CFR 63.50 et seq.)
Subpart D	National Emission Standards for Hazardous Air Pollutants for Source Categories: Early Reduction Program (ref. 40 CFR 63.70 et seq.)
Subpart F	National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (ref. 40 CFR 63.100 et seq.)
Subpart G	National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (ref. 40 CFR 63.110 et seq.)
Subpart H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (ref. 40 CFR 63.160 et seq.)
Subpart I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (ref. 40 CFR 60.190 et seq.)
Subpart L	National Emission Standards for Hazardous Air Pollutants for Coke Oven Operations (ref. 40 CFR 63.300 et seq.)
Subpart M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (ref. 40 CFR 63.320 et seq.)
Subpart N	National Emission Standards for Hazardous Air Pollutants from Hard and Decorative Electroplating and Anodizing Operations (ref. 40 CFR 63.340 et seq.)
Subpart O	National Ethylene Oxide Air Emission Standards for Commercial Sterilizers (ref. 40 CFR 63.360 et seq.)
Subpart Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (ref. 40 CFR 63.400 et seq.)
Subpart R	National Emission Standards for Hazardous Air Pollutants for Gasoline Distribution Operations (Stage I) (ref. 40 CFR 63.420 et seq.)
Subpart S	<u>National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry</u> (ref. 40 CFR 63.440 et seq.)
Subpart T	National Emission Standards for Hazardous Air Pollutants for Halogenated Sol-

Subpart U

vents Cleaning Operations (ref. 40 CFR 63.460 et seq.)

National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins and Group IV Polymers and Resins (ref. 40 CFR 63.480 et seq.)

Subpart W

National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production (ref. 40 CFR 63.520 et seq.)

Subpart X

National Emission Standards for Hazardous Air Pollutants for Secondary Lead Smelting Manufacturing Operations (ref. 40 CFR 63.541 et seq.)

Subpart Y

National Emission Standards for Hazardous Air Pollutants for Marine Vessel Loading Operations (ref. 40 CFR 63.560 et seq.)

Subpart CC

National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (ref. 40 CFR 63.640 et seq.)

Subpart DD

National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations (ref. 40 CFR 63.680 et seq.)

Subpart EE

National Emission Standards for Hazardous Air Pollutants for Magnetic Tape Manufacturing Operations (ref. 40 CFR 63.710 et seq.)

Subpart GG

National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing Operations (ref. 40 CFR 63.740 et seq.)

Subpart II

National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) (ref. 40 CFR 63.780 et seq.)

Subpart JJ

National Emission Standards for Hazardous Air Pollutants for Wood Furniture Manufacturing Operations (ref. 40 CFR 63.800 et seq.)

Subpart KK

National Emission Standards for Hazardous Air Pollutants for the Printing and Publishing Industry (ref. 40 CFR 63.820 et seq.)

Subpart LL

National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants (ref. 40 CFR 63.840 et seq.)

Subpart JJJ

National Emission Standards for Hazardous Air Pollutants Emissions: Group IV Polymers and Resins (ref. 40 CFR 63.1310 et seq.)

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.

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

SWAPCA 400-076 Emissions Standards for Sources Emitting Toxic Air Pollutants

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 95-17-084 filed 8/21/95, effective 9/21/95]

(1) The term toxic air pollutants (TAP) or toxic air contaminant means any air pollutant listed in ((SWAPCA) WAC 173-460-150 or 460-160). The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in ((SWAPCA) WAC 173-460-150 or 460-160). The Chemical Abstract Service (CAS) number shall be the primary means used to specifically identify a substance. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(2) All sources subject to the requirements of SWAPCA 400-110, 400-111, 400-112, 400-113 or 400-114 shall be subject to the requirements of ((SWAPCA) WAC 173-460). All sources subject to review under SWAPCA 400 shall also be reviewed for applicability and/or compliance under ((SWAPCA) WAC 173-460).

(3) The New Source Review fee schedule provided in SWAPCA 400-110 shall be applicable to all sources subject to ((SWAPCA) WAC 173-460). The fees identified in SWAPCA 400-110 shall not be duplicate to any fees collected under ((SWAPCA) WAC 173-460). Only a single fee shall apply to sources that are subject to SWAPCA 400 and ((SWAPCA) WAC 173-460).

(4) A Notice of Construction is a written application to request approval for construction or modification of an air contaminant source. If a Notice of Construction application is required under both SWAPCA 400 and ((SWAPCA) WAC 173-460), then the applications shall be combined. All sources subject to ((SWAPCA) WAC 173-460) shall file a Notice of Construction application in accordance with SWAPCA 400-109 "Notice of Construction Application" and SWAPCA 400-110 "New Source Review".

(5) Authority actions including issuance of regulatory orders and enforcement actions for sources subject to ((SWAPCA) WAC 173-460) shall be the same as those actions for sources subject to and identified in SWAPCA 400.

(6) Sources subject to ((SWAPCA) WAC 173-460) shall be subject to the registration requirements of SWAPCA 400-100. Where a source is subject to both SWAPCA 400 and ((SWAPCA) WAC 173-460), only one registration shall be provided and only one fee shall be collected in accordance with the schedule outlined in SWAPCA 400-100.

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

SWAPCA 400-091 Voluntary Limits on Emissions

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Section previously numbered SWAPCA 400-090 - 93-21-003 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) Voluntary limits on emissions and limitations on potential to emit or process parameters or throughputs may be requested by a source by submittal of a complete Notice of Construction application to the Authority as provided in SWAPCA 400-109. Confidential information shall be identified as set forth in SWAPCA 400-270. Upon request by the owner or operator of a source, and completion of review of the application by the Authority, the Authority shall issue a regulatory order which reduces that source's potential to emit to an amount agreed to by the owner or operator and the Authority.

(2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of that air contaminant process parameter or throughputs, under all applicable requirements of Chapter 70.94 RCW and the FCAA, including any standard or other requirement provided for in the Washington State Implementation Plan (SIP).

(3) Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with any emission limit, process parameter or throughput, established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of SWAPCA 400-105.

(4) Any order issued under this section shall be subject to the public notice and comment procedures under SWAPCA 400-171.

(5) The terms and conditions of a regulatory order issued under this section shall be federally enforceable, upon approval of this section as an element of the Washington State Implementation Plan. Any proposed increase in emissions above limits contained in an order issued under this section shall require revision or revocation of the order.

(6) Noncompliance with any emission limit, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 98-15-143

PROPOSED RULES

SOUTHWEST AIR POLLUTION CONTROL AUTHORITY

[Filed July 22, 1998, 9:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-101 Sources Exempt from Registration Requirements, the purpose of this section is to identify those sources which are exempt from the registration and new source review requirements of SWAPCA 400-100 and SWAPCA 400-110.

SWAPCA 400-105 Records, Monitoring and Reporting, the purpose of this section is to identify the requirements for sources to submit an emission inventory, conduct monitoring and perform emission sampling and reporting.

SWAPCA 400-106 Emission Testing at Sources, the purpose of this section is to provide a minimum set of standards for sampling emissions from all sources.

SWAPCA 400-109 Notice of Construction Application, the purpose of this section is to provide requirements for submittal and a description of the process for submitting a Notice of Construction application.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, the purpose of this section is to identify the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, the purpose of this section is to identify the requirements for new or modified sources in nonattainment areas for permitting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, the purpose of this section is to identify the requirements for new or modified sources in attainment areas for permitting purposes.

SWAPCA 400-115 Standards of Performance for New Sources, the purpose of this section is to adopt by reference the New Source Performance Standards (NSPS) contained in 40 CFR 60 for certain sources categories.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-101 Sources Exempt from Registration Requirements, this section identifies those sources which are exempt from the registration and new source review requirements of SWAPCA 400-100 and SWAPCA 400-110.

SWAPCA 400-105 Records, Monitoring and Reporting, this section identifies the requirements for sources to submit an emission inventory, conduct monitoring and perform emission sampling.

SWAPCA 400-106 Emission Testing at Sources, this section provides a minimum set of standards for sampling and reporting emissions from all sources.

SWAPCA 400-109 Notice of Construction Application, this section identifies requirements for submittal of a Notice of Construction and a description of the process for submitting a Notice of Construction application.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, this section identifies the requirements for new or modified sources in a maintenance plan area. Because of the maintenance plan status of an area, emission standards to maintain air quality in a maintenance plan area are more demanding than those in less populated or industrialized areas.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, this section identifies the requirements for new or modified sources in nonattainment areas for permit-

ting purposes. This section also includes provisions for offsetting emissions for larger emission sources.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, this section identifies the new source review requirements and emission standards for new or modified sources in attainment areas.

SWAPCA 400-115 Standards of Performance for New Sources, this section adopts by reference the New Source Performance Standards (NSPS) contained in 40 CFR 60 for identified sources categories.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest 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: SWAPCA 400-101 Sources Exempt from Registration Requirements, this is an existing rule. Proposed modifications are to change the reference from SWAPCA 460 to chapter 173-460 WAC to reflect the fact that SWAPCA adopts the WAC by reference and therefore clarifies the requirement for the reader. In addition, the exemption for fuel burning equipment has been clarified to describe "office" space heating as the identified exemption.

SWAPCA 400-105 Records, Monitoring and Reporting, this is an existing rule. The proposed changes remove reference to SWAPCA 460 and make reference to chapter 173-460 WAC, add two additional source categories for those type of sources which are required to submit an emission inventory which clarifies the types of sources identified in existing requirements, and to move the source testing section to a separate new section (SWAPCA 400-106) in the rules.

SWAPCA 400-106 Emission Testing at Sources, this is a new rule. This rule was excerpted from SWAPCA 400-105(4). This section is revised to include those conditions that are already being included in permits for source testing of certain equipment. This section will provide more consistency in testing and reporting of test results.

SWAPCA 400-109 Notice of Construction Application, this is an existing rule. The proposed modification to this section is to add the word final in subsection 5 to clarify when a Notice of Construction can be withdrawn.

SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area, this is an existing rule. Modifications to this rule are clarifications to provide reference to the proper section numbers and clarify the requirement to certify that the source is in compliance. The reference to existing federal rules is being updated to reference the most current standard.

SWAPCA 400-112 Requirements for Sources in Nonattainment Areas, this is an existing rule. Modifications to this section are for clarification to reference chapter 173-460 WAC instead of SWAPCA 460 and to update [and] reference the existing federal rules.

SWAPCA 400-113 Requirements for Sources in Attainment or Nonclassifiable Areas, this is an existing rule. Modifications to this section are clarification to reference chapter 173-460 WAC instead of SWAPCA 460 and to reference the existing federal rules.

SWAPCA 400-115 Standards of Performance for New Sources, this is an existing rule. Modifications to this section include updating the adoption dates on the existing federal rules and adopting additional existing federal standards.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

AMENDATORY SECTION

SWAPCA 400-101 Sources Exempt from Registration Requirements

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.163 RCW, and 70.94.331 RCW. Original Board adoption 12/17/68 (Regulation 1 Sec 4.08); Amended by Board 10/29/69 (Regulation 2 Sec 3.03); Amended by Board 12/18/79 (400-100(3)); Amended by Board 12/18/79; Amended by Board 4/17/84; 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

All air contaminant emissions units shall be registered with the Authority except for the emissions units listed in this section. In the event that a registered source has any of these emissions units at a location that is otherwise required to be registered or obtain an operating permit, the Authority may require that these emissions units be included on the permit or registration. However, registration fees shall not be assessed for any of the exempt emissions units. Any source exempted from registration under this section shall maintain sufficient documentation acceptable to the Authority that the source is entitled to exemption under this section. Any source exempted from registration under this section shall also be considered exempt from the requirements of SWAPCA 400-

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110, 400-111, 400-112, 400-113, and 400-114. For the purpose of identifying sources or emission units exempt from registration, the source's or emission unit's potential to emit shall be used as the basis for emissions and shall consider emissions before application of any control equipment. All exempt emission units shall be identified on an Order of Authorization to Operate for an otherwise registered source (refer to SWAPCA 400-109). An exemption for an entire facility or source shall be valid only if the combined emissions from all emission units at that site or facility are less than 1.0 ton per year for criteria pollutants and less than the Small Quantity Emission Rate for each toxic air pollutant identified in ((SWAPCA)) WAC 173-460. If any exemption threshold is exceeded for an emission unit or units, either individually or combined, the source or emission unit(s) shall not be considered to be exempt.

List of Exempt Emission Units or Sources as a Single Source or Emission Unit:

(1) Air conditioning or ventilating systems designed for space heating and cooling, combined or separate, that are less than 2.0 million BTU per hour which do not exhaust to the atmosphere contaminants generated by or released from process equipment.

(2) Any commercial or industrial manufacturing operation or business or process(es) associated with such operation or business which emits less than one ton per year combined of nitrogen oxides, carbon monoxide, PM₁₀, sulfur dioxide and volatile organic compounds from all emissions units combined. The one ton exemption does not apply to emissions of toxic air pollutants. Sources or emission units with emissions of toxic air pollutants to the ambient air may be exempted only if the annual emissions quantity for each toxic air pollutant is below the Small Quantity Emission Rate (annual rate) for each toxic air pollutant emitted as identified in ((SWAPCA)) WAC 173-460.

(3) Any commercial or industrial manufacturing operation or business or process(es) associated with such operation or business which is of insufficient stature to trigger a new source review fee assessment, from all emission units combined, as specified in Table A under SWAPCA 400-110.

(4) Asphalt roofing and application equipment (not manufacturing or storage equipment).

(5) Fuel burning equipment unless waste-derived fuel is burned, which:

(a) is used solely for a private dwelling serving less than five families; or

(b) has an energy input of less than 2 million Btu per hour.

(6) Fuel burning equipment used exclusively for office space heating other than boilers.

(7) Insecticide, pesticide or fertilizer spray equipment.

(8) Laundering devices, dryers, extractors or tumblers for fabrics using water solutions of bleach and/or detergents.

(9) Portable, manually operated welding, brazing or soldering equipment when used at other than the owner's principal place of business.

(10) Welding stations involved solely in the repair and maintenance of a facility. This exemption does not extend to manufacturing operations where welding is an integral part of the manufacturing process.

(11) Food preparation facilities, establishments or equipment.

(12) Retail paint sales establishments (not including manufacturing).

(13) Sampling connections used exclusively to withdraw materials for laboratory analyses and testing.

(14) Sewing equipment.

(15) Sources which due to the amount and nature of air contaminants produced and their potential to contribute to air pollution, are determined through review by the Authority to not warrant registration; provided that, for new sources, such determination shall be based upon review of a Notice of Construction application.

(16) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings or other structures.

(17) Chemical and physical laboratory operations or equipment, including fume hoods and vacuum producing devices provided the emissions do not exceed those listed in SWAPCA 400-101(2). This exemption applies to incidental fume hoods or laboratory equipment used by a source to perform in-house analyses that do not exceed the small quantity exemption of (2) above. This exemption does not apply to sources whose primary activity is chemical or physical laboratory operations.

(18) Residential wood heaters.

(19) Office equipment, operations and supplies.

(20) Internal combustion including diesel engines used for standby emergency power generation which are used less than 100 hours per year and are rated at less than 500 horsepower.

(21) Steam cleaning equipment used exclusively for that purpose.

(22) Refrigeration systems which are not in air pollution control service.

(23) Housekeeping activities and equipment.

(24) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves and storage tanks.

(25) Natural and forced air vents and stacks for bathroom/toilet facilities.

(26) Personal care activities.

(27) Lawn and landscaping activities.

(28) Flares used to indicate danger to the public.

(29) Fire fighting and similar safety equipment and equipment used to train fire fighters.

(30) Materials and equipment used by, and activities related to operation of an infirmary provided that operation of an infirmary is not the primary business activity at the source in question.

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

SWAPCA 400-105 Records, Monitoring and Reporting

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 12/18/79; Amended by Board 4/17/84 - renumbered to 400-170; Amended by Board (400-170) 12/16/86; 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

The owner or operator of each registered source or emission unit shall maintain records of the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations, operating limitations, and control measures. Sources that are not subject to the registration requirements of SWAPCA 400-100 because they are exempt under SWAPCA 400-101 shall ((nevertheless)) maintain records and other information necessary and sufficient to substantiate that their small quantity emissions are less than the applicable thresholds.

(1) Emission inventory.

(a) When requested, the owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year to the Authority. The inventory shall include stack and fugitive emissions of particulate matter, PM₁₀, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and toxic air pollutants identified in ((SWAPCA)) WAC 173-460. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(b) The emission inventory form supplied by the Authority shall be completed and returned to the Authority by April 15th for the following sources:

(i) Sources with the potential to emit over 100 tons of criteria pollutants, 10 tons of a single hazardous air pollutant or 25 tons of combined hazardous air pollutants, sources subject to NSPS, except subpart AAA, and sources subject to NES-HAPS, except subpart M, sources are required to submit an emissions inventory. Only the hazardous air pollutants listed in Section 112 of the FCAA are considered for inclusion as hazardous air pollutant emissions for the purpose of determining those sources required to submit an emissions inventory. ((Minimum data required for the emissions inventory includes: emissions type, emissions quantity, process data, stack parameters, operating schedule, control equipment and boiler capacity.))

(ii) In ozone nonattainment or maintenance plan areas, those sources that emit over 10 tons of VOCs per year or over 25 tons per year of NO_x are also required to submit emission inventories. ((Minimum data required for the emissions inventory includes: emissions type, emissions quantity, process data, stack parameters, operating schedule, control equipment, and equipment capacity.)) Sources subject to this section are also required to submit average daily emissions or process throughput data for NO_x and VOCs for ozone season in preparation for the SIP update.

(iii) Sources with actual emissions or potential to emit greater than 50% of the Title V permit thresholds as identified in (i) above.

(iv) Synthetic minor or Title V opt out sources.

(2) **Monitoring.** The Authority shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants. As a part of this program, the Control Officer or an authorized representative may require any source under the jurisdiction of the Authority to conduct stack and/or

ambient air monitoring and to report the results to the Authority.

(3) **Investigation of conditions.** Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from the Authority shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing one or two families.

((4) **Source testing.** To determine compliance, evaluate control equipment performance, evaluate RACT or quantify emissions the Authority may conduct or require that a test be conducted of the source or any emissions unit within the jurisdiction of the Authority. Source testing shall be performed using appropriate sampling and analytical methods as approved in advance by the Authority including, but not limited to, approved EPA methods from 40 CFR 60 Appendix A which are adopted by reference, or alternate procedures approved by the Authority. The operator of a source shall provide the necessary platform and sampling ports for Authority personnel or others to perform a test of an emissions unit. The Authority shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.))

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million Btu per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million Btu per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the Authority by the owner(s) or operator(s).

(b) Sulfuric acid plants. Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluidized bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million Btu per hour heat input.

(ii) Continuous monitoring equipment. The requirements of SWAPCA 400-105 (5)(e) do not apply to wood res-

idue fuel-fired steam generators, but continuous monitoring equipment required by SWAPCA 400-105 (5)(d) shall be subject to approval by the Authority.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this section shall demonstrate to the Authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, and 40 CFR 60 Appendices B through F, as appropriate, as in effect August 1, 1996⁸ which is adopted by reference.

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, the Authority determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures shall be established on an individual basis. Alternative monitoring and reporting procedures may include continuous monitoring of process/operational parameters as a surrogate to continuous emissions monitoring and/or stack tests conducted at a frequency sufficient to determine compliance with applicable regulations and permit requirements as well as to quantify emissions.

(g) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. NSPS sources shall be governed by SWAPCA 400-115.

(ii) Not subject to an applicable emission standard.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this section during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of the Authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(65) Change in raw materials or fuels for sources not subject to requirements of the Operating Permit Program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by SWAPCA 400-105(1) shall require the submittal of sufficient information to the Authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The Authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase or decrease in average annual sulfur content over the initial inventory shall not require such notice.

(76) Misrepresentation. No person shall make any false material statement, representation or certification in any form, notice, or report required under Chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(87) Tampering. No person shall render inaccurate any monitoring device or method required under Chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

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.

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.

NEW SECTION

SWAPCA 400-106 Emission Testing at Sources

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW.]

(1) Requirement to Test. To determine compliance, evaluate control equipment performance, evaluate RACT or quantify emissions, the Authority may conduct or require that emission testing be conducted of the source or any emissions unit within the jurisdiction of the Authority.

(2) Test Methods. Any required source emission testing shall be performed using appropriate sampling and analytical methods as approved in advance by the Authority including, but not limited to, approved EPA methods from 40 CFR 60 Appendix A which are hereby adopted by reference, Opacity Determination Method (SWAPCA Method 9 - Appendix A to SWAPCA 400), Oregon Department of Environmental Quality (DEQ) Method 8 "Sampling Particulate Emissions from Stationary Sources (High Volume Method)" hereby adopted by reference, or alternate procedures approved in writing by the Authority.

(3) Accommodations for Sampling. The operator of a source shall provide the necessary platform and sampling ports for Authority personnel or others to perform a test of an emissions unit. The Authority shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(4) Notification. The owner or operator of a source shall notify the Authority in writing at least 2 weeks prior to any required emissions test and provide the Authority an opportunity to review the test plan. Authority personnel shall be informed at least three days prior to testing so that they have an opportunity to be present during testing.

(5) Test Duration. A minimum of three test runs one hour in length shall be performed at normal operating conditions unless otherwise approved in advance to establish that collected data is representative of normal operations. The source shall be operated at or near its maximum rated capacity during testing. Compliance shall be determined by averaging the results of the individual test runs.

(6) Records. A complete record of production related parameters including startups, shutdowns, and adjustments shall be kept during emissions testing to correlate operations with emissions and shall be recorded in the final test report.

(7) Reports. Results of all required source or emissions testing shall be submitted to the Authority within 45 days of test completion. Measured concentrations for combustion and incineration sources shall be corrected as provided in SWAPCA 400-050(3). The report shall include:

(1) A description of the source including manufacturer, model number and design capacity of the equipment, and the location of the sample ports or locations.

(2) Time and date of the test and identification and qualifications of the personnel involved.

(3) A summary of results, reported in units and averaging periods consistent with the applicable emission standard or limit.

(4) A summary of control system or equipment operating conditions.

(5) A summary of production related parameters.

(6) A description of the test methods or procedures used including all field data, quality assurance/quality control procedures and documentation.

(7) A description of the analytical procedures used including all laboratory data, quality assurance/quality control procedures and documentation.

(8) Copies of field data and example calculations.

(9) Chain of custody information.

(10) Calibration documentation.

(11) Discussion of any abnormalities associated with the results.

(12) A statement signed by the senior management official of the testing firm certifying the validity of the source test report.

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

SWAPCA 400-109 Notice of Construction Application

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 95-17-084 filed 8/21/95, effective 9/21/95]

(1) Purpose. A Notice of Construction (NOC) application is the document or form used by the Authority to record and track requests from individual sources, registered and non-registered, for the purpose of obtaining information regarding proposed changes or activities at a source. Confidential information shall be identified as set forth in SWAPCA 400-270. Changes may include modifications, alterations, changes to process or control equipment, establishment of emission limits, and installation of new sources.

(2) Applicability.

(a) A Notice of Construction application consistent with SWAPCA 400-110 shall be submitted for all new installations, modifications, changes, and alterations to process and emission control equipment consistent with the definition of new source.

(b) Submittal of a Notice of Construction application shall not automatically impose New Source Review requirements for meeting emissions standards (including, but not limited to: NSPS, NESHAPS, any ambient air quality standard, etc.).

(3) Types of Applications. A Notice of Construction application may be submitted for, but not be limited to, the following activities:

(a) New construction or installation.

(b) Change of existing approved emission limits (including Title V opt-out requests - SWAPCA 400-091).

(c) Review of existing or installed equipment operating without prior approval.

(d) Modification, alteration or replacement of existing process or control equipment.

(e) Change of registered owner (purchase or sale of source, facility or equipment).

(f) Change of location of operations of existing portable and stationary equipment.

(g) Review of existing equipment with an expired or lapsed approval or registration.

(h) Review of a case-by-case RACT, BACT, MACT or other similar determination.

(i) Other activities as identified by the Authority.

(4) Fees. A fee consistent with the fee schedule (Tables A and B) provided in SWAPCA 400-110 shall be paid by the owner or operator to the Authority prior to review of the Notice of Construction application by the Authority.

(5) Authority Actions. Each acceptable and complete Notice of Construction application shall have an Order of Approval or other applicable order issued by the Authority. A Notice of Construction for a gasoline dispensing station shall be submitted and approved as provided in SWAPCA 400-110(8). The requirements of SEPA (State Environmental Policy Act) shall be complied with for each Notice of Construction. Demonstration of completion of an environmental checklist as provided in WAC 197-11 shall be submitted with each Notice of Construction. Issuance of regulatory orders for all Notice of Construction applications shall be consistent with the requirements of SWAPCA 400-110. Requirements for New Source Review are provided in SWAPCA 400-110, 400-111, 400-112, 400-113 & 400-114. A Notice of Construction application may be withdrawn prior to issuance of a final regulatory order by the Authority as provided in (6) below; or an application may be determined by the Authority to be exempt as provided under 400-100, 400-101, or 400-110. An application determined to be exempt will be processed as identified in (6) below.

(6) Withdrawal or Exempt.

(a) A Notice of Construction application may be withdrawn by the applicant at any time prior to issuance of a regulatory order. The applicant must provide a written and signed request to the Authority indicating their desire to withdraw a Notice of Construction application, and certification that the proposed equipment or modification will not be installed, constructed, or operated without prior review and approval from the Authority. The Authority shall provide written response to acknowledge withdrawal of the application.

(b) After review by the Authority, an application may be determined to be exempt from the registration requirements of SWAPCA 400-100 and New Source Review requirements of SWAPCA 400-110. Written notification shall be provided by the Authority to the applicant for all applications that are determined to be exempt. For withdrawn or exempt applications, filing fees will not be refunded to the applicant. Review fees, if provided with the application, may be refunded, upon request, provided that substantial time has not been expended by the Authority for review of the Notice of Construction application.

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.

PROPOSED

AMENDATORY SECTION**SWAPCA 400-111 Requirements for Sources in a Maintenance Plan Area**

Any person proposing to install, construct or operate a new source or emission unit or make a modification to an existing source or emission unit shall file a Notice of Construction application with the Authority in accordance with SWAPCA 400-109 and shall be subject to the New Source Review provisions of SWAPCA 400-110. Confidential information shall be identified as set forth in SWAPCA 400-270. A Notice of Construction application to establish a new source or make a modification to a source in an area that is covered by a maintenance plan, shall result in the issuance of an Order of Approval or other regulatory order. Such order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this section, if it is determined that the proposed project satisfies all of the requirements of this section. New sources or modifications within a designated maintenance plan area, including sources of VOC or NO_x in a designated ozone maintenance plan area, shall meet the requirements listed below.

(1) **Emission Standards.** The proposed new source or modification shall:

(a) comply with all applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, emission standards adopted under Chapter 70.94 RCW and, the applicable emission standards of the Authority; and

(b) not cause any ambient air quality standard as provided in SWAPCA 400-113(3) to be exceeded; and

(c) not violate the requirements for reasonable further progress established by the Washington State Implementation Plan; and

(d) minimize emissions to the extent that the new source or modification will not delay the attainment date for a non-attainment area, exceed emission levels or other requirements provided in a maintenance plan for an area that was previously identified as a nonattainment area, nor cause or contribute to a violation of any ambient air quality standard.

(2) **BACT.** Except as provided in Section (87) of this section, the owner or operator of the proposed new source or modification shall apply BACT for each pollutant. In the case of a modification, the requirement for BACT shall apply to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(3) **Source Compliance.** The owner or operator of the proposed new source or modification shall (~~demonstrate~~) certify that all sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in Washington are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Washington Clean Air Act (RCW 70.94).

(4) **Offsets or Growth Allowance.** The owner or operator of a proposed new major source or major modification shall provide offsets as specified in Section (98) of this section. Except as provided in Section (87) of this section, the

requirements of this Section may be met in whole or in part in an ozone maintenance plan area with an allocation by SWAPCA from a growth allowance, if available, in accordance with Section (98) of this section and the applicable maintenance plan in the SIP adopted by the Board and approved by EPA.

(5) **Net Air Quality Benefit.** For cases in which emission reduction or offsets are required in accordance with Section (4) above, the applicant shall demonstrate that a net air quality benefit will be achieved in the maintenance plan area. If the proposed new source or the proposed modification is major for the contaminant for which the area has a maintenance plan, allowable emissions of the maintenance pollutant from the proposed new source or modification shall be offset by reductions in actual emissions of the maintenance pollutant. All offsetting emission reductions must satisfy the following requirements of Section (8).

(6) **Alternative Analysis.**

(a) Except as provided in Subsection (c) of this section, the owner or operator of a proposed major source or major modification shall conduct an alternatives analysis;

(b) This analysis shall include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification;

(c) This analysis shall not be required for a major source or major modification that is subject to this rule due to emissions of particulate matter in a designated TSP maintenance area.

(7) **Contingency Plan Requirements.** If the contingency plan in an applicable maintenance plan (CO or ozone) has been triggered due to a violation of an ozone ambient air quality standard or a second violation of the CO ambient air quality standard, this Section shall apply in addition to other requirements of this rule and the applicable approved maintenance plan adopted by the Board and approved by EPA as a revision to the SIP.

(a) The requirements for BACT in Section (2) of this Section shall be replaced by a requirement for LAER. If the new source is a major stationary source or the proposed modification is a major modification, it must achieve LAER for the maintenance pollutant and for which the proposed new source or modification is major.

(b) An allocation from a growth allowance shall not be used to meet the requirement for offsets in Section (4) of this Section. The growth allowance emissions shall be unavailable until such time as sufficient demonstration is made to reinstate the growth allowance emissions.

(8) **Industrial Growth Allowance and Offset Allocation.**

(a) Industrial growth allowances for sources in a maintenance plan area are identified in and governed by the Washington State Implementation Plan and the applicable maintenance plan for the applicable maintenance plan area.

(b) The growth allowance emissions may be increased or decreased as provided in a revision to the maintenance plan submitted to and approved by EPA. In the event of a con-

firmed ozone violation, the growth allowance for VOC and NO_x emissions shall be eliminated and new sources shall be required to implement LAER and offsets. Growth allowance emissions may be reinstated as provided in the EPA approved maintenance plan.

(c) The owner or operator of a proposed new major source or major modification emitting VOCs or NO_x, may obtain a portion of any remaining emissions in the respective growth allowance in accordance with the following process:

(i) Access is on a first-come-first-served basis, based on the date of a complete notice of construction and allowance allocation request;

(ii) No single source may receive an emissions allocation of more than 50% of any remaining growth allowance, or up to 10 tons per year, which ever is greater. On a case-by-case basis, the SWAPCA Board of Directors may approve an emissions allocation of greater than 50% upon consideration of the following:

(A) Information submitted by the source to SWAPCA justifying it's request for exceeding the 50% emissions allocation, based on significant economic, employment, or other benefits to the maintenance plan area that will result from the proposed new major source or major modification;

(B) Information provided by SWAPCA on other known new major sources or major modifications seeking an emissions allocation from the same growth allowance; and

(C) Other relevant information submitted by the source or SWAPCA.

(iii) To avoid jeopardizing maintenance of the ozone standard during the interim years of the ozone maintenance plan, SWAPCA shall allocate only a portion of the VOC and NO_x growth allowances each year. SWAPCA will track use of VOC and NO_x emissions from the growth allowances. The amount of the growth allowance that can be allocated each year is identified in the applicable ozone maintenance plan.

(iv) The amount of the CO growth allowance that can be allocated is identified in the applicable CO maintenance plan, if any.

(d) If no emissions remain in the respective growth allowance or the contingency plan has been triggered which effectively zeros the growth allowance, the owner or operator of the proposed major source or major modification shall provide offsets. Applicants in a maintenance area shall demonstrate the following:

(i) A demonstration shall be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in 40 CFR Part 51, Appendix W, Guideline on Air Quality Models (Revised).

(ii) Offsets for VOCs or nitrogen oxides shall be within the same maintenance plan area as the proposed source. Offsets for particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and other pollutants shall be less than the level of significant air quality impact. (Refer to SWAPCA 400-110 (1)(g) for significance levels.)

(iii) New sources or modifications shall meet the following offset requirements:

(A) within a designated maintenance plan area, the offsets shall provide reduction which are equivalent or greater than the proposed increases. The offsets shall be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions;

(B) outside a designated maintenance plan area, owners or operators of new sources or modifications which have a significant air quality impact on the maintenance plan area as provided in SWAPCA 400-113(3) shall provide emission offsets which are sufficient to reduce impacts to levels below the significant air quality impact level with the maintenance plan area; and

(C) The emission reductions must provide for a net air quality benefit.

(I) New major sources within an ozone maintenance plan area shall:

(a) Offset the new VOC emissions at a ratio of 1.1 to 1, if the VOC emissions exceed either 100 tons per year or 700 pounds per day.

(b) Offset the new NO_x emissions at a ratio of 1.1 to 1, if the NO_x emissions exceed either 100 tons per year or 700 pounds per day.

(II) Sources within an ozone maintenance plan area undergoing major modifications shall:

(a) Offset the entire VOC emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(b) Offset the entire NO_x emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(III) New major sources within a carbon monoxide maintenance plan area shall:

(a) Offset the new carbon monoxide emissions at a ratio of 1 to 1, if the carbon monoxide emissions exceed either 100 tons per year or 700 pounds per day.

(IV) Sources within a carbon monoxide maintenance plan area undergoing major modifications shall:

(a) Offset the entire carbon monoxide emissions increase at a ratio of 1 to 1, if such increase exceeds either 100 tons per year or 700 pounds per day.

(D) New major sources or major modifications with CO emissions greater than 250 tpy are required to obtain offsets and comply with the PSD requirements of SWAPCA 400-141.

(iv) The emission reduction shall be of the same type of pollutant as the emissions from the new source or modification. Sources of PM₁₀ shall be offset with particulate in the same size range.

(v) The emission reductions shall be contemporaneous, that is, the reductions shall take effect prior to the time of startup but not more than two years prior to the submittal of a complete notice of construction application for the new source or modification. This time limitation may be extended through banking, as provided in SWAPCA 400-130, 400-131 and 400-136 for banking activities approved after the effective date of this regulation. In the case of replacement facilities, SWAPCA may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that emissions do not exceed the new emission limits.

(vi) New major sources or major modifications in a maintenance plan area shall:

(A) The proposed new level of allowable emissions of the source or emissions units providing the reduction must be less than the current level of actual emissions of that source or emission unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders or permits cannot be credited.

(B) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the new or modified source commences operation. The new source may not commence operation before the date such reductions are actually achieved. SWAPCA may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that the facility wide emissions do not exceed the new emission limit.

(9) **PSD Applicability.** If the proposed new source is a major stationary source or the proposed modification is a major modification for the purposes of the PSD program as described in SWAPCA 400-141, the new source or modification shall meet the requirements of that program for all pollutants. For maintenance plan pollutants, the source shall meet all PSD requirements in addition to the additional requirements of this Section.

(10) **Toxics.** If the proposed new source or modification will emit any toxic air pollutants regulated under ((SWAPCA)) WAC 173-460, the source shall meet all applicable requirements of that regulation.

(11) **Visibility.** If the proposed new source is a major stationary source or the proposed modification is a major modification, the source shall meet all the visibility protection requirements of 40 CFR 52.27 as in effect on ((August 1, 1995)) July 1, 1998.

(12) **Noncompliance.** Noncompliance with any emission limit, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SWAPCA 400-112 Requirements for New Sources in Nonattainment Areas

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 12/17/68 (Regulation 1 Sec 3); Amended by Board 12/18/79; Amended by Board 8/18/81; Amended by Board 3/20/84; Renumbered from 400-110 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

A Notice of Construction application to establish a new source or make a modification to a source in a nonattainment area, shall result in the issuance of an Order of Approval or other regulatory order, which contains such conditions as are reasonably necessary to assure the maintenance of compliance with this section, if the Authority determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, emission standards adopted under Chapter 70.94 RCW and, the applicable emission standards of the Authority.

(2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it must achieve LAER for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

(3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the Washington State Implementation Plan and will comply with SWAPCA 400-113(3) for all contaminants for which the area has not been designated nonattainment.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification, and the Authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(5) If the proposed new source or the proposed modification is major for the contaminant for which the area is designated nonattainment, allowable emissions of the pollutant for which the area has been designated nonattainment from the proposed new source or modification are offset by reductions in actual emissions of the pollutant for which the area has been designated nonattainment from existing sources in the nonattainment area so as to represent (when considered together with the nonattainment provisions of section 172 of the FCAA) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

(a) The proposed new level of allowable emissions of the source or emissions units providing the reduction must be less than the current level of actual emissions of that source or emission unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders or permits cannot be credited.

(b) The emission reductions must provide for a net air quality benefit.

(i) New major sources within a marginal ozone nonattainment area shall:

(A) Offset the new VOC emissions at a ratio of 1.1 to 1, if the VOC emissions exceed either 100 tons per year or 700 pounds per day.

(B) Offset the new NO_x emissions at a ratio of 1.1 to 1, if the NO_x emissions exceed either 100 tons per year or 700 pounds per day.

(ii) Sources within a marginal ozone nonattainment area undergoing major modifications shall:

(A) Offset the entire VOC emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(B) Offset the entire NO_x emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(iii) New major sources within a moderate carbon monoxide nonattainment area shall:

(A) Offset the new carbon monoxide emissions at a ratio of 1 to 1, if the carbon monoxide emissions exceed either 100 tons per year or 700 pounds per day.

(iv) Sources within a moderate carbon monoxide nonattainment area undergoing major modifications shall:

(A) Offset the entire carbon monoxide emissions increase at a ratio of 1 to 1, if such increase exceeds either 100 tons per year or 700 pounds per day.

(c) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the new or modified source commences operation. The new source may not commence operation before the date such reductions are actually achieved. An emission reduction credit issued under SWAPCA 400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(6) Noncompliance with any emission limit, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

(7) If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules contained in the EPA-approved Washington State Implementation Plan.

(8) If the proposed new source is a major stationary source or the proposed modification is a major modification for the purposes of the PSD program described in SWAPCA 400-141 it meets the requirements of that program for all contaminants for which the area has not been designated nonattainment.

(9) If the proposed new source or modification will emit any toxic air pollutants regulated under ((SWAPCA)) WAC 173-460, the source meets all applicable requirements of that Chapter.

(10) If the proposed new source is a major stationary source or the proposed modification is a major modification, the Authority has complied with the visibility protection review requirements of 40 CFR 52.28(c) through (h), as in effect on August 1, 1996, and determined that the project meets the criteria set forth in 40 CFR 52.28(g). For purposes of this subsection definitions referenced in 40 CFR 52.28(b) are incorporated by reference, except that the term "visibility protection area" means any Class I area, and terms defined in SWAPCA 400-030 shall have the meanings defined in that section. References in 40 CFR 52.28 to "the Administrator" shall mean the agency (either Ecology or the Authority) processing the Notice of Construction application.

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.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SWAPCA 400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 12/17/68 (Regulation 1 Sec 3); Amended by Board 12/18/79; Amended by Board 8/18/81; Amended by Board 3/20/84; Renumbered from 400-110 93-21-004 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

Any person proposing to install, construct or operate a new source or emission unit or modification to an existing source or emission unit shall file a Notice of Construction application with the Authority and shall be subject to the New Source Review provisions of SWAPCA 400-110. Confidential information shall be identified as set forth in SWAPCA 400-270. A Notice of Construction application to establish a new source or make a modification to a source in an area that is in attainment or unclassifiable for any air contaminant the proposed new source would emit and that is in attainment or unclassifiable for ozone if the proposed new or modified source would emit VOCs or NO_x, shall result in the issuance of an Order of Approval or other regulatory order. Such order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this section, if it is determined that the proposed project satisfies all of the following requirements:

(1) The proposed new source or modification will comply with all applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, emission standards adopted under Chapter 70.94 RCW and the applicable emission standards of the Authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

(3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment or unclassifiable nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment or maintenance plan area does not exceed the following levels for the pollutant(s) for which the area has been designated nonattainment:

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<u>Pollutant</u>	<u>Annual Average</u>	<u>24-Hour Average</u>	<u>8-Hour Average</u>	<u>3-Hour Average</u>	<u>1-Hour Average</u>
CO	-	-	0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification for purposes of the PSD program described in SWAPCA 400-141, it meets all applicable requirements of that section.

(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under ((SWAPCA)) WAC 173-460, the source meets all applicable requirements of that Chapter ((program)).

(6) Noncompliance with any emission limit, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

(7) If, within the meaning of the PSD program described in SWAPCA 400-141, the proposed new source is a major stationary source or the proposed modification is a major modification, the source would not cause an adverse impact upon visibility.

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

SWAPCA 400-115 Standards of Performance for New Sources

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Originally adopted by Board 12/18/79; Amended by Board 4/17/84 (renumbered to 400-135); Amended by Board 12/16/86; 93-16-007 filed 7/22/93, effective 8/22/93; 95-17-084 filed 8/21/95, effective 9/21/95]

Title 40, Code of Federal Regulations, Part 60 (Standards of Performance for New Sources), as in effect on August 1, 1996~~8~~, is adopted by reference except for sections 60.5 (Determination of Construction or Modification) and 60.6 (Review of Plans). The term "Administrator" in 40 CFR Part 60 shall mean the Administrator of EPA, the Director of Ecology and the Control Officer of the Authority.

As of August 1, 1996~~8~~, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

Subpart D Fossil fuel-fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts (ref. 40 CFR 60.40 et seq.)

Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater

than 250 megawatts (ref. 40 CFR 60.40a et seq.)

- Subpart Db Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts (ref. 40 CFR 60.40b et seq.)
- Subpart Dc Small industrial-commercial-institutional steam generating units (ref. 40 CFR 60.40c et seq.)
- Subpart E Incinerators (ref. 40 CFR 60.50 et seq.)
- Subpart Ea Municipal waste combustors (ref. 40 CFR 60.50a et seq.)
- Subpart F Portland cement plants (ref. 40 CFR 60.60 et seq.)
- Subpart G Nitric acid plants (ref. 40 CFR 60.70 et seq.)
- Subpart H Sulfuric acid plants (ref. 40 CFR 60.80 et seq.)
- Subpart I Asphalt concrete plants (ref. 40 CFR 60.90 et seq.)
- Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products (ref. 40 CFR 60.100 et seq.)
- Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons (ref. 40 CFR 60.110 et seq.)
- Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons (ref. 40 CFR 60.110a et seq.)
- Subpart Kb Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984 (ref. 40 CFR 60.110b et seq.)
- Subpart L Secondary lead smelters (ref. 40 CFR 60.120 et seq.)
- Subpart M Brass and bronze ingot production plants (ref. 40 CFR 60.130 et seq.)
- Subpart N Iron and steel plants (ref. 40 CFR 60.140 et seq.)
- Subpart O Sewage treatment plants (ref. 40 CFR 60.150 et seq.)
- Subpart P Primary copper smelters (ref. 40 CFR 60.160 et seq.)
- Subpart Q Primary zinc smelters (ref. 40 CFR 60.170 et seq.)

Subpart R	Primary lead smelters (ref. 40 CFR 60.180 et seq.)	Subpart UU	Asphalt processing and asphalt roofing manufacture (ref. 40 CFR 60.470 et seq.)
Subpart S	Primary aluminum reduction plants (ref. 40 CFR 60.190 et seq.)	Subpart VV	Synthetic Organic Chemical Manufacturing Industry equipment leaks (VOC) (ref. 40 CFR 60.480 et seq.)
Subpart T	Phosphate fertilizer industry: Wet process phosphoric acid plants (ref. 40 CFR 60.200 et seq.)	Subpart WW	Beverage can surface coating operations (ref. 40 CFR 60.490 et seq.)
Subpart U	Phosphate fertilizer industry: Superphosphoric acid plants (ref. 40 CFR 60.210 et seq.)	Subpart XX	Bulk gasoline terminals (ref. 40 CFR 60.500 et seq.)
Subpart V	Phosphate fertilizer industry: Diammonium phosphate plants (ref. 40 CFR 60.220 et seq.)	Subpart AAA	New residential wood heaters (ref. 40 CFR 60.530 et seq.)
Subpart W	Phosphate fertilizer industry: Triple superphosphate plants (ref. 40 CFR 60.230 et seq.)	Subpart BBB	Rubber tire manufacturing industry (ref. 40 CFR 60.540 et seq.)
Subpart X	Phosphate fertilizer industry: Granular triple superphosphate storage facilities (ref. 40 CFR 60.240 et seq.)	Subpart DDD	VOC emissions from the polymer manufacturing industry (ref. 40 CFR 60.560 et seq.)
Subpart Y	Coal preparation plants (ref. 40 CFR 60.250 et seq.)	Subpart FFF	Flexible vinyl and urethane coating and printing (ref. 40 CFR 60.580 et seq.)
Subpart Z	Ferroalloy production facilities (ref. 40 CFR 60.260 et seq.)	Subpart GGG	Petroleum refineries - compressors and fugitive emission sources (ref. 40 CFR 60.590 et seq.)
Subpart AA	Steel plants: Electric arc furnaces (ref. 40 CFR 60.270 et seq.)	Subpart HHH	Synthetic fiber production facilities (ref. 40 CFR 60.600 et seq.)
Subpart AAa	Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels (ref. 40 CFR 60.270a et seq.)	Subpart III	VOC emissions from Synthetic Organic Chemical Manufacturing Industry air oxidation unit processes (ref. 40 CFR 60.610 et seq.)
Subpart BB	Kraft pulp mills (ref. 40 CFR 60.280 et seq.)	Subpart JJJ	Petroleum dry cleaners (ref. 40 CFR 60.620 et seq.)
Subpart CC	Glass manufacturing plants (ref. 40 CFR 60.290 et seq.)	Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants (ref. 40 CFR 60.630 et seq.)
Subpart DD	Grain elevators (ref. 40 CFR 60.300 et seq.)	Subpart LLL	Onshore natural gas processing; SO ₂ emissions (ref. 40 CFR 60.640 et seq.)
Subpart EE	Industrial surface coating: Metal furniture (ref. 40 CFR 60.310 et seq.)	Subpart NNN	VOC emissions from Synthetic Organic Chemical Manufacturing Industry distillation operations (ref. 40 CFR 60.660 et seq.)
Subpart GG	Stationary gas turbines (ref. 40 CFR 60.330 et seq.)	Subpart OOO	Nonmetallic mineral processing plants (ref. 40 CFR 60.670 et seq.)
Subpart HH	Lime manufacturing plants (ref. 40 CFR 60.340 et seq.)	Subpart PPP	Wool fiberglass insulation manufacturing plants (ref. 40 CFR 60.680 et seq.)
Subpart KK	Lead-acid battery plants (ref. 40 CFR 60.370 et seq.)	Subpart QQQ	VOC emissions from petroleum refinery waste water emissions (ref. 40 CFR 60.690 et seq.)
Subpart LL	Metallic mineral processing plants (ref. 40 CFR 60.380 et seq.)	<u>Subpart RRR</u>	<u>Volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes (ref. 40 CFR 60.700 et seq.)</u>
Subpart MM	Automobile and light duty truck surface coating operations (ref. 40 CFR 60.390 et seq.)	Subpart SSS	Magnetic tape coating facilities (ref. 40 CFR 60.710 et seq.)
Subpart NN	Phosphate rock plants (ref. 40 CFR 60.400 et seq.)	Subpart TTT	Industrial surface coating: Surface coating of plastic parts for business machines (ref. 40 CFR 60.720 et seq.)
Subpart PP	Ammonium sulfate manufacture (ref. 40 CFR 60.420 et seq.)	Subpart VVV	Polymeric coating of supporting substrates facilities (ref. 40 CFR 60.740 et seq.)
Subpart QQ	Publication rotogravure printing (ref. 40 CFR 60.430 et seq.)	<u>Subpart WWW</u>	<u>Municipal solid waste landfills (ref. 40 CFR 60.750 et seq.)</u>
Subpart RR	Pressure sensitive tape and label surface coating operations (ref. 40 CFR 60.440 et seq.)		
Subpart SS	Industrial surface coating: Large appliances (ref. 40 CFR 60.450 et seq.)		
Subpart TT	Industrial surface coating: Metal coils (ref. 40 CFR 60.460 et seq.)		

Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts

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are governed by the Energy Facility Site Evaluation Council (EFSEC) in Title 463 WAC.

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.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 98-15-144
PROPOSED RULES
SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY

[Filed July 22, 1998, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-010.

Title of Rule: SWAPCA 400 - General Regulations for Air Pollution Sources.

SWAPCA 400-130 Use of Emission Reduction Credits, the purpose of this section is to identify the requirements and procedures for use of emission reduction credits.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, the purpose of this section is to identify the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWAPCA.

SWAPCA 400-136 Maintenance of the Bank, the purpose of this section is to identify the requirements for SWAPCA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), the purpose of this section is to identify the requirements for those sources subject to federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWAPCA 400-171 Public Involvement, the purpose of this section is to identify the requirements for public notice of SWAPCA permitting actions and the process by which public involvement is to be administered. This section also identifies those documents which are required to be subject to a public notice and those that are not required to be subject to public notice.

SWAPCA 400-180 Variance, the purpose of this section is to identify the requirements and procedures for obtaining a variance from the SWAPCA board of directors for an existing permit or the established regulations.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, the purpose of this section is to identify the different types of common regulatory orders issued by SWAPCA and identify the enforcement and civil penalty authorities of SWAPCA.

SWAPCA 400-250 Appeals, the purpose of this section is to identify the requirements and procedures for appeals to any SWAPCA decision or regulatory order issued by the agency.

SWAPCA 400-280 Powers of Authority, the purpose of this section is to identify the powers vested in SWAPCA under RCW 70.94.141 and 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, the purpose of this section is to describe the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions.

Purpose: See above.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

Summary: SWAPCA 400-130 Use of Emission Reduction Credits, this section identifies the requirements and procedures for use of emission reduction credits once they have been deposited in the emission reduction credit bank maintained by SWAPCA.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, this section describes the requirements and procedures for depositing emission reduction credits into the credit bank maintained by SWAPCA.

SWAPCA 400-136 Maintenance of the Bank, this section identifies the requirements for SWAPCA to maintain the emission reduction credit bank, how the credits are to be issued and describe how to manage credits that are expired beyond the five year time limit.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), this section describes the requirements for those sources which would be subject to the federal PSD permitting requirements and provides reference to the appropriate federal regulations.

SWAPCA 400-171 Public Involvement, this section describes the requirements for public notice of SWAPCA permitting actions and the process by which public involvement is to be administered. This section also identifies those documents which are required to be subject to a public notice process and those that are not required to be subject to public notice.

SWAPCA 400-180 Variance, this section describes the requirements and procedures for obtaining a variance from the SWAPCA board of directors for an existing permit or the established regulations.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, this section identifies the different types of common regulatory orders issued by SWAPCA and identifies the enforcement and civil penalty authorities of SWAPCA.

SWAPCA 400-250 Appeals, this section identifies the requirements and procedures for appeals to any SWAPCA decision or regulatory order issued by the agency.

SWAPCA 400-280 Powers of Authority, this section identifies the powers and authority vested in SWAPCA under RCW 70.94.141 and 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, this section describes the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 374-3058 [574-3058]; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, (360) 574-3058.

Name of Proponent: Southwest 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: SWAPCA 400-130 Use of Emission Reduction Credits, this is an existing rule. Proposed modifications are to reorganize this section for clarity and to make changes in the program to conform to federal guidelines on emission reduction credit banking so credits deposited by sources can be used to satisfy federal program requirements. This section is being changed to describe only the process of using ERCs. The existing discussion on acquisition is being moved to SWAPCA 400-131. The most significant change in this process is to change the time for use of an ERC from ten years to five years as required by the federal program guidelines.

SWAPCA 400-131 Deposit of Emission Reduction Credits into Bank, this is an existing rule. Proposed modifications are to restructure the section for clarity and describe only the actions involved in depositing emission reduction credits into the credit bank. The section has been rewritten for clarity.

SWAPCA 400-136 Maintenance of the Bank, this is an existing rule. Proposed modifications are to rewrite the section to only address the activities surrounding how SWAPCA maintains credits in the bank, how they are to be assigned, procedures for public involvement, annual review of the bank and expiration of credits older than five years.

SWAPCA 400-141 Prevention of Significant Deterioration (PSD), this is an existing rule. The proposed modification is to update the adoption date of the federal rules from 1993 to 1998 by incorporation by reference. No substantial changes in this program are proposed.

SWAPCA 400-171 Public Involvement, this is an existing rule. Proposed changes are clarifications to change the reference from SWAPCA 401 to chapter 173-401 WAC because SWAPCA adopts chapter 173-401 WAC by reference and has no separate rule. There are no substantive changes proposed in this section.

SWAPCA 400-180 Variance, this is an existing rule. Proposed changes are for clarification. The reference to "this chapter" is being changed to "SWAPCA regulations" for clarity. No substantial changes are proposed.

SWAPCA 400-230 Regulatory Actions and Civil Penalties, this is an existing rule. Proposed changes are to change the date at which a source is considered to be in default of payment of registration fees. The date is being changed from July 31 of each year to June 30 to better align this activity with the required fiscal year of SWAPCA.

SWAPCA 400-250 Appeals, this is an existing rule. Proposed changes are to change the reference to RCW 43.21B.120 to accurately reflect the proper citation of RCW

43.21B.230. No substantial changes in this section are proposed.

SWAPCA 400-280 Powers of Authority, this is an existing rule. Proposed changes are to add another subsection which identifies the requirement that SWAPCA may not hold adjudicative proceedings as provided in RCW 43.21B.240.

APPENDIX A SWAPCA Method 9 - Visual Opacity Determination Method, this is a new section. This section is proposed to describe the procedure for performing visual opacity readings as part of compliance and enforcement activities by agency staff. This procedure is also to be used by sources in SWAPCA jurisdiction for self determination of compliance with regulatory standards and permit conditions. SWAPCA previously relied on the ecology method for visual determinations, however, the ecology method makes recommendations for the reader to take pictures and record humidity which is not necessary to take an accurate visual reading. This rule making will document the method used by SWAPCA in current visual readings.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by the Southwest Air Pollution Control Authority are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available at the Southwest Air Pollution Control Authority.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Southwest Air Pollution Control Authority is not voluntarily invoking section 201, chapter 403, Laws of 1995.

Hearing Location: Office of the Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, on October 1, 1998, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by September 29, 1998, TDD (360) 574-3058.

Submit Written Comments to: Paul T. Mairose, Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA 98685, fax (360) 576-0925, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 22, 1998

Robert D. Elliott
Executive Director

AMENDATORY SECTION

SWAPCA 400-130 Acquisition and Use of Emission Reduction Credits

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original adoption by Board 12/16/86; Amended by Board 9/21/93; 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

((1) Applicability. The owner(s) or operator(s) of any source of emission shall maintain its ability to use said emission and credits through approval and registration with the Authority. If the owner or operator of said emission source fails to maintain or renew its annual registration 6 months

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beyond the due date or fails to pay its operating permit fee 6 months beyond the due date and has not applied for emission reduction credits, then said amount of emission reductions credit shall revert back to the Authority. The Authority shall keep said credits in a credit bank to be used by the Authority in the best interest of the area.

(2) Conditions for Establishing a Credit Bank.

(a) Only those quantifiable emissions that are considered surplus over and above those allowed in the Washington State Implementation Plan shall be available for said credit bank.

(b) Surplus emissions shall not have been transferred to another entity for use.

(c) Emission reduction credits established under SWAPCA 400-131 or used under SWAPCA 400-136 for a specific source shall not be included in the bank for public allocation unless specifically requested by the owner(s) or operator(s) of the source making the emissions reduction.

(3) Use of Credits.

(a) The Authority may authorize, at its discretion, the use of said particulate credits and volatile organic compound credits from the regional emission credit bank for other new air contaminant sources within the specific nonattainment area in the region to satisfy any emission offset requirements. (Refer to SWAPCA 400-110(3)(e) and WAC 173-400(6)(d))

(b) The Authority has established its policy and procedure for distribution of said credits as contained in (4) Maintenance of the Bank.

(4) Maintenance of the Bank.

(a) The Authority shall maintain an emission inventory of all allowed and actual emissions in each of the nonattainment areas by pollutant or in the case of ozone, it shall be volatile organic compounds and oxides of nitrogen.

(b) The emission credits contained in the bank shall be discounted by 10% to allow for minor emissions increases in nonattainment areas by minor sources each of which would emit less than one ton per year. Minor emitting sources shall be ineligible to receive or expend an emission reduction credit as identified in SWAPCA 400-131 or 400-136.

(c) The Control Officer shall not provide greater than 10% of the available emission credit in the bank to a single applicant. Any exceptions shall be considered on a case-by-case basis by the Board of Directors after a public notice at the next regularly scheduled meeting.

(d) When the Control Officer issues credits for a new or modified source, the amount of emission credits shall be removed from the bank and a Regulatory Order allocating the emission credits shall be issued. The applicant shall start a continuous program of construction or process modification within 18 months. If the applicant does not exercise the approval, the emission credit shall expire and revert to the bank. If there is a six month delay in construction after the start of a continuous program to construct or modify a source or emissions unit the remaining amount of the emission reduction credit shall be reviewed by the Control Officer and if it is determined that the unused portion of the credit will not, in all likelihood be used in the next year, the Control Officer shall notify the applicant that the credit has expired and shall revert to the bank. The applicant shall reapply, as

needed, for use of the emission reduction credits when a continuous program of construction or modification begins.

(5) Annual Review. The Authority shall review the content and administration of this section annually to ensure regulatory consistency and equity of impact as a portion of the Washington State Implementation Plan review. The results of the review shall be reported to the Board with recommendations for correction if the Control Officer deems that such corrections are necessary to properly administer the emission credit bank.)

(1) Applicability. The owner(s) of any emission reduction credits (ERCs) shall maintain its ability to use said ERCs through approval and registration with the Authority. An ERC shall be considered an emission unit and subject to registration. If the owner of said ERCs fails to maintain or renew its annual registration 6 months beyond the due date or fails to pay its operating permit fee 6 months beyond the due date or has not applied for emission reduction credits, then said amount of emission reductions credit shall revert back to the Authority. The Authority may keep said credits in a credit bank to be used by the Authority in the best interest of the area or credits may be dissolved by the Authority.

(2) Permissible use. An ERC may be used to satisfy the requirements for authorization of a bubble under SWAPCA 400-120, as a part of a determination of "net emissions increase," as an offsetting reduction to satisfy the requirements for new source review per SWAPCA 400-111, 400-112, SWAPCA 400-113(3) or SWAPCA 400-113(6), or to satisfy requirements for PSD review per SWAPCA 400-113(4). The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(3) Conditions of use. An ERC may be used only for the contaminant(s) for which it was issued and in the area for which it was issued except in the case of transportable pollutants which will be determined on a case by case basis and per interagency agreement for interstate transfers. The Authority may impose additional conditions of use of ERCs to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC. An ERC may not be used in place of a growth allowance as required under SWAPCA 400-111.

(4) Procedures to use ERC.

(a) Individual use. When an ERC is used under subsection (2) of this section, an application must be submitted to the Authority and the Authority must issue a Regulatory Order for use of the ERC(s).

(b) Sale or transfer of an ERC. An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. An application for the sale or transfer must be submitted by the original ERC owner to the Authority. After receiving an application, the Authority shall reissue a Regulatory Order to the new owner. The Authority shall update the ERC bank to reflect the availability or ownership of ERCs. No discounting shall happen as part of this type of transaction.

(5) Expiration of ERC. An unused ERC and any unused portion thereof shall expire five years after the date the emission reduction was accomplished and not the date of the Regulatory Order.

(6) Maintenance of ERCs. The Authority has established its policy and procedure for maintenance of said credits in 400-136 Maintenance of Emission Reduction Credits in Bank.

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.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

~~SWAPCA 400-131 Issuance of Emission Reduction Credits Deposit of Emission Reduction Credits into Bank~~

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.331 RCW, and 70.94.850 RCW. Originally adopted by Board as 400-120 on 3/20/84; renumbered to 400-131 in 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

((1) Applicability.) The owner(s) or operator(s) of any source(s) may apply to the Authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law or regulations established to implement such law(s) for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the Authority.

(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices and any other pertinent supporting information.

(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under SWAPCA 400-112(5) nor as part of a bubble transaction under SWAPCA 400-120 nor to satisfy NSPS, NESHAPS, BACT, LAER or other applicable emission standard.

(e) Concurrent with or prior to the authorization of an ERC, the applicant shall have received a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) Additional information. Within thirty days after the receipt of an ERC application, supporting data and documentation, the Authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all required information has been received, the Authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (f) of this section have been satisfied or not. If the application is approved, the Authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document or Order shall include any conditions required to assure that subsection (3)(a) through (f) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and,

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.)

(1) Applicability. The owner(s) or operator(s) of any source(s) may apply to the Authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law or regulations established to implement such law(s) for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) Time of application. The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) Conditions. An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the Authority.

(a) No part of the emission reductions claimed for credit shall have been required pursuant to an adopted rule.

(b) The quantity of emissions reductions claimed for credit shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(c) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices and any other pertinent supporting information.

(d) The quantity of emission reductions claimed must be greater than 1 ton/year and be readily quantifiable for the emissions unit(s) involved.

(e) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under SWAPCA 400-112(5) nor as part of a bubble transaction under SWAPCA 400-120 nor to satisfy NSPS, NESHAPS,

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BACT, MACT, RACT, LAER or other applicable emission standard.

(f) Concurrent with or prior to the authorization of an ERC, the applicant shall have received a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.

(g) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) **Additional information.** Within thirty days after the receipt of an ERC application, supporting data and documentation, the Authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all required information has been received, the Authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (f) of this section have been satisfied or not. If the application is approved, the Authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document shall include any conditions required to assure that subsection (3)(a) through (f) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and,

(b) Issue a Regulatory Order with emission reduction credit. The Regulatory Order shall specify the issue date, the contaminant(s) involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the Regulatory Order is issued.

(6) **Maintenance and use of ERCs.** The Authority has established its policy and procedure for maintenance of said ERCs in SWAPCA 400-136. The Authority has established its policy and procedure for use of ERCs in SWAPCA 400-130.

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.

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AMENDATORY SECTION

SWAPCA 400-136 Use of Emission Reduction Credits

Maintenance of Emission Reduction Credits in Bank

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.331 RCW, and 70.94.850 RCW. Original Board adoption as 400-125 4/17/84; renumbered to 400-136 in 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

((1) **Permissible use.** An ERC may be used to satisfy the requirements for authorization of a bubble under SWAPCA 400-120, as a part of a determination of "net emis-

sions increase," as an offsetting reduction to satisfy the requirements for new source review per SWAPCA 400-111, 400-112, SWAPCA 400-113(3) or SWAPCA 400-113(6), or to satisfy requirements for PSD review per SWAPCA 400-113(4).

(2) **Surrender of ERC certificate.** When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the Authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.** An ERC may be used only for the contaminant(s) for which it was issued. The Authority may impose additional conditions of use to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC.

(4) **Sale of an ERC.** An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the Authority. After receiving the certificate, the Authority shall reissue the certificate to the new owner. The Authority shall update the ERC bank to reflect the availability of ERCs.

(5) **Time of use.** An unused ERC and any unused portion thereof shall expire ((ten)) five years after the date of original issue. The ten year time period shall restart with each ERC transaction involving the use, lease or sale of emission reduction credits. The emission reduction credits shall be discounted at the applicable ratio, if any, on a one time basis at the time of original issue. Emission reduction credits shall not be discounted each time a transaction is completed.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the Washington State Implementation Plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the Authority after public involvement per SWAPCA 400-171. Any such discount shall not exceed the percentage of additional emission reduction needed to reach attainment.)

(1) **Applicability.** The Authority shall maintain a bank for the purpose of administering emission reduction credits (ERCs) pursuant to the provisions of RCW 70.94.850.

(2) Conditions for ERC Bank.

(a) ERCs established under SWAPCA 400-131 or used under SWAPCA 400-130 shall be available for said credit bank.

(b) ERCs shall not have been used, sold or transferred to another entity for use; e.g. ERCs cannot be banked or used by two sources at one time.

(c) ERCs established under SWAPCA 400-131 or used under SWAPCA 400-130 for a specific source shall be allocated privately and not be included in the bank for public allocation unless 1) specifically requested by the owner(s) of the ERCs or 2) if the owner of the ERCs fails to maintain registration with the Authority.

(3) Maintenance of the Bank.

(a) The Authority shall maintain an emission inventory of all allowed and actual emissions (including any growth allowances identified in a Maintenance Plan) in each of the

nonattainment or maintenance areas by pollutant or in the case of ozone, it shall be volatile organic compounds and oxides of nitrogen.

(b) The ERCs contained in the bank shall be discounted by 10% to allow for minor emissions increases in nonattainment areas by minor sources each of which would emit less than one ton per year. Minor emitting sources shall be ineligible to receive or expend an emission reduction credit as identified in SWAPCA 400-131 or 400-130. ERCs shall be discounted at the applicable ratio on a one time basis at the time of deposit into the bank. ERCs shall not be discounted each time a transaction is completed. If reductions in emission beyond those identified in the Washington State Implementation Plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, ERCs may be discounted by the Authority over and above the initial 10% without compensation to the holder after public involvement per SWAPCA 400-171. Any such discount shall not exceed the percentage of additional emission reduction needed to reach or maintain attainment status.

(c) The Control Officer shall not provide greater than 25% of the available emission credit in the bank to a single applicant. Any exceptions shall be considered on a case-by-case basis by the Board of Directors after a public notice at the next regularly scheduled meeting.

(d) When the Control Officer issues credits for a new or modified source, the amount of emission credits shall be removed from the bank and a Regulatory Order allocating the emission credits shall be issued. The applicant shall start a continuous program of construction or process modification within 18 months. If the applicant does not exercise the approval, the emission credit shall expire and revert to the bank. If there is a six month delay in construction after the start of a continuous program to construct or modify a source or emissions unit the remaining amount of the emission reduction credit shall be reviewed by the Control Officer and if it is determined that the unused portion of the credit will not, in all likelihood be used in the next year, the Control Officer shall notify the applicant that the credit has expired and shall revert to the bank. The applicant shall reapply, as needed, for use of the emission reduction credits when a continuous program of construction or modification begins.

(4) **Annual Review.** The Authority shall review the content and administration of this section annually to ensure regulatory consistency and equity of impact as a portion of the Washington State Implementation Plan review. The results of the review shall be reported to the Board with recommendations for correction if the Control Officer deems that such corrections are necessary to properly administer the emission credit bank.

(5) **Issuance and use of ERCs.** The Authority has established its policy and procedure for deposit of ERCs in SWAPCA 400-131. The Authority has established its policy and procedure for use of ERCs in SWAPCA 400-130.

(6) Expiration of Public Credits.

(a) Emissions reduction credits deposited in the bank for public allocation (public bank) as the result of the shutdown of the Carborundum facility expired on July 8, 1996 as pro-

vided in Regulatory Order SWAPCA 86-843 establishing such credits.

(b) Emission reduction credits deposited in the bank for public allocation as the result of Board Resolution 1988-3 amended by Board Resolution 1989-3 expire on January 24, 1999.

(c) Credits and Regulatory Orders/certificates assigned to sources from this public bank expired on July 8, 1996.

(d) Each source which had credits assigned from the public bank by issuance of a Regulatory Order shall be approved for the total of previous emissions plus any additional amount approved under a Regulatory Order assigning public credits to that source effective July 8, 1996.

(e) Emission reduction credits deposited into the public bank shall not be available to be assigned to any source after July 8, 1996.

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.

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

SWAPCA 400-141 Prevention of Significant Deterioration (PSD)

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on ((March 3, 1993)) July 1, 1998, are incorporated by reference with the following additions and modifications:

(1) **Administrator.** In 40 CFR 52.21 (b)(17), federally enforceable, (f)(1)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l) and (2), air quality models, (p)(2), federal land manager, and (t), disputed permits or redesignations, the word "Administrator" shall be construed in its original meaning. In 40 CFR 52.21 (b)(3)(iii) Administrator shall mean the Administrator of EPA, Director of Ecology and Control Officer of the Authority.

(2) **Contemporaneous.** Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "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. If a decrease occurred more than one year prior to the date of submittal of the Notice of Construction application for the particular change it can only be credited if the decrease has been documented by an emission reduction credit."

(3) **Public participation.** Subpart 40 CFR 51.166(q) public participation, as in effect ((March 3, 1993)) July 1, 1998 is hereby incorporated by reference except that in 40 CFR 51.166 (q)(2)(iv), the phrase "specified time period" shall mean thirty days and the word "Administrator" shall mean the EPA Administrator.

(4) **Section 40 CFR 51.166 Subpart (p)(1).** Sources Impacting Federal Class 1 areas - additional requirements -

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Notice to EPA, as in effect on ((March 3, 1993)) July 1, 1998, is herein incorporated by reference.

(5) **Secondary emissions.** Subpart 40 CFR 52.21 (b)(18) is changed to read: Emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains coming to or from the new or modified stationary source; and

(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(6) **Significant.** The definition of "significant" in 40 CFR 52.21 (b)(23) is changed to exclude from the list of pollutants which may trigger PSD review any pollutant listed under FCAA §112.

[Note - SWAPCA has not been delegated authority by Ecology for the PSD program.]

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

SWAPCA 400-171 Public Involvement

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. Original Board adoption 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) **Applicability.** The Authority shall provide public notice for a preliminary determination of a regulatory order prior to issuance of the final 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 that results in a significant increase in emissions (actual or potential to emit) of any pollutant regulated by state or federal law (significant as defined in SWAPCA 400-030). Furthermore, public notice for each regulatory order for a non-significant increase may be provided at the discretion of the Control Officer, 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) Any order to establish a compliance schedule or a variance; or

(e) The establishment, disestablishment or redesignation of a nonattainment area, or the changing of the boundaries thereof; or

(f) Any 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) Any order to authorize a bubble; or

(h) An order issued under SWAPCA 400-091 which establishes limitations on a source's potential to emit for the

purpose of opting out of the Title V Air Operating Permit program (((SWAPCA)) WAC 173-401); or

(i) Any Notice of Construction application or other proposed action made pursuant to this regulation in which there is a substantial public interest according to the discretion of the Control Officer;

except:

(j) Any Notice of Construction application or other proposed action which results in a reduction of emissions from a previously established emission limit in an order issued by the Authority that has previously been subjected to public notice, or other permitting authority, may not require public notice in accordance with this section. This exemption does not apply to those sources opting out of the Title V Air Operating Permit program (((SWAPCA)) WAC 173-401).

(k) Any Notice of Construction application or other proposed action which does not result in a net emissions increase (actual or potential to emit) unless otherwise required by the Authority.

(l) Public notice for a preliminary determination of a regulatory order may run concurrently with immediate approval to operate provided that a corporate officer of the source submits an affidavit that they understand the liability associated with the action and agree to implement any necessary changes that would have otherwise resulted from the public comment process.

(2) **Public notice.** Public notice shall be made only after all information required by the Authority has been submitted and after applicable preliminary determinations, if any, have been made. 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 the Authority;

(iv) Advising that a public hearing may be held if the Authority determines within a thirty-day period that significant public interest exists.

(c) A copy of the notice shall be sent to the EPA Regional Administrator.

(d) Public participation procedures for Notice of Construction applications that are processed in coordination with an application to issue or modify a Title V Air Operating Permit shall be conducted as provided in (((SWAPCA)) WAC 173-401).

(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. The Authority may, at the discretion of the Control Officer, hold a public hearing if it determines significant public interest exists. Any such hearing(s) shall be held upon such notice and at a time(s) and place(s) as 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, regulatory orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at the Authority.

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

SWAPCA 400-180 Variance

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.181 RCW, and 70.94.331 RCW. Original Board adoption 12/17/68 (Regulation 1 Sec 2.07); Amended by Board 12/18/79; Amended by Board 4/17/84; Repealed and renumbered to 400-180 93-21-005 filed 10/7/93, effective 11/8/93, previous 400-180 (Maintenance of Pay was deleted; 95-17-084 filed 8/21/95, effective 9/21/95)]

Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the Authority for a variance from provisions of ((this chapter)) SWAPCA regulations governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which the Authority has jurisdiction shall make application to the Authority. Variances to state rules shall require approval of Ecology prior to being issued by the Authority. The Board of Directors may grant a variance only after public involvement per SWAPCA 400-171.

(2) **Full faith and credit.** Variances granted in compliance with state and federal laws by the Authority for sources under its jurisdiction shall be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

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

SWAPCA 400-230 Regulatory Actions & Civil Penalties

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.211 RCW, 70.94.331 RCW, 70.94.332 RCW, 70.94.425 RCW, 70.94.431, and 70.94.435 RCW.]

Original Board adoption 12/17/68 (Regulation 1 Sec 2 & 3); Amended by Board renumbered to 400-130 12/18/79; Amended by Board renumbered to 400-200 4/17/84; Amended by Board 12/16/86; Amended by Board 1/21/92, 92-04-030 filed 1/28/92; 93-21-005 filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) **The Authority shall have the power to issue such orders as necessary to effectuate the purpose of RCW 70.94 as provided in, including but not limited to: RCW 70.94.141, RCW 70.94.152, RCW 70.94.153, and RCW 70.94.332.** The Authority may issue orders for establishing limits and controls for sources of emissions to the ambient air or otherwise controlling activities that may violate any ambient air quality regulations, including but not limited to the following:

(a) **Order of Approval.** An Order of Approval may be issued by the Authority to provide approval for a Notice of Construction application. An Order of Approval shall contain the following, as appropriate: reference to applicable regulations, emissions limitations, control and process equipment operating conditions and limits, testing requirements, monitoring and reporting requirements, and other conditions considered necessary by the Authority. An Order of Approval which constitutes the final determination of the Authority, shall be issued within sixty (60) calendar days of a complete application or for those projects subject to public notice, as promptly as possible after the 30 calendar day public notice requirements have been satisfied. An Order of Approval may not identify all applicable regulations. All Orders of Approval may be subject to the public notice and comment procedures set forth in SWAPCA 400-171(2), (3), and (4).

(b) **Order of Denial.** An Order of Denial may be issued by the Authority in response to a Notice of Construction application that is incomplete, not feasible, proposes inadequate control technology, or otherwise would result in violation of any ambient air quality regulation, control technology requirement, or emission standards in the area in which the equipment would be located and operated. All Orders of Denial shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171(2), (3), and (4).

(c) **Order of Violation.** An Order of Violation may be issued by the Authority to document specific regulation(s) alleged to be violated and establish the facts surrounding a violation. An Order of Violation may be prepared by the Authority only after formal written notice has been served on the source as provided in (2) below. The Order of Violation shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(d) **Order of Prevention.** An Order of Prevention may be issued by the Authority to a source to prevent installation or construction of an emission unit, performance of an activity, or actions that may otherwise endanger public health that are on site, in the process of being installed, or have been installed, constructed or operated without prior Authority review and approval or actions are being conducted in addition to a previous Authority approval without prior approval. An Order of Prevention shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(e) **Consent Order.** A Consent Order may be issued by the Authority to establish emission limits, operation and maintenance limits or controls, monitoring or reporting requirements, testing requirements, or other limits or controls

as necessary that are determined by the Authority to be necessary. Actions identified in a Consent Order may be necessary to demonstrate compliance with applicable regulations, provide measures whereby a source may take the necessary steps to achieve compliance, establish a schedule for activities, or provide other information that the Control Officer deems appropriate. The Consent Order shall be agreed to and signed by an appropriate officer of the company or source for which the Consent Order is prepared and the Control Officer, or designee, of the Authority. Installation, construction, modification or operation of a source shall be subject to the New Source Review requirements of SWAPCA 400-110. A Consent Order shall not be subject to the public notice and comment period set forth in SWAPCA 400-171 at the discretion of the Control Officer.

(f) **Compliance Schedule Order.** A Compliance Schedule Order may be issued by the Authority to a source to identify specific actions that must be implemented to establish, maintain, and/or demonstrate compliance with applicable regulations and identify the schedule by which these actions must be completed. All Compliance Schedule Orders shall be subject to the public notice and comment period set forth in SWAPCA 400-171 (2), (3), and (4). Refer to SWAPCA 400-161 for further guidance.

(g) **Order of Discontinuance.** The Authority may issue an Order of Discontinuance for any source that has discontinued operations and/or has not maintained their source registration for emission units. (Refer to SWAPCA 400-100 (2)(d)). An Order of Discontinuance may also be issued to a source that continues to operate in violation of applicable regulations and requirements. Such issuance may require that the source cease operations that result in emissions to the ambient air that are in violation of applicable regulatory orders, requirements and regulations.

(i) Any source that fails to maintain registration fees (i.e., payment of registration fees by ~~((July 31)) June 30~~ of each year), may be issued an Order of Discontinuance. The Order of Discontinuance shall identify the source location and emission units and identify the most current registration activity.

(ii) The Order of Discontinuance shall provide for discontinuance of operations at that source or facility and all previous authorizations, orders, agreements or stipulations shall be superseded, directly or indirectly, by the Order of Discontinuance without specific identification in the Order of Discontinuance.

(iii) The Order of Discontinuance shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171(2), (3), and (4).

(iv) For sources that have ceased doing business in SWAPCA jurisdiction, or the state of Washington, the Authority shall make a reasonable effort to establish contact with the source. If the Authority is unable to establish contact with the source, the Authority shall issue an Order of Discontinuance via certified mail, return receipt requested, to the last known address. Lack of response by the source or return of the notification by the US Postal Service shall be considered de facto evidence that the source has discontinued operations.

(v) The source shall have 30 calendar days from the date of the final regulatory order after public notice in which to pay past due and current registration fees. If the source fails to pay current registration fees, the source or facility shall be considered discontinued and shall be required to submit a Notice of Construction application under the New Source Review procedures of SWAPCA 400-110 prior to resuming or restarting operations.

(vi) Facilities that terminate operations and discontinue paying registration fees, and are later sold with the intent of restart, in whole or in part, shall be subject to the New Source Review requirements of SWAPCA 400-110.

(vii) Sources that continue to operate in violation of established regulatory orders and regulations, the Authority may issue an Order of Discontinuance that is effective immediately.

(h) **Corrective Action Order.** The Authority may issue a Corrective Action Order to any source within its jurisdiction, including an unregistered source, to provide measures to correct or rectify a situation that has immediate or eminent threat to person(s) or the public or that may be in violation or have the potential of being in violation of federal, state and local regulations or may pose a threat to the public health, welfare or enjoyment of personal or public property. The Corrective Action Order may specify specific actions that must be implemented to demonstrate compliance with applicable regulations and identify dates by which these actions must be completed. All actions and dates identified in the Corrective Action Order shall be fully enforceable. Corrective Action Orders shall be issued to correct immediate problems. Corrective Action Orders shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(i) **Administrative Order.** An Administrative Order may be issued to a source by the Authority to provide for implementation of items not addressed above, that are identified by the Control Officer. An Administrative Order may contain emission limits, operating and maintenance limitations and actions, schedules, resolutions by the Board of Directors, provide for establishing attainment or nonattainment boundaries, establish working relationships with other regulatory agencies, establish authority for enforcement of identified actions, and other activities identified by the Authority. All Administrative Orders shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171(2), (3), and (4).

(j) **Resolutions.** A Resolution may be issued by the Authority as a means to document or record a Board of Directors decision, authorize or approve budget transactions, establish policies, or other actions as determined by the Authority. Resolutions shall not be subject to the public notice and comment procedures set forth in SWAPCA 400-171.

(2) The Authority may take any of the following regulatory actions to enforce its regulations to meet the provisions of RCW 43.21B.300 which is incorporated herein by reference.

(a) **Enforcement Actions by the Authority—Notice of Violation.** At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and

70.94.431, the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this regulation, or the rule, regulation, regulatory order or permit requirement alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Authority may require that the alleged violator or violators appear before it for the purpose of providing the Authority information pertaining to the violation or the charges complained of. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action. Enforcement action may be commenced by the Authority by issuance of a regulatory order as provided in SWAPCA 400-230(1).

(b) Civil Penalties.

(i) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 or 70.120 RCW, or any of the rules in force under such chapters may incur a civil penalty in an amount as set forth in RCW 70.94.431. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order issued pursuant to this regulation shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

(ii) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal. The maximum penalty amounts established in RCW 70.94.431 may be increased annually to account for inflation as determined by the State Office of the Economic and Revenue Forecast Council.

(iii) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300. Section 113(e)(2) of the 1990 Clean Air Act Amendments provides that the number of "days of violation" is to be counted beginning on the first proven day of violation and continuing every day until the violator demonstrates that it achieved continuous compliance, unless the violator can prove by preponderance of the evidence that there were intervening days on which no violation occurred. This definition applies to all civil and administrative penalties.

(iv) All penalties recovered under this section by the Authority, shall be paid into the treasury of the Authority and credited to its funds.

(v) To secure the penalty incurred under this section, the Authority shall have a lien on any equipment used or operated in violation of its regulations which shall be enforced as provided in RCW 60.36.050. The Authority shall also be authorized to utilize a collection agency for nonpayment of penalties and fees.

(vi) In addition to other penalties provided by this regulation, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(3) Assurance of Discontinuance. The Control Officer may accept an assurance of discontinuance as provided in RCW 70.94.435 of any act or practice deemed in violation of this regulation as written and certified to by the source. Any such assurance shall specify a time limit during which discontinuance or corrective action is to be accomplished. Failure to perform the terms of any such assurance shall constitute *prima facie* proof of a violation of its regulations or any order issued thereunder which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the Superior Court.

(4) Restraining Orders & Injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of its regulations, the Control Officer, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency Episodes. The Authority may issue such orders as authorized by SWAPCA 435 via Chapter 70.94 RCW, whenever an air pollution episode forecast is declared.

(6) Compliance Orders. The Authority may issue a compliance order in conjunction with a Notice of Violation or when the Control Officer has reason to believe a regulation is being violated, or may be violated. The order shall require the recipient of the Notice of Violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated and completed.

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

SWAPCA 400-250 Appeals

[Statutory Authority: Chapter 70.94.141 RCW, 70.94.221 RCW, and 70.94.331 RCW. Original Board adoption 12/18/79 as 400-140; Amended by Board renumbered to 400-220 4/17/84; renumbered to 400-250 93-21-005, filed 10/7/93, effective 11/8/93; 95-17-084 filed 8/21/95, effective 9/21/95]

(1) Any decision or regulatory order issued by the Authority may be appealed to the Board of Directors as provided herein or appealed directly to the Pollution Control Hearings Board as provided by RCW 43.21B and WAC 371-08. In addition, Orders of Approval and permits issued in accordance with the PSD program may be appealed to the EPA Environmental Appeals Board, to the extent authorized in 40 CFR 124. If appealed to the Board of Directors, the procedure shall be as follows:

(a) The decision, Notice of Violation, or Order issued by the Control Officer shall become final unless, not later than 15 calendar days after the date the Order is served upon the

owner or applicant, the owner or applicant petitions the Control Officer for reconsideration, with reasons for the reconsideration. If the Control Officer refuses to reconsider, the Control Officer shall so notify the owner or applicant in writing, giving reasons for the decision. Such ruling on the petition shall become final unless not later than 15 calendar days after such notice of refusal is served, the owner or applicant appeals to the Board setting forth the reasons for the appeal.

(b) The Control Officer may reverse or modify the Order and issue such an Order in replacement thereof as deemed proper. Such Order also may be appealed to the Board of Directors as in (a) above.

(c) Any failure of the Control Officer to act upon a petition for reconsideration 15 calendar days after the petition is delivered to the Authority, shall be considered as a refusal to reconsider.

(d) In lieu of a petition for reconsideration, the owner or applicant may appeal directly to the Board of Directors within the time specified in (a) above.

(2) The Board shall promptly hear and consider all appeals after providing reasonable notice to the appellant. The Board shall, within 30 calendar days of the hearing sustain, reverse or modify the Order of the Control Officer as it deems proper. Such ruling of the Board shall be communicated to the appellant in writing and the appellant if aggrieved, may appeal *de novo* to the Pollution Control Hearings Board as provided in RCW 43.21B.~~((+20))~~ 230 and WAC 371-08.

(3) It is the intent of the Board in establishing this regulation concerning appeals to provide for a method of resolving issues at the Authority level. Consequently, Decisions and Orders of the Control Officer on compliance, new source review, or any other matter regulated herein except violations shall not be considered as commencing any appeal period for appeals to the Pollution Control Hearings Board. Such appeal period shall commence only when the final Order is issued by the Board of Directors and served upon the person aggrieved as provided in RCW 43.21B.120.

(4) Nothing contained herein shall be construed as denying the exclusive jurisdiction of the Pollution Control Hearings Board on violations as provided by RCW 43.21B.~~((+20.))~~

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

SWAPCA 400-280 Powers of Authority

[Statutory Authority: Chapter 70.94.141 RCW and 70.94.331 RCW. 95-17-084 filed 8/21/95, effective 9/21/95]

In addition to any other powers vested in the Authority, consistent with RCW 70.94.141, the Authority shall have the power to:

(1) Adopt, amend, and repeal its own rules and regulations, implementing RCW 70.94 and consistent with it, after consideration at a public hearing held in accordance with RCW 42.30. Rules and regulations shall also be adopted in accordance with the notice and adoption procedures set forth in RCW 34.05.320, those provisions of RCW 34.05.325 that

are not in conflict with RCW 42.30, and with the procedures of RCW 34.05.340, 34.05.355 through 34.05.380, and with RCW 34.08, except that rules shall not be published in the Washington Administrative Code. Judicial review of rules adopted by the Authority shall be in accordance with Part V of RCW 34.05.

(2) Hold hearings relating to any aspect of or matter in the administration of RCW 70.94 not prohibited by the provisions of Chapter 62, Laws of 1970 ex. sess. and in connection therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath.

(3) Issue such orders as may be necessary to effectuate RCW 70.94 and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in Chapter 62, Laws of 1970 ex. sess.

(4) Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere.

(5) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract, or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within the jurisdiction of the Authority.

(7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of RCW 70.94.

(8) Encourage and conduct studies, investigations and research relating to air pollution and its causes, effects, prevention, abatement and control.

(9) Collect and disseminate information and conduct educational and training programs relating to air pollution.

(10) Advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups.

(11) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with RCW 70.94, ordinances, resolutions, rules and regulations in force pursuant thereto, or any other provision of law.

(12) Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out any of the functions of RCW 70.94.

except:

(13) SWAPCA may not hold adjudicative proceedings pursuant to the Administrative Procedures Act (RCW 34.05). Such hearings shall be held by the Pollution Control Hearings Board as provided at RCW 43.21B.240.

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.

NEW SECTION

APPENDIX A
SWAPCA METHOD 9
VISUAL OPACITY DETERMINATION METHOD

1. Principle

The opacity of emissions from stationary sources is determined visually by a qualified observer.

2. Procedure

The observer must be certified in accordance with the provisions of Section 3 of 40 CFR Part 60, Appendix A, Method 9, as in effect on July 1, 1998.

The observer shall stand at a distance sufficient to provide a clear view of the emissions with the sun oriented in the 140° sector to his back. Consistent with maintaining the above requirement, the observer shall, as much as possible, make his observations from a position such that his line of vision is approximately perpendicular to the plume direction, and when observing opacity of emissions from rectangular outlets (e.g., roof monitors, open baghouses, noncircular stacks), approximately perpendicular to the longer axis of the outlet. The observer's line of sight should not include more than one plume at a time when multiple stacks are involved, and in any case, the observer should make his observations with his line of sight perpendicular to the longer axis of such a set of multiple stacks (e.g., stub stacks on baghouses).

The observer shall record the name of the plant, emission location, type of facility, observer's name and affiliation, and the date on a field data sheet. The time, estimated distance to the emission location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and plume background are recorded on a field data sheet at the time opacity readings are initiated and completed.

Opacity observations shall be made at the point of greatest opacity in the portion of the plume where condensed water vapor is not present. The observer shall not look continuously at the plume, but instead shall observe the plume momentarily at 15 second intervals.

When condensed water vapor is present within the plume as it emerges from the emission outlet, opacity observations shall be made beyond the point in the plume at which condensed water vapor is no longer visible. When water vapor in the plume condenses and becomes visible at a distinct distance from the emission outlet, the opacity of emissions should be evaluated at the emission outlet prior to the condensation of water vapor and the formation of the steam plume.

Opacity observations shall be recorded to the nearest 5 percent at 15 second intervals on an observational record sheet. Each momentary observation recorded shall be deemed to represent the average opacity of emissions for a 15 second period.

3. Analysis

The opacity of the plume is determined by individual visual observations. Opacity shall be reported as the range of values observed during any consecutive 60 minutes. The opacity standard is exceeded if there are more than 12 obser-

vations, during any consecutive 60 minute period, for which an opacity greater than the standard is recorded.

4. References

Federal Register, Vol. 36, No. 247, page 24895, December 23, 1971.

"Criteria for Smoke and Opacity Training School 1970 - 1971" Oregon-Washington Air quality Committee."

"Guidelines for Evaluation of Visible Emissions" EPA 340/1-75-007."

Notes: 1) The difference between the SWAPCA Method 9 and WDOE Method 9 or WDOE Method 9A is the SWAPCA method does not recommend that the observer make note of the ambient relative humidity, ambient temperature, the point in the plume that the observations were made, the estimated depth of the plume at the point of observation, and the color and condition of the plume. In addition, the SWAPCA method does not recommend that pictures be taken.

2) The difference between the SWAPCA Method 9 and EPA Method 9 is in the data reduction section. The SWAPCA method establishes a three minute period in any one hour period where opacity can not exceed an opacity limit. For the SWAPCA method, 13 readings in a 1 hour period, or less, above the established opacity limit, no matter how much, constitutes a violation. The EPA method is an arithmetic average of any 24 consecutive readings at 15 second intervals. These values are averaged and this average value can not exceed the established opacity limit.

PROPOSED

WSR 98-16-004
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed July 23, 1998, 10:27 a.m.]

The Department of Licensing hereby withdraws proposed rule WAC 308-125-120 filed with your office on June 1, 1998, as part of WSR 98-12-066.

Cleotis Borner, Jr.
 Program Manager
 Real Estate Appraiser Unit

WSR 98-16-006
PROPOSED RULES
EXECUTIVE ETHICS BOARD

[Filed July 23, 1998, 3:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-10-088.

Title of Rule: Agency organization—Public records.

Purpose: The purpose of this chapter is to provide rules implementing RCW 34.05.220 and 42.17.250 through 42.17.320 for the Executive Ethics Board.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Statute Being Implemented: Chapter 42.52 RCW.

Summary: To provide guidance to state officials and state employees regarding the function and organization of the office, operations and procedures, and public records information.

Reasons Supporting Proposal: Intended to give additional information about the Executive Ethics Board.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Margaret A. Grimaldi, 1125 Washington Street S.E., Olympia, WA, (360) 664-0871.

Name of Proponent: Executive Ethics Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To briefly explain, this rule will clarify the functions and organization of the office and board, which includes: Office hours, office address, meeting information, duties of the executive secretary, public record availability, office index and other public record information.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact statement was prepared because this rule is limited to the Executive Ethics Board.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Pursuant to RCW 34.05.328(5) the Executive Ethics Board is not an agency subject to the provisions of RCW 34.05.328 (1)-(4). In addition, under RCW 34.05.328 (5)(b)(ii), these rules relate to internal governmental operations that are not subject to violation by a nongovernmental party.

Hearing Location: AGO Conference Center, 4224 6th Avenue, Building 1, Lacey, WA 98504, on October 9, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patti Hurn, EEB Clerk, by October 2, 1998, (360) 586-3265.

Submit Written Comments to: Executive Ethics Board, P.O. Box 40100, Olympia, WA 98504-0100, fax (360) 664-0229, by September 10, 1998.

Date of Intended Adoption: October 9, 1998.

July 22, 1998

Margaret A. Grimaldi
Executive Secretary

Chapter 292-130 WAC AGENCY ORGANIZATION—PUBLIC RECORDS

NEW SECTION

WAC 292-130-010 Purpose. The purpose of this chapter is to provide rules implementing RCW 34.05.220 and 42.17.250 through 42.17.320 for the executive ethics board.

NEW SECTION

WAC 292-130-020 Function—Organization—Office. The executive ethics board was created by chapter 42.52 RCW to enforce the state's ethics law and rules adopted under it with respect to statewide elected officers and all

other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

The executive ethics board consists of five members, appointed by the governor as follows: one member shall be a classified service employee; one member shall be a state officer or state employee in an exempt position; one member shall be a citizen selected from a list of three names submitted by the attorney general; one member shall be a citizen selected from a list of three names submitted by the state auditor; and, one member shall be a citizen at large selected by the governor.

The board's administrative office is located at 1125 Washington Street SE, 6th Floor, P.O. Box 40100, Olympia, Washington, 98504-0100. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays and during regularly scheduled board meetings.

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

[NEW SECTION]

WAC 292-130-030 Operations and procedures.

Board members meet the second Friday of each month, except for the months of August and December, at such times and places as are deemed necessary for the conduct of agency business. All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). Three members of the board constitute a quorum. Any matter coming before the board may be decided by a majority vote of those members present and voting. Minutes shall be taken at all meetings.

The board issues advisory opinions; develops education and training materials; investigates, hears, and determines complaints; reviews and approves agency ethics policies; and, reviews, approves, or denies contracts between state officers and employees and state agencies.

Written communications intended for board consideration or action shall be filed with the administrative office.

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

[NEW SECTION]

WAC 292-130-040 Executive secretary. The executive secretary shall perform the following duties under the general authority and supervision of the board:

(1) Act as records officer and administrative arm of the board.

(2) Coordinate the policies of the board and the activities of board staff.

(3) Act as a liaison between the board and other public agencies.

(4) Conduct ethics training and information outreach.

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

[NEW SECTION]

WAC 292-130-050 Public records—Availability. Public records are available for inspection and copying

except as otherwise provided by RCW 42.17.310 and WAC 292-100.

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

[NEW SECTION]

WAC 292-130-060 Index. The board has indexed by subject matter the advisory opinions of the board. The index is maintained in the administrative office and is accessible at the board's web site located at www.wa.gov/ethics.

The volume of correspondence managed by the office is such that it would be unduly burdensome to formulate and maintain an index of all correspondence. In lieu of an index, the following filing system is utilized at the board's administrative office:

(1) Complaints received by the board are indexed by year, number, name of the respondent and agency.

(2) Whistleblower referrals from the State Auditor are indexed by whistleblower case number.

(3) Contract approvals are filed by year and name of the state employee.

(4) Agency ethics policies are filed by agency name.

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

[NEW SECTION]

WAC 292-130-070 Public records—Officer. The public records officer for the administrative office shall be the executive secretary to the board.

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

[NEW SECTION]

WAC 292-130-080 Hours for seeking public records. Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays and during regularly scheduled board meetings.

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

[NEW SECTION]

WAC 292-130-090 Requests for public records. Chapter 42.17 RCW requires that agencies protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency; therefore, public records may be inspected or copied or copies of such records obtained, upon compliance with the following procedure:

(1) A request shall be made in writing either via electronic mail or in writing upon a form prescribed by the administrative office. The form shall be presented to the public records officer, or to a member of the staff designated by him or her if the public records officer is not available, during office hours. The request shall include:

- (a) The name of the person requesting the record;
- (b) The calendar date on which the request was made;
- (c) A description of the record or records requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records

officer or designated staff member to whom the request is made to assist in appropriately identifying the public record or public records requested.

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

[NEW SECTION]

WAC 292-130-100 Response to public records requests. (1) The administrative office shall respond promptly to requests for disclosure. Within five business days of receiving a public records request, the office will respond by:

- (a) Providing the record;
- (b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or
- (c) Denying the public records request.
- (2) Additional time for the office to respond to a request may be based upon the need to:
 - (a) Clarify the scope of the request;
 - (b) Locate and assemble the information requested;
 - (c) Notify third persons who may be named in a record; or
- (3) Determine whether any or all of the information requested is exempt and that a denial should be made as to all or part of the request.

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

[NEW SECTION]

WAC 292-130-110 Copying fees. No fees shall be charged for the inspection of public records. The office will charge one dollar for the first ten pages and ten cents per copy for additional pages for requests made under this chapter. The public records officer may waive the fees for copies when the expense of processing the payment exceeds the cost of providing the copies. These charges are necessary to reimburse the office for the costs of providing copies of public records and use of the copying equipment. The office may require that all charges be paid in advance of release of the copies.

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

[NEW SECTION]

WAC 292-130-120 Protection of public records. (1) No person shall knowingly alter, deface, or destroy public records of the office.

(2) Original copies or portions thereof of public records of the office shall not be removed from the premises.

(3) Care and safekeeping of public records of the office, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same sequence or organization as when furnished.

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

PROPOSED

[NEW SECTION]

WAC 292-130-130 Exemptions. (1) The administrative office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 292-130-060 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the office reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) Any denial of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

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

[NEW SECTION]

WAC 292-130-140 Review of denials of public records request. (1) Any person who objects to a denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chair of the board. The chair shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial.

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

WSR 98-16-007
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Vehicle Services)
 [Filed July 24, 1998, 8:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-10-071.

Title of Rule: Chapter 308-66 WAC, Motor vehicle dealers and manufacturers.

Purpose: Review of current rules to ensure necessity, effectiveness, efficiency, clarity, intent, coordination with other jurisdictions and agencies, cost benefits and fairness in accordance with Governor Gary Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 46.70.160.

Summary: Review of current rules governing vehicle dealers and manufacturers.

Reasons Supporting Proposal: Governor's Executive Order 97-02 for WAC review.

Name of Agency Personnel Responsible for Drafting: Cal Sanders, Highways-Licenses Building, Olympia, (360) 902-3708; Implementation and Enforcement: Robert Smith, Highways-Licenses Building, Olympia, (360) 902-3703.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To review current rules to ensure necessity, effectiveness, efficiency, clarity, intent, coordination with other jurisdictions and agencies, cost benefits and fairness in accordance with Governor Gary Locke's Executive Order 97-02.

Proposal Changes the Following Existing Rules: Several sections are changed in light of the review for necessity, effectiveness, clarity, intent, coordination with other agencies, cost benefits and fairness.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal was drafted in cooperation with industry and other stakeholders. The proposal does not impose additional duties on the industry.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Licensing, Conference Room 406, 4th Floor, 1125 S.E. Washington Street, Olympia, WA, on September 22, 1998, at 9:00 a.m.-11:00 a.m.

Assistance for Persons with Disabilities: Contact Linda Mason by September 20, 1998, TDD (360) 664-8885, or (306) [(360)] 902-3710.

Submit Written Comments to: Gail Saul, Dealer Services, Department of Licensing, P.O. Box 9039, Olympia, WA 98507-9039, fax (360) 586-6703.

Date of Intended Adoption: September 30, 1998.

July 23, 1998

Evelyn P. Yenson

Director

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-110 Definitions. For the purpose of administering chapter 46.70 RCW, the following terms shall be construed in the following manner:

(1) "Offering" the sale of a vehicle shall include the distribution by any means of a list, with or without prices, of vehicles for sale.

(2) "Soliciting" the sale of a vehicle shall include an offer to effect the purchase or sale of a vehicle on behalf of another person.

(3) "Normal business hours" or "reasonable times" shall include, but not be limited to, the hours from 10:00 a.m. through 4:00 p.m. for five days each week. All hours during which the place of business is open for the purpose of bartering, trading or selling vehicles are normal business hours or reasonable times as long as the dealer is open for business at regular intervals. Whenever a dealer closes his place of business during normal business hours, a sign must be posted on the main door of the business stating the time that he will next be open for business or where he may be contacted.

(4) An "employee" of a dealer is a person on the payroll who appears on the record of the dealer as an employee for whom social security, withholding tax, and all deductions required by law have been made.

(5) A "broker" shall mean any person, partnership, corporation, or association acting independently, who for a commission, fee or any other form of compensation arranges or engages in the wholesale or retail purchase, sale or lease with option to purchase, of a vehicle.

(6) An "employee identification card" is a card that may be issued by a licensed dealer to an employee, identifying such employee as being in the employ of such dealer. The department will ((issue blank identification cards to licensed dealers on request)) prescribe the form of the card.

(7) A "demonstration permit" is a permit issued by a dealer to a prospective customer entitling the prospective customer to operate a particular vehicle for demonstration purposes.

(8) Current service agreement - The agreement between a vehicle manufacturer or vehicle distributor and a seller, stipulating that the seller will provide warranty adjustments for the owners of said manufacturer's or distributor's new vehicles which qualify for adjustments under the said manufacturer's or distributor's warranty.

(9) New vehicle warranty - The warranty extended by a manufacturer or distributor to the first retail purchaser.

(10) "Closing" shall mean the process of completion of sale transaction.

(11) "Completion of sale" in the case of a consigned vehicle shall mean purchaser has possession of vehicle, all liens against vehicle are paid, seller has sale proceeds, and warranty of title to vehicle has been accomplished.

(12) "Listing" shall mean a contract between a seller of a used mobile/manufactured home and a listing dealer for the dealer to locate a willing purchaser of that listed used mobile/manufactured home.

(13) "Seller," as it relates to listing dealers, shall mean a person who lists a used mobile/manufactured home with a listing dealer.

(14) "Purchaser," as it relates to listing dealers, shall mean a person who agrees to buy a used mobile/manufactured home listed through a listing dealer.

(15) "Consignment" shall mean an arrangement whereby a ((motor)) vehicle dealer accepts delivery or entrustment of a vehicle and agrees to sell the vehicle on behalf of another.

(16) "Consignee" shall mean a vehicle dealer who accepts delivery or to whom a ((motor)) vehicle is entrusted for the purpose of sale on behalf of another.

(17) "Consignor" shall mean a person who delivers or entrusts a vehicle to a dealer for the purpose of sale.

(18) "Remanufactured" shall mean to remake or reprocess into a finished product by a large scale industrial process.

(19) "Guaranteed title" as it relates to a consigned vehicle shall mean a guarantee by the consignor to convey title to the consignee upon sale of the vehicle. The consignment agreement between the consignor and consignee shall comply with the provisions of WAC 308-66-155.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-120 Dealer's license application. (1) Each application shall contain in addition to the information required by RCW 46.70.041:

(a) The names and residential addresses of all owners of ten percent or more of the assets of the firm ((and the names and addresses of managing employees));

(b) The name and address of the principal place of business of the firm;

(c) The names and addresses of each and every sub-agency of the firm, if any;

(d) A current balance sheet of assets and liabilities which shall have been prepared within ninety days of its submission;

(e) A statement of whether or not the applicant or any partner, member, officer, director, owner of ten percent or more of the assets of the firm, ((or managing employee)) was the holder of a license issued pursuant to chapter 46.70 RCW which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled;

(f) A detailed list of all dealerships previously operated by each person named on the application and with which each person presently or was formerly connected or employed.

(2) An applicant shall appear for a personal interview if requested by the department.

(3) The department may require a credit report for each party named on each application for a dealer's license.

(4) An applicant shall provide as evidence of leasehold or ownership interest of business location either:

(a) A copy of the rental or lease agreement between the applicant and landowner showing the business location by commonly known address, or

(b) A copy of the county assessor's record showing ownership of the business location, the applicant's name and the commonly known address.

(5) The bank reference for verifying financial condition consisting of:

(a) The name of applicant's bank, a person to contact at that bank concerning applicant's financial condition, or

(b) A letter of credit current within last 90 days, or

(c) A flooring agreement, if with a financial institution, or

(d) A line of credit with a financial institution.

(6) The department may require an applicant for a vehicle dealer license to provide evidence that the business location conforms to all zoning and land use ordinances.

(7) A corporation applicant shall provide the corporation number and corporation name issued by the secretary of state's office authorizing the company to do business within this state.

(8) The name and address on the license application and all required supporting documents must be the same. The sign at the certified location must identify the doing business as name (dba), if any, and that name shall appear on all documents as the applicant's name. The business telephone listing must also reflect the business name or the doing business as name.

PROPOSED

AMENDATORY SECTION (Amending WSR 91-20-057, filed 9/24/91, effective 10/25/91)

WAC 308-66-140 Place of business and places of business. (1) A dealer shall advise the department of each and every:

- (a) Name under which the firm does business, and
- (b) Location at which the firm does business.

If there is any addition, deletion or change in the above, the dealer shall so inform the department within ten days of such action.

(2) A dealer shall designate one name and one location as the principal name and principal place of business of the firm.

(a) All other locations that are physically and geographically separated from the principal place of business shall be designated and licensed as subagencies of that dealership;

(b) All other names shall be designated and licensed as subagencies of that dealership;

(c) If a dealer is required to obtain a subagency license under (2)(a) of this section, he/she shall not be required to obtain an additional subagency license under (2)(b) of this section, unless he does business under more than one name at that location;

(3) The director shall fail to renew, suspend or revoke a subagency license of a dealership if the dealer ceases to maintain "an established place of business" at that subagency location.

(4) All temporary subagencies shall be covered by the bond of the dealer's principal place of business.

(5) A vehicle dealer that is unable to locate his/her used vehicle sales facilities adjacent to or at the established place of business need not obtain and hold a subagency license if:

(a) Vehicle sales lot is contained within the same city block, or

- (b) Directly across the street, or
- (c) Is within sight, and
- (d) Location is zoned properly, and
- (e) Dealer bond covers sales lot.

(6) If sales lot referred to in section 5 is in sight of the principal place of business, no sign is required at that sales lot.

(7) The department may require that a dealer provide evidence that each place of business conforms to all zoning and land use ordinances.

(8) Each and every subagency license of a dealership shall automatically be deemed cancelled upon the termination, for whatever reason, of the principal license of that dealership.

(9) No license shall be issued to any applicant for a vehicle dealer or vehicle manufacturer license under a name that is the same as that of any dealer or manufacturer holding a current license issued pursuant to chapter 46.70 RCW.

AMENDATORY SECTION (Amending Order DLR 115, filed 12/9/86)

WAC 308-66-145 Established place of business—Waiver procedure. (1) An applicant for a vehicle dealer license who requests a waiver of any established place of

business requirement(s) must submit the following to the department:

(a) All required documents and fees for an original application as provided for in RCW 46.70.041, 46.70.061, 46.70.070, and WAC 308-66-120, with the exception of a leasehold agreement or evidence of real property ownership: *Provided*, That if a waiver is granted to the applicant, the applicant must provide evidence of leasehold or real property ownership to the department before the license will be issued.

(b) A written request for waiver, in the form of either a letter or a request completed on the department's prescribed form, which contains the following minimum information:

(i) Specific nature or type of activity the applicant intends to conduct,

(ii) Specific element(s) of the established place of business requirements requested to be waived,

(iii) ((A clear and concise)) Detailed statement which identifies the unique circumstances necessitating the request for waiver, and,

(iv) Any other information the department may require.

(2) A licensee who requests a waiver of any established place of business requirement(s) must submit the following to the department:

(a) All required documents and fees, as provided for in RCW 46.70.061 and WAC 308-66-140, with the exception of a leasehold agreement or evidence of real property ownership: *Provided*, That if a waiver is granted the licensee must provide evidence of leasehold or real property ownership to the department within thirty days of waiver approval.

(b) A written request for waiver, in the form of either a letter or a request completed on the department's prescribed form, which contains the following minimum information:

(i) Specific nature or type of activity the licensee intends to conduct,

(ii) Specific element(s) of the established place of business requirements requested to be waived,

(iii) ((A clear and concise)) Detailed statement which identifies the unique circumstances necessitating the request, and,

(iv) Any other information the department may require.

(3) Upon receipt by the department of all the required information, the director or the director's designee will review the request for waiver of any established place of business requirement(s) and issue a final determination in writing.

(4) A waiver granted under section (3) will remain in effect only as long as the unique circumstance(s) under which the waiver was originally granted have not changed or until the director lifts the waiver for cause.

AMENDATORY SECTION (Amending WSR 91-03-019, filed 1/7/91, effective 2/7/91)

WAC 308-66-152 Unlawful practices. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a), include, but are not limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," "no cash out of your pocket," "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount, including factory

rebates in excess of that represented, is required from the purchaser. A dealer's plan to have all or a portion of the selling price financed by a third party does not relieve the dealer of an obligation to refrain from this prohibited type of advertising. When any of these representations are made a payment disclosure shall be made as contained in subsection (6) of this section.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), include, but are not limited to representations such as "one hundred percent financing" if the terms of the purchase involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it shall be listed on the security agreement containing the vehicle's description, not on a separate agreement.

(3) It shall be considered false, deceptive or misleading, and thereby unlawful, to advertise with words, phrases, or initials which are not clear and conspicuous and easily comprehended by persons other than those closely allied with the vehicle industry.

(a) Clear and conspicuous within an advertisement shall mean:

(i) In the case of a television advertisement, the information required to be disclosed shall be completely disclosed audibly, visually, or a combination thereof.

(A) If made visually, shall be made in a type size sufficiently large to be read with reasonable ease; shall appear on the television screen for at least seven seconds; shall be in print type of a color or shade that contrasts readily with the background; shall not be obscured by other words or images appearing on the television screen; and

(B) If made audibly, shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average television listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(ii) In the case of a radio advertisement, the information required to be disclosed shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average radio listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(iii) In the case of a printed advertisement, the information required to be disclosed shall be made in a type size which shall be sufficiently large to be read with reasonable ease and shall be made in relatively close proximity to each of the terms which require that the disclosures be made; disclosures shall be made in such color and contrast so as not to be obscured by other words or pictures appearing in the advertisement.

(b) Examples of words, phrases, or initials which are not easily comprehended by persons other than those closely allied with the vehicle industry, and that may not be used without explaining their meaning in the same advertisement, include but are not limited to: Executive; capitalized cost reduction, o.a.c., c.f., f.o.b. The words annual percentage rate may be abbreviated to read A.P.R. or apr.

(4) Examples of false, deceptive or misleading, and thereby unlawful statements or representations within the meaning of RCW 46.70.180(1) include, but are not limited to:

(a) Advertising a used vehicle for sale that is not available at the time the advertisement is placed;

(b) Advertising a new vehicle as available for immediate delivery if it is available only on order;

(c) Advertising any offer in connection with the sale of a vehicle or model or type of vehicle without disclosing any material limitations, including, but not limited to, the time limit, or that there is no time limit on the offer;

(d) Advertising using a picture:

(i) Of a new vehicle which does not substantially show the same vehicle offered for sale; or

(ii) Of a used vehicle which is not the same vehicle offered for sale;

(e) Causing an advertisement to be placed by a dealer or dealer representative that does not identify the dealer by his/her complete business name, or by the word "dealer" or abbreviation "DLR";

(f) Incorporating in the dealer's name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount" when the price and policy of a dealer does not provide substantial discounts;

(g) Advertising a not-new vehicle manufactured less than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," or "rental" may be used in conjunction therewith, but not so as to create ambiguity as to whether a said vehicle is new, used, or a demonstrator.

(h) Advertising a "rebuilt vehicle" for sale with knowledge as defined in RCW 46.70.101 (1)(b)(xi) that the vehicle is rebuilt, without clearly and conspicuously disclosing "rebuilt" in the advertisement;

(i) Advertising a specific price for a specific vehicle or model or type of vehicle without designating the number of vehicles available at that price, and;

(i) Without clearly identifying the vehicles available by complete vehicle identification number, license plate number; or

(ii) Without clearly and conspicuously stating in the advertisement that such vehicle identification or license plate number for each advertised vehicle is available from the dealer upon request, and requiring that the dealer using this method of identifying vehicles keep the media advertising copy along with the vehicle identification number or license plate number of each advertised vehicle offered for a specific price. Such records shall be retained for one year following the advertisement. Dealers shall also date and post a written copy of the advertisement text and list of vehicle identification numbers or license plate numbers in a conspicuous public area at their place of business for the duration of the vehicle's availability at the advertised price: *Provided, however,* That a dealer need not designate the number of vehicles available or identify the vehicles available or state in the advertisement that the identification of advertised vehicles is available upon request if, in fact, an unlimited supply of such vehicles are available for immediate delivery;

(j) Selling a particular vehicle at a higher price than advertised, regardless of trade-in allowance;

(k) Adding charges, costs, or items to the advertised price, except those allowed by statute, other than the selling price of additional equipment ordered by the purchaser, sales tax, and license fees. "Additional equipment ordered by the purchaser" shall not include options already installed on the vehicle at the time of advertising;

(l) Expressing "advertised price" as a combination of:

(i) Dollar figures and words unless all component figures and the total dollar figure is expressed; or

(ii) Dollar figures and dollar figures unless all component figures and the total dollar figure is expressed;

(m) Advertising that a new vehicle or model or type of vehicle will be sold for a certain amount above or below invoice or cost without:

(i) Disclosing the actual dollar amount being referred to as "invoice";

(ii) Stating the final, total price for each vehicle, which may exclude sales taxes and license fees; and

(iii) Computing invoice as the actual cost to the dealer to get each vehicle from the manufacturer.

In computing "invoice" the dealer may include the actual cost of transportation of the vehicle from the manufacturer to the dealer, but must exclude dealer holdbacks, other manufacturer incentives, optional advertising fees, dealer overhead expenses, and other similar expenses;

(n) Advertising that a new or used vehicle is reduced in price from a former price, or that the advertised price is a percentage of dollar amount savings from a former price, or words to that effect, unless the seller actually recently advertised or has records showing that vehicle has been offered for sale at the former price;

(o) Advertising or offering:

(i) Any rebate that is not an authorized manufacturer's rebate paid directly to the consumer, which the consumer may apply to the purchase; and

(ii) Any manufacturer's rebate for which the manufacturer requires any financial participation by the dealer, without also clearly and conspicuously stating the following disclosure: "Dealer participation in this rebate program may increase vehicle price before rebate";

(p) Advertising that "any written price quote will be beaten," "any deal will be accepted," or that a dollar amount is guaranteed on any "push, pull or drag," trade-in, or words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(q) Advertising a vehicle or model or type of vehicle as being available at "lowest cost," "best deal" or other words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(r) Advertising an interest rate that is adjustable without clearly and conspicuously disclosing that the interest rate is adjustable;

(s) Advertising a vehicle or model or type of vehicle for sale at a financing rate which has been bought down by the dealer, without disclosing the actual annual percentage rate.

(S) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(a) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(b) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(6) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state the amount or percentage of the down payment required, or that no down payment is required, the amount of any payment or the number of payments or the period of repayment, the amount of any finance charge or that there is no charge for credit, unless it states clearly and conspicuously all of the following items:

(a) The cash price or the amount of the loan as applicable;

(b) The amount or percentage of the down payment required, or that no down payment is required, as applicable;

(c) The number, amount, and frequency of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate;

(e) The deferred payment price or the sum of the payments as applicable;

(f) The specific model or type of vehicle(s) to which the advertised offer applies; and

(g) Any other conditions material to the advertised offer.

(7) Any advertisement to aid, promote, or assist directly or indirectly a consumer lease with option to purchase must state clearly that the advertisement offers a lease with option to purchase rather than a vehicle sale.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-155 Consignment. (1) **Contract.**

(a) It shall be considered an unlawful practice within the meaning of RCW 46.70.180 for a vehicle dealer to accept any vehicle on consignment without first reducing the consignment to writing.

(b) *Minimum information required for consignment contracts.*

(i) The names of the parties to the contract including the identity of the legal owner.

(ii) A statement by the consignor that the consignor guarantees to deliver the title to the consignee upon sale of the vehicle, as well as a statement by the consignor indicating the location of the title and the unpaid balance of the vehicle, if any.

(iii) The date of the consignment agreement.

(iv) The specific effective duration of the contract.

(v) The agreed upon price which the consignor will receive for his vehicle.

(vi) The description of the consigned vehicle, by make, model, vehicle identification number, and license number.

(vii) The signatures of the parties to the contract.

(viii) If no price has been specified in (v) above, then the minimum retail price and the commission, fee, or compensa-

tion to which the vehicle dealer will be entitled upon the sale of the consigned vehicle.

(2) In the event the dealer-consignee and the consignor shall deem it appropriate to vary the terms of the written contract, the dealer-consignee shall obtain written authorization from the consignor prior to the sale of the subject vehicle.

(3) Requirements for selling consigned vehicles.

(a) All funds received, including deposits or payments in full or proceeds from the sale of trade-ins, shall be placed in a trust account as required under RCW 46.70.180(9), and said funds shall remain in such trust account until the consignor's and the legal owner's interest, if any, have been fully satisfied as provided in the consignment agreement. It shall be considered an unlawful practice for a vehicle dealer or salesperson to commingle funds received on a consigned vehicle with the assets of the dealer and the salesperson until all terms of the agreement have been completed.

(b) The amount due a consignor ((after the)) from the date of completion of sale of the consigned vehicle shall be paid by the consignee immediately where title has been delivered to the purchaser, and in all cases shall be paid within ten days.

(c) ((Immediately following the sale of a consigned vehicle)) The dealer shall give to the consignor a copy of the purchase order used to complete the sale at the same time payment is made pursuant to (b) of this subsection.

(4) Consignee's duty to transfer title.

(a) The sale of consigned vehicles imposes the same duty under RCW 46.70.122 to the consignee to promptly execute the assignment and warranty of title as in any other sale.

(b) Prior to accepting a vehicle for consignment and offering it for sale, it shall be the duty of the consignee to verify or confirm the title location. Failure to do so shall be considered an unlawful and deceptive practice under RCW 46.70.180(1).

AMENDATORY SECTION (Amending Order DLR 115, filed 12/9/86)

WAC 308-66-157 Listing. (1) Dealer responsibilities.

(a) The listing dealer shall be responsible for negotiating the agreement between seller and purchaser as follows:

(b) All written offers shall be presented to the seller for acceptance or refusal. A copy of the agreement shall be delivered to the purchaser immediately following the purchaser's signing.

(c) A copy of the offer to purchase shall be delivered to the seller immediately following seller's signing and acceptance of purchaser's offer.

(d) A copy of the agreement to purchase bearing the signature of the seller(s) shall be delivered to the purchaser as proof that the purchaser's offer was accepted.

(e) A legible copy of the agreement to purchase shall be retained in the listing dealer's files.

(f) A copy of the agreement between purchaser and dealer to disburse any funds from the trust account to pay liens against the used mobile/manufactured home shall be retained in the dealer's files.

(2) At the time the sale is closed, the listing dealer may pay outstanding liens out of the trust account prior to paying the sale proceeds to the seller.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-160 Dealer's and manufacturer's license plates. (1) When dealer's plates are used on any vehicle being demonstrated to a prospective customer, it is not necessary that the dealer or a member of his firm accompany the prospective customer except as provided in RCW 46.70.090. Prospective customers, when not accompanied by a dealer or member of his firm, shall be issued a demonstration permit by the dealer authorizing them to operate the vehicle for a period not to exceed seventy-two hours for the purpose of demonstration and possible purchase.

(2) When a dealer receives a vehicle bearing foreign license plates, such plates shall be covered by the dealer's plates while that vehicle is being demonstrated. Upon the sale of the vehicle, the foreign plates shall be removed and destroyed by the dealer prior to the delivery of the vehicle. When a foreign-plated vehicle is sold to a resident of the state whose plate is so displayed on the vehicle and the purchaser returns the vehicle immediately to his home state for use there and not in Washington, the dealer may deliver the vehicle with foreign plates attached if either one of two conditions is also met. The conditions are:

(a) The purchaser must have applied to his home state's vehicle licensing authority to register the vehicle in his own name, or

(b) The purchaser must have obtained a trip permit to move the vehicle from the dealer's place of business to his own state.

(3) An employee of a dealer shall carry an employee identification card when operating any vehicle bearing dealer's plates.

(4) Dealer's plates may not be used on any vehicle belonging to a member of the dealer's family.

(5) Dealer's plates may not be used on any vehicle owned by the dealer if such vehicle is used exclusively by members of the dealer's family.

(6) Vehicles bearing dealer's plates may not be loaned to the dealer's service customers.

(7) Dealers are required to provide ((reasonably)) accurate records reflecting the use of dealer plates.

(8) Pursuant to RCW 46.70.090, testing vehicles for repair is limited to testing for a preexisting, identifiable problem known to the vehicle dealer or manufacturer before the testing is to begin.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-170 Denial, suspension or revocation of license. (1) When the license of a vehicle dealer has been suspended or revoked ((or an application has been denied)), the department shall post a closure notice at or near the principal entry to the place of business. Such notice shall include a statement that the dealership is closed as to the sale of vehi-

cles because of the ((~~denial,~~)) suspension or revocation of a license. In case of a suspension, the duration of the suspension shall be stated on the notice. A dealer shall not remove any closure notice without ((written)) permission from an authorized representative of the director.

(2) Practices inimical to the health and safety of the citizens of the state of Washington pursuant to RCW 46.70.101 (1)(b)(viii) and (2)(k) shall include, but not be limited to, failure to comply with the following federal and state standards, as presently constituted and as hereafter amended, amplified or revised, pertaining to the construction and safety of vehicles:

(a) "Federal motor vehicle safety standards," 49 Code of Federal Regulations, part 571;

(b) "Control of air pollution from new motor vehicles and new motor vehicle engines," 40 Code of Federal Regulations, part 85;

(c) "Vehicle lighting and other equipment," chapter 46.37 RCW;

(d) Rules and regulations adopted by the Washington state patrol pursuant to RCW 46.37.005, Title 204 WAC;

(e) "Mobile/manufactured homes, commercial coaches, park trailers, and recreational vehicles," chapter 296-150B WAC;

(f) Housing and Community Development Act of 1974, Public Law 93-383, Title VI Mobile home construction and safety standards, §§ 603, 604, 610, 615, 616, 617.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-190 Transfer of certificate of title by dealer. (1) When a vehicle displaying current Washington plates is sold by a dealer, the dealer shall make an application for a certificate of title in the purchaser's name within forty-five calendar days following the sale of the vehicle.

(2) The dealer shall in every case sign or type his/her name on the dealer's report of sale on the title application accompanying the transfer. If an authorized agent signs for the dealer, he/she shall give his/her title.

((3) The name and address of the previous registered owner shall be shown on the application for transfer of title.)

((4) The dealer shall provide a vehicle odometer disclosure statement with the title application as required by RCW 46.12.124.))

AMENDATORY SECTION (Amending WSR 94-21-055, filed 10/13/94, effective 11/13/94)

WAC 308-66-195 Possession of certificates of ownership. (1) For each used vehicle kept in the dealer's inventory unless the certificate of ownership is in the possession of the person holding a security interest in the dealer's inventory, a vehicle dealer shall have possession of a separate certificate of ownership of either the following ownership documents:

(a) A separate certificate of ((title)) ownership in the name of the dealer, or the dealer's immediate vendor, properly assigned; or

(b) Evidence that the dealer owns the vehicle, such as a bill of sale, and evidence that the dealer has satisfied or paid off any legal owner on the vehicle.

(2) If there is a legal owner on any vehicle acquired by the dealer, the dealer shall obtain possession of the title by paying off any balance due to the legal owner no later than the close of the second business day following the date of acquisition of the vehicle by the dealer. For purposes of this section, a dealer acquires a vehicle when the dealer takes possession of the vehicle and an authorized representative of the dealer unconditionally accepts the written offer to purchase and financing has been approved in accordance with the bushing requirements.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-210 Statement of change in business structure, ownership interest or control. (1) Any person, firm, association, corporation, entity or trust licensed as a dealer under RCW 46.70.021 must, within ten days following any change in its business structure or a ten percent change in its ownership structure, file a statement describing with particularity the change effected in its business structure or the change in ownership interest. In addition, persons newly assuming executive or control functions, including but not limited to new corporate officers, directors, ten percent stockholders, managing partners, members or trustees, must file within ten days of assuming such function an application and a legal and financial history, including corporation number if a corporation.

(2) Any person, member, firm, association, corporation, entity or trust licensed as a vehicle manufacturer pursuant to chapter 46.70 RCW shall advise the department within ten days of the change and/or addition to:

(a) The business structure of the licensee;

(b) The mailing address of a licensee;

(c) The name and address of employees or agents designated pursuant to RCW 46.70.041 and 46.70.101 to provide service or repairs to vehicles located within the state of Washington. If the licensee requires warranty service to be performed by all of its dealers pursuant to current service agreements on file with the department, it need not advise the department of changes in its lists of dealers.

(3) Any and all changes affecting the applicability of a bond, if posted, shall be reflected by appropriate endorsement to such bond.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-211 Termination of business. A dealer or a manufacturer who terminates ((his)) the business shall return ((his)) the license and special license plates to the department for cancellation within ten business days of such termination.

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-212 Sale, transfer or other disposition of noncorporate licensee. Upon the sale, transfer or other disposition of fifty-one percent ownership interest in a non-corporate licensee a new application for the appropriate license is required and the fee will be the same as for an original application.

The special license plates issued to the original licensee(s) may ((~~continue to be used~~) be assigned to the new license.)

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-214 Incorporation of licensee while licensed. A licensee which incorporates or forms a limited liability company while licensed shall file a new application for the appropriate license and the fee will be the same as for an original application.

The special license plates issued to the original licensee(s) may ((~~continue to be used~~. The firm may request the preincorporation license number upon renewal)) be assigned to the new licensee.)

AMENDATORY SECTION (Amending WSR 96-19-025, filed 9/9/96, effective 10/10/96)

WAC 308-66-227 Disclosure of title brands. The disclosure of any title brand required in RCW 46.70.101 (1)(b)(xi) shall be clearly made on the face of the purchase order.

AMENDATORY SECTION (Amending WSR 91-20-057, filed 9/24/91, effective 10/25/91)

WAC 308-66-240 Bond cancellation, closure notice. (1) When the department of licensing has received notification from a bonding company that a dealer's bond has been cancelled or the bond has expired and has not been renewed or a replacement bond has not been received with no lapse in coverage, the department shall notify the licensee to surrender the certificate issued for each license classification and dealer plates to the department.

(2) A bond cancellation closure notice ((~~shall~~)) may be posted by the department at the established place of business and shall remain in effect until the license and bond has been reinstated or when the current license expires.

(3) The closure notice will not be posted if the licensee voluntarily surrenders the license certificate and dealer plates and signs a statement that he/she does not plan to obtain a replacement bond or conduct further business.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-66-196

Possession of custom documents.

WAC 308-66-205

Vehicle odometer disclosure.

WSR 98-16-025

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed July 28, 1998, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-17-037.

Title of Rule: WAC 458-20-262 Retail sales and use tax exemptions for agricultural employee housing.

Purpose: The proposed rule explains the retail sales and use tax exemptions provided by RCW 82.08.02745 and 82.12.02685 for the construction, repair, decoration, or improvement of new or existing buildings or other structures that will be used to provide housing to the employer's agricultural employees. The rule also provides a sample exemption certificate to be used to substantiate the exempt nature of a sale.

Statutory Authority for Adoption: RCW 82.32.300 and 82.08.02745.

Statute Being Implemented: RCW 82.08.02745 and 82.12.02685.

Summary: This rule is being drafted to explain the provisions of RCW 82.08.02745 and 82.12.02685 (chapter 117, Laws of 1996), as amended by chapter 438, Laws of 1997. These statutes provide the retail sales and use tax exemptions for agricultural employee housing. This rule explains these exemptions, who is entitled to the exemptions, and the requirement that the buyer provide an exemption certificate to the seller. The department has not previously adopted a rule explaining these exemptions.

Reasons Supporting Proposal: The law requires that the department prescribe an exemption certificate by rule.

Name of Agency Personnel Responsible for Drafting: Cliff Ellenwood, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-4161; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the retail sales and use tax exemptions provided by RCW 82.08.02745 and 82.12.02685 for the construction, repair, decoration, or improvement of new or existing buildings or other structures that will be used to provide housing to agricultural employees. These exemptions apply to the material incorporated into these structures, and the labor and services rendered in performing these activities. The rule explains that these exemptions also apply to mobile homes, travel trailers, mobile bunkhouses, modular homes,

and prefabricated components of housing or tents when such items are connected to utilities (water, electricity, sewer, gas, phone, etc.).

This rule explains the amendments made by chapter 438, Laws of 1997, to these exemptions. It also provides a sample exemption certificate which by law the buyer must provide to the seller.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any administrative costs imposed by the rule are negligible.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This is an interpretive rule that explains how the retail sales and use tax exemptions provided for agricultural employee housing apply.

Hearing Location: 2nd Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA 98401 [98501], on September 16, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact: Arturo Haro by September 4, 1998, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Cliff Ellenwood, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, by September 16, 1998, e-mail cliffe@dor.wa.gov.

Date of Intended Adoption: October 3, 1998.

July 28, 1998
Claire Hesselholt
Rules Manager

NEW SECTION

WAC 458-20-262 Retail sales and use tax exemptions for agricultural employee housing. (1) **Introduction.** RCW 82.08.02745 and 82.12.02685 provide a retail sales and use tax exemption for agricultural employee housing as of March 20, 1996. Chapter 438, Laws of 1997, effective May 20, 1997, amended both RCW 82.08.02745 and 82.12.02685 by limiting the exemptions and allowing additional agricultural employee housing providers to receive the exemption. This rule also explains the exemptions, who is entitled to the exemption and the required information to be contained in an exemption certificate.

(2) **Definitions.** The following definitions apply throughout this section.

(a) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity (RCW 19.30.010).

(b) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes but is not limited to the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash, the harvest of Christmas trees, and other related activities (RCW 19.30.010).

(c) "Agricultural employee housing" means all facilities provided by an agricultural employer, housing authority, local government, state or federal agency, nonprofit commu-

nity or neighborhood-based organization that is exempt from income tax under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. sec. 501(c)), or for-profit provider of housing for housing agricultural employees on a year-round or seasonal basis, including bathing, food handling, hand washing, laundry, and toilet facilities, single-family and multifamily dwelling units and dormitories, and includes labor camps under RCW 70.54.110. The term also includes but is not limited to mobile homes, travel trailers, mobile bunkhouses, modular homes, fabricated components of a house, and tents. Agricultural employee housing does not include housing regularly provided on a commercial basis to the general public (chapter 438, Laws of 1997). Agricultural employee housing does not include housing provided by a housing authority unless at least eighty percent of the occupants are agricultural employees whose adjusted income is less than fifty percent of median family income, adjusted for household size, for the county where the housing is provided.

(d) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof (RCW 82.04.030).

(e) "Agricultural land" has the same meaning as "agricultural and farm land" in RCW 84.34.020(2).

(3) **Retail sales and use tax exemptions for agricultural employee housing.** RCW 82.08.02745 and 82.12.02685, respectively, provide retail sales tax and use tax exemptions for the purchase, construction, and use of agricultural employee housing. Both exemptions require that agricultural employee housing provided to year-round employees of the agricultural employer must be built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW. Neither of these exemptions apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.

(a) The retail sales tax does not apply to charges for labor and services rendered by any person in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures used as agricultural employee housing. Also exempt are sales of tangible personal property that becomes an ingredient or component of the buildings or other structures, including but not limited to septic tanks, pump houses, cisterns, and driveways. Appliances and furniture that are bolted or strapped to the actual building or structure are considered components of the building or structure. Items such as unattached furnishings, television sets, kitchen utensils, and other consumable articles do not qualify for this exemption.

(i) Purchases of labor and transportation charges necessary to move and set up mobile homes, mobile bunkhouses, and other property and component parts as agricultural employee housing are exempt of retail sales tax.

(ii) As a condition for exemption, the seller must take from the buyer an exemption certificate which substantially contains the information included in the sample form provided in subsection (5) of this section. The seller may accept a legible FAX or duplicate copy of an original exemption certificate. In all cases, the exemption certificate must be accepted in good faith by the seller, and must be retained by the seller for a period of at least five years. An exemption certificate may be provided for a single purpose, or for multiple purchases over a period not to exceed four years. Failure to comply with the provisions in this section may result in a denial of the exemption and the agricultural employer may be subject to use tax plus penalties and interest. Copies of the sample form provided in subsection (5) of this section are available through the department of revenue's taxpayer services division (360) 753-7634.

(b) The use tax exemption is available for the use of tangible personal property that becomes an ingredient or component of buildings or other structures used as agricultural employee housing during the course of constructing, repairing, decorating, or improving the buildings or other structures by any person. Again, appliances and furniture that are bolted or strapped to the actual building or structure are considered components of the building or structure.

(i) The exemption for materials incorporated into buildings or other structures used as agricultural employee housing also applies to persons/consumers constructing these buildings or structures for the federal government or county

housing authorities. (See also WAC 458-20-17001 on government contracting.)

(ii) An agricultural employer claiming the exemption who retitles a used mobile home or titles a new mobile home acquired from an out-of-state seller must provide a completed exemption certificate to the department of licensing or its agent to substantiate the exempt nature of the home.

(4) Requirement to remit payment of tax if agricultural housing fails to continue to satisfy the conditions of exemption. The agricultural employee housing must be used for at least five consecutive years from the date the housing is approved for occupancy to retain the retail sales and use tax exemption. If this condition is not satisfied, the full amount of tax otherwise due shall be immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment.

If at any time agricultural employee housing that is not located on agricultural land ceases to be used as agricultural employee housing for year-round employees, the full amount of tax otherwise due shall be immediately due and payable with interest, but not penalties, from the date the housing ceased to be used as agricultural employee housing for year-round employees.

Retail sales tax exemption certificate. The agricultural employer (buyer) must provide an exemption certificate to a seller to show entitlement to the exemption provided by the statute. This exemption certificate must be substantially in the form shown below.

AGRICULTURAL EMPLOYEE HOUSING EXEMPTION CERTIFICATE
This exemption certificate is to be solely for allowable purchases by an agricultural employee housing provider.

1. Name of Seller:

2. Name of Agricultural Employee Housing Provider:

3. Address of Agricultural Employee Housing Provider:

Street, City, State Zip Code

4. Agricultural Employee Housing Providers UBI/Registration No.:

For the purpose of the exemption, the agricultural employer certifies the following:

- The buildings or other structures built on agricultural land will be used as agricultural employee housing for at least five years from the date the housing is approved for occupation otherwise the entire tax becomes due plus interest from the time the housing ceases to be used for agricultural housing until date of payment.
- It is understood that buildings or other structures built on nonagricultural land must conform to the state building code and be provided to year-round agricultural employees otherwise the total tax exempted is due plus interest from the date the housing ceases to be used as agricultural employee housing as defined in WAC 458-20-262(3) until date of payment.
- The buildings or other structures used to house year-round agricultural employees will be constructed to meet the state building code (chapter 19.27 RCW) for single-family or multifamily dwelling.

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- The buildings or other structures will not be used as housing for an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.
- The buildings or other structures will not be used to regularly provide housing on a commercial basis to the general public.
- If purchases are being made to construct agricultural employee housing for a housing authority, at least eighty percent of the occupants will be agricultural employees whose adjusted gross income is less than fifty percent of median family income adjusted for household size, for the county where the housing is provided.

Is the agricultural employee housing being built on agricultural land: Yes No

If yes, please provide parcel number:

Print Name of Buyer:

Signature:

Date Signed: _____ Effective Date: _____ through _____ (*Not to exceed 4 years*)

To inquire about the availability of this document in an alternate format for the visually impaired or a language other than English, please call (360) 753-3217. Teletype (TTY) users may call (800) 451-7985. You may also access tax information on our Internet home page at <http://www.wa.gov/dor/wador.htm>

WSR 98-16-037
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed July 30, 1998, 1:35 p.m.]

On May 19, 1998, the Department of Social and Health Services, Economic Services Administration, filed a CR-102 as WSR 98-11-084. This filing proposed the adoption of a new rule, WAC 388-503-520 [388-503-0520]. By this memo, we are withdrawing the proposed adoption of this rule.

Edith M. Rice
 for Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 98-16-038
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed July 30, 1998, 1:37 p.m.]

On May 19, 1998, the Department of Social and Health Services, Economic Services Administration, filed a CR-102 as WSR 98-11-074. This filing proposed the repeal of WAC

388-265-1550 in error. By this memo, we are withdrawing the proposed repeal of this rule under WSR 98-11-074.

Edith M. Rice
 for Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 98-16-049
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION

[Filed July 31, 1998, 3:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-102.

Title of Rule: System safety and security plans for rail fixed guideway systems.

Purpose: Establish a system safety program standard for rail fixed guideway systems that are not regulated by the Federal Railroad Administration.

Statutory Authority for Adoption: RCW 43.06.120.

Summary: Defines rail fixed guideway system, specifies requirements for system safety and security plans and their review and approval, outlines contents for annual and triennial safety and security audits and reports, and specifies noti-

fication, investigation, and reporting processes for accidents, hazardous conditions, and security breaches.

Reasons Supporting Proposal: Comply with mandatory federal regulations and ensure safe operation of rail fixed guideway systems.

Name of Agency Personnel Responsible for Drafting: Paul Gamble, Olympia, (360) 705-7912; Implementation and Enforcement: Lois Anderson, Olympia, (360) 705-7909.

Name of Proponent: Washington State Department of Transportation, governmental.

Rule is necessary because of federal law, [49 CFR 659].

Explanation of Rule, its Purpose, and Anticipated Effects: Explanation: Defines rail fixed guideway system, specifies requirements for system safety and security plans and their review and approval, outlines contents for annual and triennial safety and security audits and reports, and specifies notification, investigation, and reporting processes for accidents, hazardous conditions, and security breaches.

Purpose: Comply with mandatory federal regulations and ensure safe operation of rail fixed guideway systems.

Anticipated Effects: Meet mandatory federal regulations, set into effect annual and triennial safety and security audits and reports, and notification, investigation, and reporting processes for accidents, hazardous conditions, and security breaches.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules affect only operations operated by or regulated by municipal corporations.

RCW 34.05.328 does not apply to this rule adoption. This rule making is exempt under subsection (5)(b)(ii).

Hearing Location: Transportation Building, Commission Board Room, 1D2, Maple Park S.E., Olympia, Washington 98504, on September 11, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by September 4, 1998.

Submit Written Comments to: Paul Gamble, Public Transportation Office, Washington State Department of Transportation, P.O. Box 47387, Olympia, WA 98504-7387, or (360) 705-7912, fax (360) 705-6820, by September 4, 1998.

Date of Intended Adoption: September 11, 1998.

July 31, 1998

Gerald E. Smith

Deputy Secretary, Operations

Chapter 468-550 WAC SAFETY OVERSIGHT OF RAIL FIXED GUIDEWAY SYSTEMS RULES

NEW SECTION

WAC 468-550-010 Purpose. This chapter is adopted to comply with 49 CFR Part 659 which requires the state of Washington to oversee the safety and security plans of rail fixed guideway systems (RFGS) not regulated by the Federal Railroad Administration. These rules prescribe the system safety and security criteria to be met by RFGS and is intended

to improve the safety and security of RFGS in Washington state.

NEW SECTION

WAC 468-550-020 Applicability. These rules are applicable to all Washington state entities, public or private, which own, operate, or maintain RFGS that are not regulated by the Federal Railroad Administration.

NEW SECTION

WAC 468-550-030 Definitions. For the purposes of this chapter, the following definitions of terms shall apply unless the context clearly indicates otherwise:

(1) Accident, reportable means any event involving the operation of a RFGS, if as a result:

(a) An individual dies; or

(b) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or

(c) A collision, derailment, or fire causes property damage in excess of \$50,000.

(2) APTA Guidelines means the American Public Transit Association's *"Manual for the Development of Rail Transit System Safety Program Plans."*

(3) Chief executive officer means, but is not limited to, the mayor, county executive, or chair of the municipality, or corporate president of the public or private entity that owns, operates, or maintains a RFGS.

(4) Contractor means an entity that performs tasks required by this chapter on behalf of the department or a RFGS.

(5) Department means the Washington state department of transportation which has been designated as the state safety oversight agency.

(6) Emergency means a situation which is life threatening to passengers, employees, or others or which causes damage to any rail fixed guideway vehicle or facility or results in a significant theft of services which reduces the ability of the system to fulfill its mission.

(7) FTA means the Federal Transit Administration, or its successors, an agency within the U.S. Department of Transportation.

(8) Hazardous condition means a set of circumstances that if not identified and corrected has or will result in personal injury or property damage.

(9) Investigation means a procedure that the department or a RFGS utilizes to determine the cause of a reportable accident, hazardous condition, or security breach.

(10) Plan means the system safety and security program plan which is adopted by the RFGS detailing its safety and security policies, objectives, responsibilities and procedures.

(11) Procedure means an established and documented method to perform a task.

(12) Rail fixed guideway system or "RFGS" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is:

(a) Included in the Federal Transit Administration's (FTA) calculation of fixed guideway route miles or receives

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funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); and

(b) Not regulated by the Federal Railroad Administration.

(13) Risk means the probability that a security breach will occur.

(14) Safety means freedom from danger.

(15) Security means freedom from intentional danger.

(16) Security breach means an unforeseen event or occurrence that endangers life or property and may result in the loss of services or system equipment.

(17) Security incident means an unforeseen event or occurrence that does not necessarily result in death, injury, or significant RFGS property damage, but may result in a minor loss of revenue.

(18) Standard means the system safety and security program standard which is the standard developed and adopted by the department which complies with the APTA *Manual for the Development of Rail Transit System Safety Program Plans*, the Federal Transit Administration's *Transit System Security Program Planning Guide* (FTA-MA-90-7001-94-1), The Federal Transit Administration's *Implementation Guidelines for State Safety Oversight of Rail Fixed Guideway Systems*, and the *State Safety Oversight Security Handbook*.

(19) System means a composite of people, property, environment, and procedures which are integrated to perform a specific operational function in a specific environment.

(20) Three-year review means a formal, comprehensive, on-site examination by the department of a RFGS's safety and security procedures to determine whether it complies with the RFGS's policies and procedures as outlined in the RFGS's plan.

(21) Threat means any real, potential, or perceived condition that can result in a security-related incident.

(22) Unsafe condition or act means any condition or act which endangers life or RFGS property.

NEW SECTION

WAC 468-550-040 Requirements for system safety and security plans. (1) Each RFGS shall prepare a system safety and security program plan. Such Plan shall describe the RFGS's procedures for:

(a) Reporting and investigating reportable accidents, hazardous conditions, and security breaches;

(b) Submitting corrective action plans and annual safety and security audit reports;

(c) Facilitating department on-site safety and security reviews; and

(d) Addressing passenger and employee security.

The plan and any revisions thereto shall, at a minimum, conform to the standard, be approved by the RFGS's chief executive officer and submitted for departmental review by September 1, 1998, or within three months prior to beginning operations or instituting revisions to the plan.

(2) Each RFGS shall implement and comply with the provisions of its plan and any revisions thereto. Further, should the RFGS change ownership or operating or maintenance providers, the RFGS shall require its successors, assigns, and contractors to continue to comply with the

RFGS's established plan and shall notify the department of any change of ownership or operating or maintenance providers within thirty days of the effective date of transfer or contract.

(3) Each RFGS and the department are prohibited from publicly disclosing or communicating in any way, to unauthorized persons, the security portions of the plan.

NEW SECTION

WAC 468-550-050 Department procedures for reviewing, approving, and filing rail fixed guideway system safety and security plans and inspections. The department shall review each RFGS plan, and all subsequent revisions, for compliance with these rules and the standard, using the APTA system safety checklist which includes:

- Policy statement and authority for the plan
- Description of purpose for the plan
- Clearly stated goals for plan
- Identifiable and attainable objectives
- System description and organizational structure
- The plan control and update procedures
- Hazard identification and resolution process
- Accidents, hazardous conditions and reporting and investigation procedures
- Internal safety audit process
- Facilities inspections (includes system equipment and rolling stock)
- Maintenance audits and inspections (all systems and facilities)
- Rules and procedures review
- Training and certification reviews and audits
- Emergency response planning, coordination and training
- System modification review and concurrence process
- Safety data acquisition and analysis
- Interdepartmental and interagency coordination
- Configuration management
- Employee safety program
- Hazardous materials program
- Drug abuse and alcohol misuse programs
- Contractor safety coordination
- Procurement

The department shall provide written concurrence with the RFGS's plan or provide written comments to the RFGS specifying required changes. The RFGS shall revise its plan to incorporate the department's review comments, if any, within sixty days after receipt thereof, and resubmit its revised plan for review. After resolving issues arising in the review process, the department shall notify the RFGS of its concurrence with the plan. The plan and the department's concurrence shall be maintained by the department in a permanent file.

NEW SECTION

WAC 468-550-060 Annual and triennial safety and security audits and reports. (1)(a) Each RFGS shall perform scheduled internal safety and security audits to evaluate

compliance with the standard, identify hazardous and risk conditions, and measure the effectiveness of its plan. The RFGS shall submit to the department its internal safety and security audit schedule for the next year no later than December 15 of the preceding year. These audits shall include, but are not limited to:

- (i) Observing work practices and employee performance during system operations;
- (ii) Sampling and inspecting selected system components to verify proper maintenance; and
- (iii) Reviewing RFGS records for all phases of system operations, maintenance, and security.

The RFGS shall select a qualified person(s) or contractor to perform its internal audits and shall notify the department not later than ten days prior to performing the internal audits. The notification shall include date(s) of audit, what is to be audited, and the qualifications of those selected to perform the audit, such qualifications are subject to departmental concurrence. Each RFGS internal audit shall be conducted in accordance with a department approved written checklist designed to verify compliance with and assess the effectiveness of its plan. The department may assess the effectiveness of each RFGS audit program; however, any departmental review or concurrence shall not substitute for the RFGS's own safety and security inspection audit programs, nor relieve the RFGS from its sole liability for the safety and security of its system.

(b) Each RFGS, as a basis for its audit process, shall prepare, maintain, and make available for departmental review records that document the results of all tests, inspections, and audits conducted by the RFGS or its contractor in compliance with the plan. These records shall include, but are not limited to:

- (i) Start-up test records;
- (ii) Drug and alcohol test records;
- (iii) Training and certification records;
- (iv) Operation performance evaluation records;
- (v) Facility inspections;
- (vi) Maintenance audits and inspections (all systems and facilities);
- (vii) Rules and procedures review;
- (viii) Emergency response planning, coordination, and training;
- (ix) System modification review and approval process;
- (x) Safety and security data acquisition and analysis;
- (xi) Interdepartmental and interagency coordination;
- (xii) Employee safety and security program;
- (xiii) Hazardous materials program;
- (xiv) Contractor safety coordination; and
- (xv) Procurement records.

These records shall be maintained by the RFGS for a minimum of three years.

(2) Internal safety and security audits shall be documented in an annual report that includes the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity and the results of each audit in terms of the adequacy and effectiveness of the plan. This annual report for the internal safety and security

audits performed during the preceding year shall be submitted to the department prior to February 15 of each year.

(3) The department shall audit each RFGS plan at least once every three years. The RFGS shall be given written notification at least thirty days in advance of the department's audit. The notification shall include a proposed schedule, planned scope, and list of activities to be reviewed for the audit. Each audit shall be preceded by an on-site, preaudit conference attended by the department's audit team, the RFGS's owner, and the RFGS staff in charge of the activities subject to audit. Each audit shall be conducted in accordance with an audit checklist. Checklists shall not restrict the department from performing additional investigations as it deems appropriate. The department shall use as a basis for its checklist the RFGS's plan and records which shall include, but are not limited to:

- (a) The RFGS operating rule book, bulletins, and procedures;
- (b) The RFGS maintenance manuals and procedures for vehicles, track and signals;
- (c) The RFGS procedures for identifying, documenting, evaluating, and correcting hazards;
- (d) The RFGS system design criteria and project engineering procedures for system modifications;
- (e) The RFGS annual internal audit reports for the previous three years;
- (f) The RFGS corrective action plans for reportable accidents, hazardous conditions, and security breaches reported to the department during the previous three years;
- (g) APTA audit reports;
- (h) National Transportation Safety Board accident investigation reports, and any other agency peer review reports, if any, prepared during the previous three years and previously prepared department audit reports.

(4) Upon the department's completion of the triennial on-site audit, the audit team leader shall prepare a draft final audit report and submit it to the RFGS. The RFGS shall respond, in writing to the recommendations made in the draft final audit report, with a plan and schedule of corrective actions within thirty days of receipt thereof. An on-site, post audit conference shall be held following each departmental audit to review the results of the audit. Audit results that identify a deficiency that is not corrected before the post audit conference is held shall be documented in the final audit report. The final audit report shall contain the department audit team's findings and recommendations and the RFGS plan and schedule for corrective action. The final audit report shall also include the department audit team's evaluation of the effectiveness of the RFGS plan and a determination of whether the plan should be updated.

(5) The department shall summarize oversight activities for all RFGS performed during the preceding twelve months in a publicly available annual report and submit it to the FTA before March 15 of each year.

NEW SECTION

WAC 468-550-070 Notifying, investigating, and reporting accidents, hazardous conditions, and security breaches. (1) Each RFGS shall notify the department and the

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National Transportation Safety Board by telephone or facsimile within twenty-four hours of an occurrence of the types of accidents, hazardous conditions, or security breaches following:

- (a) Any event which results in a fatality;
- (b) Any event in which an individual suffers bodily injury and receives immediate medical treatment away from the scene;
- (c) A collision, derailment, or fire which causes property damage in excess of \$50,000;
- (d) Any fire or other hazardous event that requires the evacuation of passengers or requires the fire suppression activities conducted by a fire department;
- (e) Any collision between a rail fixed guideway vehicle and a motor vehicle at a gated grade crossing;
- (f) Any collision between rail fixed guideway vehicles, or between rail fixed guideway vehicles and other on-track equipment;
- (g) Any mainline derailment;
- (h) Any hazardous condition which has been identified by the RFGS and which could cause death or serious injury to passengers or employees if not immediately corrected; and
- (i) Any security breach that has been identified by the RFGS and which could cause death or serious injury to passengers or employees or may result in the loss of services or equipment if not immediately corrected.

(2) Each RFGS shall investigate all reportable accidents, hazardous conditions, and security breaches. The RFGS may use its own staff or a contractor to conduct its investigation and shall designate a staff person to be responsible for submitting written investigation reports and findings to the department, on a department form, within forty-five days after the reportable accident, hazardous condition, or security breach was discovered. This report shall identify the causal factors contributing to the occurrence and contain a corrective action plan with an implementation schedule to prevent a recurrence of the accident or breach, or to mitigate the hazardous condition. The department shall review the RFGS investigation report, corrective action plan, and accompanying implementation schedule to ensure that it meets the goal of preventing and mitigating a recurrence of the reportable accident, hazardous condition, or security breach. The department has authority to perform separate, independent investigations of reportable accidents, hazardous conditions, or security breaches at its own discretion. In the event that the department does not concur with the findings of the RFGS investigation, the department shall notify the RFGS, in writing, of its review findings. The RFGS shall submit its response to the department's findings within forty-five days of receipt thereof. Should the department and the RFGS disagree, the department will notify the FTA. Each RFGS shall also submit a monthly summary report to the department covering all reportable occurrences. The monthly summary report shall be submitted whether any reportable event occurred or any hazardous condition or security breach was identified during the month.

WSR 98-16-053

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed August 3, 1998, 9:28 a.m.]

Original Notice.

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

Title of Rule: Amending WAC 251-01-065 Classified service, 251-05-050 Office hours and 251-18-180 Eligible lists—Definition—Composition; and repealing WAC 251-24-040 HEPB sponsored training.

Purpose: See below.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These rules are housekeeping in nature and are needed to be in alignment with state statutes as a result of the merger of the higher education personnel system under the jurisdiction of the Personnel Resources Board.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are housekeeping in nature and are needed to be in alignment with state statutes as a result of the merger of the higher education personnel system under the jurisdiction of the Personnel Resources Board.

Proposal Changes the Following Existing Rules: See above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)][b](ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 10, 1998, at 10:00.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 3, 1998, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 8, 1998.

Date of Intended Adoption: September 10, 1998.

July 28, 1998

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-065 Classified service. All positions and employees in the higher education institutions which are sub-

ject to the provisions of ((the higher education personnel law)) chapter 41.06 RCW and these rules.

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-05-050 Office hours. Public records shall be available for inspection and copying during the customary office hours of the ((board)) the department of personnel. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding designated holidays.

AMENDATORY SECTION (Amending WSR 93-19-078, filed 9/14/93, effective 10/1/93)

WAC 251-18-180 Eligible lists—Definition—Composition. Eligible lists shall be established by class as follows:

(1) **Institution-wide layoff lists** shall contain the names of:

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

(b) Former permanent employees of the institution who (i) have transferred, promoted, voluntarily demoted or laterally moved to positions at other institutions/related boards, and (ii) have not successfully completed their trial service periods at the institution to which they moved, ranked in order of layoff seniority.

(2) **Organizational unit promotional lists** shall contain the names of all permanent employees of the organizational unit for which the list is established who have passed the examination for the class. This list shall also contain the names of former employees separated from the organizational unit per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(3) **Institution-wide promotional lists** shall contain the names of all permanent employees of the institution who have passed the examination for the class. This list shall also contain the names of:

(a) Former employees separated from the institution per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(b) Former employees laid off from the institution per WAC 251-10-030, who are on an institution-wide layoff list.

Persons appointed under (b) of this subsection shall serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be

returned to the position and/or status held immediately prior to the appointment.

(4) **Special employment program layoff lists** shall contain the names of permanent employees of the institution laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035 ranked in order of layoff seniority.

(5) **State-wide layoff lists** shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060, ranked in order of layoff seniority as provided in WAC 251-10-060(2).

(6) **Interinstitutional employee lists** shall contain the names of permanent employees of an institution or related board other than the one at which he/she is applying, who have passed the examination for the class, ranked in order of their final examination scores.

(7) **Intersystem employee lists** shall contain the names of permanent employees in state agencies under the jurisdiction of chapter 41.06 RCW who have passed the examination for the class, ranked in order of their final examination scores.

(8) **Open competitive lists** shall contain the names of all other applicants who have passed the examination for the class, ranked in order of their final examination scores.

(9) **Noncompetitive lists** shall be established per WAC 251-17-040 and shall contain the names of applicants who meet the minimum qualifications and have passed the non-competitive examination, if any, for the class, ranked by priority in time of filing application.

(10) For positions assigned to EEO-6 categories executive, administrative, managerial, and professional nonfaculty, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide layoff list, and the open competitive list into a single eligible list:

(a) The combined list option must be specified in the recruitment notice for a class in order for the personnel officer to combine lists for positions in the class;

(b) The combined list shall contain the names of eligibles ranked in order of their final examination scores. Permanent employees of the institution and former permanent employees eligible to return to work pursuant to WAC 251-10-080 shall have a five percent credit added to their final passing scores.

REPEALER

WAC 251-24-040

HEPB sponsored training.

WSR 98-16-055
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed August 3, 1998, 3:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-05-38 [98-05-038].

Title of Rule: Shared leave.

Purpose: Sets forth policies and procedures for the operation of a permissive shared leave program in school districts and educational service districts which permits employees to donate leave to a fellow employee who is suffering from or has a relative or household member suffering from an illness or injury that has caused or is likely to cause the employee to take leave without pay or terminate his or her

Statutory Authority for Adoption: RCW 28A.400.380.

Statute Being Implemented: RCW 28A.400.380 and 41.04.665.

Summary: Implement chapter 176, Laws of 1996 (codified as RCW 41.04.665), which amended leave sharing for state and school employees. Employees are now allowed to transfer personal holidays and sick leave to another employee regardless of whether [no more information supplied by agency].

Reasons Supporting Proposal: Implements change in statute.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Office of Superintendent of Public Instruction, (360) 753-2298; **Implementation:** Ron Stead, Office of Superintendent of Public Instruction, (360) 753-3584; and **Enforcement:** Mike Bigelow, Office of Superintendent of Public Instruction, (360) 753-1718.

Name of Proponent: Office of Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 28A.400.380 authorizes the Superintendent of Public Instruction to adopt rules and regulations for governing the administration of shared leave programs by school districts and educational service districts. These rules are found in chapter 392-126 WAC. RCW 28A.400.380 directs the Superintendent of Public Instruction use as the basis for its rules, parameters consistent with the provisions of RCW 41.04.650 through 41.04.665.

However, RCW 41.04.650 through 41.04.665 were amended by chapter 176, Laws of 1996. Chapter 392-126 WAC should be updated to reflect these amendments.

Proposal Changes the Following Existing Rules: An employee will be allowed to transfer personal holiday to another employee.

An employee will be allowed to transfer his sick leave to another employee regardless of whether or not he or she is in a position that accrues annual leave. The current WAC seems to not allow this, which conflicts with RCW 41.04.665, as amended.

An employee who uses leave that is transferred to him or her may not be required to repay the value of the leave that he or she used.

The basis for accruing annual leave will be modified to exclude transferring annual leave for which the compensation has been received in lieu of accumulating a balance of annual leave.

Shared leave cannot be transferred between districts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule changes relate to the shared leave policies of school districts and educational service districts and consequently have no effect on small business.

RCW 34.05.328 does not apply to this rule adoption. The content of these rules are dictated by RCW 28A.400.380 and 48.04.665 [41.04.665].

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, on September 10, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 27, 1998, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by September 9, 1998.

Date of Intended Adoption: September 11, 1998.
July 30, 1998

Terry Bergeson
Superintendent of
Public Instruction

((AUTHORITY AND PURPOSE))**AMENDATORY SECTION** (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-004 Authority. The authority for this chapter is RCW 28A.400.380 which authorizes the superintendent of public instruction to adopt rules and regulations promulgating standards governing the administration of the shared leave program which permits sharing of annual ((and sick)) leave, sick leave, or personal holiday by school district and educational service district employees.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-006 Purpose. The purpose of this chapter is to set forth policies and procedures for the operation of a permissive shared leave program in school districts and educational service districts which permits employees to donate annual ((and sick)) leave, sick leave, or personal holiday to a fellow employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

NEW SECTION

WAC 392-126-022 Definition—Personal holiday. As used in this chapter, "personal holiday" means any additional

paid holiday per calendar year granted to an employee as defined by district policy or collective bargaining agreement, and the date of usage of which is determined by the employee after consultation with the employer.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-040 Definition—Leave donor. As used in this chapter, "leave donor" means an employee who has an approved written request for the transfer of annual ((or sick)) leave, sick leave, or personal holiday to the shared leave program.

NEW SECTION

WAC 392-126-053 Definition—Donated personal holiday. As used in this chapter, "donated personal holiday" means the amount of sick leave donated by a leave donor under the shared leave program.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-075 Eligibility. In the event a district implements a shared leave program, an employee shall be eligible to receive shared leave under the following conditions:

(1) The employee's job is one in which annual ((and/or sick)) leave, sick leave, or personal holiday can be used and accrued.

(2) The employee is not eligible for time loss compensation under chapter 51.32 RCW.

(3) The employee has abided by district policies regarding the use of sick leave.

(4) The employee has exhausted, or will exhaust, his or her annual leave ((and/or)), sick leave and personal holiday.

(5) The condition has caused, or is likely to cause, the employee to go on leave without pay or terminate district employment.

(6) Leave sharing is limited to transfers from employees within the same employing district.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-080 Donation of annual leave. An employee may donate annual leave to specific individuals or pool using the following criteria:

(1) The employee may donate any amount of accrued annual leave provided the donation does not cause the employee's annual leave balance to fall below ten days. For the purpose of this section, annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(2) Employees may not donate excess annual leave that the donor would not be able to take because of an approaching date after which the annual leave cannot be used.

(3) All donated annual leave must be given voluntarily. No employee shall be coerced, threatened, intimated, or financially induced into donating annual leave.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-085 Donation of sick leave. An employee may donate sick leave to specific individuals or pool using the following criteria:

(1) ((~~The employee must be in a job in which annual leave is not accrued.~~

((2))) The employee must have accrued more than sixty days of sick leave.

((3))) (2) Employees may not donate more than six days of sick leave during any twelve-month period.

((4))) (3) Employees may not donate an amount of sick leave that will result in his or her sick leave account going below sixty days.

((5))) (4) All donated sick leave must be given voluntarily. No employee shall be coerced, threatened, intimated, or financially induced into donating sick leave.

NEW SECTION

WAC 392-126-087 Donation of personal holiday. An employee may donate part or all of his or her personal holiday to specific individuals or pool.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-090 Maximum amount. The district shall determine the amount of shared leave a leave recipient may receive and may only authorize an employee to use up to a maximum of two hundred sixty-one days of shared leave during total ((state)) district employment. All forms of paid leave available for use by the recipient must be used prior to using shared leave.

NEW SECTION

WAC 392-126-092 Repayment of shared leave used. An employee who uses leave that is transferred to him or her may not be required to repay the value of the leave that he or she used.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-126-003 Termination date.

WAC 392-126-010 Purpose.

**WSR 98-16-058
PROPOSED RULES
SPOKANE COUNTY
AIR POLLUTION CONTROL AUTHORITY**
[Filed August 3, 1998, 4:51 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Resolution #98-16 amending the no-burn area boundary for Spokane County in accordance with SCAPCA Regulation I, Section 6.01.

Purpose: To limit emissions from residential yard and garden waste burning.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2) and SCAPCA Regulation I, Section 6.01.D.1.

Statute Being Implemented: RCW 70.94.743 and SCAPCA Regulation I, Section 6.01.

Summary: The resolution defines the no-burn area within Spokane County and bans residential yard and garden waste burning within this area which includes the urban growth area of Spokane and carbon monoxide nonattainment areas.

Reasons Supporting Proposal: Residential yard and garden waste burning produces carbon monoxide, particulate emissions and other toxics. A reduction in burning will improve air quality and protect public health. The no-burn area must be modified to comply with RCW 70.94.743.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mabel Caine, 1101 West College, #403, Spokane, WA 99201, (509) 477-4727.

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 resolution establishes boundaries for the no-burn area within Spokane County. The purpose is to:

- Reduce open burning to the greatest extent practical, consistent with the policy of the state of Washington,
- Encourage the development and use of alternative disposal methods,
- Graphically limit open burning in order to assure continued attainment of the National ambient air quality standards for carbon monoxide and fine particulate matter, and
- Graphically limit open burning in urban growth areas to meet the requirements of RCW 70.94.743.

Proposal Changes the Following Existing Rules: The proposal redefines the no-burn area as follows: Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, Township 24N, Range 41E; Sections 34, 35, 36, Township 25N, Range 41E; Sections 1 through 24, Township 24N, Range 42E; Township 25N, Range 42E; Township 26N, Range 42E; Sections 1 through 24, Township 24N, Range 43E; Township 25N, Range 43E; Township 26N, Range 43E; Township 27N, Range 43E; Sections 19 through 36, Township 28N, Range 43E; Sections 1 through 24, Township 24N, Range 44E; Township 25N, Range 44E; Sections 19 through 36, Township 26N, Range 44E; Township 25N, Range 45E; Sections 1 through 4, 9 through 16, 19 through 36, Township 26N, Range 45E; Sections 33 through 36, Township 27N, Range 45E; Sections 6, 7, 18, 19, 30, 31, Township 25N, Range 46E; Sections 6, 7, 18, 19, 30, 31, Township 26N, Range 46E; Section 31, Township 27N, Range 46E.

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

Air Pollution Control Authority is not required under chapter 19.85 RCW to file small business economic impact statements.

RCW 34.05.328 does not apply to this rule adoption. This is a local agency resolution and RCW 34.05.328 has not been made voluntarily applicable.

Hearing Location: Spokane County Public Works Building, 1206 West Broadway, Hearing Room Lower Level, Spokane, WA 99201, on October 1, 1998, at 8:30 a.m.

Submit Written Comments to: Mabel Caine, Spokane County Air Pollution Control Authority, 1101 West College, Suite #403, Spokane, WA 99201, fax (509) 477-6828, by September 22, 1998.

Date of Intended Adoption: October 1, 1998.

July 20, 1998

Mabel Caine

Compliance Administrator

A RESOLUTION AMENDING THE)	RESOLUTION 98-16
"NO-BURN AREA"))
)

WHEREAS, pursuant to the provisions of the Washington Clean Air Act, RCW 70.94, the Spokane County Air Pollution Control Authority (SCAPCA) was created as a municipal corporation of the State of Washington; and

WHEREAS, pursuant to the provisions of RCW 70.94, SCAPCA has the responsibility for implementing a limited burning program; and

WHEREAS, pursuant to the provisions of RCW 70.94.743, outdoor burning shall not be allowed in any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning, and in urban growth areas as defined by RCW 36.70A.030; and

WHEREAS, on the 1st day of October, 1998, the SCAPCA held a public hearing to consider altering the boundary of the "No-Burn Area"; and

WHEREAS, alternatives are available for handling and disposing of residential yard and garden debris; and

WHEREAS, the Board of Directors considered all verbal testimony submitted at the public hearing held on October 1, 1998, and written testimony submitted prior to October 1, 1998, and determined that the proposal, as modified, was reasonable;

NOW, THEREFORE, BE IT RESOLVED by the SCAPCA that the "No-Burn Area" be defined as follows:

Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24 Township 24N, Range 41E; Sections 34, 35, 36, Township 25N, Range 41E; Sections 1 through 24, Township 24N, Range 42E; Townships 25N, Range 42E; Township 26N, Range 42E; Sections 1 through 24, Township 24N Range 43E; Township 25N, Range 43E; Township 26N, Range 43E; Township 27N, Range 43E; Sections 19 through 36, Township 28N, Range 43E; Sections 1 through 24, Township 24N, Range 44E; Township 25N, Range 44E; Sections 19 through 36, Township 26N, Range 44E; Township 25N, Range 45E; Sections 1 through 4, 9 through 16, 19 through 36, Township 26N, Range 45E; Sections 33 through 36, Township 27N, Range 45E; Sections 6, 7, 18, 19, 30, 31, Township 25N, Range 46E; Sections 6, 7, 18, 19, 30, 31, Township 26N, Range 46E; Section 31, Township 27N, Range 46E.

BE IT FURTHER RESOLVED by the SCAPCA that the effective date of the revised "No-burn Area" is January 1, 1999.

DATED THIS 1st day of October, 1998.

SPOKANE COUNTY AIR POLLUTION
CONTROL AUTHORITY

Attest:

Eric Skelton,
Director

WSR 98-16-066
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 4, 1998, 8:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-125.

Title of Rule: Amendment to chapter 51-40 WAC; repeal Tables 23-II-I-1 and 23-II-I-2, Allowable shear tables.

Purpose: To repeal WAC 51-40-23110, the state amendment to Footnote 3 of each of the above tables, leaving Footnote 3 as published by the International Conference of Building Officials (ICBO) for the 1997 Edition of the Uniform Building Code (UBC).

Statutory Authority for Adoption: RCW 19.27.074, 19.27.031.

Statute Being Implemented: RCW 19.27.074 (1)(a).

Summary: The proposed rule would restore Footnote 3 of Tables 23-II-I-1 and 23-II-I-2 of chapter 51-40 WAC to the published language of ICBO for the 1997 UBC.

Reasons Supporting Proposal: After the adoption of WAC 51-40-23110, ICBO published an errata for Footnote 3 of UBC Tables 23-II-I-1 and 23-II-I-2 which caused the adopted state amendment to Footnote 3 to be incomplete and inaccurate.

Name of Agency Personnel Responsible for Drafting and Implementation: Tim Nogler, P.O. Box 48300, Olympia, WA 98504, (360) 586-0486; and Enforcement: Local jurisdictions.

Name of Proponent: Washington State Building Code Council, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will repeal the language of WAC 51-40-23110, Tables 23-II-I-1 and 23-II-I-2, Footnote 3 as amended by the State Building Code Council, leaving the language for Footnote 3 as published by ICBO for the 1997 UBC Tables

23-II-I-1 and 23-II-I-2. The rule will allow changes contained in an errata from ICBO for Footnote 3 in these two tables to take effect. These changes are needed in the state building code so that structural engineers will have proper guidance from these two allowable shear tables for use in building design.

Proposal Changes the Following Existing Rules: In WAC 51-40-23110, the amendment of Footnote 3 for both Table 23-II-I-1 and Table 23-II-I-2 will be repealed as follows:

~~*In seismic zone 4, where allowable shear values exceed 350 pounds per foot (5.11 N/mm), foundation sill plates and all framing members receiving edge nailing from abutting panels shall not be less than a single 3 inch (76 mm) nominal member. Nails shall be staggered.~~

The original published ICBO language for Footnote 3 will remain, as adopted by reference in WAC 51-40-004: ~~"In Seismic Zones 3 and 4, where allowable shear values exceed 350 pounds per foot (5.11 N/mm), foundation sill plates and all framing members receiving edge nailing from abutting panels shall not be less than a single 3-inch (76 mm) nominal member and foundation sill plates shall not be less than a single 3-inch (76 mm) nominal member. In shear walls where total wall design shear does not exceed 600 pounds per foot (8.76 N/mm), a single 2-inch (51 mm) nominal sill plate may be used, provided anchor bolts are designed for a load capacity of 50 percent or less of the allowable capacity and bolts have a minimum of 2-inch-by-2-inch-by-3/16-inch (51 mm by 51 mm by 5mm) thick plate washers. Plywood joint and sill plate nailing shall be staggered in all cases."~~

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

RCW 34.05.328 does not apply to this rule adoption. The State Building Code Council is not identified by RCW 34.05.328 as an agency required to comply.

Hearing Location: Spokane City Council Chambers, Spokane City Hall, West 808 Spokane Falls Boulevard, on September 18, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Krista Braaksma by September 1, 1998, TDD (360) 753-2200, or (360) 753-5927.

Submit Written Comments to: Mike McEnaney, Chair, P.O. Box 48300, Olympia, WA 98504, fax (360) 586-5880, by August 16, 1998.

Date of Intended Adoption: November 13, 1998.

July 10, 1998

Mike McEnaney
Council Chair

WSR 98-16-066
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 4, 1998, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [98-14-110].

Title of Rule: Chapter 51-11 WAC, Washington State Energy Code.

Purpose: To correct the Section 503.7 amendment to the Washington State Energy Code.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.045, and 19.27.020.

Statute Being Implemented: RCW 19.27A.020, 19.27A.045, and chapter 34.05 RCW.

Summary: The proposed rule amends Section 503.7 of the Energy Code to correct a change that has an unintended consequence of added expense for no real energy savings benefit.

Reasons Supporting Proposal: RCW 19.27A.020, 19.27A.045, and 19.27.020.

Name of Agency Personnel Responsible for Drafting and Implementation: Judith Darst, P.O. Box 48300, Olympia, WA 98504-8300, (360) 586-2251; and Enforcement: Local jurisdictions.

Name of Proponent: State Building Code Council, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the proposed correction in the rules.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule amends chapter 51-11 WAC, the 1997 Washington State Energy Code (WSEC), Section 503.7 Cooling with Outdoor Air (Economizer Cycle). The 1997 WSEC residential economizer requirements has an unintended consequence that would eliminate commonly used mechanical systems, would not always result in an energy savings benefit, and would ultimately result in undue expense. The amendment herein takes into consideration the general welfare of the public by reverting back to the existing residential economizer requirement.

Proposal Changes the Following Existing Rules: **Section 503.7:** The change corrects the residential economizer requirement which has an unintended consequence that would eliminate commonly used mechanical systems, would not always result in an energy savings benefit, and would ultimately result in undue expense. The proposed amendment reverts the code language back to the existing code language in the WSEC (1994 Second Edition).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The council appointed Energy Code Technical Advisory Group (TAG) discussed the code language for Section 503.7. Based on this review, the council found that the change proposed is needed to correct the unintended consequence that would prohibit commonly used mechanical systems, would not always result in an energy savings benefit, and would ultimately result in undue expense. This change will provide clarification of existing rules by reverting back to the current requirement in the WSEC (1994 Second Edition) and relief from potential negative economic impact. Therefore, no small business economic analysis was necessary.

RCW 34.05.328 does not apply to this rule adoption. The council is not listed as one of the agencies required to comply with RCW 34.05.328.

Hearing Location: Spokane City Hall, City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, WA, on Friday, September 18, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Krista Braaksma, (360) 753-5927, by September 1, 1998, TDD (360) 753-2200.

Submit Written Comments to: Mike McEnaney, Chair, State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, fax (360) 586-5880, by September 16, 1998.

Date of Intended Adoption: November 13, 1998.

July 10, 1998

Mike McEnaney
Council Chair

AMENDATORY SECTION (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

WAC 51-11-0503 Building mechanical systems.

503.1 General: This section covers the determination of design requirements, system and component performance, control requirements, insulating systems and duct construction.

EXCEPTIONS: Special applications, including but not limited to hospitals, laboratories, thermally sensitive equipment, and computer rooms may be exempted from the requirements of this section when approved by the building official.

503.2 Calculations of Heating and Cooling Loads, and System Sizing Limits: The design parameters specified in Chapter 3 shall apply for all computations.

503.2.1 Calculation Procedures: Heating and cooling design loads for the purpose of sizing HVAC systems are required and shall be calculated in accordance with accepted engineering practice, including infiltration and ventilation.

503.2.2 Space Heating and Space Cooling System Sizing Limits: Building mechanical systems for all buildings which provide space heating and/or space cooling shall be sized no greater than two hundred percent (200%) of the heating and cooling design loads as calculated above.

EXCEPTIONS: The following limited exemptions from the sizing limit shall be allowed, however, in all cases heating and/or cooling design load calculations shall be submitted.

- For equipment which provides both heating and cooling in one package unit, including heat pumps with electric heating and cooling and gas-pack units with gas heating and electric cooling, compliance need only be demonstrated for either the space heating or space cooling system size.

- Natural gas- or oil-fired space heating equipment whose total rated space heating output in any one dwelling unit is fifty-six thousand Btu/h or less may exceed the two hundred (200%) percent sizing limit provided that the installed equipment has an annual fuel utilization efficiency (AFUE) of not less than the sum of seventy-eight percent plus one percent for every five thousand Btu/h that the space heating

equipment output exceeds the design heating load of the dwelling unit.

3. Stand-by equipment may be installed if controls and other devices are provided which allow redundant equipment to operate only when the primary equipment is not operating.

503.3 Simultaneous Heating and Cooling: Systems and equipment that provide simultaneous heating and cooling shall comply with the requirements in, as appropriate, Section 1422 or Section 1435.

503.4 HVAC Equipment Performance Requirements:

503.4.1 Equipment Components:

503.4.1.1: The requirements of this section apply to equipment and mechanical component performance for heating, ventilating and air-conditioning systems. Equipment efficiency levels are specified. Data furnished by the equipment supplier or certified under a nationally recognized certification program or rating procedure shall be used to satisfy these requirements. Equipment efficiencies shall be based on the standard rating conditions in Tables 5-4, 5-5 or 5-6 as appropriate.

503.4.1.2: Where components from more than one manufacturer are assembled into systems regulated under this section, compliance for each component shall be as specified in sections 503.4.2 through 503.4.6 of this Code.

503.4.2: HVAC System Heating Equipment Heat Pump-heating Mode. Heat pumps whose energy input is entirely electric shall have a coefficient of performance (COP) heating, not less than the values in Table 5-7. Heat Pumps with supplementary backup heat other than electricity shall meet the requirements of Table 5-7.

503.4.2.1: These requirements apply to, but are not limited to, unitary (central) heat pumps (air source and water source) in the heating mode, water source (hydronic) heat pumps as used in multiple-unit hydronic HVAC systems, and heat pumps in the packaged terminal air-conditioner in the heating mode.

503.4.2.3 Supplementary Heater: The heat pump shall be installed with a control to prevent supplementary backup heater operation when the operating load can be met by the heat pump compression cycle alone.

503.4.2.4 Heat Pump Controls: Requirements for heat pump controls are listed in section 503.8.3.5 of this Code.

503.4.3 HVAC System Combustion Equipment: For Group R Occupancy, all gas, oil, and propane central heating systems shall have a minimum AFUE of 0.78*. All other Group R Occupancy heating equipment fueled by gas, oil, or propane shall be equipped with an intermittent ignition device, or shall comply with the efficiencies as required in the 1987 National Appliances Energy Conservation Act (Public Law 100-12).

* HVAC Heating system efficiency trade-offs shall be made using Chapters 4 or 6 of this Code.

503.4.4 Packaged and Unitary HVAC System Equipment, Electrically Operated, Cooling Mode: HVAC system equipment as listed below, whose energy input in the cooling mode is entirely electric, shall have an energy efficiency ratio (EER) or a seasonal energy efficiency ratio (SEER) cooling not less than values in Table 5-8.

503.4.4.1: These requirements apply to, but are not limited to, unitary (central) and packaged terminal heat pumps (air source and water source); packaged terminal air conditioners.

503.4.5 Other HVAC Equipment: HVAC equipment, other than that addressed in Sections 503.4.2 through 503.4.4, shall have a minimum performance at the specified rating conditions not less than the values shown in Tables 14-1 through 14-3.

503.5 Reserved.

503.6 Balancing: The HVAC system design shall provide a means for balancing air and water systems. Balancing the system shall include, but not be limited to, dampers, temperature and pressure test connections and balancing valves.

503.7 Cooling with Outdoor Air (Economizer Cycle): ~~((Systems and equipment that provide mechanical cooling shall comply with Section 1413 and, as appropriate, Section 1423 or Section 1433.)) Each fan system shall be designed to use up to and including 100% of the fan system capacity for cooling with outdoor air automatically whenever its use will result in lower usage of new energy. Activation of economizer cycle shall be controlled by sensing outdoor air enthalpy or outdoor air dry-bulb temperature alone or alternate means approved by the building official.~~

EXCEPTIONS: Cooling with outdoor air is not required under any one or more of the following conditions:

1. The fan system capacity is less than 3,500 cfm or total cooling capacity is less than 90,000 Btu/h.
2. The quality of the outdoor air is so poor as to require extensive treatment of the air and approval by the building official.
3. The need for humidification or dehumidification requires the use of more energy than is conserved by the outdoor air cooling on an annual basis.
4. The use of outdoor air cooling may affect the operation of other systems so as to increase the overall energy consumption of the building.
5. When energy recovered from an internal/external zone heat recovery system exceeds the energy conserved by outdoor air cooling on an annual basis.
6. When all space cooling is accomplished by a circulating liquid which transfers space heat directly or indirectly to a heat rejection device such as a cooling tower without use of a refrigeration system.
7. When the use of 100% outside air will cause coil frosting, controls may be added to reduce the quantity of outside air. However, the intent of this exception is to use 100% air in lieu of mechanical cooling when less energy usage will result and this exception applies only to direct expansion systems when the compressor is running.

503.8 Controls:

PROPOSED

503.8.1 Temperature Control: Each system shall be provided with at least one adjustable thermostat for the regulation of temperature. Each thermostat shall be capable of being set by adjustment or selection of sensors as follows:

503.8.1.1: When used to control heating only: Fifty-five degrees to seventy-five degrees F.

503.8.1.2: When used to control cooling only: Seventy degrees to eighty-five degrees F.

503.8.1.3: When used to control both heating and cooling, it shall be capable of being set from fifty-five degrees to eighty-five degrees F and shall be capable of operating the system heating and cooling in sequence. The thermostat and/or control system shall have an adjustable deadband of not less than ten degrees F.

503.8.2 Humidity Control: If a system is equipped with a means for adding moisture to maintain specific selected relative humidities in space or zones, a humidistat shall be provided. Humidistats shall be capable of being set to prevent new energy from being used to produce space-relative humidity above thirty percent.

EXCEPTION: Special uses requiring different relative humidities may be permitted when approved by the building official.

503.8.3 Zoning for Temperature Control:

503.8.3.1 One- and Two-Family Dwellings: At least one thermostat for regulation of space temperature shall be provided for each separate system. In addition, a readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each zone or floor.

503.8.3.2 Multifamily Dwellings: For multifamily dwellings, each individual dwelling unit shall have at least one thermostat for regulation of space temperature. A readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each room. Spaces other than living units shall meet the requirements of 503.8.3.3.

503.8.3.3 Reserved.

503.8.3.4 Control Setback and Shut-off:

Residential Occupancy Groups. One- and Two-Family and Multifamily dwellings—The thermostat required in section 503.8.3.1 or section 503.8.3.2, or an alternate means such as a switch or clock, shall provide a readily accessible, manual or automatic means for reducing the energy required for heating and cooling during the periods of non-use or reduced need, such as, but not limited to unoccupied periods and sleeping hours. Lowering thermostat set points to reduce energy consumption of heating systems shall not cause energy to be expended to reach the reduced setting.

503.8.3.5 Heat Pump Controls: Programmable thermostats are required for all heat pump systems. The cut-on temperature for the compression heating shall be higher than the cut-on temperature for the supplementary heat, and the cut-off temperature for the compression heating shall be higher

than the cut-off temperature for the supplementary heat. Heat pump thermostats will be capable of providing at least two programmable setback periods per day. The automatic setback thermostat shall have the capability of limiting the use of supplemental heat during the warm-up period.

503.9 Air Handling Duct System Insulation: Ducts, plenums and enclosures installed in or on buildings shall be thermally insulated per Table 5-11.

EXCEPTIONS: Duct insulation (except where required to prevent condensation) is not required in any of the following cases:

1. When the heat gain or loss of the ducts, without insulation, will not increase the energy requirements of the building.
2. Within the HVAC equipment.
3. Exhaust air ducts.
4. Supply or return air ducts installed in unvented crawl spaces with insulated walls, basements, or cellars in one-and two-family dwellings.

503.10 Duct Construction: All duct work shall be constructed in accordance with Standards RS-15, RS-16, RS-17, RS-18, RS-19 or RS-20, as applicable, and the Uniform Mechanical Code.

503.10.1: High-pressure and medium-pressure ducts shall be leak tested in accordance with the applicable standards in Chapter 7 of this Code with the rate of air leakage not to exceed the maximum rate specified in that standard.

503.10.2: When low-pressure supply air ducts are located outside of the conditioned space, all HVAC ductwork seams and joints, both longitudinal and transverse, shall be taped and sealed with products approved by the building official only. Ductwork joints shall be mechanically fastened with a minimum of three fasteners per joint for a cylindrical duct. Use Table 5-11 for duct insulation requirements.

503.10.3: Requirements for Automatic or manual dampers are found in the Washington State Ventilation and Indoor Air Quality Code.

503.11 Piping Insulation: All piping installed to serve buildings (and within) shall be thermally insulated in accordance with Table 5-12. For service hot water systems see section 504.7. If water pipes are outside of conditioned space then the pipe insulation requirement shall be R-3 minimum for nonrecirculating hot and cold water pipes. For recirculating service hot and cold water pipes use Table 5-12 for pipe sizes and temperatures.

EXCEPTION: Piping insulation is not required within unitary HVAC equipment.

**WSR 98-16-075
PROPOSED RULES
DEPARTMENT OF LICENSING**
[Filed August 4, 1998, 3:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-03-027.

Title of Rule: Vessel registration and certificate of title.

Purpose: To meet the criteria set forth in Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 88.02.070 and 88.02.100.

Summary: Repealing WAC 308-93-110 Vessels previously registered or titled in another state, 308-93-120 Transfer of certificate of title or registration, 308-93-180 Time of renewal of registration—Duration, 308-93-190 Prerequisite to issuance of vessel, 308-93-210 Procedure when department unsatisfied as to ownership, 308-93-215 Validity of certificate of registration and 308-93-290 Transfer of ownership—How perfected; and amending WAC 308-93-200 Assigned certificate of title to be filed by department—Transfer of interest in vessel, 308-93-220 Director may refuse or cancel certification, 308-93-230 Procedure for perfecting security interest, and 308-93-295 Temporary permits to operate vessels.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street Southeast, Olympia, 902-3718; Implementation: Eric Andersen, 1125 Washington Street Southeast, Olympia, 902-4045; and Enforcement: Nancy S. Kelly, 1125 Washington Street Southeast, Olympia, 902-3754.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above-mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030(1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street Southeast, Olympia, WA 98507, on September 8, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by September 7, 1998, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by September 7, 1998.

Date of Intended Adoption: October 3, 1998.

August 4, 1998

Nancy S. Kelly, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-200 ((Assigned)) Certificate of ((title to be filed by department))—Involuntary transfer of interest in vessel. ((Certificates of title when assigned and returned to the department, together with subsequently assigned reissues thereof, shall be retained by the department and appropriately filed and indexed so that at all times it will be possible to trace ownership to the vessel designated therein.))

(1) If the interest of an owner in a vessel passes to another, other than by voluntary transfer, the transferee shall, except as provided in subsection (3) of this section, promptly mail or deliver to the department the last certificate of title if available, and an application for a new certificate in the form the department prescribes.

(2) If the interest of the owner is terminated or the vessel is sold under a security agreement by a secured party named in the certificate of title, the transferee shall promptly mail or deliver to the department the last certificate of title, an application for a new certificate in the form the department prescribes, and an affidavit made by or on behalf of the secured party that the vessel was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement.

(3) If the secured party succeeds to the interest of the owner and holds the vessel for resale, the secured party need not secure a new certificate of title, but, upon transfer to another person, shall promptly mail or deliver to the transferee or to the department the certificate, affidavit and other documents (and articles) required to be sent to the department by the transferee.)) **Who is required to make application for certificate of ownership if ownership is transferred involuntarily?**

The transferee is required to apply for a certificate of ownership within fifteen days of possession. The entity that commences the involuntary transfer of ownership is not required to apply for certificate of ownership prior to disposing of the vessel.

AMENDATORY SECTION (Amending Order 736-DOL, filed 11/18/83)

WAC 308-93-220 ((Director)) Department may refuse or cancel certificate. ((If the director determines at any time that an applicant for certificate of title or for a registration for a vessel is not entitled thereto, the director may refuse to issue such certificate or to register the vessel and the director may, for like reason, after notice, and in the exercise of discretion, cancel the registration already acquired or any outstanding certificate of title. The notice shall be served personally or sent by certified mail, return receipt requested.)) **When can the department refuse or cancel certificate of ownership or certificate of registration?**

If the department determines at any time that an applicant for certificate of ownership or for a certificate of registration for a vessel is not entitled to certificate of ownership thereto, the department may refuse to issue such certificate or to register the vessel and may, for like reason, after notice, and in the exercise of discretion, cancel the certificate of reg-

istration already acquired or any outstanding certificate of ownership. Notice of cancellation may be accomplished by sending a notice by first class mail using the last known address in department records for the registered or legal vessel owner or owners, and recording the transmittal on an affidavit of first class mail. It shall then be unlawful for any person to remove or operate the vessel until a proper certificate of ownership or certificate of registration has been issued, and any person removing or operating such vessel after the refusal of the department to issue certificates or the revocation thereof shall be guilty of a gross misdemeanor.

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

WAC 308-93-230 Procedure for perfecting security interest. ((A security interest in a vessel other than one held as inventory by a vessel manufacturer or dealer and for which a certificate of ownership is required is perfected only by compliance with the requirements of RCW 46.12.095 as provided for vehicles. The registered owner or secured party shall present an application to the department, to which shall be attached the certificate of ownership last issued covering the vessel, or such other documentation as may be required by the department upon a form provided by the department which shall be accompanied by a fee of one dollar. The department, if satisfied with the application and documentation shall note such change upon the vessel records and issue to the secured party a certificate of ownership.

Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must assign the certificate of ownership to the debtor and transmit the certificate to the department with an accompanying fee of one dollar. The department shall then issue a new certificate of ownership to the owner.)) (1) **How is the security interest in a vessel perfected?**

A security interest in a vessel for which a certificate of ownership is required is perfected only by compliance with the requirements of RCW 46.12.095 as provided for vehicles and WAC 308-93-069 and 308-93-070 as provided for vessels.

(2) **What is the application fee for adding, deleting or changing a secured party?**

The application fee is one dollar and the appropriate filing fee.

(3) **What is the secured party's obligation when the lien has been satisfied?**

The secured party shall comply with RCW 46.12.170 as provided for vehicles, except the application fee is one dollar, and WAC 308-93-069 and 308-93-070 as provided for vessels.

(4) **What is the secured party's obligation when the lien has been satisfied due to the sale of the vessel?**

The secured party shall comply with RCW 46.12.101 as provided for vehicles and WAC 308-93-069 and 308-93-070 as provided for vessels.

AMENDATORY SECTION (Amending WSR 92-06-009, filed 2/24/92, effective 3/26/92)

WAC 308-93-295 Dealer temporary permits to operate vessels. ((A vessel dealer who holds a proper and valid vessel dealer license issued pursuant to chapter 88.02 RCW may issue, under the following circumstances and procedures, temporary permits to operate vessels:

(1) The vessel has been sold and does not bear a currently valid Washington decal.

(2) The dealer shall fill out the title portion of the permit, detailing all owners and all fees collected, including the dealer's report of sale and date of sale. All registered owners must sign the application.

(3) The dealer shall detach the cardboard copy of the permit and record the date of expiration in dark permanent ink, with bold letters and numbers, on the permit side of that copy. The balance of the copies shall be presented to a license agent by the vessel dealer within thirty calendar days as an application for registration and title.

(4) The cardboard copy of the permit and a purchase order identifying the sale must be carried in the vessel and be readily available upon request.

(5) The dealer must collect title and registration fees required for a June expiration.

(6) The temporary license permit issued by a dealer is valid for thirty calendar days from the date of delivery of the vessel. No more than one thirty day permit may be issued for a vessel after sale.

(7) A dealer may not use a temporary license permit for a dealer or dealer employee operated vessel, or as a demonstration permit.

(8) Fees paid by a dealer for temporary license permit applications are not refundable unless the dealer ceases doing business as a vessel dealer. The fee paid for a single application may be taken as a credit on that application when it is presented to a license agent with the balance of the appropriate fees.

((9) Temporary permits are not transferable from one vessel dealer to another.)) (1) **If I acquire a new or used vessel from a Washington vessel dealer licensed under chapter 88.02 RCW, what documents do I need to place or use the vessel on the water?**

(a) If the vessel has current Washington registration displayed, the vessel may be placed or used on the waters immediately, provided the sale documents are carried on the vessel.

(b) If the vessel does not have current Washington registration displayed, the dealer may issue a thirty-day temporary permit, allowing the vessel to be placed or used on the water. In addition to the permit the sale documents shall be carried on the vessel and made available upon request.

(2) **How long does the dealer have to provide me with a new vessel registration?**

The dealer must provide you with your new registration within thirty days from the date of purchase. Only one vessel dealer temporary permit may be used.

(3) **How does a vessel dealer licensed under chapter 88.02 RCW complete a vessel temporary permit?**

A vessel dealer completes a temporary permit as follows:

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[Filed August 5, 1998, 8:14 a.m.]

(a) Fill out the certificate of ownership portion of the permit, detailing all owners and all fees collected, including the dealer's report of sale and date of sale. All registered owners must sign the application.

(b) Detach the cardboard copy of the permit and record the date of expiration in dark permanent ink, with bold letters and numbers, on the permit side of that copy. Present the balance of the copies to a license agent within thirty calendar days as an application for registration and certificate of ownership. The dealer will receive a five-dollar credit for a properly issued permit.

(c) Advise customer to:

(i) Display the cardboard copy of the permit on the vessel;

(ii) Carry the purchase order identifying the sale on the vessel; and

(iii) Make the permit and purchase order readily available upon request.

(d) Collect certificate of ownership and registration fees required for a June expiration.

(4) Can a vessel dealer licensed under chapter 88.02 RCW, use a dealer temporary permit to operate a vessel?

No. The permit may only be used by the purchaser of the vessel. A dealer may not use the permit to operate or demonstrate a vessel.

(5) Under what conditions may a dealer turn in the permits and be eligible for a refund?

Refunds are only allowed when the dealer ceases doing business as a vessel dealer.

(6) May a dealer transfer unused temporary vessel permits to another vessel dealer licensed under chapter 88.02 RCW?

Temporary permits are not transferable from one vessel dealer to another, unless the department specifically authorizes the transfer.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-93-110	Vessels previously registered or titled in another state.
WAC 308-93-120	Transfer of certificate of title or registration.
WAC 308-93-180	Time of renewal of registration—Duration.
WAC 308-93-190	Prerequisite to issuance of vessel registration and decals.
WAC 308-93-210	Procedure when department unsatisfied as to ownership.
WAC 308-93-215	Validity of certificate of registration.
WAC 308-93-290	Transfer of ownership, how perfected.

WSR 98-16-078**PROPOSED RULES****LOTTERY COMMISSION**

[Filed August 5, 1998, 8:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-033.

Title of Rule: Chapters 315-04 and 315-30 WAC, retailer licensing.

Purpose: To provide for credit checks for retailers applying for instant ticket licenses; to revise the provisions regarding retailer credit; to move the retailer credit provision in chapter 315-30 WAC, General rules to chapter 315-04 WAC, Licensing rules; to provide for reporting retailer credit history to credit bureaus.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-04-095 will provide for credit checks for retailers who apply for instant ticket licenses. Currently, only retailers applying for on-line license endorsements undergo credit checks. The new section will improve the lottery's ability to weigh any risk in providing instant ticket inventory to new retailers. Credit reporting, provided for in the new section WAC 315-04-105, will improve the lottery's ability to require retailers to meet their financial obligations to the lottery. Adding "or cash in lieu of a bond" in WAC 315-04-090 and 315-04-130 will permit retailers to post either cash or a bond when so required by the director.

Proposal Changes the Following Existing Rules: As noted above, the lottery will now require credit checks for applicants for instant ticket licenses, in addition to the current requirement for credit checks for applications for an on-line license endorsement. In addition, the lottery may now report retailers' credit information to credit bureaus. Finally, the addition of "or cash in lieu of a bond" permits more flexibility when the director requires the posting of a bond.

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

tice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: DoubleTree Hotel, Spokane, Washington, on September 18, 1998, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by September 17, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by September 17, 1998.

Date of Intended Adoption: September 18, 1998.

August 4, 1998

Mary Jane Ferguson
Rules Coordinator

AMENDATORY SECTION (Amending Order 116, filed 4/10/89)

WAC 315-30-080 On-line retailer selection criteria.

(1) The selection and distribution of on-line retailers throughout the state will be based on:

(a) The number of licensed retailers in each of the regions identified in WAC 315-12-030, and then;

(b) The potential for revenue generation, demographics, and public accessibility within that region.

(2) An on-line license endorsement shall be issued only to a person who possesses a valid general license, provided, the director may issue an on-line endorsement to a lottery retailer who possesses a valid provisional license if that retailer is a new owner of a previously established on-line location.

(3) In addition, the director shall consider the following factors in the selection of on-line retailers.

(a) Business and security considerations which include but are not limited to: (i) Instant game accounts receivable record, (ii) criminal history of owners and officers, (iii) history of criminal activity at the business establishment, (iv) past security problems, (v) credit rating as defined in WAC ((315-30-090)) 315-04-095, (vi) licensing requirements, and (vii) history of administrative or regulatory actions.

(b) Marketing considerations which include but are not limited to: (i) Instant ticket sales history, (ii) outside vehicle traffic, (iii) retail customer count, (iv) access to location, and (v) management attitude and willingness to promote lottery products.

(4) The director shall determine the total number of TDM's to be installed throughout the state and shall establish procedures for on-line site selection. In determining the order in which TDMs will be installed within a given geographic area((~~12~~)), an on-line site selection survey will be completed in which, the factors considered will include but not be limited to:

- (a) General information;
- (b) Description of proposed site;
- (c) Proposed TDM location;
- (d) Products sold;
- (e) Services available;

- (f) Store's hours;
- (g) Estimated on-line sales;
- (h) Instant sales per week;
- (i) Nearest four on-line agents' sales per week;
- (j) District sales representative's assessment; and
- (k) Regional sales manager's assessment.

(5) The director may, after a TDM has been in operation for six months, order the removal of a TDM from a low producing on-line retailer location after considering marketing factors which include but are not limited to:

- (a) Sales volume not increasing at state-wide average;
- (b) Weekly sales volume below that of similar businesses with similar market potential;
- (c) Sales volume below \$5,000 per week in metropolitan areas;
- (d) Public is adequately served by other on-line agent locations; and
- (e) Failure to generate sufficient sales volume to cover the lottery's administrative costs.

(6) The director may immediately discontinue a TDM's operation, order removal of a TDM from an on-line retailer location, or take any other action authorized under WAC 315-04-200 in the event that the on-line agent:

- (a) Fails to comply with any rule established by the commission, any instruction issued by the director;
- (b) Tampers with or attempts to tamper with the TDM or on-line system;
- (c) Fails to make payment of a prize;
- (d) Makes payment with a business check and the check is dishonored for any reason; or
- (e) Fails to enter into the uniform agreement with the lottery as required in WAC 315-30-075.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 315-30-090

On-line retailer credit criteria.

AMENDATORY SECTION (Amending Order 101, filed 5/4/87)

WAC 315-04-090 License issuance eligibility. (1) The director may issue a license to any person to act as a lottery retailer who meets the eligibility criteria established by chapter 7, Laws of 1982 2nd ex. sess., and these rules.

(2) Before issuing a license, the director shall consider:

(a) The financial responsibility and security of the person and its business or activity;

(b) The background and reputation of the applicant in the community for honesty and integrity;

(c) The type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people and the operation and integrity of the lottery;

(d) The conformance of businesses located in residential areas to local land use and zoning codes, regulations, and ordinances;

- (e) The accessibility of the applicant's place of business or activity to the public;
 - (f) The sufficiency of existing licenses to serve the public convenience;
 - (g) The volume of expected sales;
 - (h) The veracity of the information supplied in the application for a lottery retailer license; and
 - (i) The applicant's indebtedness to the state of Washington, local subdivisions of the state and/or the United States government.
- (3) The director may condition the issuance of any license upon the posting of a bond or cash in lieu of a bond in such terms and conditions as the director may require.

(4) The director shall establish procedures to assure that approval of the appropriate local governmental unit is obtained prior to issuance of a license to a business located in a residential area which is a nonconforming use under local land use and zoning codes, regulations, and ordinances.

NEW SECTION

WAC 315-04-095 Retailer credit criteria. (1) The director shall deny an instant scratch ticket license or an on-line license endorsement to any applicant whose credit is found to be poor.

(2) The director may grant an instant scratch ticket license or an on-line license endorsement to an applicant whose credit is rated as marginal or minimum as defined in this section. Provided, the director shall require:

(a) Applicants whose credit is rated as marginal as defined in this section to obtain a surety bond or savings certificate under terms and conditions established by the director prior to issuance of the license. Such surety bond must be secured from a company licensed to do business in the state of Washington. The bond or certificate shall be in the amount of seven thousand five hundred dollars unless the director determines a higher amount is required.

(b) Applicants whose credit is rated as minimum as defined in this section to obtain a surety bond or post cash in lieu of a bond under terms and conditions established by the director or submit five letters of credit to the lottery prior to issuance of the on-line license endorsement. Such surety bond must be secured from a company licensed to do business in the state of Washington. The bond or cash shall be in the amount of seven thousand five hundred dollars unless the director determines a higher amount is required, based on sales volume and financial solvency of the retailer.

(3) In the event the retailer's credit is rated as poor or marginal subsequent to the issuance of the license the director may:

- (a) Revoke or suspend a retailer's license; and/or
- (b) Require such a retailer to secure a surety bond from a company licensed to do business in the state of Washington or post a savings certificate under terms and conditions established by the director. The surety bond or saving certificate shall be in the amount of seven thousand five hundred dollars unless the director determines, based on sales volume and financial solvency of the retailer, a higher amount is required.

(4) Credit rating is defined as the ability to meet financial obligations when they become due. It includes current

reporting accounts payable and public financial record information including, but not limited to, court records, other public records and reports from credit bureaus or other credit reporting agencies up to three years prior to the lottery's credit check request. A significant incident shall be defined as public financial record information which includes any lien, judgment, bankruptcy, involuntary collection action or any similar incident which reflects on the individual's willingness and ability to pay creditors. A numerical rating of "one" represents excellent credit. A numerical rating of "nine" represents involuntary collection.

(a) A "poor" credit rating indicates public record showing three or more significant incidents within the past three years.

(b) A "marginal" credit rating indicates public record information showing one or more significant incidents within the past three years.

(c) A "minimum" credit rating indicates the information is insufficient for evaluation.

(d) An "acceptable" credit rating indicates that there have been no significant incidents in the public record within the past three years. Provided, at least three accounts must be evaluated in order to receive an "acceptable" rating.

(5) Credit rating checks shall be conducted as follows:

(a) Corporation business credit ratings shall be checked. Personal credit ratings of the corporate officers and owners of ten percent or more equity in the corporation may also be checked.

(b) Sole proprietors and partnership business credit ratings shall be checked. Personal credit ratings of:

(i) The sole proprietor and his or her spouse; or

(ii) All partners and their spouses shall also be checked.

(c) Findings shall be applied in accordance with subsections (1), (2) and (3) of this section.

NEW SECTION

WAC 315-04-105 Reporting retailer credit history. The lottery may report any part of a retailer's credit information to a credit bureau or agency which is a clearinghouse for information regarding credit history.

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-04-130 Death or incapacity of licensee. (1) In the event of the proven incapacity, death, receivership, bankruptcy or assignment for benefit of creditors of any lottery retailer, upon approval of the director, the license may be transferred to a court appointed or court confirmed guardian, executor or administrator, receiver, trustee, or assignee for the benefit of creditors, who may continue to operate the activity under the license, subject to the provisions of chapter 7, Laws of 1982 2nd ex. sess. and these rules.

(2) The person to whom a license is transferred hereunder must be otherwise qualified to hold a license.

(3) The license following transfer shall be void upon that person ceasing to hold such a court appointed or court confirmed position.

PROPOSED

(4) The director may condition the transfer of any license under this section upon the posting of a bond or cash in lieu of a bond in such terms and conditions as the director may require.

WSR 98-16-079
PROPOSED RULES
BOARD OF BOILER RULES

[Filed August 5, 1998, 8:31 a.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 98-09-065.

Title of Rule: Chapter 296-104 WAC.

Purpose: To comply with actions taken by the Board of Boiler Rules and to update current rules using clear rule writing.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040.

Statute Being Implemented: Duties of board - make definitions, rules and regulations; Boiler Construction Code; Rules and Regulations - Scope.

Summary: WAC 296-104-010 Definitions, adds definition of "hot water heater."

WAC 296-104-017 Administration, replaces WAC 296-104-600. Clear rule writing.

WAC 296-104-100 Inspection, clarifies types of vessels and frequency of inspection, adopts TAPPI TIS 0402-16, allows owner/users latitude for internal inspections. Clear rule writing.

WAC 296-104-102 Inspection, clarifies requirements and wording. Adds use of TAPPI TIS 0402-16. Clear rule writing.

WAC 296-104-180 Inspection, replaces WAC 296-104-800. Clarifies inspection for radioactive systems. Clear rule writing.

WAC 296-104-200 Construction, adopts 1998 ASME codes. Accepts boilers and unfired pressure vessels built to other national or international codes and standards if registered with the national board. Clear rule writing.

WAC 296-104-265 Installation, clarifies requirements for control and limit devices for boilers. Clear rule writing.

WAC 296-104-307 Installation, new section. Defines safety device requirements on boilers and pressure vessels. Clear rule writing.

WAC 296-104-310 Installation, further defines where discharge from safety valves, blow offs and drains be directed. Clear rule writing.

WAC 296-104-405 Existing installation, defines MAWP formula for miniature hobby boilers.

WAC 296-104-502 Repairs, clarifies requirements for repairs and alterations for nonnuclear boilers and pressure vessels.

WAC 296-104-510 Repairs, clarifies "prior approval" for riveted patches.

WAC 296-104-515 Repairs, clarifies repair requirements of nonnuclear safety devices. Clear rule writing.

WAC 296-104-520 Repairs, clarifies actions and repairs allowed when a lap seam crack is discovered along a riveted longitudinal joint. Clear rule writing.

WAC 296-104-530 Repairs, clarifies pressure limits for air or vapor testing.

WAC 296-104-535 Repairs, new section. Replaces WAC 296-104-801. Clarifies requirements for nuclear repairs/replacement. Clear rule writing.

WAC 296-104-540 Repairs, new section. Replaces WAC 296-104-805. Clarifies requirements for nuclear repairs of safety devices.

Sections Repealed or Replaced with New wACs: WAC 296-104-525, 296-104-600, 296-104-800, 296-104-801, and 296-104-805.

Reasons Supporting Proposal: To comply with actions taken by the Board of Boiler Rules to clarify wording, make existing WACs consistent with nationally accepted codes and standards and to respond to industry requests and public safety factors.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, 7273 Linderson Way S.W., Tumwater, (360) 902-5270; and Implementation: Dick Barkdoll, 7273 Linderson Way S.W., Tumwater, (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-010 Definitions, adds definition of "hot water heater."

WAC 296-104-017 Administration, replaces WAC 296-104-600. Clear rule writing.

WAC 296-104-100 Inspection, clarifies types of vessels and frequency of inspection, adopts TAPPI TIS 0402-16 for pulp and paper roll dryers, allows owner/users latitude for internal inspections. Clear rule writing.

WAC 296-104-102 Inspection, clarifies requirements and wording. Adds use of TAPPI TIS 0402-16 for pulp and paper roll dryers. Clear rule writing.

WAC 296-104-180 Inspection, replaces WAC 296-104-800. Clarifies inspection for radioactive systems. Clear rule writing.

WAC 296-104-200 Construction, adopts 1998 ASME codes. Accepts boilers and unfired pressure vessels built to other national or international codes and standards if registered with the national board. This allows installation in state of vessels built to codes other than ASME giving businesses the possibility of cost savings. Clear rule writing.

WAC 296-104-265 Installation, clarifies requirements for boiler control and limit devices. Clear rule writing.

WAC 296-104-307 Installation, new section. Defines safety device requirements on boilers and pressure vessels. Clear rule writing.

WAC 296-104-310 Installation, further defines where discharge from safety valves, blow offs and drains be directed. Clear rule writing.

WAC 296-104-405 Existing installation, defines MAWP formula for miniature hobby boilers. Clear rule writing.

WAC 296-104-502 Repairs, clarifies requirements for repairs and alterations for nonnuclear boilers and pressure vessels.

WAC 296-104-510 Repairs, clarifies "prior approval" for riveted patches. Clear rule writing.

WAC 296-104-515 Repairs, clarifies repair requirements of nonnuclear safety devices. Clear rule writing.

WAC 296-104-520 Repairs, clarifies actions and repairs allowed when a lap seam crack is discovered along a riveted longitudinal joint. Clear rule writing.

WAC 296-104-530 Repairs, clarifies pressure limits for air or vapor testing.

WAC 296-104-535 Repairs, new section. Replaces WAC 296-104-801. Clarifies requirements for nuclear repairs/replacement. Clear rule writing.

WAC 296-104-540 Repairs, new section. Replaces WAC 296-104-805. Clarifies requirements for nuclear repairs of safety devices. Clear rule writing.

Sections Repealed or Replaced with New WACs: WAC 296-104-525, 296-104-600, 296-104-800, 296-104-801, and 296-104-805.

Proposal Changes the Following Existing Rules: See Summary and Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules and the department have considered whether these rules are subject to the Regulatory Fairness Act and have determined that they are not for the following reasons: The changes made in the attached are for clarification of existing rules of chapter 296-104 WAC and consistency with national codes and standards. Clear rule writing was used in the clarifying and those rules covered elsewhere were deleted. No fees were increased.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 exempts the Board of Boiler Rules from the significant rules requirements and although the criteria does not apply, the board chooses to apply the criteria.

Hearing Location: Labor and Industries, 7273 Linderson Way S.W., Tumwater, on September 15, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by September 14, 1998, (360) 902-5270.

Submit Written Comments to: Dick Barkdoll, Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, WA 98504-4410, fax (360) 902-5272, by September 14, 1998.

Date of Intended Adoption: September 30, 1998.

August 5, 1998

Daryl A. Hoffman

Chairman

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

WAC 296-104-010 Definitions. "Agriculture purposes" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"API-510" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and

revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"ASME Code" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Attendant" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"Automatic operation of a boiler" shall mean unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"Board of boiler rules" shall mean the board created by law and empowered under RCW 70.79.010.

"Certificate of competency" shall mean a certificate issued by the state board of boiler rules to a person who has passed an examination prescribed by the board of boiler rules.

"Chief inspector" shall mean the inspector appointed under RCW 70.79.100.

"Commission" shall mean an annual state commission/commission card issued to a person in the employ of the state, an insurance company or a company owner/user inspection agency holding a certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

"Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.

"Department" as used herein shall mean the department of labor and industries of the state of Washington.

"Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.

"Director" shall mean the director of the department of labor and industries.

"Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

"Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

"Hot water heater" shall mean a closed vessel designed to supply hot water for external use to the system. All vessels must be listed by a nationally recognized testing agency and shall not exceed any of the following limits:

- (a) Pressure of 160 psi (1100 kpa);
- (b) Temperature of 210 degrees F (99 C);
- (c) Capacity of 120 U.S. gallon (454 liters);
- (d) Input of 200.000 BTU/hr (58.58 kw).

PROPOSED

Each vessel shall be protected with an approved temperature and pressure safety relief valve.

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

"Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels 36" inside diameter and under, shall constitute an internal inspection.

"Low pressure heating boiler" shall mean a steam or vapor boiler operating at a pressure not exceeding 15 psig or a boiler in which water or other fluid is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy including lined potable water heaters.

"Nationwide engineering standard" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"NBIC" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.

"Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"Owner/user inspection agency" shall mean an owner or user of pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"Place of public assembly" or "assembly hall" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

"Power boiler" shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water or other fluid is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.

"Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.

"Rental boiler" shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.

"Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.

"Special design" shall mean a design using nationwide engineering standards other than the codes adopted in WAC 296-104-200 or other than allowed in WAC 296-104-230.

"Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.

"Unfired pressure vessel" shall mean a closed vessel under pressure excluding:

(a) Fired process tubular heaters;

(b) Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;

(c) Piping whose primary function is to transport fluids from one location to another;

(d) Those vessels defined as low pressure heating boilers or power boilers.

"Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

NEW SECTION

WAC 296-104-017 Administration—How are rules affected if other rules are invalidated? Should any section, subsection, sentence, clause, phrase, provision or exemption of these rules be declared unconstitutional or invalid for any reason, such invalidity shall not affect the remaining portion or provisions hereof.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

WAC 296-104-100. Inspection—((Frequency of inspections.)) How often must boilers and unfired pressure vessels be inspected? ((Power boilers shall be inspected annually both internally and externally while not under pressure, and annually externally while under pressure, except organic vapor boilers which shall be internally inspected biennially and externally annually.))

Low pressure heating boilers shall be inspected externally biennially. They shall in addition be inspected internally biennially except where construction does not permit an internal inspection or those nonvapor boilers using glycol, oil, or adequately treated with a corrosion inhibitor. In addition to the required external inspection, low pressure steam boilers shall, as a minimum, have a biennial internal inspection of their low water fuel cutoff.

Unfired pressure vessels shall be inspected externally biennially. Where subject to corrosion and construction per-

~~mits they shall in addition be inspected internally biennially or at intervals established in accordance with the NBIC or API-510 when utilized by an owner/user inspection agency.~~

~~When internal intervals are extended by an owner/user inspection agency, based on the NBIC or API-510, ultrasonic examination is required at the biennial external certificate inspection.~~

~~Unfired pressure vessels not subject to internal corrosion shall be inspected externally biennially.) (1) Power boilers shall be inspected:~~

~~(a) Internally and externally while not under pressure - Annually.~~

~~(b) Externally while under pressure - Annually.~~

~~(2) Organic vapor boilers shall be inspected:~~

~~(a) Internally and externally while not under pressure - Biennially.~~

~~(b) Externally while under pressure - Annually.~~

~~(3) Low pressure heating boilers shall be inspected:~~

~~(a) Internally while not under pressure (except where construction does not permit an internal) - Biennially.~~

~~(b) Internal, all steam heating boilers will have as a minimum, an internal of their low water fuel cutoff - Biennially.~~

~~(c) Externally while under pressure - Biennially.~~

~~(4) Hot water heaters shall be inspected as unfired pressure vessels with no internal required.~~

~~(5) Nonvapor boilers using glycol, oil or adequately treated with a corrosion inhibitor shall be inspected: Externally while under pressure - Biennially.~~

~~(6) Unfired pressure vessels shall be inspected:~~

~~(a) Externally - Biennially.~~

~~(b) Internally:~~

~~(i) When subject to corrosion and construction permits - Biennially; or~~

~~(ii) Vessels in an owner/user inspection program may follow intervals established by the NBC or API-510 provided NDE is performed at the biennial external; or~~

~~(iii) Pulp or paper dryer rolls may be inspected on a five-year basis in accordance with TAPPI TIS 0402-16 provided the owner has established a written inspection program accepted by the inspector that includes the minimums in section 8, which are requirements; or~~

~~(iv) Vessels not subject to corrosion do not require an internal.~~

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

WAC 296-104-102 Inspection—What are the standards for in-service inspection((r))? (1) Where a conflict exists between the requirements of the following standards listed below and this chapter, this chapter shall prevail.

(2) The standard for ((nonnuclear)) inspection of nonnuclear boilers, unfired pressure vessels, and safety devices is the National Board Inspection Code (NBIC), 1995 edition, with addenda. This code may be used on or after the date of issue and becomes mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2).

(3) The standard for ((nuclear)) inspection of nuclear items is ((the)) ASME section XI ((eeds)). The ASME ((see-

tion XI)) Code ((year)) edition and addenda shall be as specified in the owner in-service inspection program plan.

(4) Where a petroleum or chemical process industry owner/user inspection agency so chooses, the standard for inspection of unfired pressure vessels used by the owner shall be the API-510((, March 1992 seventh)) Pressure Vessel Inspection Code, eighth edition, with supplements. This code may be used on or after the date of issue.

((Where a conflict exists between the requirements of the above standards and this chapter, this chapter shall prevail.))

(5) TAPPI TIS 0402-16, dated 1995 may be used for both pulp dryers and paper machine dryers when requested by the owner. When requested by the owner, this document becomes a requirement and not a guideline.

NEW SECTION

WAC 296-104-180 Inspection—How are radioactive systems inspected? An alternative means of inspection is allowed when a pressure vessel has radioactive contamination that would not allow entering for visual inspection. The inspector and owner shall work out a program of nondestructive examination that shall ascertain the condition of the vessel to assure its integrity.

AMENDATORY SECTION (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

WAC 296-104-200 Construction—What are the standards for new construction((r))? The standards for new construction are ((the)).

(1) ASME Boiler and Pressure Vessel Code, 1998 edition, Sections I, III, IV, VIII, X, and CSD-1 (for boilers with fuel input ratings less than 12,500,000 BTU/hr) ((1995 edition, and the));

(2) ASME/ANSI PVHO-1 (Standard for Pressure Vessels for Human Occupancy), 1987 edition; and

(3) Standards of construction meeting Criteria for Registration of Boilers, Pressure Vessels and Other Pressure Retaining Items, Revision 2, provided the boilers and unfired pressure vessels are registered with the National Board. These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. For nuclear systems, components and parts the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

WAC 296-104-265 Installation—What control and limit devices((r)) are required on boilers? (1) Installations prior to June 1989: All automatically fired steam, vapor, or hot water boilers except boilers having a constant attendant who has no other duties while the boiler is in operation, shall be equipped with:

(a) An automatic low-water fuel cut-off, and
(b) An automatic water feeding device. ((These may be incorporated in one body or may be separate devices. Designs embodying a float and float bowl shall have a vertical straight away valve drain pipe at lowest point in the water equalizing pipe connection by which the bowl and equalizing pipe can be flushed and the device tested. Immersion units))
(c) All devices shall be designed so that they may be readily tested at frequent intervals.

(2) Installations from June 1998 to December 1998:

(a) All boilers ((installed after June 1989)) that are automatically fired low pressure steam heating boilers, small power boilers, and power steam boilers without a constant attendant who has no other duties shall be equipped with:

(i) Two high steam pressure limit controls, ((one)) the highest of which shall be provided with a manual reset ((on the control with the highest setting, and)).

(ii) Two low-water fuel cut-offs, one of which shall be provided with a manual reset device and independent of the feed water controller.

(iii) Coil type flash steam boilers may use two high-temperature limit controls, one of which shall ((be manually)) have a manual reset ((in the hot water coil section of the boiler)). This is instead of the low-water fuel cut-off.

(iv) All control and limit devices shall be independently connected and electrically wired in series.

(b) All automatically fired hot water supply, low-pressure hot water heating boilers, and power hot water boilers shall be equipped with:

(i) Two high-temperature limit controls, one of which shall be provided with a manual reset ((on the control with the highest setting, and)).

(ii) One low-water fuel cut-off with a manual reset and independent of the feed water controller.

(iii) For coil type hot water boilers a low-water flow limit control installed in the circulating water line may be used instead of a low-water fuel cut-off.

(iv) All control and limit devices shall be independently connected and electrically wired in series.

(3) Installations or refits of gas, oil, or combinations of gas or oil after December 1998: All boilers excluding lined potable water heaters installed or refitted after December 1998, with fuel input ratings of less than 12,500,000 BTU/hr which are fired by gas, oil, or a combination of gas or oil shall comply with ((any additional)) the fuel train requirements defined in ASME CSD-1 ((where applicable)), as adopted in WAC 296-104-200 where applicable.

NEW SECTION

WAC 296-104-307 Installation—What safety devices are required on boilers and pressure vessels? All boiler and pressure vessels shall be safeguarded by safety valves, safety relief valves, or rupture discs unless they are safeguarded by a fail safe pressure relief control system, evaluated by a professional engineer licensed by the state of Washington and accepted by the chief inspector.

AMENDATORY SECTION (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

WAC 296-104-310 Installation—Where should the discharge from safety valves, blow offs and drains be directed? Direct the discharge from safety valves, blow offs and drains to prevent injury to personnel or property. Run the discharge line outside the building from single or multiple safety valves on boilers, pressure vessels or headers with a capacity of 5,000 pounds of steam per hour or more.

AMENDATORY SECTION (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

WAC 296-104-405 Existing installation—How can the maximum allowable working pressure be established for nonstandard boilers or unfired pressure vessels? The maximum allowable working pressure MAWP shall be established as follows:

(1) For nonstandard steel low pressure steam heating boilers the MAWP shall be computed from the formula in subsection (5) of this section not exceeding 15 psi steam.

(2) For nonstandard steel low pressure water heating boilers the MAWP shall be computed from the formula in subsection (5) of this section not exceeding 160 psi.

(3) For nonstandard cast iron low pressure steam heating boilers the MAWP shall not exceed 15 psi steam.

(4) For nonstandard cast iron low pressure water heating boilers the MAWP shall not exceed 30 psi.

(5) For boilers and unfired pressure vessels not listed above, where the original code of construction is unknown, the following formula will be used.

(6) For miniature hobby boilers the MAWP shall be computed using the formulas referenced in the ASME Code Section I, but the MAWP may not exceed 150 psi. For these formulas the maximum allowable stress (MAS) value shall be 0.75 times the maximum stress at 400 degrees F. in ASME Code Section II Part D, for listed materials or as set by the department for nonlisted materials.

$$\frac{TS \times t \times E}{R \times FS} = MAWP$$

TS = Tensile Strength in psi as given in ASME Code, when material cannot be identified use 55,000 for steel and 45,000 for wrought iron.

t = thickness in inches of the thinnest part determined by actual measurement.

E = efficiency of longitudinal joint or ligament, whichever is the least, determined by the rules and formula in the ASME Code. When construction methods are not known welded joint efficiency will be 70%.

R = radius of largest course in inches.

FS = Factor of Safety, for boilers shall be a minimum of 5. For boilers with a longitudinal lap seam it shall be a minimum 8. Boilers with a longitudinal lap seam, unless granted a special permit, may only be used at a maximum of 15 psi provided they have passed inspection. The minimum for unfired pressure vessels shall be 4 when less than 20 years old, 4 1/2 when over 20 years old.

AMENDATORY SECTION (Amending WSR 94-21-002, filed 10/5/94, effective 11/5/94)

WAC 296-104-502 Repairs—What are the requirements for nonnuclear ((and alterations to)) boilers and pressure vessel((s)) repairs and alterations? Repairs and alterations to nonnuclear boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102.

Repairs/alterations may be made by:

(1) An organization in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the National Board provided such repairs/alterations are within the scope of the authorization.

(2) An organization authorized by the chief inspector and in possession of a valid ASME Certificate of Authorization provided such repairs/alterations are within the scope of the organization's Quality Control System. The chief inspector may limit or restrict repairs/alterations for cause.

Owner/user special inspectors may only accept repairs/alterations to unfired pressure vessels operated by their respective companies per RCW 70.79.130.

Where required, reports of welded repairs/alterations, signed by the organization and a commissioned inspector shall be submitted to the department.

AMENDATORY SECTION (Amending Part VII, filed 3/23/60)

WAC 296-104-510 Repairs—Do riveted patches((s)) require prior approval? ((In)) Yes, prior to applying riveted patches the design of the patch and method of installation ((is subject to approval of)) shall be approved by the inspector.

AMENDATORY SECTION (Amending Order 86-01, filed 2/4/86)

WAC 296-104-515 ((Nonnuclear)) Repairs—What are the requirements for repair of nonnuclear safety devices((s))? ((All boilers and pressure vessels shall be safeguarded by safety valves, safety relief valves, or rupture discs, as specified in the ASME Code.))

The resetting, repairing, and restamping of safety valves and relief valves shall be done by a qualified manufacturer or valve repair organization holding a valid "V," "UV," or "VR" Certificate of Authorization issued by the National Board of Boiler and Pressure Vessel Inspectors. Section IV safety valves shall be repaired only by the valve manufacturer.

Boiler and pressure vessel users, however, may authorize external adjustments to be made to bring their installed safety valves and relief valves, except Section IV safety valves, back to the stamped set pressure. This adjustment shall be witnessed and approved by a National Board Commissioned Inspector. All such external adjustments shall be resealed showing the identification of the organization making the adjustments and the date.

Repairing of noncode relief or safety valves shall not be allowed, except as specified below. Noncode liquid relief valves installed prior to 1-1-85 shall be repaired by an organization holding a valid "V," "UV," or "VR" Certificate of Authorization, but need not be stamped.

AMENDATORY SECTION (Amending Part VII, filed 3/23/60)

WAC 296-104-520 Repairs—When a lap seam crack((r)) is discovered along a riveted longitudinal joint what action is required and what repairs are allowed? (1) A "lap seam crack" is a crack found in riveted lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

(2) The shell or drum of ((a)) any boiler or unfired pressure vessel in which a lap seam crack is discovered along a longitudinal riveted joint shall be immediately discontinued from use.

(3) If the boiler or unfired pressure vessel is not more than 15 years of age, a complete new course of the original thickness may be installed at the discretion of the inspector (and after approval of the chief inspector).

(4) If the boiler or unfired pressure vessel is over 15 years of age the shell or drum of the boiler or unfired pressure vessel shall be replaced.

(5) Patching of a lap seam is prohibited. ((By "lap seam crack" is meant the typical crack frequently found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.))

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-530 Repairs—Air or vapor testing. Testing by air or vapor at pressures in excess of 15 ((lbs.)) psig shall not be undertaken without special permission from the inspector.

NEW SECTION

WAC 296-104-535 Repairs—What are the requirements for nuclear repairs/replacement? (1) Repairs/replacement to all nuclear components, appurtenances, and their supports shall conform to the rules contained in the ASME Section XI Code. The ASME Code edition and addenda shall be as specified in the owner in-service inspection program plan.

(2) Where a repair/replacement is performed, a report as required by ASME Section XI Code, signed by the owner and the authorized nuclear in-service inspector shall be submitted to the jurisdiction.

NEW SECTION

WAC 296-104-540 Repairs—What are the requirements for nuclear repairs of safety devices. All nuclear components shall be safe-guarded by safety devices, as specified in the ASME Section III Code.

(1) The resetting, repair, and restamping of these safety devices shall be performed only by organizations holding a valid ASME "N" Certificate of Authorization to repair ASME Section III Code safety devices.

(2) Nuclear plant owners with an approved ASME Section XI program, may authorize resetting, repairing or replacement of their safety devices.

(3) Resetting, repairing or replacement activities shall be witnessed and approved by an inspector, with appropriate National Board endorsements.

(4) All repaired safety devices shall be resealed showing the identification of the organization making the repair and the date.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-104-525

Repairs—Hydrostatic pressure tests.

WAC 296-104-600

General requirements—Conditions not covered by these rules.

WAC 296-104-800

Inspection of systems subject to radioactivity.

WAC 296-104-801

Nuclear repairs/replacement.

WAC 296-104-805

Nuclear repairs—Safety devices.

**WSR 98-16-080
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed August 5, 1998, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-120.

Title of Rule: Chapter 16-561 WAC, Washington Red Raspberry Commission, marketing order purposes.

Purpose: The rule change will amend the raspberry marketing order to allow the board of the Raspberry Commission to adopt rules for uniform grades and standards of red raspberries grown in the state of Washington.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The rule change, if approved by a vote of the raspberry growers, will give the board of the Raspberry Commission authority to adopt rules governing grades and standards including standards in packaging, processing and label-

ing. The rule will also provide for inspection and enforcement to ascertain and effectuate compliance.

Reasons Supporting Proposal: The rule, authorized in the Agricultural Enabling Act of 1961, is necessary for proper use of the product and preparation for marketing.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, Natural Resources Building, 1111 Washington Street, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Anne Seeger, 1232 Lincoln Street, Bellingham, WA, (360) 671-1437.

Name of Proponent: Washington Red Raspberry Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Adoption of the rule is subject to approval of the growers voting in a referendum conducted in compliance with procedures of chapter 15.65 RCW.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will authorize the board of the Washington Raspberry Commission to adopt rules governing grades and standards including standards in packaging, processing and labeling. The rule is necessary to establish grading and labeling standards to ensure the proper use of raspberries in processing and marketing.

Proposal Changes the Following Existing Rules: The rule will give the board of the Raspberry Commission authority to adopt rules relating to grading and standardization.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will only affect red raspberry growers in Washington state and will only become effective with the approval of a majority of raspberry growers voting in a referendum. There is no disproportional cost to small businesses because producers of raspberries are considered small businesses. The rule will not increase cost in equipment, supplies, labor or administrative expenses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Washington Department of Agriculture, Natural Resources Building #205, 1111 Washington Street, Olympia, WA, on September 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by September 8, 1998, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Walter Swenson, Agricultural Programs Administrator, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, fax (360) 902-2092, by September 10, 1998.

Date of Intended Adoption: November 4, 1998.

August 5, 1998

William E. Brookreson
Assistant Director

[AMENDATORY SECTION (Amending Order 1809, filed 12/1/83)]

WAC 16-561-030 Marketing order purposes. The order is to promote the general welfare of the state, to enable producers of raspberries to help themselves establish orderly, fair, sound, efficient, unhampered marketing; facilitate cul-

WSR 98-16-085
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY

[Filed August 5, 1998, 10:05 a.m.]

tural and harvesting improvements, and regulate unfair trade practices within the industry. To carry out the purposes of the order, the board may provide for a program in one or more of the following area:

(1) Establish plans and conduct programs for advertising, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for raspberries. Such programs shall be directed toward increasing the sale of raspberries without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of raspberries nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, processing, and/or marketing of raspberries and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University, but if in the judgment of the board, said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Provide by rules and regulations for:

(a) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and/or label for red raspberries or any products thereof;

(b) Requiring producers, handlers and/or other persons to conform to such grades and/or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of red raspberries and/or in offering, advertising and/or delivering it therefor;

(c) Providing for inspection and enforcement to ascertain and effectuate compliance;

(d) Establishing rules and regulations respecting the foregoing;

(e) Providing that the board shall carry out inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, such standards and grades and such rules and regulations: Provided, That any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing, and shall not be considered an amendment for the purposes of the act and order.

(3) Provide for marketing information and services to affected producers, for the verification of grades, standards, weights, tests, and sampling of quality and quantity of raspberries purchased by handlers from affected producers and for the purpose of facilitating the efficient marketing of raspberries.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Adopt Regulation I, Section 3.02; amend Regulation I, Sections 3.11, 5.03, 5.05, 6.11, and 7.09 and Regulation III, Section 2.02.

Purpose: To establish a meeting schedule for the board; adjust maximum civil penalty amount for inflation; clarify reporting requirements for Registration and Operating Permit sources; and update delegation for federal NSPS and NESHAPs.

Other Identifying Information: 3.02 - Meetings of the Board of Directors; 3.11 - Civil Penalties; 5.03 and 5.05 - Registration; 6.11 - New Source Performance Standards (NSPS); 7.09 - General Reporting Requirements; and 2.02 - National Emission Standards for Hazardous Air Pollutants (NESHAPs).

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Statute Being Implemented: RCW 70.94.141.

Summary: Proposal establishes a meeting schedule for the board; increases maximum civil penalty amount for inflation; clarifies reporting requirements for Registration and Operating Permit sources; and updates delegation for federal NSPS and NESHAPs.

Reasons Supporting Proposal: A meeting schedule needs to be established; the maximum civil penalty amount needs to be adjusted for inflation; clarification was needed for reporting requirements for Registration and Operating Permit sources; and the delegation for federal NSPS and NESHAPs needs to be updated.

Name of Agency Personnel Responsible for Drafting: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

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 establish a meeting schedule for the board; increase the maximum civil penalty amount to account for inflation; clarify the reporting requirements for Registration and Operating Permit sources; and update the delegation for federal NSPS and NESHAPs.

Proposal Changes the Following Existing Rules: The maximum civil penalty amount would increase to account for inflation; the reporting requirements for Registration and Operating Permit sources would be clarified; and the delegation for federal NSPS and NESHAPs would be updated.

PROPOSED

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: PSAPCA Offices, 110 Union Street, #500, Seattle, WA 98101, on September 10, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010 by September 3, 1998, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLellan, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by August 31, 1998.

Date of Intended Adoption: September 10, 1998.

August 4, 1998

James Nolan
Director - Compliance

NEW SECTION

REGULATION I SECTION 3.02 MEETINGS OF THE BOARD OF DIRECTORS

(a) **Regular Meetings.** The Agency Board of Directors shall meet at least ten (10) times per year. All Board of Director meetings are open to the public. Regular meetings of the Board shall be held on the second Thursday of each month at 9:00 a.m. at the Agency's offices. The Agency's offices are located at 110 Union Street, Suite 500, Seattle, WA 98101-2038. The Agency may be reached by telephone at (206) 343-8800 or 1-800-552-3565, or by facsimile at (206) 343-7522.

Notice of the meetings shall be published in the State Register, as well as in the local newspapers of general circulation of the largest city within each member county. The notices shall state the time, date, and place of each meeting. Notice shall be provided at least ten (10) days prior to each meeting. The agenda for any meeting may be obtained by contacting the Agency directly.

During any meeting, the Board may retire to Executive Session, at which time all members of the public shall be excluded from the meeting.

Written communications to the Board or individual Board members may be made by contacting the Agency at the above address and facsimile number.

(b) **Special Meetings.** The Chair or majority of the members of the Board may call a special meeting at any time. Notice of such meetings shall be provided as required by the Open Public Meetings Act, chapter 42.30 RCW.

(c) **Public Records.** All minutes and records of all regular and special Board meetings, including written communications provided to the Board, shall be available for public inspection and copying as provided in the Public Disclosure Law, chapter 42.17 RCW. Any person wishing to review or copy such records should contact the Agency's records administrator.

AMENDATORY SECTION

REGULATION I SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed ~~((\\$11,977.00))~~ \$12,288.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Air Pollution Control Agency shall be liable for a civil penalty of not more than ~~((\\$11,977.00))~~ \$12,288.00 for each day of continued non-compliance.

(c) Within 15 days after receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the appealing party;

(2) A copy of the Notice and Order of Civil Penalty appealed from;

(3) A short and plain statement showing the grounds upon which the appealing party considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the appealing party relies to sustain his or her grounds for appeal;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(d) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to Chapter 43.21B RCW and Chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition on the application for relief from penalty.

(e) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(f) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(g) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(h) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

REGULATION I SECTION 5.03 REGISTRATION REQUIRED

(a) The registration requirements of this article do not apply to:

(1) motor vehicles;

(2) nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;

(3) ((or to)) sources that require an operating permit under Article 7; or

(4) any source, including any listed in Section 5.03(b) below, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

(b) It shall be unlawful for any person to cause or allow the operation of any source required to register under Section 5.03, unless it conforms to all the requirements of Article 5. Except as provided in Section 5.03(a), the owner or operator of each of the following stationary air contaminant sources shall register the source with the Agency by paying the annual fee required by Section 5.07 and submitting any reports required by Section 5.05.

((6)) (1) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), BB (Kraft Pulp Mills), or AAA (New Residential Wood Heaters), applies;

((7)) (2) Any source category subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than Subpart M (asbestos on roadways, asbestos demolition or renovation activities, or asbestos spraying), or 40 CFR Part 63;

((9)) (3) Any source ((with the potential to)) that emits any of the following pollutants at a rate of emission equal to or greater than any one of the following rates (tons/year):

carbon monoxide	((100)) 25
nitrogen oxides	((40)) 25
sulfur dioxide	((40)) 25
particulate matter (PM ₁₀)	25
((fine)) particulate matter (PM _{((40))_{2.5}})	((45)) 25
volatile organic compounds (VOC)	((40)) 25

((lead))	0.6
fluorides	3
sulfuric acid mist	7
hydrogen sulfide (H ₂ S)	10
total reduced sulfur (including H ₂ S)	10))
facility-combined total of all toxic air contaminants (TAC)	6
any single toxic air contaminant (TAC)	2

((62)) (4) Any source that has equipment or control equipment, with an approved Notice of Construction under Article 6 of Regulation I; ((or))

((63)) (5) Any source((, including any listed above,)) that has been determined through review by the Control Officer to warrant registration, due to the amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property((-));

((8)) (6) 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 the federal Clean Air Act;

(7) Other sources, such as:

((1)) A)) aerosol can-filling facilities;

((2)) A)) agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

((3)) A)) agricultural drying and dehydrating operations;

((4)) A)) alumina processing;

((5)) A)) ammonium sulfate manufacturing plants;

((10)) A)) asphalt and asphalt products production facilities;

((11)) A)) automobile or light-duty truck surface coating operations;

((12)) B)) baker's yeast manufacturing;

((13)) B)) brick and clay manufacturing plants, including tiles and ceramics;

((14)) C)) cattle feedlots with operational facilities that have an inventory of 1,000 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;

((15)) C)) chemical manufacturing plants;

((16)) C)) coal preparation plants;

((17)) C)) coffee roasting facilities;

((18)) C)) composting operations, including commercial, industrial and municipal, but exempting agricultural and residential composting activities;

((19)) C)) concrete product manufacturers and ready-mix and premix concrete plants;

((20)) C)) crematoria or animal carcass incinerators;

((21)) D)) dry cleaning plants;

((22)) E)) ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;

((23)) E)) explosives production;

((24)) F)) flexible polyurethane foam production;

PROPOSED

((25-F)) flexible vinyl and urethane coating and printing operations;

((26-G)) gasoline stations, bulk gasoline plants, and gasoline loading terminals;

((27-G)) gelcoat, polyester, resin, or vinylester coating manufacturing operations at commercial or industrial facilities;

((28-G)) glass manufacturing plants;

((29-G)) grain, seed, animal feed, legume, and flour processing operations and handling facilities;

hazardous waste treatment and disposal facilities:

((30-I)) ink manufacturers;

insulation fiber manufacturers:

((31-L)) landfills, active and inactive, including covers, gas collection systems, or flares;

((32-L)) lead-acid battery manufacturing plants;

((33-L)) lime manufacturing plants;

((34-M)) metal casting facilities and foundries, ferrous and nonferrous;

metal plating and anodizing operations:

((35-M)) metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations;

((36-M)) metallurgical processing plants;

((37-M)) mills such as lumber, plywood, shake, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

((38-M)) mineral wool production;

((39-M)) mineralogical processing plants;

((40-M)) municipal waste combustors;

((41-N)) nitric acid plants;

((42-P)) paper manufacturers, except Kraft and sulfite pulp mills;

((43-P)) petroleum refineries;

((44-P)) pharmaceuticals production;

((45-P)) plastics and fiberglass product fabrication facilities;

((46-P)) pneumatic materials conveying operations and industrial house-keeping vacuuming systems that exhaust more than 1,000 acfm to the atmosphere;

((47-P)) portland cement plants;

((48-P)) primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;

((49-R)) rendering plants;

((50-S)) semiconductor manufacturing;

((51-S)) shipbuilding and ship repair (surface coating);

((52-S)) soil vapor extraction (active), thermal soil contaminant desorption, or groundwater air stripping remediation projects;

((53-S)) sulfuric acid plants;

((54-S)) surface-coating manufacturers;

((55-S)) surface spray-coating operations, including automotive, metal, cans, pressure-sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates;

((56-S)) synthetic fiber production facilities;

((57-S)) synthetic organic chemical manufacturing industries;

((58-T)) tire recapping facilities;

((59-V)) vegetable oil production;

((60-W)) wastewater treatment plants; or

((61-W)) wood treatment((:)).

AMENDATORY SECTION

REGULATION I SECTION 5.05 GENERAL REPORTING REQUIREMENTS FOR REGISTRATION

(a) **General.** The owner or operator of an air contaminant source for which registration is required by Section 5.03, shall make reports containing information as required by the Agency 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.

(b) **Registration Form.** Registration information shall be provided on forms supplied by the Agency and shall be completed and returned within the time specified on the form.

(c) **Reporting Responsibility.** The owner, operator, or a designated representative shall sign Agency registration and reporting forms for each source. The owner or operator of the source shall be responsible for notifying the Agency of the existence of the source, and for the accuracy, completeness, and timely submittal of registration reporting information and any accompanying fee.

(d) **Emission Reporting.** An emission report shall be required from ((each)) the owner or operator of a ((registered)) source requiring registration, ((ef)) listing those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions	25
facility combined total of all toxic air contaminant (TAC) emissions	6
any single toxic air contaminant (TAC) emissions	2
nitrogen oxide (NOx) emissions	25
particulate matter (PM ₁₀) emissions	25
<u>particulate matter (PM_{2.5}) emissions</u>	<u>25</u>
sulfur oxide (SOx) emissions	25
volatile organic compounds (VOC) emissions	25

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above.

(e) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Section 5.03 above shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

(1) Periodic inspection of all equipment and control equipment;

(2) Monitoring and recording of equipment and control equipment performance;

(3) Prompt repair of any defective equipment or control equipment;

- (4) Procedures for start up, shut down, and normal operation;
- (5) The control measures to be employed to assure compliance with Section 9.15 of Regulation I; and
- (6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

(f) **Report of Closure.** Continued payment of the annual registration fee to the Agency maintains the registration of the source with the Agency, as well as the status of the source as an operating facility. A source shall only be removed from the registration program after a written request has been received from the owner or operator of the source. It shall be unlawful for any person to operate a source that has been removed from registration, unless the owner or operator has submitted and received an approval for a "Notice of Construction and Application for Approval", in compliance with Article 6.

(g) **Report of Change of Ownership.** A new owner of a source shall report in writing any change of ownership to the Agency within 90 days of such a change.

AMENDATORY SECTION

REGULATION I SECTION 6.11 NEW SOURCE PERFORMANCE STANDARDS

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 60, Title 40, of the Code of Federal Regulations (CFR) in effect July 1, ((1997)) 1998 herein incorporated by reference.

AMENDATORY SECTION

REGULATION I SECTION 7.09 GENERAL REPORTING REQUIREMENTS FOR OPERATING PERMITS

(a) **Emission Reporting.** An emission report shall be required from each owner or operator of an operating permit source, listing ((ef)) those air contaminants emitted during the previous calendar year that equal or exceed the following (tons/year):

carbon monoxide (CO) emissions	25
facility combined total of all toxic air contaminant (TAC) emissions	6
any single toxic air contaminant (TAC) emissions	2
nitrogen oxide (NOx) emissions	25
particulate matter (PM ₁₀) emissions	25
<u>particulate matter (PM_{2.5}) emissions</u>	25
sulfur oxide (SOx) emissions	25
volatile organic compounds (VOC) emissions	25

Annual emission rates shall be reported to the nearest whole tons per year for only those air contaminants that equal or exceed the thresholds above. The owner or operator of a source requiring a Title V operating permit under this Article shall maintain records of information necessary to document

any reported emissions or to demonstrate that the emissions were less than the above amounts.

(b) **Operation and Maintenance Plan.** Owners or operators of air contaminant sources subject to Regulation I Article 7 shall develop and implement an operation and maintenance plan to assure continuous compliance with Regulations I, II, and III. A copy of the plan shall be filed with the Control Officer upon request. The plan shall reflect good industrial practice and shall include, but not be limited to, the following:

(1) Periodic inspection of all equipment and control equipment;

(2) Monitoring and recording of equipment and control equipment performance;

(3) Prompt repair of any defective equipment or control equipment;

(4) Procedures for start up, shut down, and normal operation;

(5) The control measures to be employed to assure compliance with Section 9.15 of Regulation I; and

(6) A record of all actions required by the plan.

The plan shall be reviewed by the source owner or operator at least annually and updated to reflect any changes in good industrial practice.

AMENDATORY SECTION

REGULATION III SECTION 2.02 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

It shall be unlawful for any person to cause or allow the operation of any source in violation of any provision of Part 61 or Part 63, Title 40, of the Code of Federal Regulations (CFR) in effect July 1, ((1997)) 1998 herein incorporated by reference.

WSR 98-16-086

PROPOSED RULES

PUGET SOUND AIR

POLLUTION CONTROL AGENCY

[Filed August 5, 1998, 10:07 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Regulation I, Sections 5.07 and 7.07.

Purpose: To adjust fees for registration and operating permits in order to cover the costs of administering these programs.

Other Identifying Information: Section 5.07 pertains to Registration Fees and Section 7.07 pertains to Operating Permit Fees.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Proposal adjusts Registration and Operating Permit fees to cover the cost of the programs.

Reasons Supporting Proposal: Registration and Operating Permit fees need to cover the cost of the programs.

Name of Agency Personnel Responsible for Drafting: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

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 increase Registration and Operating Permit fees in order to cover the costs of administering these programs.

Proposal Changes the Following Existing Rules: Registration and Operating Permit fees would increase to cover program costs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on September 10, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by September 3, 1998, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLellan, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by August 31, 1998.

Date of Intended Adoption: September 10, 1998.

August 4, 1998

James Nolan
Director - Compliance

AMENDATORY SECTION

REGULATION I SECTION 5.07 REGISTRATION FEES

(a) The Agency shall levy annual fees as set forth in Section 5.07(c) ((b)) below for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program. Registration fees do not apply to sources subject to Article 7 of Regulation I.

(b) Upon assessment by the Agency, ((the following)) registration fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(c) Annual registration fees are assessed either by the emission reporting thresholds or, if below emission thresh-

olds, by the primary Standard Industrial Classification (SIC) of the source:

((((d))) (1) Emission reporting sources under Section 5.05(d) that equal or exceed any of the ((following)) emission thresholds in ((tons per year during the previous calendar year)) that section shall be charged an annual registration fee of \$1,000 plus an additional emission rate fee of:

\$15 for each ton of CO when the CO emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of PM₁₀ when the PM₁₀ emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in 1997, and

\$15 for each ton of TAC when the facility total TAC emissions are equal to or exceed 6 tons in 1997 or when any single individual TAC emissions are equal to or exceed 2 tons in 1997.

((carbon monoxide (CO) emissions	25
facility combined total of all toxic air contaminant (TAC) emissions	6
any single toxic air contaminant (TAC) emissions	2
nitrogen oxide (NOx) emissions	25
particulate matter (PM ₁₀) emissions	25
sulfur oxide (SOx) emissions	25
volatile organic compounds (VOC) emissions	25
	\$1,500))

((((s))) (2) Emission reporting sources under Section 5.05(d) that equal or exceed twice any of the ((following)) emission thresholds in that section ((tons per year during the previous calendar year)) shall be charged the annual registration fee of Section 5.07 (c)(1) above plus an additional \$1,000.

((carbon monoxide (CO) emissions	50
facility combined total of all hazardous air pollutant (HAP) emissions	12
any single hazardous air pollutant (HAP) emissions	5
nitrogen oxide (NOx) emissions	50
particulate matter (PM ₁₀) emissions	50
sulfur oxide (SOx) emissions	50
volatile organic compounds (VOC) emissions	50
	\$2,500))

((((t))) (3) Automobile body repair and painting (SIC = 7532)

without EnviroStar rating of 4 or 5 stars

\$250

with EnviroStar rating of 4 or 5 stars (as certified at the time of annual fee payment)

\$50

Dry-cleaning plants, except rug cleaning (SIC = 7216)
without refrigerated condenser
with refrigerated condenser

\$500

\$150

((3)) (5) Gasoline service stations with
((more than 1 tank
gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:

more than 1,200,000 gallons

\$400

840,001 to 1,200,000 gallons in Kitsap County

\$250

600,001 to 1,200,000 gallons in King, Pierce, or Snohomish County

\$250

600,001 to 840,000 gallons in Kitsap County

\$150

200,000 to 600,000 gallons

\$150

less than 200,000 gallons

\$100

((4)) Gasoline service stations with
1 tank

\$150))

(i)

(ii)

(iii)

(iv)

(v)

(vi)

((4))

((7) Other(s)) (6) Sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following Standard Industrial Classification (SIC) codes (*Standard Industrial Classification Manual*, Executive Office of the President, Office of Management and Budget, 1987) shall be charged an annual registration fee of \$1,000:

1422 Crushed and Broken Limestone

1429 Crushed and Broken Stone

1442 Construction Sand and Gravel

1446 Industrial Sand

1611 Highway and Street Construction

2035 Pickled Fruits & Vegetables, Vegetable Sauces & Seasonings, and Salad Dressings

2077 Animal and Marine Fats and Oils

2099 Food Preparations

2491 Wood Preserving

2834 Pharmaceutical Preparations

2842 Specialty Cleaning, Polishing, and Sanitation Preparations

2873 Nitrogenous Fertilizers

2875 Fertilizers, Mixing Only

2893 Printing Ink

2951 Asphalt Paving Mixtures and Blocks

2952 Asphalt Felts and Coatings

3061 Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods

3211 Flat Glass

3241 Cement, Hydraulic

3272 Concrete Products, except Block and Brick

3273 Ready-Mix Concrete

3275 Gypsum Products

3291 Abrasive Products

3292 Asbestos Products

3295 Minerals and Earths, Ground or Otherwise Treated

3299 Nonmetallic Mineral Products

3312 Steel Works, Blast Furnaces, and Rolling Mills

3315 Steel Wiredrawing and Steel Nails and Spikes

3321 Gray and Ductile Iron Foundries

3324 Steel Investment Foundries

3325 Steel Foundries

3334 Primary Production of Aluminum

3341 Secondary Smelting & Refining of Nonferrous Metals

3365 Aluminum Foundries

3366 Copper Foundries

3369 Nonferrous Foundries, except Aluminum and Copper

3398 Metal Heat Treating

3433 Heating Equipment, except Electric and Warm Air Furnaces

3471 Electroplating, Plating, Polishing, Anodizing, and Coloring

3479 Coating, Engraving, and Allied Services

3599 Industrial and Commercial Machinery & Equipment

3674 Semiconductors and Related Devices

3679 Electronic Components

3731 Ship Building and Repairing

4013 Railroad Switching and Terminal Establishments

4613 Refined Petroleum Pipelines

4911 Electric Services

4952 Sewerage Systems, (Treatment Plants)

4953 Refuse Systems

5153 Grain and Field Beans

5169 Chemicals and Allied Products

7694 Armature Rewinding Shops

8063 Psychiatric Hospitals

8069 Specialty Hospitals, except Psychiatric

8611 Business Associations

((..... \$1,000))

((8)) (7) Other sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following Standard Industrial Classification (SIC) codes shall be charged an annual registration fee of \$500:

0711 Soil Preparation Services

1459 Clay, Ceramic, and Refractory Minerals

1521 General Contractor - Single-Family Homes

1629 Heavy Construction

1731 Electrical Work

2013 Sausages and Other Prepared Meat Products

2032 Canned Specialties

2041 Flour and Other Grain Mill Products

2045 Prepared Flour Mixes and Doughs

2047 Dog and Cat Food

2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, except Dogs and Cats

2052 Cookies and Crackers

2082 Malt Beverages

2086 Bottled and Canned Soft Drinks and Carbonated Water

PROPOSED

- PROPOSED**
- 2091 Canned and Cured Fish and Seafoods
 - 2095 Roasted Coffee
 - 2096 Potato Chips, Corn Chips, and Similar Snacks
 - 2098 Macaroni, Spaghetti, Vermicelli, and Noodles
 - 2421 Sawmills and Planing Mills
 - 2426 Hardwood Dimension and Flooring Mills
 - 2429 Special Product Sawmills
 - 2431 Millwork
 - 2434 Wood Kitchen Cabinets
 - 2439 Structural Wood Members
 - 2441 Nailed and Lock-Corner Wood Boxes and Shook
 - 2448 Wood Pallets and Skids
 - 2452 Prefabricated Wood Buildings and Components
 - 2493 Reconstituted Wood Products
 - 2631 Paperboard Mills
 - 2652 Setup Paperboard Boxes
 - 2653 Corrugated and Solid Fiber Boxes
 - 2657 Folded Paperboard Boxes
 - 2671 Packaging Paper and Plastics Film, Coated and Laminated
 - 2675 Die-Cut Paper and Paperboard and Cardboard
 - 2711 Newspapers: Publishing, or Publishing and Printing
 - 2721 Periodicals: Publishing, or Publishing and Printing
 - 2731 Books: Publishing, or Publishing and Printing
 - 2752 Commercial Printing, Lithographic
 - 2759 Commercial Printing
 - 2819 Industrial Inorganic Chemicals
 - 2821 Plastic Materials, Synthetic Resins, and Non-vulcanizable Elastomers
 - 2851 Paints, Varnishes, Lacquers, Enamels, and Allied Products
 - 2869 Industrial Organic Chemicals
 - 3089 Plastics Products
 - 3271 Concrete Block and Brick
 - 3441 Fabricated Structural Metal
 - 3443 Fabricated Plate Work
 - 3444 Sheet Metal Work
 - 3446 Architectural and Ornamental Metal Work
 - 3449 Miscellaneous Structural Metal Work
 - 3463 Nonferrous Forgings
 - 3469 Metal Stampings
 - 3483 Ammunition, except for Small Arms
 - 3496 Miscellaneous Fabricated Wire Products
 - 3498 Fabricated Pipe and Pipe Fittings
 - 3499 Fabricated Metal Products
 - 3545 Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices
 - 3556 Food Products Machinery
 - 3567 Industrial Process Furnaces and Ovens
 - 3571 Electronic Computers
 - 3629 Electrical Industrial Apparatus
 - 3639 Household Appliances
 - 3648 Lighting Equipment
 - 3663 Radio & Television Broadcasting and Communications Equipment
 - 3672 Printed Circuit Boards
 - 3691 Storage Batteries
 - 3713 Truck and Bus Bodies
 - 3721 Aircraft
 - 3728 Aircraft Parts and Auxiliary Equipment
 - 3743 Railroad Equipment
 - 3823 Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products
 - 3873 Watches, Clocks, Clockwork Operated Devices, and Parts
 - 4173 Terminal and Service Facilities for Motor Vehicle Passenger Transportation
 - 4212 Local Trucking without Storage
 - 4222 Refrigerated Warehousing and Storage
 - 4491 Marine Cargo Handling
 - 4492 Towing and Tugboat Services
 - 4512 Air Transportation, Scheduled
 - 4581 Airports, Flying Fields, and Airport Terminal Services
 - 4952 Sewerage Systems, (Pump Stations)
 - 4961 Steam and Air-Conditioning Supply
 - 5032 Brick, Stone, and Related Construction Materials
 - 5039 Construction Materials
 - 5051 Metals Service Centers and Offices
 - 5065 Electronic Parts and Equipment
 - 5093 Scrap and Waste Materials
 - 5162 Plastics Materials and Basic Forms and Shapes
 - 5171 Petroleum Bulk Stations and Terminals
 - 5172 Petroleum and Petroleum Products Wholesalers, except Bulk Stations and Terminals
 - 5199 Nondurable Goods
 - 5712 Furniture Stores
 - 5984 Liquefied Petroleum Gas Dealers
 - 6513 Operators of Apartment Buildings
 - 7218 Industrial Launderers
 - 7219 Laundry and Garment Services
 - 7261 Funeral Service and Crematories
 - 7374 Computer Processing and Data Preparation and Processing Services
 - 7534 Tire Retreading and Repair Shops
 - 8062 General Medical and Surgical Hospitals
 - 8221 Colleges, Universities, and Professional Schools
 - 8331 Job Training and Vocational Rehabilitation Services
 - 8422 Arboreta and Botanical or Zoological Gardens
 - 8731 Commercial Physical and Biological Research
 - 8744 Facilities Support Management Services
 - 9221 Police Protection
 - 9223 Correctional Institutions
 - 9711 National Security
- ((..... \$500))
- ((..... All other sources, not listed above in Sections (1) through (7), requiring registration under Section 5.03, shall be charged an annual registration fee of \$250.
- ((..... \$250))

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**REGULATION I SECTION 7.07 OPERATING PERMIT FEES**

(a) The Agency shall levy annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following operating permit fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(1) Facility Fees:

(i) Operating permit sources with the following Standard Industrial Classification (SIC) codes:

2911 Petroleum Refining	
3241 Cement, Hydraulic	
3312 Steel Works, Blast Furnaces, and Rolling Mills	
<u>3721 Aircraft</u>	
<u>3728 Aircraft Parts and Auxiliary Equipment</u>	
9711 National Security	
	<u>\$((18,000))</u>
	<u>21,000</u>

(ii) Operating permit sources with the following SIC codes:

1721 Painting and Paper Hanging	
2051 Bread and other Bakery Products, except Cookies and Crackers	
2431 Millwork	
2434 Wood Kitchen Cabinets	
2491 Wood Preserving	
2499 Wood Products	
2672 Coated and Laminated Paper	
3086 Plastics Foam Products	
3251 Brick and Structural Clay Tile	
3443 Fabricated Plate Work	
3498 Fabricated Pipe and Pipe Fittings	
3585 Air Conditioning and Warm-Air Heating Equipment, and Commercial and Industrial Refrigeration Equipment	
7641 Reupholstery and Furniture Repair	
	<u>\$((3,000))</u>
	<u>3,500</u>

((Operating permit sources with the following SIC codes:

3721 Aircraft, or
3728 Aircraft Parts and Auxiliary Equipment with employee population:

8,000 or greater	<u>\$18,000</u>
1,000 through 7,999	<u>\$6,000</u>
less than 1,000	<u>\$3,000)</u>

(iii) Operating permit sources with a SIC code other than listed above

\$((6,000))

7,000

((2) Additional Emission Fees

\$10/ton

\$10/ton

<u>1996 NOx, PM10, or SOx emission fee³</u>	<u>\$30/ton</u>
<u>1996 VOC emission fee⁴</u>	<u>\$30/ton</u>
<u>Continuous emission monitor fee⁵</u>	<u>\$1,500/monitor</u>

~~*Required only when CO emissions equal or exceed 25 tons in 1996.~~

~~*Required only when individual TAC emissions equal or exceed 2 tons in 1996 or when total facility TAC emissions exceed 6 tons in 1996.~~

~~*Required only when NOx, PM10, or SOx emissions equal or exceed 25 tons in 1996.~~

~~*Required only when VOC emissions equal or exceed 25 tons in 1996.~~

~~*Required only of continuous emission monitors subject to Section 12.01, counting each pollutant and location as a separate monitor.)~~

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07(b)(1):

\$15 for each ton of CO when the CO emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of PM10 when the PM10 emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 25 tons in 1997, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in 1997, and

\$15 for each ton of TAC when the facility total TAC emissions are equal to or exceed 6 tons in 1997 or when any single individual TAC emissions are equal to or exceed 2 tons in 1997.

(c) In addition to the fees under Section 7.07(b)(1) and (b)(2) above, ((F)) the ((e)) Agency shall, on a source-by-source basis, levy the following ((surcharges)) fees:

(1) for the issuance, reissuance, or renewal of an operating permit, a ((surcharge)) fee equal to 20% of the annual operating permit fee, not to exceed \$5,000.00((.-)), and

(2) to cover the cost of public involvement under WAC 173-401-800((.-)), and

(3) to cover the cost incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and Chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07(b) and (c) above, ((F)) the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under WAC 173-401 to cover the Department of Ecology's program development and oversight costs.

((e) Upon assessment by the Agency, operating permit fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.))

((F)) (e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

PROPOSED

WSR 98-16-091
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)
[Filed August 5, 1998, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-09-009.

Title of Rule: WAC 275-27-020, 275-27-023, 275-27-040, 275-27-050, and 275-27-230.

Purpose: Chapter 216, Laws of 1998 (SSB 6751) requires the Division of Developmental Disabilities to establish rules to implement the following: (1) Provide information and outreach to all eligible DDD persons and applicants and their families of all services provided by DDD, including residential habilitation centers (RHC); and (2) eligibility criteria and process for offering eligible adults the choice of admission into available vacancies in the residential habilitation centers or alternative community services.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.16.030.

Statute Being Implemented: Chapter 216, Laws of 1998.

Summary: Proposed rules ensure that all eligible persons/families, applicants/families of the Division of Developmental Disabilities receive information on the full spectrum of services provided by the division, including residential habilitation centers. Proposed rules define the criteria and process for providing eligible adults the opportunity to choose to receive their services in an available vacancy in the residential habilitation center or in the community. These rules are currently effective as emergency rules and the division is going through the permanent adoption process.

Reasons Supporting Proposal: These rules reflect stakeholder, advocates, department, and legislative consensus to provide eligible persons the opportunity to choose what and where services are received; information outreach to clients/families; stabilization of division services; an analysis of service needs/costs and recommendations by 2003; the development of a long-term strategic plan with stakeholders.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sue Poltl, DDD, P.O. Box 45310, Olympia, 98504-5310, (360) 902-8474.

Name of Proponent: Department of Social and Health Services, governmental.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 275-27-020, addition of the following terms to the "definitions" section: Adolescent, community support services, ICF/MR eligible, nursing facility eligible, residential habilitation center, RHC capacity, vacancy.

WAC 275-27-023 Exemptions, changed the number of the WAC reference.

WAC 275-27-040 Application for services, added subsection (3) requiring DDD to inform all applicants about the complete spectrum of service options provided by the division.

WAC 275-27-050 Determination for necessary services, added wording to subsection (1) ensuring that DDD would do what is reasonable to explain service options, support people to remain in their homes and communities, and plan/develop

services that meet the unique needs of individuals and families. Subsection (4) states that an outreach program will be developed.

WAC 275-27-230 Authorization of services, details the eligibility criteria for determining which adults are provided the opportunity to choose to receive their services in an RHC or in the community. Subsection (5) defines the criteria for admission to an RHC for thirty-one days or more with written approval of the division director. Subsection (6) allows the division to make RHC vacancies available for other services.

Proposal Changes the Following Existing Rules: (1) Requires the division to inform all eligible persons and applicants of all services, including residential habilitation centers.

(2) Establishes rules for providing eligible adults the opportunity to choose to receive their services in an RHC or in the community.

(3) Establishes condition for division director exemptions for RHC admissions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not impact small businesses.

RCW 34.05.328 applies to this rule adoption. Does meet the definition of significant legislative rule but meets exemption criteria under RCW 34.05.328 (5)(b)(ii).

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on September 8, 1998, at 10:00 a.m. Assistance for persons with disabilities contact Paige Wall at (360) 902-7540 by August 25, 1998. From 9-10 a.m. the DDD program person will be available to discuss questions and concerns related to these WAC revisions.

At the Region 4 DDD Office, 907 N.W. Ballard Way, Suite 200, Seattle, WA 98107, on September 14, 1998, at 10:00 a.m. From 9-10 a.m. the DDD program person will be available to discuss questions and concerns related to these WAC revisions. For directions to location, please call (206) 720-3300 or (800) 314-3296.

At the Region 1 DDD Office, West 1611 Indiana Avenue, Spokane, WA 99205-4221, on September 15, 1998, at 10:00 a.m. From 9-10 a.m. the DDD program person will be available to discuss questions and concerns related to these WAC revisions. For directions to location, please call (509) 456-2893 or (800) 462-0624.

At the Region 2 DDD Office, 1002 North 16th Avenue, Yakima, WA 98909-2500, on September 16, 1998, at 10:00 a.m. From 9-10 a.m. the DDD program person will be available to discuss questions and concerns related to these WAC revisions. For directions to location, please call (509) 575-2330 or (800) 822-7840.

Assistance for Persons with Disabilities: Contact Paige Wall, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by September 21, 1998.

Date of Intended Adoption: September 30, 1998.

August 4, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 92-09-115, filed 4/21/92, effective 5/22/92)

WAC 275-27-020 Definitions. (1) "Adolescent" means a DDD eligible child age thirteen through seventeen years.

(2) "Best interest" includes, but is not limited to, ((individual)) client-centered benefits ((designed)) to:

- (a) Prevent regression or loss of skills already acquired;
- (b) Achieve or maintain economic self-support;
- (c) Achieve or maintain self-sufficiency;
- (d) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (e) Preserve or reunite families; and

(f) Prevent or reduce inappropriate institutional care by providing the least-restrictive setting that will meet the ((individual's)) person's medical and personal needs, such as community-based services, home-based services, or other forms of less-intensive service.

((2))) (3) "Client or person" means a person the division determines under RCW 71A.16.040 and WAC 275-27-026 eligible for division-funded services.

((3))) (4) "Community support services" means one or more of the services listed in RCW 71A.12.040 including, but not limited to the following services: Architectural, case management, early childhood intervention, employment counseling, family support, respite care, information and referral, health services and equipment, therapy services, and residential support.

(5) "Department" means the department of social and health services of the state of Washington.

((4))) (6) "Director" means the director of the division of developmental disabilities.

((5))) (7) "Division or DDD" means the division of developmental disabilities of the department of social and health services.

((6))) (8) "Emergency" means a sudden, unexpected occurrence demanding immediate action.

((7))) (9) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

((8))) (10) "ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions.

((9))) (11) "ICF/MR Eligible" for admission to an ICF/MR means a person is determined by DDD as needing active treatment as defined in CFR 483.440. Active treatment requires:

(a) Twenty-four hour supervision; and

(b) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

(12) "Individual" means ((the)) a person applying for ((whom)) services from the division ((services are requested)).

((10)) "Informed consent" means an agreement obtained from a person or the person's authorized representative, for such person's participation in an activity other than

~~health care. Informed consent for health care shall be provided under RCW 7.70.065. The following information is necessary to informed consent:~~

~~(a) An explanation of the procedures to be followed including an identification of experimental procedures;~~

~~(b) A description of the attendant discomforts and risks;~~

~~(c) A description of the expected benefits;~~

~~(d) A disclosure of appropriate alternative procedures;~~

~~(e) An offer to answer inquiries concerning the procedures; and~~

~~(f) Instruction that consent may be withdrawn and participation discontinued at any time.~~

((11))) (13) "Intelligence quotient score" means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford-Binet or the Leiter International Performance Scale.

((12))) (14) "Nonresidential programs" means programs including, but not limited to, county-funded habilitation services.

((13))) (15) "Nursing facility eligible" means a person is assessed by DDD as meeting the requirements for admission to a licensed nursing home as defined in WAC 388-97-235. The person must require twenty-four hour care provided by or under the supervision of a licensed nurse.

(16) "Residential habilitation center" or "RHC" means a state-operated facility certified to provide ICF/MR or nursing facility level of care for persons with developmental disabilities.

(17) "RHC capacity" means the maximum number of eligible persons that can reside in a residential habilitation center without exceeding its 1997 legislated budgeted capacity.

(18) "Residential programs" means ((these)) programs providing domiciliary care or other residential services, including, but not limited to, state residential facilities, group homes, nursing facilities, ICF/MRs, tenant support services, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes.

((14))) (19) "Respite care" means temporary residential services provided to a ((developmentally disabled)) person and ((the person's)) or the person's family on ((either)) an emergency or planned basis ((without which the individual may need an alternative living environment)).

((15))) (20) "Secretary" means the secretary of the department of social and health services or the secretary's designee.

(21) "Vacancy" means an opening at a RHC, which when filled, would not require the RHC to exceed its 1997 biennially budgeted capacity, minus:

(a) Twenty-six beds designated for respite care use; and
 (b) Any downsizing related to negotiations with the Department of Justice regarding community placements.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 97-13-051, filed 6/13/97, effective 7/14/97)

WAC 275-27-023 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-27-020((7)) (9) provided an:

(a) Assessment of the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely effect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

(3) Exemption requests are not subject to appeal.

AMENDATORY SECTION (Amending WSR 84-15-058, filed 7/18/84)

WAC 275-27-040 Application for services. (1) ((All applications)) Individuals applying for division services ((shall be filed)) shall file an application with one of the division field services offices in the form and manner required by the director.

(2) An ((application may be made by an)) individual, ((or)) advocate ((for)), ((or)) parent ((or parents)), or guardian of such an individual may file an application for services.

(3) DDD shall inform all applicants about the complete spectrum of service options provided by the division, including the existence and availability of residential habilitation centers and community support services.

AMENDATORY SECTION (Amending WSR 86-18-049, filed 8/29/86)

WAC 275-27-050 Determination for necessary services. (1) Within sixty days from the date of the division's decision that ((an individual is developmentally disabled)) a person is eligible for division funded services, the appropriate division field services office shall evaluate the ((individual's)) person's needs to determine which services, if any, are necessary to serve the client's best interest. DDD shall explain to the person/family their available service options. In addition, DDD shall do what is reasonable to:

(a) Provide choice of service options within available funding that assists people to remain in their homes and communities;

(b) Plan and develop community support services that take into consideration the unique needs of the individual and family.

(2) ((Upon completion of)) After the evaluation is completed, and if appropriate, the division will develop an individual service plan ((with determination of necessary services shall be prepared)) pursuant to WAC 275-27-060 ((or other department forms as appropriate)).

(3) Determination of necessary services ((shall not be regarded as)) is not a guarantee of service authorization or delivery. Service authorization and delivery of services ((shall be)) are pursuant to WAC 275-27-230.

(4) The department will develop an outreach program to ensure that eligible persons are aware of all of the services provided by DDD, including community support services and residential habilitation centers.

AMENDATORY SECTION (Amending WSR 91-17-005, filed 8/9/91, effective 9/9/91)

WAC 275-27-230 Authorization of services. (1) The division's field services section shall be responsible for authorizing services ((received by eligible persons)) agreed to by the person/family including, but not limited to:

(a) Placement to and from residential habilitation centers;

(b) ((Other)) Community residential services;

(c) Family support services; and

(d) Nonresidential programs.

(2) The division's authorization of services shall be based on the availability of services and funding.

(3) The division ((shall)) will include the following persons when determining authorized services:

(a) The person;

(b) The person's parent or guardian and may include:

(i) The person's advocate; or

(ii) Other responsible parties.

(4) ((The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee.

(5)) Per RCW 71A.116.010 the division shall offer adults the choice of admittance to a residential habilitation center if all of the following conditions exist:

(a) An RHC vacancy is available;

(b) Funding, specifically designated for this purpose in the state operating budget, is available for alternative community support services;

(c) The person or their family is requesting residential services;

(d) The person meets ICF/MR or nursing facility eligibility for the available RHC vacancy;

(e) The person is the most in need of residential services as determined by DDD after reviewing all persons determined eligible for ICF/MR or nursing facility level of care. DDD will make this selection based on the following criteria:

(i) The person is age eighteen or older;

(ii) The person's/family's health and safety is in jeopardy due to the lack of necessary residential support and supervision;

(A) Priority is given to eligible persons/families currently without necessary residential supports;

(B) Other eligible persons will be considered based on their risk of losing residential supports due to unstable or deteriorating circumstances.

(f) The person's alternative DDD funded community support services would cost seventy-five percent or more of the average RHC rate, assuming a minimum household size of three persons.

(5) If RHC capacity is not being used for permanent residents, the division will make these vacancies available for

respite care or any other services the department determines are needed.

(a) Admission of a child or adolescent to an RHC for respite care requires the written approval of the division director or designee.

(b) Respite care exceeding thirty days in a calendar year is subject to subsection (6) of this section.

(6) The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee if the admission is not a choice provided under subsection (4) of this section.

(a) Children twelve years of age and younger shall not be admitted to an RHC.

(b) Admission of an adolescent to an RHC can only occur if:

(i) DDD determines that foster placement services cannot meet the emergency needs of the child/family; and

(ii) A voluntary placement plan is in place with DDD with the goal of community placement or family reunification; and

(iii) Progress towards placement planning is reported to the division director at least every ninety days.

(7) The division shall authorize county-funded services only when the:

(a) Service is included in a department contract; and

(b) Person is at least twenty-one years of age and graduated from school during their twenty-first year; or

(c) Person is twenty-two years of age or older; or

(d) Person is two years of age or younger and eligible for early intervention services.

((6)) (8) The department shall require a person to participate in defraying the cost of services provided when mandated by state or federal regulation or statute.

PROPOSED

Summary: The proposed rules describe when an RN will consult with or visit Medicaid personal care (MPC) and community options program entry system (COPES) clients. The proposed rule describes the activities that an RN will perform when visiting or consulting on behalf of an MPC or COPES client.

Reasons Supporting Proposal: State legislation RCW 74.09.520 (3)(b).

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorrie Mahar, Aging and Adult Services Administration, Lacey, Washington 98504-5600, (360) 493-2537.

Name of Proponent: Department of Social and Health Services, Aging and Adult Services Administration, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments would enable the area agencies on aging and DSHS regional offices to use the nurses skill set more effectively in managing the increased caseload in home and community based settings. Nursing service would be provided when needed and as appropriate, not on a mandated basis. This would provide targeted nursing services within current funding limits.

Proposal Changes the Following Existing Rules: The change enhances the services that nurses are to provide based on the specific needs of an individual MPC or COPES client.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impose a fee or cost on providers, nor do these rules impose a requirement on businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules are related only to internal governmental operations and are not subject to violation by a nongovernmental party (RCW 34.05.328 (5)(b)(ii)).

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on September 8, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by August 28, 1998, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by September 8, 1998.

Date of Intended Adoption: September 15, 1998.

August 4, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3904, filed 9/28/95, effective 10/29/95)

WAC 388-15-194 Home and community services—(Nurse oversight)Nursing service. (1) A registered nurse will review the plan of care for all Medicaid personal care clients.

Statutory Authority for Adoption: RCW 74.09.520, 74.08.090.

Statute Being Implemented: RCW 74.09.520(3).

(2) Upon department or designee referral a registered nurse ((shall visit)) will consult regarding or visit a community options program entry system client ((and)) or a Medicaid personal care client one time per year or more often ((to)). The registered nurse may perform a comprehensive nursing service, which includes but is not limited to the following activities:

(a) ((Review the personal care task delivery portion of the client's service plan;)) Nursing assessment/reassessment which may include:

- (i) Review of history;
- (ii) Review of physical systems;
- (iii) Physical examination as pertinent to potential problems (may include vital signs, skin assessment, heart/lung sound, bowel sounds, etc.);
- (iv) Functional assessment;
- (v) Psycho-social/emotional/cognitive assessment;
- (vi) Pharmacological assessment;
- (vii) Identification of client problems and caregiver teaching needs not currently addressed by service plan (including need for nurse delegation of skilled tasks).

(b) ((Evaluate the effectiveness of the personal care task delivery portion of the client's service plan)) Instruction to care providers and clients which may include:

- (i) Specific instruction for personal care services;
- (ii) Disease process(es) or symptoms and how to effectively manage (i.e., diabetic management, incontinence, pain control);
- (iii) Purpose of medications and potential side effects/complications;
- (iv) Behavioral interventions/alternatives to psychoactive medications and physical restraints;
- (v) Safety/universal precaution needs;
- (vi) Health promotion (including preventive measures).
- (c) Care coordination which may include:
- (i) Consult/coordinate with all pertinent members of client's care team (i.e., physician, home health, pharmacy, social worker, delegating nurse, therapist family, etc.) And facilitate referrals when needed;
- (ii) Educate regarding available community resource/programs pertinent to client's needs;
- (iii) Resource for phone consultation or client reassessment (in coordination with case manager) when client condition changes;
- (iv) Record keeping/documentation of activities provided;
- (v) Facilitate equipment/transportation needs.

- (d) Evaluation which may include:
- (i) Observation, monitoring and reassessment of client (which may include but is not limited to re-evaluation of skin condition, nutrition/hydration status, disease process, client's response/tolerance of medication regimen);
- (ii) Evaluate caregivers capacity and ability to perform necessary activities to meet client's needs;
- (iv) Revise care plan based on reassessment information.
- ((2) The department or its designee may authorize a registered nurse's oversight visit more frequently than once a year when the client appears to:
- (a) Be at high risk; or
- (b) Have an unstable condition; or

~~(e) Have a provider who requires training))~~

(3) The frequency and scope of the nursing services will be based on individual client need.

~~((3))) (4) The registered nurse ((shall)) must documents the result of the ((nurse's oversight visit on the department-prescribed form)) nursing service provided on a department-approved form. The registered nurse provides a copy to the staff who has case management responsibility.~~

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

PROPOSED WSR 98-16-100

PROPOSED RULES

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed August 5, 1998, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-04-094 and 98-10-035.

Title of Rule: Safety standards for agriculture, chapter 296-307 WAC and general safety standards, chapter 296-24 WAC.

Purpose: The purpose of this rule-making proposal is to address four issues: (1) Adopt the legislature's expanded definition of agriculture as required by the 1997 SB 5530; (2) adopt rules related to electricity and food storage and handling in temporary labor camps as required by 2SSB 6168, chapter 37, Laws of 1998; (3) make corrections to field sanitation rules as required by two letters from OSHA; and (4) make a variety of nonsubstantive corrections and clarifications.

New Sections: WAC 296-307-16004 What electricity must be provided for temporary labor camps? Legislature-initiated proposed amendments to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998, are proposed to require electricity in temporary labor camps.

WAC 296-307-18005 How must fan blades be guarded? State-initiated amendments that do not add new requirements are proposed to move requirements to guard fan blades from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-18010 How must constant-running drives be guarded? State-initiated amendments that do not add new requirements are proposed to move requirements to guard constant-running drives from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-18015 What training must an employer provide for employees who use agricultural equipment? State-initiated amendments that do not add new requirements are proposed to move requirements to train employees from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-18020 What requirements apply to machine controls? State-initiated amendments that do not

add new requirements are proposed to move requirements regarding machine controls from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-18025 How must steam pipes be guarded? State-initiated amendments that do not add new requirements are proposed to move requirements to guard steam pipes from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

Temporary labor camps, chapter 296-24 WAC, WAC 296-24-12504 What electricity must be provided for temporary labor camps? Legislature-initiated proposed amendments to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998, are proposed to require electricity in temporary labor camps.

Repealed Sections: WAC 296-307-28008 What training must an employer provide for employees who use agricultural equipment? State-initiated amendments that do not add new requirements are proposed to move requirements to train employees from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-28010 What requirements apply to machine controls? State-initiated amendments that do not add new requirements are proposed to move requirements regarding machine controls from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

WAC 296-307-28012 What requirements apply to guarding steam pipes? State-initiated amendments that do not add new requirements are proposed to move requirements to guard steam pipes from Part P, Guarding Power Transmission Machinery, to Part M, Guarding Tools and Equipment; Farm Shops; Material Handling.

Amended Sections: State-initiated amendments to the following sections are proposed to correct references from chapter 296-306A WAC to chapter 296-307 WAC. No other changes are proposed.

WAC 296-307-003 How is this chapter divided?

WAC 296-307-05507 What other requirements apply to ladders?

WAC 296-307-076 How must farm field equipment be guarded?

WAC 296-307-08003 Which agricultural tractors are covered by this section?

WAC 296-307-08009 What requirements apply to the testing and performance of ROPS used on agricultural tractors?

WAC 296-307-08012 What requirements apply to seatbelts used with ROPS on agricultural tractors?

WAC 296-307-08018 What employee training requirements apply to ROPS used on agricultural tractors?

WAC 296-307-08021 What other requirements apply to ROPS used on agricultural tractors?

WAC 296-307-085 When must ROPS be provided for material handling equipment?

WAC 296-307-09506 What definitions apply to this section?

WAC 296-307-11010 General duties and prohibited actions—Worker protection standards—40 CFR, § 170.7.

WAC 296-307-120 Applicability of this section—Standards for workers—40 CFR, § 170.102.

WAC 296-307-12010 Exemptions—Standards for workers—40 CFR, § 170.104.

WAC 296-307-12015 Restrictions associated with pesticide applications—Standards for workers—40 CFR, § 170.110.

WAC 296-307-12020 Entry restrictions—Standards for workers—40 CFR, § 170.112.

WAC 296-307-12025 Notice of applications—Standards for workers—40 CFR, § 170.120.

WAC 296-307-12030 Providing specific information about applications—Standards for workers—40 CFR, § 170.122.

WAC 296-307-12050 Decontamination—Standards for workers—40 CFR, § 170.150.

WAC 296-307-130 Applicability of this section—Standards for pesticide handlers—40 CFR, § 170.202.

WAC 296-307-13005 Exemptions—Standards for handlers—40 CFR, § 170.204.

WAC 296-307-13015 Providing specific information about applications—Standards for pesticide handlers—40 CFR, § 170.222.

WAC 296-307-13025 Pesticide safety training—Standards for pesticide handlers—40 CFR, § 170.230.

WAC 296-307-13045 Personal protective equipment—Standards for pesticide handlers—40 CFR, § 170.240.

WAC 296-307-15003 What does this section cover?

WAC 296-307-18515 How must circular fuel-wood saws be guarded?

WAC 296-307-19006 What rules apply to guarding abrasives wheels?

WAC 296-307-20505 What requirements apply to guarding portable powered tools?

WAC 296-307-230 What are the general requirements for materials handling and storage?

WAC 296-307-24003 What does this section cover?

WAC 296-307-25012 What protection must an employer provide for wall openings and holes?

WAC 296-307-26003 What does this section cover?

WAC 296-307-26030 What requirements apply to railings and handrails on fixed stairs?

WAC 296-307-26033 What requirements apply to alternating tread-type stairs?

WAC 296-307-27010 What requirements apply to using aerial manlift equipment?

WAC 296-307-28002 What power transmission belts are covered by this section?

WAC 296-307-28014 What requirements apply to prime-mover guards?

WAC 296-307-28016 What requirements apply to guarding shafting?

WAC 296-307-28018 What requirements apply to guarding pulleys?

WAC 296-307-28020 What requirements apply to guarding horizontal belt, rope, and chain drives?

WAC 296-307-28022 What requirements apply to guarding overhead horizontal belt, rope, and chain drives?

WAC 296-307-28024 What requirements apply to guarding vertical and inclined belts?

WAC 296-307-28030 What requirements apply to guarding gears, sprockets, and chains?

WAC 296-307-28040 What requirements apply to guarding clutches, cutoff couplings, and clutch pulleys?

WAC 296-307-28042 What requirements apply to guarding belt shifters, clutches, shippers, poles, perches, and fasteners?

WAC 296-307-28048 What requirements apply to disk, shield, and U-guards?

WAC 296-307-28052 When may wood guards be used?

WAC 296-307-29005 What requirements apply to auger conveying equipment?

WAC 296-307-30003 What does this section cover?

WAC 296-307-30018 What requirements apply to electrical control for maintaining and servicing farmstead equipment?

WAC 296-307-32001 What does this section cover?

WAC 296-307-32003 When does this section not apply?

WAC 296-307-32009 How does an employer determine when to use lockout vs. tagout?

WAC 296-307-32017 How often must the energy control procedure be inspected?

WAC 296-307-32035 What requirements apply to testing and positioning machines and equipment?

WAC 296-307-32039 What requirements apply to group lockout or tagout?

Amended Sections: (changing only 306A to 307, cont.):

WAC 296-307-34003 What does this section cover?

WAC 296-307-34503 What does this section cover?

WAC 296-307-35003 What does this section cover?

WAC 296-307-35012 What are the operation and maintenance requirements for exit routes?

WAC 296-307-36005 What does this part cover?

WAC 296-307-36230 What access and working space must be provided for electrical equipment over 600 volts, nominal?

WAC 296-307-36636 How must high voltage systems be grounded?

WAC 296-307-36803 Does this section apply to factory-assembled equipment?

WAC 296-307-37203 What does this section cover?

WAC 296-307-37209 What equipment, wiring methods, and installations may be used in hazardous locations?

WAC 296-307-37603 What does this section cover?

WAC 296-307-37606 Who may work on energized parts?

WAC 296-307-37612 What requirements apply to qualified persons working near overhead lines?

WAC 296-307-37615 What requirements apply to vehicles and mechanical equipment near overhead lines?

WAC 296-307-37803 How must employees be trained on safety practices?

WAC 296-307-37807 What work practices must be followed for work on exposed deenergized parts?

WAC 296-307-37809 Must an employer have a written copy of lockout-tagout procedures?

WAC 296-307-37825 What safety-related work practices relate to flammable materials?

WAC 296-307-38006 What requirements apply to general protective equipment and tools?

WAC 296-307-38012 What electrical requirements apply to electrical protective devices?

WAC 296-307-38015 What workmanship and finish requirements apply to electrical protective devices?

WAC 296-307-40001 What does this section cover?

WAC 296-307-40007 What requirements apply to systems mounted on farm wagons (implements of husbandry) for the transportation of ammonia?

WAC 296-307-40009 What requirements apply to systems mounted on farm wagons (implements of husbandry) for the application of ammonia?

WAC 296-307-40013 What requirements apply to the construction, original test, and requalification of nonrefrigerated containers?

WAC 296-307-40015 How must nonrefrigerated containers and systems (other than DOT containers) be marked?

WAC 296-307-40021 What requirements apply to piping, tubing, and fittings?

WAC 296-307-40023 What specifications must hoses meet?

WAC 296-307-40025 What requirements apply to safety-relief devices?

WAC 296-307-40033 What requirements apply to tank car unloading points and operations?

WAC 296-307-40039 What requirements apply to electrical equipment and wiring?

WAC 296-307-41001 What does this part cover?

WAC 296-307-41017 Where must containers be located?

WAC 296-307-41025 What requirements apply to safety devices?

WAC 296-307-41027 How must indirect fired vaporizers be constructed and installed?

WAC 296-307-41031 How must direct gas-fired vaporizers be constructed and installed?

WAC 296-307-41039 What requirements apply to LP-gas in buildings?

WAC 296-307-41041 What requirements apply to transfer of liquids?

WAC 296-307-41047 What electrical requirements apply to LP-gas installations?

WAC 296-307-41049 What requirements apply to liquid-level gauging devices?

WAC 296-307-41501 What does this section cover?

WAC 296-307-41507 What additional requirements apply to cylinder systems installed outdoors?

WAC 296-307-41513 What requirements apply to safety devices for cylinder systems?

WAC 296-307-42001 What does this section cover?

WAC 296-307-42007 What additional requirements apply to safety devices for non-DOT containers?

WAC 296-307-42013 How must non-DOT containers be installed?

WAC 296-307-42023 What other requirements apply to non-DOT containers?

WAC 296-307-42501 What does this section cover?

WAC 296-307-42503 What general requirements apply to LP-gas used as a motor fuel?

WAC 296-307-42519 What is the maximum container capacity allowed?

WAC 296-307-42521 What requirements apply to stationary engines used indoors?

WAC 296-307-42523 What requirements apply to portable engines used indoors?

WAC 296-307-43001 What does this section cover?

WAC 296-307-43501 What does this section cover?

WAC 296-307-43503 How must containers be constructed?

WAC 296-307-43509 What requirements apply to valves and accessories?

WAC 296-307-43511 What requirements apply to safety devices?

WAC 296-307-43515 What requirements apply to enclosures and mounting?

WAC 296-307-44001 What does this section cover?

WAC 296-307-44007 What requirements apply to safety devices?

WAC 296-307-45003 What requirements apply to dip tanks containing flammable or combustible liquids?

WAC 296-307-45009 What general requirements apply to the construction of dip tanks?

WAC 296-307-45017 What measures must an employer take to prevent hazards from electrical and other ignition sources?

WAC 296-307-45021 What requirements must fire extinguishing systems meet?

WAC 296-307-45023 What requirements apply to hardening and tempering tanks?

WAC 296-307-45027 What requirements apply to electrostatic apparatus?

WAC 296-307-48023 What requirements apply to fuel-gas manifolds?

WAC 296-307-48027 What requirements apply to low pressure oxygen manifolds?

WAC 296-307-48029 What requirements apply to manifolding portable outlet headers?

WAC 296-307-48031 What operating procedures apply to cylinder manifolds?

WAC 296-307-48033 How must service piping systems be designed?

WAC 296-307-48501 What general requirements apply to resistance welding equipment?

WAC 296-307-48505 What requirements apply to flash welding equipment?

WAC 296-307-49005 How must arc welding equipment be designed?

WAC 296-307-49007 How must arc welding equipment be installed?

WAC 296-307-49009 How must arc welding equipment be grounded?

WAC 296-307-49011 What requirements apply to supply connections and conductors?

WAC 296-307-49013 How must arc welding equipment be operated?

WAC 296-307-49501 What basic fire prevention precautions must be taken?

WAC 296-307-49503 What special fire prevention precautions must be taken?

WAC 296-307-50005 What protective clothing must welders wear?

WAC 296-307-50009 What employee protection must be provided in confined spaces?

WAC 296-307-50011 What general requirements apply to welding ventilation?

WAC 296-307-50013 What ventilation must be provided for general welding and cutting?

WAC 296-307-50019 What requirements apply to welding fluorine compounds?

WAC 296-307-50021 What requirements apply to welding zinc?

WAC 296-307-50023 What requirements apply to welding lead?

WAC 296-307-50027 What requirements apply to welding cadmium?

WAC 296-307-52001 What does this section cover?

WAC 296-307-52013 In what environments may converted trucks be used?

WAC 296-307-52015 What requirements apply to overhead safety guards?

WAC 296-307-52017 What requirements apply to load backrests?

WAC 296-307-52047 What requirements apply to maintaining powered industrial trucks?

WAC 296-307-53001 What does this section cover?

WAC 296-307-53005 What training must an employer provide for employees who service rim wheels?

Amended Sections (other changes):

WAC 296-307-006 What does this chapter cover?

State-initiated proposed amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Provide more guidance on what other safety and health rules may apply. Legislature-initiated amendments are proposed to meet the requirement of SB 5530, 1997.
- Expand the scope of the definition of "agricultural operations."

WAC 296-307-009 What definitions apply to this chapter? State-initiated proposed amendments that do not add new requirements are proposed to:

- Clarify that references to "the department" refer to WISHA staff.

WAC 296-307-015 What must an employer do if a serious injury occurs? State-initiated proposed amendments that do not add new requirements are proposed to:

- Clarify how an employer must report a serious injury.

WAC 296-307-018 What are the employer's responsibilities? State-initiated proposed amendments that do not add new requirements are proposed to:

- Provide more guidance on what other safety and health rules may apply.

WAC 296-307-024 How does an employer apply for a variance? State-initiated proposed amendments that do not add new requirements are proposed to:

- Correct the address to write to for a variance application.

WAC 296-307-030 What are the required elements of an accident prevention program? State-initiated proposed

amendments that do not add new requirements are proposed to:

- Clarify that an accident prevention program must be in writing.
- Specify where the requirement to develop an emergency action plan is found.

WAC 296-307-061 What requirements apply to working around bins, bunkers, hoppers, tanks, pits, and trenches? State-initiated proposed amendments that do not add new requirements are proposed to:

- Clarify that chapter 296-155 WAC applies to excavation work.
- Eliminate the confusing and incomplete requirements for excavation.

WAC 296-307-07013 What rules apply to vehicles used to transport employees? State-initiated proposed amendments that do not add new requirements are proposed to:

- Clarify that all vehicles used to transport employees must be equipped with fire extinguishers.

WAC 296-307-09503 What does this section cover?

OSHA-initiated amendments to address a letter from OSHA dated July 20, 1998, which identified areas in the agriculture rules that are not as effective as OSHA rules, are proposed to:

- Eliminate the field sanitation exemption for production of seeds.

WAC 296-307-09509 What orientation must employers provide for field sanitation? OSHA-initiated amendments to address a letter from OSHA dated July 30, 1997, which identified areas in the agriculture rules that are not as effective as OSHA rules, are proposed to:

- Specify the hazards associated with poor hygiene practices.
- Clarify that nonpotable water cannot be used for sanitation purposes.

WAC 296-307-107 Federal worker protection standards—Washington state department of agriculture.

State-initiated proposed amendments that do not add new requirements are proposed to:

- Change the word "chapter" to "part."

WAC 296-307-11005 Definitions—Worker protection standards—40 CFR, § 170.3. State-initiated proposed amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Delete the note referring to WAC 296-306A-010, which does not exist.

WAC 296-307-12040 Pesticide safety training—Standards for workers—40 CFR, § 170.130. State-initiated proposed amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Merge all pesticide safety training requirements into one subsection to eliminate confusion.

WAC 296-307-16001 What requirements apply to camp sites? State-initiated proposed amendments that do not add new requirements are proposed to:

- Eliminate requirements for closing temporary labor camps that address public health issues over which we have no jurisdiction.

WAC 296-307-16003 How must camp shelters be constructed? Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Delete requirements for cooking facilities that have been moved to WAC 296-307-16017.

WAC 296-307-16013 What lighting must an employer provide in camp buildings? State-initiated amendments that do not add new requirements are proposed to:

- Clarify light level requirements in other rooms.

Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Delete the phrase "where electric service is available."

WAC 296-307-16017 How must kitchens, dining halls, and feeding facilities be constructed? Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Require facilities for cooking and food handling.

Part M—Guarding Tools; Farm Shops; Materials Handling. State-initiated amendments that do not add new requirements are proposed to:

- Include equipment guarding in the part title to better reflect the contents of the part.

WAC 296-307-18503 What general requirements apply to powered saws? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Move requirements that apply to specific kinds of saws to the sections that cover those saws.
- Clarify that push sticks or blocks must be used.
- Clarify that improper dadoing is prohibited.

WAC 296-307-18506 How must band saws be guarded? State-initiated amendments that do not add new requirements are proposed to:

- Rewrite for clarity (plain language).

WAC 296-307-18509 How must radial arm saws be guarded? State-initiated amendments that do not add new requirements are proposed to:

- Allow the option of alternative protection equivalent to a blade guard.
- Bring in requirements previously found in general saw requirements that only apply to radial arm saws.
- Rewrite for clarity (plain language).

WAC 296-307-18512 How must table saws be guarded? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Bring in requirements previously found in general saw requirements that only apply to table saws.
- Rewrite for clarity (plain language).

WAC 296-307-190 Guarding bench grinders and abrasive wheels.

State-initiated amendments that do not add new requirements are proposed to:

- Add "and portable grinders" to the section title to better reflect the content of the section.

WAC 296-307-19009 What are the use, mounting, and guarding rules for abrasive wheels? State-initiated

amendments that do not add new requirements are proposed to:

Add existing requirement (mistakenly located in flanges requirements) that applies to abrasive wheels.

WAC 296-307-19012 What requirements apply to flanges? State-initiated amendments that do not add new requirements are proposed to:

- Delete a requirement that does not apply to flanges.

WAC 296-307-22012 What rules apply to walk-behind rotary mowers? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Clarify that deadman controls are required.

WAC 296-307-22509 What rules apply to the operation and maintenance of jacks? State-initiated amendments that do not add new requirements are proposed to:

- Clarify that jacks alone are not a sufficient support method when working under the load.

WAC 296-307-232 What requirements apply to conveyors? State-initiated amendments that do not add new requirements are proposed to:

- Clarify the emergency conditions when walking on a roller-type conveyor.
- Clarify the location of the emergency stopping device for a conveyor.

WAC 296-307-25015 What protection must an employer provide for open-sided floors, platforms, and runways? State-initiated amendments that do not add new requirements are proposed to:

- Correct the reference to chapter 296-307 WAC.
- Correct a WAC reference.

WAC 296-307-28006 What general requirements apply to machine guarding? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Delete requirements for constant-running drives that were moved to Part M.

WAC 296-307-28060 What materials must be used for guardrails and toeboards? State-initiated amendments that do not add new requirements are proposed to:

- Clarify that these guardrail requirements only apply to guarding power transmission machinery.

WAC 296-307-30009 How must other power transmission components of farmstead equipment be guarded? State-initiated amendments that do not add new requirements are proposed to:

- Replace specifications for power transmission components guarding with a reference to the rules on power transmission guarding.

- Rewrite for clarity (plain language).

WAC 296-307-34006 Who is exempt from the requirements of this section? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Specify in the note which sections require portable fire extinguishers.

WAC 296-307-35015 What are the requirements for an emergency action plan? State-initiated amendments that do not add new requirements are proposed to:

- Specify which section requires the emergency action plan.

WAC 296-307-35018 What are the requirements for a fire prevention plan? State-initiated amendments that do not add new requirements are proposed to:

- Specify which section requires a fire prevention plan.

WAC 296-307-37801 What does this section cover? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Correct a WAC reference.

WAC 296-307-40005 What general requirements apply to the storage and handling of anhydrous ammonia? State-initiated amendments that do not add new requirements are proposed to:

- Clarify that gloves and goggles are required and a face shield may be used in addition.

WAC 296-307-45001 What general requirements apply to hazardous materials and flammable and combustible liquids? State-initiated amendments that do not add new requirements are proposed to:

- Clarify that the storage requirements apply to other flammable and combustible liquids.

WAC 296-307-52003 What is a "powered industrial truck"? State-initiated amendments that do not add new requirements are proposed to:

- Delete the farm vehicles exclusion inadvertently left in when chapter 296-306A WAC was adopted from chapter 296-24 WAC.

WAC 296-307-52005 What manufacturer's requirements apply to powered industrial trucks? State-initiated amendments that do not add new requirements are proposed to:

- Replace "shall" with "must."

WAC 296-307-52009 What must a user consider before choosing a powered industrial truck? State-initiated amendments that do not add new requirements are proposed to:

- Correct the chapter reference to chapter 296-307 WAC.
- Replace "shall" with "must."

WAC 296-307-52011 What requirements determine which trucks to use in specific hazardous environments? State-initiated amendments that do not add new requirements are proposed to:

- Delete the tables that users find more confusing than helpful.

Temporary labor camps, chapter 296-24 WAC.

WAC 296-24-12501 Site.

State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What requirements apply to camp sites?"

• Eliminate requirements for closing temporary labor camps that address public health issues over which we have no jurisdiction.

- Rewrite for plain language.

WAC 296-24-12503 Shelter. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "How must camp shelters be constructed?"

- Rewrite for plain language.

Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Delete requirements for cooking facilities that have been moved to WAC 296-24-12517.

WAC 296-24-12505 Water supply. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What requirements apply to the water supply?"

- Rewrite for plain language.

WAC 296-24-12507 Toilet facilities. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "Must an employer provide toilet facilities for the camp?"
- Rewrite for plain language.

WAC 296-24-12509 Sewage disposal facilities. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "Must sewer lines connect to public sewers?"

- Rewrite for plain language.

WAC 296-24-12511 Laundry, handwashing, and bathing facilities. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What facilities must an employer provide for laundry, handwashing, and bathing?"
- Rewrite for plain language.

WAC 296-24-12513 Lighting. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What lighting must an employer provide in camp buildings?"

- Rewrite for plain language.

Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Delete the phrase "where electric service is available."
- Clarify light level requirements in other rooms.

WAC 296-24-12515 Refuse disposal. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What requirements apply to refuse disposal?"

- Rewrite for plain language.

WAC 296-24-12517 Construction and operation of kitchens, dining hall, and feeding facilities. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What cooking and food-handling facilities must be provided in temporary labor camps?"

Legislature-initiated proposed amendments are proposed to meet the requirement of 2SSB 6168, chapter 37, Laws of 1998:

- Require facilities for cooking and food handling.

WAC 296-24-12519 Insect and rodent control. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "Must an employer provide insect and rodent control?"

- Rewrite for plain language.

WAC 296-24-12521 First aid. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "What first-aid facilities must be available in the camp?"

- Rewrite for plain language.

WAC 296-24-12523 Reporting communicable disease. State-initiated amendments that do not add new requirements are proposed to:

- Change the title to "When must an employer report communicable diseases in a camp?"

- Rewrite for plain language.

Statutory Authority for Adoption: RCW 49.17.040, section 3, chapter 37, Laws of 1998.

Statute Being Implemented: RCW 49.17.010, 49.17.020, and 49.17.022.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, 29 CFR 1928.110.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments to chapters 296-307 and 296-24 WAC are exempt from economic analysis because they would respond to legislative mandates of 2SSB 6168 (chapter 37, Laws of 1998) and SB 5530 (chapter 362, Laws of 1997), would adopt federal requirements regarding field sanitation, or would clarify language without changing its effect. Therefore, neither a small business economic impact statement nor an evaluation of the probable costs and probable benefits is required.

RCW 34.05.328 does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii), (iv), and (v). Significant rule-making criteria does not apply when adopting requirements mandated by law, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: On September 8, 1998, at 9:00 a.m., San Juan Room, Best Western Cottonree Inn, 2300 Market Place, Mt. Vernon and at 9:00 a.m., East Ballroom, Cavanaugh's, 607 East Yakima Avenue, Yakima.

On September 9, 1998, at 1:00 p.m., Department of Labor and Industries Auditorium, 7273 Linderson Way S.W., Tumwater and at 9:00 a.m., Chelan Room, Red Lion Inn 1225 North Wenatchee Avenue, Wenatchee.

Assistance for Persons with Disabilities: Contact Linda Dausener by August 24, 1998, at (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m. on September 18, 1998. Send fax comments (of ten pages or fewer) to (360) 902-5529.

Date of Intended Adoption: December 1, 1998.

August 4, 1998

Gary Moore

Director

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12501 ((Site)) What requirements apply to camp sites? ((1) All sites used for camps shall be adequately drained. They shall not be subject to periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such quiescent water surfaces can be subjected to mosquito control measures. The camp shall be located so the drainage from and through the camp will not endanger any domestic or public water supply. All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

(2) All sites shall be adequate in size to prevent over crowding of necessary structures. The principal camp area in which food is prepared and served and where sleeping quarters are located shall be at least 500 feet from any area in which livestock is kept.

(3) The grounds and open areas surrounding the shelters shall be maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse.

(4) Whenever the camp is closed for the season or permanently, all garbage, manure, and other refuse shall be collected and so disposed of as to prevent nuisance. All abandoned privy pits shall be filled with earth and the grounds and buildings left in a clean and sanitary condition. If privy buildings remain, they shall be locked or otherwise secured to prevent entrance.) (1) You must ensure that all sites used for temporary labor camps are adequately drained. The site must be free from periodic flooding, and located at least two hundred feet from a swamp, pool, sink hole, or other surface collection of water unless the water surface can be subject to mosquito control. Drainage from and through the camp must not endanger any domestic or public water supply. All sites must be free from depressions in which water may become a nuisance.

(2) All sites must be large enough to prevent overcrowding of necessary structures. The principal camp area for sleeping and for food preparation and eating must be at least five hundred feet from where livestock are kept.

(3) The grounds and open areas surrounding the shelters must be maintained in a clean and sanitary condition.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12503 ((Shelter)) How must camp shelters be constructed? ((1) Every shelter in the camp

shall be constructed in a manner which will provide protection against the elements.

(2) Each room used for sleeping purposes shall contain at least 50 square feet of floor space for each occupant. At least a seven-foot ceiling shall be provided.

(3) Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks are prohibited.

(4) The floors of each shelter shall be constructed of wood, asphalt, or concrete. Wooden floors shall be of smooth and tight construction. The floors shall be kept in good repair.

(5) All wooden floors shall be elevated not less than one foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath.

(6) Nothing in this section shall be construed to prohibit "banking" with earth or other suitable material around the outside walls in areas subject to extreme low temperatures.

(7) All living quarters shall be provided with windows the total of which shall be not less than one tenth of the floor area. At least one half of each window shall be so constructed that it can be opened for purposes of ventilation.

(8) All exterior openings shall be effectively screened with 16-mesh material. All screen doors shall be equipped with self-closing devices.

(9) Each dwelling unit shall have at least 70 square feet of floor space for the first occupant and at least 50 square feet of floor space for each additional occupant. A separate sleeping area shall be provided for the husband and wife in all family units in which one or more children over six years of age are housed.

(10) In camps where cooking facilities are used in common, stoves (in ratio of one stove to 10 persons or one stove to two families) shall be provided in an enclosed and screened shelter. Sanitary facilities shall be provided for storing and preparing food.

(11) If a camp is used during cold weather, adequate heating equipment shall be provided.

Note: All heating, cooking, and water heating equipment shall be installed in accordance with state and local ordinances, codes, and regulations governing such installations.)

(1) You must ensure that every shelter in the camp is constructed to provide protection against the elements.

(2) Each room used for sleeping purposes must have at least fifty square feet of floor space for each occupant. The room must have at least a seven-foot ceiling.

(3) You must provide beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles in every sleeping room.

(a) Beds must be at least thirty-six inches apart, both laterally and end to end, and the frame must keep mattresses at least twelve inches off the floor.

(b) Double-deck bunks must be spaced at least forty-eight inches apart, both laterally and end to end.

(c) The minimum clear space between lower and upper bunks must be at least twenty-seven inches.

(d) Triple-deck bunks are prohibited.

(4) The floors of each shelter must be constructed of wood, asphalt, or concrete. Wooden floors must be smooth and tight. The floors must be kept in good repair.

(5) All wooden floors must be elevated at least one foot above ground level at all points to prevent dampness and to permit free air circulation.

(6) You may "bank" around outside walls with earth or other suitable material to guard against extreme low temperatures.

(7) All living quarters must have windows covering a total area equal to at least one-tenth of the floor area. You must ensure that at least one-half of each window can be opened for ventilation.

(8) All exterior openings must be screened with sixteen-mesh material. All screen doors must have self-closing devices.

(9) You must ensure that each dwelling unit has at least seventy square feet of floor space for the first occupant and at least fifty square feet of floor space for each additional occupant. In a family unit, the husband and wife must have a separate sleeping area whenever living with one or more children over six years old.

(10) If a camp is used during cold weather, you must provide adequate heating equipment.

Note: All heating, cooking, and water heating equipment must be installed according to state and local ordinances, codes, and regulations governing such installations.

NEW SECTION

WAC 296-24-12504 What electricity must be provided for temporary labor camps? (1) A labor camp operator must supply electricity to all dwelling units, kitchen facilities, shower/bathroom facilities, common areas, and laundry facilities.

(2) All electrical wiring and electrical equipment in labor camps must meet the electric standards of applicable building codes.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12505 ((Water supply.)) What requirements apply to the water supply? ((1) An adequate and convenient water supply, approved by the appropriate health authority, shall be provided in each camp for drinking, cooking, bathing, and laundry purposes.

(2) A water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2 1/2 times the average hourly demand.

(3) The distribution lines shall be capable of supplying water at normal operating pressures to all fixtures for simultaneous operation. Water outlets shall be distributed throughout the camp in such a manner that no shelter is more than

100 feet from a yard hydrant if water is not piped to the shelters.

(4) Where water under pressure is available, one or more drinking fountains shall be provided for each 100 occupants or fraction thereof. The construction of drinking fountains shall comply with ANSI Standard Specifications for Drinking Fountains, Z4.2-1942. Common drinking cups are prohibited.) (1) In each camp, you must provide an adequate and convenient water supply for drinking, cooking, bathing, and laundry purposes. The water supply must be approved by the appropriate health authority.

"**Adequate water supply**" means a water supply that is capable of delivering thirty-five gallons per person per day to the campsite at a peak rate of two and one-half times the average hourly demand.

(2) You must ensure that the distribution lines are able to supply water at normal operating pressures to all fixtures for simultaneous operation. If water is not piped to the shelters, water outlets must be distributed throughout the camp so that no shelter is more than one hundred feet from a yard hydrant.

(3) Where water under pressure is available, you must provide one or more drinking fountains for each one hundred occupants or fraction thereof. The construction of drinking fountains must comply with ANSI Standard Specifications for Drinking Fountains, Z4.2-1942. Common drinking cups are prohibited.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12507 ((Toilet facilities.)) Must an employer provide toilet facilities for the camp? ((1) Toilet facilities adequate for the capacity of the camp shall be provided.

(2) Each toilet room shall be located so as to be accessible without any individual passing through any sleeping room. Toilet rooms shall have a window not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with 16 mesh material. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.

(3) A toilet room shall be located within 200 feet of the door of each sleeping room. No privy shall be closer than 100 feet to any sleeping room, dining room, lunch area, or kitchen.

(4) Where the toilet rooms are shared, such as in multi-family shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

(5) Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ration of one such

unit to each 15 persons, with a minimum of two units for any shared facility.

(6) Urinals shall be provided on the basis of one unit or 2 linear feet of urinal trough for each 25 men. The floor from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals shall be constructed of materials impervious to moisture. Where water under pressure is available, urinals shall be provided with an adequate water flush. Urinal troughs in privies shall drain freely into the pit or vault and the construction of this drain shall be such as to exclude flies and rodents from the pit.

(7) Every water closet installed after the effective date of these standards shall be located in a toilet room.

(8) Each toilet room shall be lighted naturally, or artificially at all hours of the day and night as specified in WAC 296-24-12513.

(9) An adequate supply of toilet paper shall be provided in each privy, water closet, or chemical toilet compartment.

(10) Privies and toilet rooms shall be kept in a sanitary condition. They shall be cleaned at least daily. (1) You must provide toilet facilities adequate for the camp capacity.

(2) You must ensure that no one has to pass through a sleeping room to reach a toilet room. Toilet rooms must either have a window of at least six square feet opening directly to the outside, or be satisfactorily ventilated. All outside openings must be screened with sixteen-mesh material. No fixture, water closet, chemical toilet, or urinal must be located in a room used for other than toilet purposes.

(3) A toilet room must be within two hundred feet of the door of each sleeping room. An outhouse must be at least one hundred feet away from any sleeping room, dining room, lunch area, or kitchen.

(4) Where toilet rooms are shared, such as in multifamily shelters and in barracks-type facilities, you must provide separate toilet rooms for each sex. These rooms must be distinctly marked "men" and "women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they must be separated by solid walls or partitions extending from the floor to the roof or ceiling.

(5) Where toilet facilities are shared, you must provide water closets or outhouses for each sex, based on the maximum number of persons of that sex that the camp is designed to house at any one time. Water closets or outhouses must be provided in the ratio of one unit for each fifteen persons, and a minimum of two units for any shared facility.

(6) You must provide one urinal or two linear feet of urinal trough for each twenty-five men. The floor from the wall and out at least fifteen inches from the outer edge of the urinals must be constructed of materials impervious to moisture. Where water under pressure is available, urinals must have an adequate water flush. Urinal troughs in outhouses must drain freely into the pit or vault and the drain must be constructed to exclude flies and rodents from the pit.

(7) Every water closet installed after the effective date of these standards must be located in a toilet room.

(8) Each outhouse, water closet, or chemical toilet compartment must have an adequate supply of toilet paper.

(9) Toilet rooms must be kept in a sanitary condition and be cleaned at least daily.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12509 ((Sewage disposal facilities.))
Must sewer lines connect to public sewers? ((In camps where public sewers are available, all sewer lines and floor drains from buildings shall be connected thereto.)) All sewer lines and floor drains from buildings must be connected to public sewers when sewers are available.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-12511 ((Laundry, handwashing, and bathing facilities.))
What facilities must an employer provide for laundry, handwashing, and bathing? ((1) Laundry, handwashing, and bathing facilities shall be provided in the following ratio:

(a) Handwash basin per family shelter or per six persons in shared facilities.

(b) Shower head for every ten persons.

(c) Laundry tray or tub for every thirty persons.

(d) A "deepwell" type sink in each building used for laundry, hand washing, and bathing.

(2) Floors shall be of smooth finish but not slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be coved. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.

(3) An adequate supply of hot and cold running water shall be provided for bathing and laundry purposes. Facilities for heating water shall be provided.

(4) Every service building shall be provided with equipment capable of maintaining a temperature of at least 70°F. during cold weather.

(5) Facilities for drying clothes shall be provided.

(6) All service buildings shall be kept clean. (1) Laundry, handwashing, and bathing facilities must be provided in the following ratio:

(a) One handwash basin per family shelter or per six persons in shared facilities.

(b) One shower head for every ten persons.

(c) One laundry tray or tub for every thirty persons.

(d) One "deepwell" type sink in each building used for laundry, handwashing, and bathing.

(2) Floors must be moisture-resistant and smooth but not slippery. All junctions of the curbing and the floor must be coved. The walls and partitions of shower rooms must be smooth and moisture-resistant to the height of splash. All shower baths, shower rooms, or laundry rooms must have floor drains to remove waste water and facilitate cleaning.

(3) An adequate supply of hot and cold running water must be provided for bathing and laundry purposes. Facilities for heating water must be provided.

PROPOSED

(4) Every service building must be provided with equipment capable of maintaining a temperature of at least 70 degrees Fahrenheit.

(5) Facilities for drying clothes must be provided.

(6) All service buildings must be kept clean.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12513 ((Lighting.)) What lighting must an employer provide for camp buildings? ((Where electric service is available, each habitable room in a camp shall be provided with at least one ceiling-type light fixture and at least one separate floor or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate shall contain at least one ceiling or wall-type fixture. Light levels in toilet and storage rooms shall be at least 20 foot-candles 30 inches from the floor. Other rooms, including kitchens and living quarters, shall be at least 30 foot-candles 30 inches from the floor.)) Each habitable room in a camp must have at least one ceiling-type light fixture and at least one separate floor-type or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate must have at least one ceiling-type or wall-type fixture. Light levels in toilet and storage rooms must be at least twenty foot-candles thirty inches from the floor. The light level in other rooms, including kitchens and living quarters, must be at least thirty foot-candles thirty inches from the floor.)

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12515 ((Refuse disposal.)) What requirements apply to refuse disposal? ((1) Fly-tight, rodent-tight, impervious, cleanable or single-service containers, approved by the state board of health shall be provided for the storage of garbage. At least one such container shall be provided for each family shelter and shall be located within 100 feet of each shelter on a wooden, metal, or concrete stand.

(2) Garbage containers shall be kept clean.

(3) Garbage containers shall be emptied when full, but not less than twice a week.)) (1) Cleanable or single service containers that can be securely closed, approved by the state board of health, must be provided for garbage storage. At least one such container must be provided for each family shelter and must be located within one hundred feet of each shelter on a wooden, metal, or concrete pad.

(2) Garbage containers must be kept clean.

(3) Garbage containers must be emptied when full, and at least twice a week.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12517 ((Construction and operation of kitchens, dining hall, and feeding facilities.)) What cooking and food-handling facilities must be provided in temporary labor camps? ((1) In all camps where central dining

or multiple family feeding operations are permitted or provided, the food handling facilities shall comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the *Food Service Sanitation Manual*, U.S. Public Health Service Publication 934 (1965).

(2) A properly constructed kitchen and dining hall adequate in size, separate from the sleeping quarters of any of the workers or their families, shall be provided in connection with all food handling facilities. There shall be no direct opening from living or sleeping quarters into a kitchen or dining hall.

(3) No person with any communicable disease shall be employed or permitted to work in the preparation, cooking, serving, or other handling of food, foodstuffs, or materials used therein, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.)) A labor camp operator must provide enclosed and screened cooking and food-handling facilities for all occupants.

(1) If cooking facilities are located in dwelling units, the operator must provide:

(a) An operable cook stove or hot plate with at least one cooking surface for every two adult occupants or four cooking surfaces for every two families;

(b) A sink with hot and cold running potable water under pressure;

(c) Food storage areas and nonabsorbent, easily cleanable food preparation counters situated off the floor;

(d) Mechanical refrigeration able to maintain a temperature of 45 degrees Fahrenheit or below, with enough space to store perishable food items for all occupants;

(e) Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;

(f) Nonabsorbent, easily cleanable floors;

(g) At least one ceiling or wall light fixture; and

(h) Lighting of thirty foot-candles measured thirty inches from the floor, and

(i) Adequate ventilation for cooking facilities.

(2) In common food-handling facilities, the operator must provide:

(a) A room or building, adequate in size, separate from any sleeping quarters;

(b) No direct openings to living or sleeping areas from the common food-handling facility;

(c) An operable cook stove or hot plate with at least one cooking surface for every two adult occupants or four cooking surfaces for every two families;

(d) Sinks with hot and cold running potable water under pressure;

(e) Food storage areas and nonabsorbent, easily cleanable food preparation counters situated off the floor;

(f) Mechanical refrigeration able to maintain a temperature of 45 degrees Fahrenheit or below, with enough space to store perishable food items for all occupants;

(g) Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;

(h) Nonabsorbent, easily cleanable floors;

(i) At least one ceiling or wall light fixture; and

(j) Lighting of thirty foot-candles measured thirty inches from the floor.

- (k) Adequate ventilation for cooking facilities.
 (3) The operator must ensure that dining hall facilities:
 (a) Comply with chapter 246-215 WAC, Food service;
 (b) Are in a room or building, adequate in size, separate from any sleeping quarters;
 (c) Have no direct openings to living or sleeping areas from the dining hall facility;
 (d) Have fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;
 (e) Have nonabsorbent, easily cleanable floors;
 (f) Have at least one ceiling or wall light fixture; and
 (g) Have available lighting of thirty foot-candles measured thirty inches from the floor.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12519 ((Insect and rodent control))

Must an employer provide insect and rodent control?

((Effective measures shall be taken to prevent infestation by and harborage of animal or insect vectors or pests-)) You must take effective measures to prevent and control insect and rodent infestation.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12521 ((First aid.)) What first-aid facilities must be available in the camp? ((1) Adequate first-aid facilities approved by a health authority shall be maintained and made available in every labor camp for the emergency treatment of injured persons:

(2) Such facilities shall be in charge of a person trained to administer first aid and shall be readily accessible for use at all times.) (1) In every camp, you must provide and maintain adequate first-aid facilities, approved by a health authority, for emergency treatment.

(2) A first-aid trained person must be in charge of first-aid facilities.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-12523 ((Reporting communicable disease.)) When must an employer report communicable diseases in a camp? ((1) It shall be the duty of the camp superintendent to report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease:

(2) Whenever there shall occur in any camp a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the camp superintendent to report immediately the existence of the outbreak to the local health officer or state board of health by telegram or telephone.) (1) You must report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease.

(2) Whenever suspected food poisoning or an unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice occurs, the camp superintendent must report immediately the outbreak to the local health officer or state board of health.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-003 How is this chapter divided? The first three digits of the WAC (296) are the title. The second three digits are the chapter ((296A)) (307). The third number group is the section, which may have three or five digits. The fourth and fifth digits are treated as if there were a decimal point after the third digit.

For example: Section 330 of this chapter includes all five-digit sections whose number begins with 330.

Sections may be further divided as indicated below.

Title-Chapter-Section((296-306A-330)) 296-307-330

((296-306A-33003)) 296-307-33003

Subsection	(1)
	(2)
Subdivision	(a)
	(b)
Item	(i)
	(ii)

Note: The chapter is also divided into "parts" according to subject, to make it easier for you to find the information you need.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-006 What does this chapter cover? (1) Chapter ((296-306A)) 296-307 WAC applies to all agricultural operations with one or more employees covered by the Washington Industrial Safety and Health Act (WISHA), chapter 49.17 RCW.

"Agricultural operations" are all operations necessary to farming and ranching, including ((equipment and machinery maintenance, and planting, cultivating, growing or raising, keeping for sale, harvesting, or transporting on the farm or to the first place of processing any tree, plant, fruit, vegetable, animal, fowl, fish, or insects or products)), but not limited to:

- (a) Cultivating and tilling the soil;
- (b) Dairy farming;
- (c) Producing, cultivating, growing, and harvesting of any agricultural or horticultural commodity;
- (d) Raising livestock, bees, fur-bearing animals, or poultry; and
- (e) Any practices performed by a farmer or on a farm, incident to or in connection with such farming operations, including but not limited to preparation for market and delivery to:
 - (i) Storage;
 - (ii) Market; or
 - (iii) Carriers for transportation to market. Agricultural operations include, but are not limited to, all employers in

one or more of the following standard industrial classification (SIC) codes:

- 0111 Wheat
- 0115 Corn
- 0119 Cash grains not elsewhere classified, barley, peas, lentils, oats, etc.
- 0133 Sugar cane and sugar beets
- 0134 Irish potatoes—all potatoes except yams
- 0139 Field crops—hay, hops, mint, etc.
- 0161 Vegetables and melons, all inclusive
- 0171 All berry crops
- 0172 Grapes
- 0173 Tree nuts
- 0175 Deciduous tree fruits
- 0179 Tree fruits or tree nuts not elsewhere classified
- 0181 Ornamental floriculture and nursery products
- 0182 Food crops grown under cover
- 0191 General farms, primarily crops
- 0211 Beef cattle feedlots
- 0212 Beef cattle except feedlots—cattle ranches
- 0213 Hogs
- 0214 Sheep and goats
- 0219 General livestock except dairy and poultry
- 0241 Dairy farms
- 0251 Broiler, fryer, and roaster chickens
- 0252 Chicken eggs
- 0253 Turkeys and turkey eggs
- 0254 Poultry hatcheries
- 0259 Poultry and eggs not elsewhere classified
- 0271 Fur bearing animals and rabbits
- 0272 Horses
- 0273 Animal aquaculture
- 0279 Animal specialties not elsewhere classified
- 0291 General farms, primarily livestock and animal specialties
- 0711 Soil preparation services
- 0721 Crop planting, cultivating, and protecting
- 0722 Crop harvesting, primarily by machine
- 0751 Livestock services, except veterinary
- 0761 Farm labor contractors
- 0811 Timber tracts, Christmas tree growing, tree farms
- 0831 Forest nurseries
- 0851 Forestry services—reforestation

"In-field" processing operations directly related to agricultural operations are covered under this chapter.

"Agricultural operations" do not include a farmer's processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees.

(2) Chapter 296-24 WAC does not apply to agricultural operations.

(3) If rules in this chapter conflict with rules in another chapter of Title 296 WAC, this chapter prevails.

~~((3) When you assign employees to perform tasks other than those directly related to agricultural operations, the proper chapter of Title 296 WAC applies instead of this chapter.~~

~~For example: Employees working in fruit and vegetable packing houses are covered by the general safety and health standards in chapter 296-24 WAC. Employees working on logging and sawmill activities are covered by the appropriate chapter of Title 296 WAC.)~~ (4) All agricultural operations are also covered by the requirements of chapter 296-62 WAC, general occupational health rules.

(5) When you assign employees to perform tasks outside the scope of this chapter, then the related safety rules will apply.

For example, see the following chapters for rules related to:

<u>Logging</u>	<u>Chapter 296-54 WAC</u>
<u>Grain handling</u>	<u>Chapter 296-99 WAC</u>
<u>Sawmills</u>	<u>Chapter 296-78 WAC</u>
<u>Construction</u>	<u>Chapter 296-155 WAC</u>

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-009 What definitions apply to this chapter? "Approved" means approved by the director of the department of labor and industries, or by another organization designated by the department. Also means listed or approved by a nationally recognized testing laboratory.

"Authorized person" means someone you have approved to perform specific duties or to be at a specific location on the job site.

"Department" means the department of labor and industries. When this chapter refers to "we" or "us," it means ~~((the department)) labor and industries staff responsible for enforcing the Washington Industrial Safety and Health Act (WISHA).~~

"Director" means the director of the department of labor and industries, or a designated representative.

"Employee" means someone providing personal labor in the business of the employer, including anyone providing personal labor under an independent contract.

"Employer" means a business entity having one or more employees. Also, any person, partnership, or business entity with no employees but having industrial insurance coverage is both an employer and an employee. When this chapter refers to "you," it means the employer or a designated representative.

"Hazard" means a condition that can cause injury, death, or occupational disease.

"Listed" means listed by a nationally recognized testing laboratory.

"Must" means mandatory.

"Nationally recognized testing laboratory" See 29 CFR 1910.7 (federal OSHA requirements).

"Pesticide" means:

- Any substance intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

- Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

- Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any pesticide as an aid to its application or effect, and sold in a package or container separate from that of the pesticide with which it is to be used.

"Safety factor" means the ratio of the ultimate breaking strength of a piece of material or equipment to the actual working stress or safe load when in use.

"Should" or "may" means recommended.

"Standard safeguard" means a device designed and constructed to remove a hazard related to the machine, appliance, tool, building, or equipment to which it is attached.

"Working day," for appeals and accident reporting, means a calendar day, except Saturdays, Sundays, and legal holidays as defined by RCW 1.16.050. To compute the time within which an act is to be completed, exclude the first working day and include the last.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-015 What must an employer do if a serious injury occurs? (1) You must report to us within eight hours of an incident that:

- Causes a fatal or possibly fatal injury;
- Involves acute injury or illness from exposure to pesticides; or
- Causes injury requiring in-patient hospitalization of any employee.

To report, you ((may)) must contact your nearest labor and industries office by phone ((us)) or ((report)) in person, or ((you may use)) call the OSHA toll-free ((central telephone number)) hotline, 1-800-321-6742.

EXCEPTION: If you do not learn of a reportable incident when it happens, you must report it within eight hours of learning about the incident.

(a) Your report must include:

- Establishment name;
- Location of the incident;
- Time of the incident;
- Number of fatalities, hospitalized employees, or pesticide exposures;
- Contact person;
- Phone number; and
- Brief description of the incident.

(b) Fatalities or hospitalizations that occur within thirty days of an incident must also be reported.

(2) If a department investigator asks for assistance, you must assign the employees that the investigator requests.

(3) Do not move any equipment involved in the incident until we complete an investigation.

EXCEPTION: You may move equipment to prevent additional incidents, or to remove the victim.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-018 What are the employer's responsibilities? You must:

(1) Provide a safe and healthful working environment.

(2) Ensure that employees do not use defective or unsafe tools and equipment, including tools and equipment that may be furnished by the employee.

(3) Implement a written accident prevention program as required by these standards.

(4) Implement a hazard communication program as required by chapter 296-62 WAC, Part C.

(5) Establish a system for reporting and recording accidents on the OSHA 200 log. (See chapter 296-27 WAC.)

(6) Provide safety education and training programs.

(7) Implement the requirements of WAC 296-62-074 through 296-62-07451 to ensure the safety of employees who are exposed to cadmium in the workplace.

(8) Implement the requirements of WAC 296-62-145 through 296-62-14529 to ensure the safety of employees who are exposed to confined spaces in the workplace.

(9) Ensure that employee chainsaw use is according to the requirements of chapter 296-54 WAC, logging operations.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-024 How does an employer apply for a variance? (1) If you find that it is impractical for you to comply with specific requirements of this standard, we may permit a variation from the requirements. However, you must still provide equal protection by substitute means and comply with the requirements of chapter 49.17 RCW and chapter 296-350 WAC, variances.

(2) On the variance application you must certify that you have posted a copy of the written application in a place reasonably accessible to your employees. You must also mail a copy of the application to any authorized employee representative. The notice must advise employees of their right to request us to conduct a hearing on the variance application. You must notify employees before you apply.

Note: To request a permanent or temporary variance, you may write to: Department of Labor and Industries, ((Consultation and Compliance)) WISHA Services, PO Box ((44620)) 44648, Olympia, WA 98504-((4620)) 4648. We will mail you an application form and instruction sheet. We will also send a copy of chapter 296-350 WAC, Variances, if you request it.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-030 What are the required elements of an accident prevention program? (1) You must instruct all employees in safe working practices at the beginning of employment. Your instruction must be tailored to the types of hazards to which employees are exposed.

(2) You must develop ((an)) a written accident prevention program tailored to the needs of your agricultural operation and to the types of hazards involved.

(3) Your accident prevention program must contain at least the following elements:

(a) How, when, and where to report injuries and illnesses, and the location of first-aid facilities.

(b) How to report unsafe conditions and practices.

(c) The use and care of personal protective equipment.

(d) ((What to do in emergencies.)) An emergency action plan as described in WAC 296-307-35015(1).

(e) Identification of hazardous chemicals or materials and the instruction for their safe use.

(f) An on-the-job review of the practices necessary to perform job assignments in a safe and healthful manner.

(4) ((Your accident prevention program must be outlined in writing.))

((5))) At least once a month, you must conduct a walk-around safety inspection of active job sites, the materials and equipment involved, and operating procedures. A representative chosen by employees must be invited and allowed to accompany you.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-05507 What other requirements apply to ladders? (1) Ladders made by fastening cleats across a single rail are prohibited.

(2) Wood ladders, when not in use, should be stored where they will not be exposed to the elements, but where there is good ventilation. They must be stored away from radiators, stoves, steam pipes, or other excessive heat or dampness.

(3) Wooden ladders should be kept coated with a suitable protective material. Painted ladders are acceptable if the ladders are carefully inspected prior to painting by competent and experienced inspectors acting for, and responsible to, the purchaser, and if the ladders are not for resale.

(4) A ladder must have feet that are appropriate for the surface on which it will be used.

For example: A ladder used on a slippery surface must have steel points or other nonslip material on its feet.

(5) Ladders must not be placed in front of doors opening toward the ladder unless the door is blocked open, locked, or guarded.

(6) Ladder safety devices may be used on tower, water tank and chimney ladders over twenty feet long in place of cage protection. No landing platform is required in these cases. All ladder safety devices such as lifebelts, friction brakes, and sliding attachments must meet the design requirements of the ladders that they serve.

(7) See chapter ((296-306A)) 296-307 WAC Part K for requirements related to working near overhead lines.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-061 What requirements apply to working around bins, bunkers, hoppers, tanks, pits, and trenches? (1) Employees must be prohibited from entering any bin, bunker, hopper, or similar area when loose materials (such as chips, sand, grain, gravel, sawdust, etc.) may collapse, unless the employee wears a safety ((belt)) harness with a lifeline attached and is attended by a helper.

Note: Silage pits are exempt from this section.

((2) ((When employees are required to work in a trench or a pit 4 feet deep or more, the trench or the pit must be shored or sloped according to the following table:)))

SOIL OR ROCK TYPE MAXIMUM ALLOWABLE	SLOPES (H:V) (1) FOR EXCAVATIONS LESS THAN 20 FEET DEEP (2)
STABLE ROCK	VERTICAL (90°)
TYPE A	3/4:1 (53°)
TYPE B	1:1 (45°)
TYPE C	1 1/2:1 (34°)

1 Numbers in parentheses next to maximum allowable slopes are angles in degrees from the horizontal. Angles have been rounded off.

2 Sloping or benching for excavations greater than 20 feet deep must be designed by a registered professional engineer.

((3) Each soil and rock deposit must be classified by a competent person as Stable Rock, Type A, B, or C according to the definitions in WAC 296-155-66401. "Competent person" means someone who is able to identify working conditions that are hazardous to employees, and has authority to take prompt action to eliminate the hazards.))

((4) Classification of the deposits must be based on the results of at least one visual and at least one manual analysis. The analyses must be conducted by a competent person using tests in recognized methods of soil classification and testing such as those adopted by the American Society for Testing Materials, or the U.S. Department of Agriculture textural classification system.)) Excavation work must be performed according to the requirements of chapter 296-155 WAC, part N, Excavation, trenching, and shoring.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-07013 What rules apply to vehicles used to transport employees? You must ensure that motor vehicles used regularly to transport employees meet the following requirements:

(1) The vehicles are well equipped, covered against the weather, and maintained in good mechanical condition at all times.

(2) A sufficient number of properly secured seats are provided in each vehicle to accommodate the number of employees transported. When emergency conditions make it necessary to transport more employees than the seating capacity can accommodate, all employees must ride within the vehicle. No employee may ride on fenders or running boards of the vehicle.

(3) No employees may ride in or on any vehicle with their legs hanging over the end or sides. All trucks without tail gates should have safety bars.

(4) The vehicles have storage strong enough to retain sharp tools that could present a hazard to employees being transported.

(5) All dump-trucks used to transport employees have an adequate safety chain or locking device to ensure that the body of the truck is not raised while employees are riding in it.

(6) Explosives or highly inflammable materials are not carried in or on the vehicle while it is used to transport employees.

(7) Exhaust systems are installed and maintained in proper condition, and are designed to eliminate the employee exposure to exhaust gases and fumes.

(8) Within the cab, crew trucks must carry only the number of passengers for which they are designed. In any seating arrangement, the driver must be able to maintain full freedom of motion. The driver's normal vision must be free from obstruction by passengers or the seating arrangement.

(9) All enclosed crew trucks have an emergency exit in addition to the regular entrance.

(10) Trucks used for hauling gravel may be used as crew trucks if they meet the following requirements:

- (a) Steps in proper places;
- (b) Wooden floors;
- (c) Securely fastened seats;
- (d) Truck is properly covered; and
- (e) Compliance with all other general regulations covering crew trucks.

(11) Half-ton vehicles must haul no more than six persons including driver. Three-quarter-ton vehicles must haul no more than eight persons including driver.

(12) A vehicle used as a first-aid station has stretchers (~~and fire extinguishers~~).

(13) The vehicle is equipped with fire extinguishers.

(14) Heating units with open fires are not used in vehicles transporting crews.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-076 How must farm field equipment be guarded? "Farm field equipment" means tractors or implements, including self-propelled implements, used in agricultural operations.

(1) All power transmission components must be guarded according to WAC ((296-306A-280)) 296-307-280.

(2) The manufacturer's instruction manual, if published by the manufacturer and currently available, must be the source of information for the safe operation and maintenance of field equipment.

(3) You must ensure that all power takeoff shafts, including rear, mid-mounted or side-mounted shafts, are guarded by a master shield, as follows:

(a) The rear power takeoff has a master shield. The master shield is strong enough to prevent permanent deformation of the shield when a 250-pound operator mounts or dismounts the tractor using the shield as a step.

(b) Power takeoff driven equipment is guarded to prevent employee contact with rotating members of the power drive system. When the tractor master shield must be removed to use specific power takeoff driven equipment, the equipment must provide protection from the part of the tractor power takeoff shaft that protrudes from the tractor.

(c) Signs are placed at prominent locations on the tractor and on power takeoff driven equipment requiring that safety shields are kept in place.

(4) The following functional components must be shielded to a degree consistent with the intended function and operator's vision of the component.

- Snapping or husking rolls;
- Straw spreaders and choppers;
- Cutterbars;
- Flail rotors;
- Rotary beaters;
- Mixing augers;
- Feed rolls;
- Conveying augers;
- Rotary tillers; and
- Similar units that must be exposed for proper function

(5) Where removing a guard or access door will expose an employee to any component that continues to rotate after the power is disengaged, you must provide, in the immediate area:

(a) A safety sign warning the employee to look and listen for evidence of rotation and to wait until all components have stopped before removing the guard or access door.

(b) A readily visible or audible warning of rotation on equipment manufactured after October 25, 1976.

(6) If the mounting steps or ladder and the handholds of the propelling vehicle are made inaccessible by installation of other equipment, other steps and handholds must be provided on the equipment.

(7) You must ensure that the operator's steps and platform have a slip-resistant covering to minimize the possibility of slipping.

(8) Powered machines not driven by an individual motor must have a clutch or other effective means of stopping.

(9) All friction clutches must have sufficient clearance and be kept adjusted to prevent drag or creeping when disengaged.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-08003 Which agricultural tractors are covered by this section? All agricultural tractors manufac-

tured after October 25, 1976, must meet the requirements of WAC ((~~296-306A-080~~) 296-307-080). An agricultural tractor manufactured on or before October 25, 1976, must meet the requirements of WAC ((~~296-306A-080~~) 296-307-080) if:

- (1) The tractor was built or sold with rollover protective structures (ROPS) as an optional accessory; or
- (2) According to the manufacturer, the tractor was designed to accommodate the addition of ROPS.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-08009 What requirements apply to the testing and performance of ROPS used on agricultural tractors? You must provide a rollover protective structure (ROPS) for each employee-operated tractor that is covered by WAC ((~~296-306A-080~~) 296-307-080). ROPS used on wheel-type tractors must meet the test and performance requirements of OSHA 1928.52 CFR, Protective Frames for Wheel Type Agricultural Tractors, and ROPS used on track-type tractors must meet the test and performance requirements of SAE Standard J334a (July 1970) and the portions of SAE Standard J167 (1971) pertaining to overhead protection requirements.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-08012 What requirements apply to seatbelts used with ROPS on agricultural tractors? (1) Where ROPS are required by WAC ((~~296-306A-080~~) 296-307-080), you must:

- (a) Provide each tractor with a seatbelt;
 - (b) Require that each employee use the seatbelt while the tractor is moving; and
 - (c) Require that each employee tighten the seatbelt sufficiently to confine the employee to the ROPS protected area.
- (2) Each seatbelt and seatbelt anchorage must meet the requirements of ANSI/SAE J800 April 1986, Motor Vehicle Seat Belt Assemblies.
- (a) Where a suspended seat is used, the seatbelt must be fastened to the movable portion of the seat.
 - (b) The seatbelt webbing material must be at least as resistant to acids, alkalis, mildew, aging, moisture and sunlight as untreated polyester fiber.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-08018 What employee training requirements apply to ROPS used on agricultural tractors? (1) You must ensure that every employee who operates an agricultural tractor is informed of the operating practices listed below and of any other practices dictated by the work environment. You must provide the information at the time of initial assignment and at least annually thereafter.

EXHIBIT A

EMPLOYEE OPERATING INSTRUCTIONS

1. Securely fasten your seat belt if the tractor has a ROPS.

2. Where possible, avoid operating the tractor near ditches, embankments and holes.
3. Reduce speed when turning, crossing slopes and on rough, slick or muddy surfaces.
4. Stay off slopes too steep for safe operation.
5. Watch where you are going, especially at row ends, on roads and around trees.
6. Passengers, other than persons required for instruction or machine operation, shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.
7. Operate the tractor smoothly—no jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When tractor is stopped, set brakes securely and use park lock if available.

(2) You must ensure that every employee who operates an agriculture tractor is trained specifically in the operation of the tractor to be used. The training must include an orientation of the operator to the topographical features of the land where the tractor will be operated. Training must emphasize safe operating practices to avoid rollover.

(3) The tractor training program must be described in the written accident prevention program required by WAC ((~~296-306A-030~~) 296-307-030).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-08021 What other requirements apply to ROPS used on agricultural tractors? (1) You must ensure that batteries, fuel tanks, oil reservoirs, and coolant systems are constructed and located or sealed to ensure that no spillage comes in contact with the operator in the event of an upset.

(2) All sharp edges and corners at the operator's station must be designed to minimize operator injury in the event of an upset.

(3) When ROPS are removed, they must be remounted to meet the requirements of WAC ((~~296-306A-080~~) 296-307-080).

(4) You must ensure that each ROPS has a label, permanently affixed to the structure, that states:

- (a) Manufacturer's or fabricator's name and address;
- (b) ROPS model number, if any;
- (c) Tractor makes, models, or series numbers that the structure is designed to fit; and

(d) That the ROPS model was tested in accordance with the requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-085 When must ROPS be provided for material handling equipment? (1) This section applies to the following types of material handling equipment: Rubber-tired, self-propelled scrapers; rubber-tired front-end loaders; rubber-tired dozers; wheel-type agricultural and industrial tractors; crawler tractors; crawler-type loaders; and

motor graders, with or without attachments, that are used in agricultural work. This section does not apply to side-boom pipelaying tractors.

(2) You must ensure that material handling equipment manufactured on or after October 25, 1976, is equipped with ROPS that meet the minimum performance standards of WAC ((296-306A-08009)) 296-307-08009.

(3) ROPS and supporting attachments must meet the minimum performance standards of OSHA 1928.52 CFR, Protective Frames for Wheel Type Agricultural Tractors, or must be designed, fabricated, and installed in a manner that will support, based on the ultimate strength of the metal, at least two times the weight of the prime mover applied at the point of impact.

(a) The ROPS must be designed to minimize the likelihood of a complete overturn and to minimize the possibility of the operator being crushed in a rollover.

(b) The design must provide a vertical clearance of at least fifty-two inches from the work deck to the ROPS at the entrance.

(4) When ROPS are removed, they must be remounted so as to meet the requirements of this section.

(5) Each ROPS must have a label, permanently affixed to the structure, that states:

(a) Manufacturer's or fabricator's name and address;

(b) ROPS model number, if any;

(c) Tractor makes, models, or series numbers that the structure is designed to fit; and

(d) That the ROPS model was tested in accordance with the requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-09503 What does this section cover?

WAC ((296-306A-095)) 296-307-095 applies to any agricultural employer with one or more employees engaged in any hand-labor operations in the field.

EXCEPTION: WAC ((296-306A-09515)) 296-307-09515 (hand-washing facilities) and ((296-306A-09518)) 296-307-09518 (toilet facilities) do not apply if your employees:

(1) Are engaged in field activities for the production of grains, ((seeds,)) livestock, or livestock feed; or

(2) Use vehicles, machinery, or animals as part of their field activities and, when needed, can transport themselves to and from toilet and handwashing facilities.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-09506 What definitions apply to this section? "Accessible" means a maximum of one-quarter mile or five minutes travel time from the worksite.

"Hand-labor operations" means agricultural operations performed by hand or with hand tools.

For example: The hand cultivation, weeding, planting or harvesting of vegetables, nuts, fruit, seedlings or other crops, including mushrooms, and hand packing into containers.

EXCEPTION: Hand-labor does not include logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures (e.g., cannery facilities or packing houses).

"Handwashing facility" means a facility that meets the requirements of WAC ((296-306A-09515)) 296-307-09515 and is approved by the local health authority.

"Toilet" means a fixed or portable facility designed for the purpose of adequate collection and containment of both defecation and urination. "Toilet" includes biological, chemical, flush, and combustion toilets, or sanitary outhouses.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-09509 What orientation must employers provide for field sanitation? You must provide each employee with verbal orientation on field sanitation facilities. The orientation must be understandable to each employee and must include:

(1) Informing each employee of the importance of following good hygiene practices to minimize exposure to the hazards in the field of heat, communicable diseases, retention of urine, and agrichemical residues;

(2) The location of potable water supplies;

((2))) (3) Identification of all nonpotable water at the worksite and prohibition of the use of nonpotable water for sanitation purposes with an explanation of the hazards associated with using nonpotable water;

((3))) (4) The location of handwashing facilities with an explanation of when and how they should be used and the hazards associated with not using them; and

((4))) (5) The location of toilet facilities; an explanation that facilities are for employee convenience and health considerations; the necessity to keep them sanitary; and that using the fields, orchards, or forests is not an option.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-107 Federal worker protection standards—Washington state department of agriculture. This ((chapter)) part contains the federal Environmental Protection Agency worker protection standards as listed in 40 CFR, Part 170. Revisions to the federal language have been incorporated into this chapter in order to be consistent with other requirements of Washington state law. These rules are adopted in conjunction with rules adopted by the Washington state department of agriculture in chapter 16-233 WAC.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-11005 Definitions—Worker protection standards—40 CFR, § 170.3. Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, shall have the following meanings:

"Agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a pesticide treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.

"Agricultural employer" means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers.

Note: This definition does not conflict with the definition of employer in WAC ((296-306A-012)) 296-307-012.

"Agricultural establishment" means any farm, forest, nursery, or greenhouse.

(Note: This applies to all the Standard Industrial Classification (SIC) Codes listed in WAC 296-306A-010.)

"Agricultural plant" means any plant grown or maintained for commercial or research purposes and includes, but is not limited to, food, feed, and fiber plants; trees; turfgrass; flowers, shrubs; ornamentals; and seedlings.

"Animal premise" means the actual structure used to house, cage or confine animals such as: Barns, poultry houses, mink sheds, corrals, or structures used for shelter.

"Chemigation" means the application of pesticides through irrigation systems.

"Commercial pesticide handling establishment" means any establishment, other than an agricultural establishment, that:

- Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants.

- Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.

"Crop advisor" means any person who is assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants and who holds a current Washington state department of agriculture commercial consultant license in the agricultural areas in which they are advising. The term does not include any person who is performing hand labor tasks.

"Early entry" means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

"Farm" means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.

"Forest" means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.

"Fumigant" means any pesticide product that is a vapor or gas, or forms a vapor or gas on application, and whose method of pesticidal action is through the gaseous state.

"Greenhouse" means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of suffi-

cient size to permit worker entry. This term includes, but is not limited to, polyhouses, mushroom houses, rhubarb houses, and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.

"Hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

"Handler" means any person, including a self-employed person:

- Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which WAC ((296-306A-130)) 296-307-130 applies and who is:

- Mixing, loading, transferring, or applying pesticides.
- Disposing of pesticides or pesticide containers.
- Handling opened containers of pesticides.
- Acting as a flagger.

- Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.

- Assisting with the application of pesticides.

- Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by WAC ((296-306A-12015(3)(e))) 296-307-12015(3)(c) or in the labeling has been met:

- ◆ To operate ventilation equipment.
- ◆ To adjust or remove coverings used in fumigation.
- ◆ To monitor air levels.

- Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.

- Performing tasks as a crop advisor:

- ◆ During any pesticide application.
- ◆ Before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established by WAC ((296-306A-12015)) 296-307-12015(3)(c) or in the labeling has been met.

- ◆ During any restricted-entry interval.

- The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

"Handler employer" means any person who is self-employed as a handler or who employs any handler, for any type of compensation.

"Immediate family" includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.

"Nursery" means any operation engaged in the outdoor production of any agricultural plant to produce cut flowers and ferns or plants that will be used in their entirety in another location. Such plants include, but are not limited to, flowering and foliage plants or trees; tree seedlings; live Christmas trees; vegetable, fruit, and ornamental transplants; and turf-grass produced for sod.

"Owner" means any person who has a present possessory interest (fee, leasehold, rental, or other) in an agricultural establishment covered by this chapter. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this part.

"Restricted-entry interval" means the time after the end of a pesticide application during which entry into the treated area is restricted.

"Substantial economic loss" means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

"Treated area" means any area to which a pesticide is being directed or has been directed.

"Worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment to which WAC ((296-306A-120)) 296-307-120 applies. While persons employed by a commercial pesticide handling establishment are performing tasks as crop advisors, they are not workers covered by the requirements of WAC ((296-306A-120)) 296-307-120.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-11010 General duties and prohibited actions—Worker protection standards—40 CFR, § 170.7.

(1) General duties. The agricultural employer or the handler employer, as appropriate, shall:

(a) Assure that each worker subject to WAC ((296-306A-120)) 296-307-120 or each handler subject to WAC ((296-306A-130)) 296-307-130 receives the protections required by this part.

(b) Assure that any pesticide to which WAC ((296-306A-130)) 296-307-130 applies is used in a manner consistent with the labeling of the pesticide, including the requirements of this part.

(c) Provide, to each person who supervises any worker or handler, information and directions sufficient to assure that each worker or handler receives the protections required by this part. Such information and directions shall specify which persons are responsible for actions required to comply with this part.

(d) Require each person who supervises any worker or handler to assure compliance by the worker or handler with

the provisions of this part and to assure that the worker or handler receives the protections required by this part.

(2) Prohibited actions. The agricultural employer or the handler employer shall not take any retaliatory action for attempts to comply with this part or any action having the effect of preventing or discouraging any worker or handler from complying or attempting to comply with any requirement of this part.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-120 Applicability of this section—Standards for workers—40 CFR, § 170.102. Requirement. Except as provided by WAC ((296-306A-12005)) 296-307-12005 and ((296-306A-12010)) 296-307-12010, WAC ((296-306A-120)) 296-307-120 applies when any pesticide product is used on an agricultural establishment in the production of agricultural plants.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12010 Exemptions—Standards for workers—40 CFR, § 170.104. The workers listed in this section are exempt from the specified provisions of WAC ((296-306A-120)) 296-307-120.

(1) Owners of agricultural establishments.

(a) The owner of an agricultural establishment is not required to provide to himself/herself or members of his/her immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of:

(i) WAC ((296-306A-12020)) 296-307-12020 (3)(e) through (i);

(ii) WAC ((296-306A-12020)) 296-307-12020 (3)(e) through (i); as referenced in WAC ((296-306A-12020)) 296-307-12020 (4)(b)(iii) and (S);

(iii) WAC ((296-306A-12025)) 296-307-12025;

(iv) WAC ((296-306A-12030)) 296-307-12030;

(v) WAC ((296-306A-12040)) 296-307-12040;

(vi) WAC ((296-306A-12045)) 296-307-12045;

(vii) WAC ((296-306A-12050)) 296-307-12050;

(viii) WAC ((296-306A-12055)) 296-307-12055.

(b) The owner of the agricultural establishment must provide the protections listed in (a)(i) through (viii) of this subsection to other workers and other persons who are not members of his/her immediate family.

(2) Crop advisors.

(a) Provided that the conditions of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) WAC ((296-306A-12050)) 296-307-12050.

(ii) WAC ((296-306A-12055)) 296-307-12055.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out

in (b)(iii) and (iv) of this subsection. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(b) Conditions of exemption.

(i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in WAC ((296-306A-13025)) 296-307-13025 (3)(d).

(ii) Applies only when performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his/her direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the

restricted entry interval which tasks to undertake, and how to contact the crop advisor.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12015 Restrictions associated with pesticide applications—Standards for workers—40 CFR, § 170.110.

(1) Farms and forests. During the application of any pesticide on a farm or in a forest, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the treated area.

(2) Nurseries. In a nursery, during any pesticide application described in column A of Table 1 of this section, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 1 of this section. After the application is completed, until the end of any restricted-entry interval, the entry-restricted area is the treated area.

Table 1.—Entry-Restricted Areas in Nurseries During Pesticide Applications

A. During Application of a Pesticide:	B. Workers are Prohibited in:
(1)(a) Applied:	Treated area plus 100 feet in all directions on the nursery
(i) Aerially, or	
(ii) In an upward direction, or	
(iii) Using a spray pressure greater than 150 psi, or	
(b) Applied as a:	
(i) Fumigant, or	
(ii) Smoke, or	
(iii) Mist, or	
(iv) Fog, or	
(v) Aerosol.	
(2)(a) Applied downward using:	Treated area plus 25 feet in all directions on the nursery
(i) A height of greater than 12 inches from the planting medium, or	
(ii) A fine spray, or	
(iii) A spray pressure greater than 40 psi and less than 150 psi.	
(b) Not as in 1 or 2(a) above but for which a respiratory protection device is required for application by the product labeling.	
(3) Applied otherwise.	Treated area
(3) Greenhouses.	
(a) When a pesticide application described in column A of Table 2 under (d) of this subsection takes place in a greenhouse, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 2 until the time specified in column C of Table 2 has expired.	(b) After the time specified in column C of Table 2 under (d) of this subsection has expired, until the expiration of any restricted-entry interval, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area as specified in column D of Table 2 under (d) of this subsection, except as provided in WAC ((296-306A-12020)) <u>296-307-12020</u> .

(c) When column C of Table 2 under (d) of this subsection specifies that ventilation criteria must be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the labeling requires to be achieved. If no inhalation exposure level is listed on the labeling, ventilation shall continue until after:

- (i) Ten air exchanges are completed; or
- (ii) Two hours of ventilation using fans or other mechanical ventilating systems; or

- (iii) Four hours of ventilation using vents, windows or other passive ventilation; or
 - (iv) Eleven hours with no ventilation followed by one hour of mechanical ventilation; or
 - (v) Eleven hours with no ventilation followed by two hours of passive ventilation; or
 - (vi) Twenty-four hours with no ventilation.
- (d) The following Table 2 applies to (a), (b) and (c) of this subsection.

Table 2.—Greenhouse Entry Restrictions Associated With Pesticide Applications

A. When a Pesticide is Applied:	B. Workers are Prohibited in:	C. Until:	D. After the Expiration of Time in Column C Until the Restricted-Entry Interval Expires, the Entry-Restricted Area is:
(1) As a fumigant	Entire greenhouse plus any adjacent structure that cannot be sealed off from the treated area	The ventilation criteria of (c) of this subsection are met	No entry restrictions after criteria in column C are met
(2) As a:	Entire enclosed area	The ventilation criteria of (c) of this subsection are met	Entire enclosed area is the treated area
(i) Smoke, or (ii) Mist, or (iii) Fog, or (iv) Aerosol			
(3) Not in 1 or 2 above, and for which a respiratory protection device is required for application by the product labeling	Entire enclosed area	The ventilation criteria of (c) of this subsection are met	Treated area
(4) Not in 1, 2, or 3 above, and:	Treated area plus 25 feet in all directions in the enclosed area	Application is complete	Treated area
(i) From a height of greater than 12 in. from the planting medium, or (ii) As a fine spray, or (iii) Using a spray pressure greater than 40 psi			
(5) Otherwise	Treated area	Application is complete	Treated area

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12020 Entry restrictions—Standards for workers—40 CFR, § 170.112. (1) General restrictions.

(a) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

(b) Entry-restricted areas in greenhouses are specified in column D in Table 2 under WAC ((296-306A-12015)) 296-307-12015 (3)(d).

(c) When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.

(d) The agricultural employer shall assure that any worker who enters a treated area under a restricted-entry interval as permitted by subsections (3), (4), and (5) of this section uses the personal protective equipment specified in

the product labeling for early entry workers and follows any other requirements on the pesticide labeling regarding early entry.

(2) Exception for activities with no contact. A worker may enter a treated area during a restricted-entry interval if the agricultural employer assures that both of the following are met:

(a) The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants; and

(b) No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by WAC ((~~296-306A-12015~~) 296-307-12015 (3)(c) or in the labeling have been met.

(3) Exception for short-term activities. A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer assures that the following requirements are met:

(a) No hand labor activity is performed.

(b) The time in treated areas under a restricted-entry interval for any worker does not exceed one hour in any twenty-four-hour period.

(c) No such entry is allowed for the first four hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by WAC ((~~296-306A-12015~~) 296-307-12015 (3)(c) or in the labeling have been met.

(d) The personal protective equipment specified on the product labeling for early entry is provided to the worker. Such personal protective equipment shall conform to the following standards:

(i) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(ii) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(iii) When "chemical-resistant" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(iv) When "waterproof" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(v) When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose-fitting, one-piece or two-piece, chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(vi) When "coveralls" are specified by the product labeling, they shall be a loose-fitting, one-piece or two-piece gar-

ment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.

(vii) Gloves shall be of the type specified by the product labeling. Gloves or glove linings made of leather, cotton, or other absorbent materials must not be worn for early entry activities unless these materials are listed on the product labeling as acceptable for such use. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable for tasks with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant liners. However, once leather gloves have been worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(viii) When "chemical-resistant footwear" is specified by the product labeling, it shall be one of the following types of footwear: Chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain.

(ix) When "protective eyewear" is specified by the product labeling, it shall be one of the following types of eyewear: Goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator.

(x) When "chemical-resistant headgear" is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(e) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use.

(f) The agricultural employer shall assure that:

(i) Workers wear the personal protective equipment correctly for its intended purpose and use personal protective equipment according to manufacturer's instructions.

(ii) Before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(iii) Personal protective equipment that cannot be cleaned properly is disposed of in accordance with any applicable federal, state, and local regulations.

(iv) All personal protective equipment is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(v) Before being stored, all clean personal protective equipment is dried thoroughly or is put in a well-ventilated place to dry.

(vi) Personal protective equipment contaminated with pesticides is kept separately and washed separately from any other clothing or laundry.

(vii) Any person who cleans or launders personal protective equipment is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and of the correct way(s) to handle and clean personal protective equipment and to protect themselves when handling equipment contaminated with pesticides.

(viii) All clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(ix) Each worker is instructed how to put on, use, and remove the personal protective equipment and is informed about the importance of washing thoroughly after removing personal protective equipment.

(x) Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

(xi) Workers have a clean place(s) away from pesticide-storage and pesticide-use areas for storing personal clothing not in use; putting on personal protective equipment at the start of any exposure period; and removing personal protective equipment at the end of any exposure period.

(g) When personal protective equipment is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform the early entry activity without implementing, when appropriate, measures to prevent heat-related illness.

(h) During any early entry activity, the agricultural employer shall provide a decontamination site in accordance with WAC ((296-306A-12050)) 296-307-12050.

(i) The agricultural employer shall not allow or direct any worker to wear home or to take home personal protective equipment contaminated with pesticides.

(4) Declaration of an agricultural emergency.

(a) The director of the Washington state department of agriculture may declare the existence of circumstances causing an agricultural emergency on a particular establishment or establishments.

(b) The director may declare an agricultural emergency based on the reasonably expected certainty of circumstances occurring based on weather or other forecasts that would create conditions that would normally be anticipated to cause an agricultural emergency.

(c) The agricultural employer may determine if the establishment under his/her control is subject to the agricultural emergency declared by the director.

(d) Emergency repair of equipment that is in use and sited within a pesticide treated area under a restricted-entry interval, such as frost protection devices, shall be considered to be an agricultural emergency. The conditions in WAC 16-228-655 shall be met.

(e) Activities that require immediate response such as fire suppression, relocation of greenhouse plants due to power failure, and similar conditions, shall be considered to be agricultural emergencies. The conditions in WAC 16-228-655 shall be met.

(5) Agricultural activities permitted under an agricultural emergency.

(a) A worker may enter a pesticide treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate

the effects of the agricultural emergency if the agricultural employer assures that all the following requirements are met:

(i) No entry is permitted for the first four hours after the pesticide application or the minimum reentry interval allowed by EPA for that product, whichever is less;

(ii) The personal protective equipment specified on the product labeling for early entry is provided to the worker;

(iii) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use;

(iv) The agricultural employer shall assure that the worker wears the proper PPE and that the PPE is in operable condition and that the worker has been trained in its proper use;

(v) The agricultural employer shall assure that measures have been taken, when appropriate, to prevent heat-related illness;

(vi) A decontamination site has been provided in accordance with EPA regulations;

(vii) The agricultural employer shall not allow or direct any worker to wear home or take home personal protective equipment contaminated with pesticides.

(b) If the agricultural emergency is due to equipment failure, then the agricultural employer shall assure that all the requirements in subsection (1) of this section are met plus the following additional requirement. The only permitted activity until the restricted-entry interval has elapsed is equipment repair that would mitigate the effect of the equipment failure.

(6) Recordkeeping required for agricultural emergencies.

(a) If the employer declares that his/her establishment is affected by an agricultural emergency and that activities regulated by the worker protection standard have been performed, the employer shall keep the following records for seven years from the date of the agricultural emergency:

(i) Date of the agricultural emergency;

(ii) Time of the agricultural emergency, start and end;

(iii) Reason for the agricultural emergency, such as frost, fire, equipment failure, etc.;

(iv) Crop/site;

(v) Pesticide(s) - name, EPA number, REI;

(vi) Name, date, time of entry and exit of early entry person(s);

(vii) Estimated potential of economic loss which would have occurred had no early entry been allowed.

(b) Records shall be completed within twenty-four hours of the early entry exposure and be available to the department and/or department of health and/or medical facility or treating physician if requested by the above or the employee.

(7) Exception to entry restrictions requiring EPA approval. EPA may in accordance with 40 CFR, Part 170.112(e) grant an exception from the requirements of this section. A request for an exception must be submitted to the Director, Office of Pesticide Programs (H-7501C), Environmental Protection Agency, 401 "M" Street SW, Washington,

DC 20460 and must be accompanied by two copies of the information specified in 40 CFR, Part 170.112(e).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12025 Notice of applications—Standards for workers—40 CFR, § 170.120. (1) Notification to workers of pesticide applications in greenhouses. The agricultural employer shall notify workers of any pesticide application in the greenhouse in accordance with this subsection.

(a) All pesticide applications shall be posted in accordance with subsection (3) of this section.

(b) If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall also provide oral notification of the application to the worker in accordance with subsection (4) of this section.

(c) Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:

(i) From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through the greenhouse; or

(ii) The worker applied (or supervised the application of) the pesticide for which the notice is intended and is aware of all information required by subsection (4)(a) through (c) of this section.

(2) Notification to workers on farms, in nurseries, or in forests of pesticide applications. The agricultural employer shall notify workers of any pesticide application on the farm or in the nursery or forest in accordance with this subsection.

(a) If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall post signs in accordance with subsection (3) of this section and shall provide oral notification of the application to the worker in accordance with subsection (4) of this section.

(b) For any pesticide other than those for which the labeling requires both posting and oral notification of applications, the agricultural employer shall give notice of the application to the worker either by the posting of warning signs in accordance with subsection (3) of this section or orally in accordance with subsection (4) of this section, and shall inform the workers as to which method of notification is in effect.

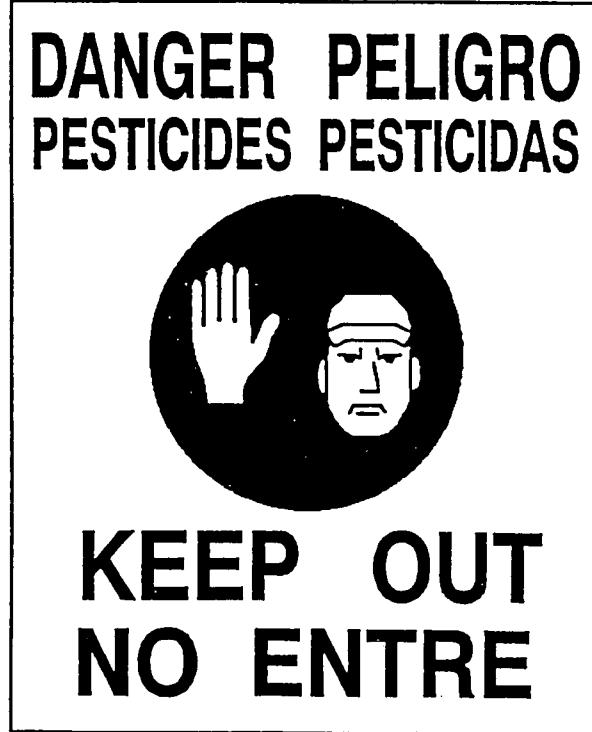
(c) Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:

(i) From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through on foot the treated area or any area within one-quarter mile of the treated area; or

(ii) The worker applied (or supervised the application of) the pesticide for which the notice is intended and is aware of all information required by subsection (4)(a) through (c) of this section.

(3) Posted warning signs. The agricultural employer shall post warning signs in accordance with the following criteria:

(a) The warning sign shall have a background color that contrasts with red. The words "DANGER" and "PELIGRO," plus "PESTICIDES" and "PESTICIDAS," shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be near the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be in a shade that contrasts with red. The length of the hand must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information. A black and white example of a warning sign meeting these requirements, other than the size requirements, follows:



(b) The standard sign shall be at least fourteen inches by sixteen inches with letters at least one inch in height. Farms and forests shall use the standard size sign unless a smaller sign is necessary because the treated area is too small to accommodate a sign of this size. In nurseries and greenhouses, the agricultural employer may, at any time, use a sign smaller than the standard size sign. Whenever a small sign is used on any establishment, there are specific posting distances depending on the size of the lettering and symbol on the sign. If a sign is used with DANGER and PELIGRO in letters at least 7/8 inch in height and the remaining letters at least 1/2 inch and a red circle at least three inches in diameter containing an upraised hand and a stern face, the signs shall be no

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further than fifty feet apart. If a sign is used with DANGER and PELIGRO in letters at least 7/16 inch in height and the remaining letters at least 1/4 inch in height and a red circle at least 1 1/2 inches in diameter containing an upraised hand and stern face, the signs shall be no further than twenty-five feet apart. A sign with DANGER and PELIGRO in letters less than 7/16 inch in height or with any words in letters less than 1/4 inch in height, or a red circle smaller than 1 1/2 inches in diameter containing an upraised hand and a stem face will not satisfy the requirements of the rule. All signs must meet the requirements of (a) of this subsection.

(c) The employer may replace the Spanish portion of the warning sign with a non-English language read by the largest group of workers who do not read English. The replacement sign must be in the same format as the original sign and must be visible and legible.

(d) On farms and in forests and nurseries, the signs shall be visible from all usual points of worker entry to the treated area, including at least each access road, each border with any labor camp adjacent to the treated area, and each footpath and other walking route that enters the treated area. When there are no usual points of worker entry, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

(e) In greenhouses, the signs shall be posted so they are visible from all usual points of worker entry to the treated area including each aisle or other walking route that enters the treated area. When there are no usual points of worker entry to the treated area, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.

(f) The signs shall:

(i) Be posted no sooner than twenty-four hours before the scheduled application of the pesticide.

(ii) Remain posted throughout the application and any restricted-entry interval.

(iii) Be removed within three days after the end of the application and any restricted-entry interval and before agricultural-worker entry is permitted, other than entry permitted by WAC ((296-306A-12020)) 296-307-12020.

(g) The signs shall remain visible and legible during the time they are posted.

(h) When several contiguous areas are to be treated with pesticides on a rotating or sequential basis, the entire area may be posted. Worker entry, other than entry permitted by WAC ((296-306A-12020)) 196-307-12020, is prohibited for the entire area while the signs are posted.

(4) Oral warnings. The agricultural employer shall provide oral warnings to workers in a manner that the worker can understand. If a worker will be on the premises during the application, the warning shall be given before the application takes place. Otherwise, the warning shall be given at the beginning of the worker's first work period during which the application is taking place or the restricted-entry interval for the pesticide is in effect. The warning shall consist of:

- (a) The location and description of the treated area.
- (b) The time during which entry is restricted.
- (c) Instructions not to enter the treated area until the restricted-entry interval has expired.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12030 Providing specific information about applications—Standards for workers—40 CFR, § 170.122. When workers are on an agricultural establishment and, within the last thirty days, a pesticide covered by this part has been applied on the establishment or a restricted-entry interval has been in effect, the agricultural employer shall display, in accordance with this section, specific information about the pesticide.

(1) Location, accessibility, and legibility. The information shall be displayed in the location specified for the pesticide safety poster in WAC ((296-306A-12045)) 296-307-12045(4) and shall be accessible and legible, as specified in WAC ((296-306A-12045)) 296-307-12045 (4) and (6).

(2) Timing.

(a) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

(b) The information shall be posted before the application takes place, if workers will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any worker's first work period.

(c) The information shall continue to be displayed for at least thirty days after the end of the restricted-entry interval (or, if there is no restricted-entry interval, for at least thirty days after the end of the application) or at least until workers are no longer on the establishment, whichever is earlier.

(3) Required information. The information shall include:

- (a) The location and description of the treated area.
- (b) The product name, EPA registration number, and active ingredient(s) of the pesticide.
- (c) The time and date the pesticide is to be applied.
- (d) The restricted-entry interval for the pesticide.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12040 Pesticide safety training—Standards for workers—40 CFR, § 170.130. (1) General requirement.

(a) Agricultural employer assurance. The agricultural employer shall assure that each worker, required by this section to be trained, has been trained according to this section during the last five years, counting from the end of the month in which the training was completed.

Note: In addition to the training required by this section, the agricultural employer shall assure without exception, that all employees are trained in accordance with WAC 296-62-054 through 296-62-05427, Hazard communication.

(b) Requirement for workers performing early entry activities. Before a worker enters a treated area on the agricultural establishment during a restricted-entry interval to perform early entry activities permitted by WAC ((296-306A-12020)) 296-307-12020 and contacts anything that has been treated with the pesticide to which the restricted-entry interval applies, including but not limited to, soil, water, or surfaces of plants, the agricultural employer shall assure that the worker has been trained.

(c) Requirements for other agricultural workers.

(i) Information before entry. Except as provided in (b) of this subsection, before a worker enters any areas on the agricultural establishment where, within the last thirty days a pesticide to which this part applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in subsection (3) of this section, in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer must be able to verify compliance with this requirement.

(ii) Training before the start of a work period. The agricultural employer shall assure that a worker has been trained before the worker enters any areas on the agricultural establishment where, within the last thirty days a pesticide to which this chapter applies has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.

(2) Exceptions. The following persons need not be trained under this section:

(a) A worker who is currently certified as an applicator of restricted-use pesticides under chapter 17.21 RCW.

(b) A worker who satisfies the training requirements of chapter 17.21 RCW.

(c) A worker who satisfies the handler training requirements of WAC ((296-306A-13025)) 296-307-13025(3).

(d) A worker who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230: *Provided*, That a requirement for such certification or licensing is pesticide safety training that includes all the information set out in WAC ((296-306A-13025)) 296-307-13025 (3)(d).

(3) ~~Pesticide safety information. The pesticide safety information required by subsection (1)(e)(i) of this section shall be presented to workers in a manner that the workers can understand. At a minimum, the following information shall be provided:~~

(a) ~~Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.~~

(b) ~~Prevent pesticides from entering your body by:~~

(i) ~~Following directions and/or signs about keeping out of treated or restricted areas.~~

(ii) ~~Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.~~

(iii) ~~Wearing work clothing that protects the body from pesticide residues.~~

(iv) ~~Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.~~

(v) ~~Washing work clothes separately from other clothes before wearing them again.~~

(vi) ~~Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.~~

(4) Training programs.

(a) General pesticide safety information shall be presented to workers either orally from written materials or audiovisually. The information must be presented in a man-

ner that the workers can understand (such as through a translator) using nontechnical terms. The presenter also shall respond to workers' questions.

(b) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under chapter 17.21 RCW; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(iii) Have completed a pesticide safety train-the-trainer program approved by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(iv) Satisfy the training requirements in WAC ((296-306A-13025)) 296-307-13025(3).

(c) Any person who issues a Washington state department of agriculture-approved Worker Protection Standard worker training card must assure that the worker who receives the training card has been trained in accordance with subsection (4)(d) of this section.

(d) The training materials shall convey, at a minimum, the following information:

(i) Where and in what form pesticides may be encountered during work activities.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes through which pesticides can enter the body, including information on wearing work clothing that protects the body from pesticide residues.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures, including ((emergency eyeflushing techniques)) preventing pesticides from entering the body by:

■ emergency eyeflushing techniques;

■ washing work clothes separately from other clothes before wearing them again;

■ washing before eating, drinking, using chewing gum or tobacco, or using the toilet;

■ washing/showering with soap and water, shampooing hair, and putting on clean clothes after work; and

■ washing immediately in the nearest clean water if pesticides are spilled on the body. As soon as possible shower, shampoo, and change into clean clothes.

(viii) Hazards from chemigation and drift.

(ix) Hazards from pesticide residues on clothing.

(x) Warnings about taking pesticides or pesticide containers home.

(xi) Requirements of this part designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific informa-

tion about applications, and the protection against retaliatory acts.

((§)) (4) Verification of training.

(a) Except as provided in subsection ((§)) (4)(b) of this section, if the agricultural employer assures that a worker possesses a Washington state department of agriculture-approved Worker Protection Standard worker training card, then the requirements of subsection (1) of this section will have been met.

(b) If the agricultural employer is aware or has reason to know that a Washington state department of agriculture-approved Worker Protection Standard worker training card has not been issued in accordance with this section, or has not been issued to the worker bearing the card, or the training was completed more than five years before the beginning of the current month, a worker's possession of that certificate does not meet the requirements of subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-12050 Decontamination—Standards for workers—40 CFR, § 170.150. (1) Requirements. The agricultural employer must provide decontamination supplies for workers in accordance with this section whenever:

(a) Any worker on the agricultural establishment is performing an activity in the area where a pesticide was applied or a restricted-entry interval (REI) was in effect within the last thirty days; and

(b) The worker contacts anything that has been treated with the pesticide including but not limited to soil, water, plants, plant surfaces, and plant parts;

(c) *Exception.* The thirty-day time period established in (a) of this subsection shall not apply if the only pesticides used in the treated area are products with an REI of four hours or less on the label (but not a product without an REI on the label). When workers are in such treated areas, the agricultural employer shall provide decontamination supplies for not less than seven days following the expiration of any applicable REI.

(2) General conditions.

(a) The agricultural employer shall provide workers with adequate water for routine washing and emergency eyeflushing. At all times when the water is available to workers, the employer shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

(b) When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye-flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.

(c) The agricultural employer shall provide soap and single-use towels in quantities sufficient to meet workers' needs.

(d) To provide for emergency eyeflushing, the agricultural employer shall assure that at least one pint of water is immediately available to each worker who is performing early entry activities permitted by WAC ((296-306A-12020)) 296-307-12020 and for which the pesticide labeling requires protective eyewear. The eyeflush water shall be carried by

the early entry worker, or shall be on the vehicle the early entry worker is using, or shall be otherwise immediately accessible.

(3) Location.

(a) The decontamination supplies shall be located together and shall be reasonably accessible to and not more than one-quarter mile from where workers are working.

(b) For worker activities performed more than one-quarter mile from the nearest place of vehicular access:

(i) The soap, single-use towels, and water may be at the nearest place of vehicular access.

(ii) The agricultural employer may permit workers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(c) The decontamination supplies shall not be in an area being treated with pesticides.

(d) The decontamination supplies shall not be maintained in an area that is under a restricted-entry interval, unless the workers for whom the decontamination supplies are provided are performing early entry activities permitted by WAC ((296-306A-12020)) 296-307-12020 and involving contact with treated surfaces and the decontamination supplies would otherwise not be reasonably accessible to those workers.

(4) Decontamination after early entry activities. At the end of any exposure period for workers engaged in early entry activities permitted by WAC ((296-306A-12020)) 296-307-12020 and involving contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants, the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, clean towels, and a adequate amount of water so that the workers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more employees shall be provided at early entry sites that do not have running water.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-130 Applicability of this section—Standards for pesticide handlers—40 CFR, § 170.202. (1) Requirement. Except as provided by subsection (2) of this section, WAC ((296-306A-130)) 296-307-130 applies when any pesticide is handled for use on an agricultural establishment.

(2) Exceptions. WAC ((296-306A-130)) 296-307-130 does not apply when any pesticide is handled for use on an agricultural establishment in the following circumstances:

(a) For mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control programs sponsored by governmental entities.

(b) On livestock or other animals, or in or about animal premises.

(c) On plants grown for other than commercial or research purposes, which may include plants in habitations, home fruit and vegetable gardens, and home greenhouses.

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(d) On plants that are in ornamental gardens, parks, and public or private lawns and grounds and that are intended only for aesthetic purposes or climatic modification.

(e) In a manner not directly related to the production of agricultural plants, including, but not limited to, structural pest control, control of vegetation along rights-of-way and in other noncrop areas, and pasture and rangeland use.

(f) For control of vertebrate pests.

(g) As attractants or repellents in traps.

(h) On the harvested portions of agricultural plants or on harvested timber.

(i) For research uses of unregistered pesticides.

(j) Exemptions. Except as provided by WAC ((~~296-306A-130~~) 296-307-130 and ((~~296-306A-13005~~) 296-307-13005, WAC ((~~296-306A-130~~) 296-307-130 applies when a pesticide is handled for an agricultural establishment.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-13005 Exemptions—Standards for handlers—40 CFR, § 170.204. The handlers listed in this section are exempt from the specified provisions of this part.

(1) Owners of agricultural establishments.

(a) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

(i) WAC ((~~296-306A-13010~~) 296-307-13010 (2) and (3).

(ii) WAC ((~~296-306A-13015~~) 296-307-13015.

(iii) WAC ((~~296-306A-13025~~) 296-307-13025.

(iv) WAC ((~~296-306A-13030~~) 296-307-13030.

(v) WAC ((~~296-306A-13035~~) 296-307-13035.

(vi) WAC ((~~296-306A-13040~~) 296-307-13040.

(vii) WAC ((~~296-306A-13045~~) 296-307-13045 (5) through (7).

(viii) WAC ((~~296-306A-13050~~) 296-307-13050.

(ix) WAC ((~~296-306A-13055~~) 296-307-13055.

(b) The owner of the agricultural establishment must provide the protections listed in subsection (1)(a)(i) through (ix) of this section to other handlers and other persons who are not members of his immediate family.

(2) Crop advisors.

(a) Provided that the conditions of (b) of this subsection are met, a person who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) WAC ((~~296-306A-13030~~) 296-307-13030.

(ii) WAC ((~~296-306A-13045~~) 296-307-13045.

(iii) WAC ((~~296-306A-13050~~) 296-307-13050.

(iv) WAC ((~~296-306A-13055~~) 296-307-13055.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in (b)(iv) and (v) of this subsection. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(b) Conditions of exemption.

(i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in WAC ((~~296-306A-13025~~) 296-307-13025 (3)(d).

(ii) No entry into the treated area occurs until after application ends.

(iii) Applies only when performing crop advising tasks in the treated area.

(iv) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(v) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted-entry interval, which tasks to undertake, and how to contact the crop advisor.

(c) Applies only when the persons are performing crop advising tasks in the treated area.

(d) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-13015 Providing specific information about applications—Standards for pesticide handlers—40 CFR, § 170.222. When handlers (except those employed by a commercial pesticide handling establishment) are on an agricultural establishment and, within the last thirty days, a pesticide covered by this part has been applied on the establishment or a restricted-entry interval has been in effect, the handler employer shall display, in accordance with this section, specific information about the pesticide.

(1) Location, accessibility, and legibility. The information shall be displayed in the same location specified for the pesticide safety poster in WAC ((~~296-306A-13040~~) 296-307-13040(4) and shall be accessible and legible, as specified in WAC ((~~296-306A-13040~~) 296-307-13040 (5) and (6).

(2) Timing.

(a) If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.

(b) The information shall be posted before the application takes place, if handlers (except those employed by a commercial pesticide handling establishment) will be on the establishment during application. Otherwise, the information shall be posted at the beginning of any such handler's first work period.

(c) The information shall continue to be displayed for at least thirty days after the end of the restricted-entry interval (or, if there is no restricted-entry interval, for at least thirty days after the end of the application) or at least until the handlers are no longer on the establishment, whichever is earlier.

- (3) Required information. The information shall include:
- The location and description of the treated area.
 - The product name, EPA registration number, and active ingredient(s) of the pesticide.
 - The time and date the pesticide is to be applied.
 - The restricted-entry interval for the pesticide.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-13025 Pesticide safety training—Standards for pesticide handlers—40 CFR, § 170.230.

(1) Requirement. Before any handler performs any handling task, the handler employer shall assure that the handler has been trained in accordance with this section during the last five years, counting from the end of the month in which the training was completed.

Note: In addition to the training required by this section, the agricultural employer shall assure, without exception, that all employees are trained in accordance with WAC 296-62-054 through 296-62-05427, Hazard communication.

(2) Exceptions. The following persons need not be trained under this section:

(a) A handler who is currently certified as an applicator of restricted-use pesticides under chapter 17.21 RCW.

(b) A handler who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230: *Provided*, That a requirement for such certification or licensing is pesticide safety training that includes all the information set out in WAC ((296-306A-13025)) 296-307-13025 (3)(d).

(3) Training programs.

(a) General pesticide safety information shall be presented to handlers either orally from written materials or audiovisually. The information must be presented in a manner that the handlers can understand (such as through a translator). The presenter also shall respond to handlers' questions.

(b) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under chapter 17.21 RCW; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture under chapters 15.58 or 17.21 RCW; or

(iii) Have completed a pesticide safety train-the-trainer program approved by a state, federal, or tribal agency having jurisdiction.

(c) Any person who issues a Washington state department of agriculture-approved Worker Protection Standard handler training card must assure that the handler who receives the training card has been trained in accordance with (d) of this subsection.

(d) The pesticide safety training materials must convey, at a minimum, the following information:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes by which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures.

(viii) Need for and appropriate use of personal protective equipment.

(ix) Prevention, recognition, and first-aid treatment of heat-related illness.

(x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(xi) Environmental concerns such as drift, runoff, and wildlife hazards.

(xii) Warnings about taking pesticides or pesticide containers home.

(xiii) Requirements of this part that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(4) Verification of training.

(a) Except as provided in (b) of this subsection, if the handler employer assures that a handler possesses a Washington state department of agriculture-approved Worker Protection Standard handler training card, then the requirements of subsection (1) of this section will have been met.

(b) If the handler employer is aware or has reason to know that a Washington state department of agriculture-approved Worker Protection Standard handler training card has not been issued in accordance with this section, or has not been issued to the handler bearing the card, or the handler training was completed more than five years before the beginning of the current month, a handler's possession of that card does not meet the requirements of subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-13045 Personal protective equipment—Standards for pesticide handlers—40 CFR, § 170.240. (1) Requirement. Any person who performs tasks as a pesticide handler shall use the clothing and personal protective equipment specified on the labeling for use of the product.

(2) Definition.

(a) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection

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devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(b) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(3) Provision. When personal protective equipment is specified by the labeling of any pesticide for any handling activity, the handler employer shall provide the appropriate personal protective equipment in clean and operating condition to the handler.

(a) When "chemical-resistant" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(b) When "waterproof" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(c) When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose-fitting, one-piece or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(d) When "coveralls" are specified by the product labeling, they shall be a loose-fitting, one-piece or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over another layer of clothing.

(e) Gloves shall be of the type specified by the product labeling. Gloves or glove linings made of leather, cotton, or other absorbent material shall not be worn for handling activities unless such materials are listed on the product labeling as acceptable for such use.

(f) When "chemical-resistant footwear" is specified by the product labeling, one of the following types of footwear must be worn:

- (i) Chemical-resistant shoes.
- (ii) Chemical-resistant boots.

(iii) Chemical-resistant shoe coverings worn over shoes or boots.

(g) When "protective eyewear" is specified by the product labeling, one of the following types of eyewear must be worn:

- (i) Goggles.
- (ii) Face shield.

(iii) Safety glasses with front, brow, and temple protection.

- (iv) Full-face respirator.

(h) When a "chemical-resistant apron" is specified by the product labeling, an apron that covers the front of the body from mid-chest to the knees shall be worn.

(i) When a respirator is specified by the product labeling, it shall be appropriate for the pesticide product used and for the activity to be performed. The handler employer shall assure that the respirator fits correctly by using the procedures consistent with WAC 296-62-071. If the label does not specify the type of respirator to be used, it shall meet the

requirements of WAC 296-62-071. The respiratory protection requirements of the general occupational health standards, WAC 296-62-071, shall apply.

(j) When "chemical-resistant headgear" is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(4) Exceptions to personal protective equipment specified on product labeling.

(a) Body protection.

(i) A chemical-resistant suit may be substituted for "coveralls," and any requirement for an additional layer of clothing beneath is waived.

(ii) A chemical-resistant suit may be substituted for "coveralls" and a chemical-resistant apron.

(b) Boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

(c) Gloves. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during handling activities with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(d) Closed systems. If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with that manufacturer's written operating instructions, exceptions to labeling-specified personal protective equipment for the handling activity are permitted as provided in (d)(i) and (ii) of this subsection.

(i) Persons using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long-sleeved shirt, long pants, shoes, socks, chemical-resistant apron, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

(ii) Persons using a closed system to mix or load pesticides other than those in (d)(i) of this subsection or to perform other handling tasks may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment.

(iii) Persons using a closed system that operates under pressure shall wear protective eyewear.

(iv) Persons using a closed system shall have all labeling-specified personal protective equipment immediately available for use in an emergency.

(e) Enclosed cabs. If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided in (e)(i) through (iv) of this subsection.

(i) Persons occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory

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protection device is specified on the pesticide product labeling for the handling activity, it must be worn.

(ii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer and by the Washington state department of labor and industries to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device other than a dust/mist-filtering respirator is specified on the pesticide product labeling, it must be worn.

(iii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer and by the Washington state department of labor and industries to provide respiratory protection equivalent to or greater than the vapor-removing or gas-removing respirator specified on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If an air-supplying respirator or a self-contained breathing apparatus (SCBA) is specified on the pesticide product labeling, it must be worn.

(iv) Persons occupying an enclosed cab shall have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab.

(f) Aerial applications.

(i) Use of gloves. Chemical-resistant gloves shall be worn when entering or leaving an aircraft contaminated by pesticide residues. In the cockpit, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(ii) Open cockpit. Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A visor may be substituted for protective eyewear.

(iii) Enclosed cockpit. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified personal protective equipment.

(g) Crop advisors. Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the personal protective equipment specified on the pesticide labeling for early entry activities instead of the personal protective equipment specified on the pesticide labeling for handling activities, provided:

(i) Application has been completed for at least four hours.

(ii) Any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by

WAC ((~~296-306A-12015~~) 296-307-12015 (3)(c) or in the labeling have been met.

(5) Use of personal protective equipment.

(a) The handler employer shall assure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(b) The handler employer shall assure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(6) Cleaning and maintenance.

(a) The handler employer shall assure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(b) If any personal protective equipment cannot be cleaned properly, the handler employer shall dispose of the personal protective equipment in accordance with any applicable federal, state, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with an undiluted pesticide that has the signal word DANGER or WARNING on the label shall not be reused.

(c) The handler employer shall assure that contaminated personal protective equipment is kept separately and washed separately from any other clothing or laundry.

(d) The handler employer shall assure that all clean personal protective equipment shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.

(e) The handler employer shall assure that all personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(f) The handler employer shall assure that when dust/mist filtering respirators are used, the filters shall be replaced:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(g) The handler employer shall assure that when gas-removing or vapor-removing respirators are used, the gas-removing or vapor-removing canisters or cartridges shall be replaced:

(i) At the first indication of odor, taste, or irritation.

(ii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iii) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(h) The handler employer shall inform any person who cleans or launders personal protective equipment:

(i) That such equipment may be contaminated with pesticides.

(ii) Of the potentially harmful effects of exposure to pesticides.

(iii) Of the correct way(s) to clean personal protective equipment and to protect themselves when handling such equipment.

(i) The handler employer shall assure that handlers have a clean place(s) away from pesticide storage and pesticide use areas where they may:

(i) Store personal clothing not in use.

(ii) Put on personal protective equipment at the start of any exposure period.

(iii) Remove personal protective equipment at the end of any exposure period.

(j) The handler employer shall not allow or direct any handler to wear home or to take home personal protective equipment contaminated with pesticides.

(7) Heat-related illness. When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, the handler employer shall assure that no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent heat-related illness.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-15003 What does this section cover?

WAC ((296-306A-150)) 296-307-150 does not apply to the construction, reconstruction, operation, or maintenance of overhead electrical conductors (and their supporting structures and associated equipment) by authorized and qualified electrical employees. It also does not apply to authorized and qualified employees engaged in the construction, reconstruction, operations and maintenance of overhead electrical circuits or conductors (and their supporting structures and associated equipment) of rail transportation systems, or electrical generating, transmission, distribution, and communication systems.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-16001 What requirements apply to camp sites? (1) You must ensure that all sites used for temporary labor camps are adequately drained. The site must be free from periodic flooding, and located at least 200 feet from a swamp, pool, sink hole, or other surface collection of water unless the water surface can be subject to mosquito control. Drainage from and through the camp must not endanger any domestic or public water supply. All sites must be free from depressions in which water may become a nuisance.

(2) All sites must be large enough to prevent overcrowding of necessary structures. The principal camp area for sleeping and for food preparation and eating must be at least 500 feet from where livestock are kept.

(3) The grounds and open areas surrounding the shelters must be maintained in a clean and sanitary condition.

((4) Whenever the camp is closed for the season or permanently, all garbage, manure, and other refuse must be collected and disposed of to prevent nuisance. All abandoned toilet pits must be filled with earth, and the grounds and buildings left in a clean and sanitary condition. If outhouse

~~buildings remain, they must be locked or otherwise secured to prevent entrance.))~~

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-16003 How must camp shelters be constructed? (1) You must ensure that every shelter in the camp is constructed to provide protection against the elements.

(2) Each room used for sleeping purposes must have at least 50 square feet of floor space for each occupant. The room must have at least a 7-foot ceiling.

(3) You must provide beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles in every sleeping room.

(a) Beds must be at least 36 inches apart, both laterally and end to end, and the frame must keep mattresses at least 12 inches off the floor.

(b) Double-deck bunks must be spaced at least 48 inches apart, both laterally and end to end.

(c) The minimum clear space between lower and upper bunks must be at least 27 inches.

(d) Triple-deck bunks are prohibited.

(4) The floors of each shelter must be constructed of wood, asphalt, or concrete. Wooden floors must be smooth and tight. The floors must be kept in good repair.

(5) All wooden floors must be elevated at least 1 foot above ground level at all points to prevent dampness and to permit free air circulation.

(6) You may "bank" around outside walls with earth or other suitable material to guard against extreme low temperatures.

(7) All living quarters must have windows covering a total area equal to at least one-tenth of the floor area. You must ensure that at least one-half of each window can be opened for ventilation.

(8) All exterior openings must be screened with 16-mesh material. All screen doors must have self-closing devices.

(9) You must ensure that each dwelling unit has at least 70 square feet of floor space for the first occupant and at least 50 square feet of floor space for each additional occupant. In a family unit, the husband and wife must have a separate sleeping area whenever living with one or more children over six years old.

((4) In camps with common cooking facilities, you must provide stoves in an enclosed and screened shelter. You must provide sanitary facilities for storing and preparing food. You must provide one stove for every 10 people or one stove for every two families.

((4)) If a camp is used during cold weather, you must provide adequate heating equipment.

Note: All heating, cooking, and water heating equipment must be installed according to state and local ordinances, codes, and regulations governing such installations.

NEW SECTION

WAC 296-307-16004 What electricity must be provided for temporary labor camps? (1) A labor camp oper-

ator must supply electricity to all dwelling units, kitchen facilities, shower/bathroom facilities, common areas, and laundry facilities.

(2) All electrical wiring and electrical equipment in labor camps must meet the electric standards of applicable building codes.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-16013 What lighting must an employer provide in camp buildings? ((Where electric service is available,)) Each habitable room in a camp must have at least one ceiling-type light fixture and at least one separate floor-type or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate must have at least one ceiling-type or wall-type fixture. Light levels in toilet and storage rooms must be at least 20 foot-candles 30 inches from the floor. The light level in other rooms, including kitchens and living quarters, must be at least 30 foot-candles 30 inches from the floor.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-16017 ((How must kitchens, dining halls, and feeding facilities be constructed?)) What cooking and food-handling facilities must be provided in temporary labor camps? ((1) In all camps where central dining or multiple family feeding operations are permitted or provided, the food handling facilities must comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the Food Service Sanitation Manual, U.S. Public Health Service Publication 934 (1965).

(2) You must provide a properly constructed kitchen and dining hall, adequate in size, and separate from the sleeping quarters, in connection with all food handling facilities. There must be no direct opening from living or sleeping quarters into a kitchen or dining hall.

(3) No person with any communicable disease may work in food handling, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.) A labor camp operator must provide enclosed and screened cooking and food-handling facilities for all occupants.

(1) If cooking facilities are located in dwelling units, the operator must provide:

(a) An operable cook stove or hot plate with at least one cooking surface for every two adult occupants or four cooking surfaces for every two families;

(b) A sink with hot and cold running potable water under pressure;

(c) Food storage areas and nonabsorbent, easily cleanable food preparation counters situated off the floor;

(d) Mechanical refrigeration able to maintain a temperature of forty-five degrees Fahrenheit or below, with enough space to store perishable food items for all occupants;

(e) Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;

(f) Nonabsorbent, easily cleanable floors;

(g) At least one ceiling or wall light fixture; and
(h) Lighting of thirty foot-candles measured thirty inches from the floor, and

(i) Adequate ventilation for cooking facilities.

(2) In common food-handling facilities, the operator must provide:

(a) A room or building, adequate in size, separate from any sleeping quarters;

(b) No direct openings to living or sleeping areas from the common food-handling facility;

(c) An operable cook stove or hot plate with at least one cooking surface for every two adult occupants or four cooking surfaces for every two families;

(d) Sinks with hot and cold running potable water under pressure;

(e) Food storage areas and nonabsorbent, easily cleanable food preparation counters situated off the floor;

(f) Mechanical refrigeration able to maintain a temperature of forty-five degrees Fahrenheit or below, with enough space to store perishable food items for all occupants;

(g) Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;

(h) Nonabsorbent, easily cleanable floors;

(i) At least one ceiling or wall light fixture; and

(j) Lighting of thirty foot-candles measured thirty inches from the floor;

(k) Adequate ventilation for cooking facilities.

(l) The operator must ensure that dining hall facilities:

(a) Comply with chapter 246-215 WAC, Food service;

(b) Are in a room or building, adequate in size, separate from any sleeping quarters;

(c) Have no direct openings to living or sleeping areas from the dining hall facility;

(d) Have fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings adjacent to cooking areas;

(e) Have nonabsorbent, easily cleanable floors;

(f) Have at least one ceiling or wall light fixture; and

(g) Have available lighting of thirty foot-candles measured thirty inches from the floor.

NEW SECTION

WAC 296-307-18005 How must fan blades be guarded? You must guard the blades of a fan located less than seven feet above the floor or working level. The guard must have maximum openings of one-half inch.

NEW SECTION

WAC 296-307-18010 How must constant-running drives be guarded? Shields, guards, and access doors that will prevent accidental contact with rotating machine parts on constant-running drives must be in place when the machine is running.

EXCEPTION: This requirement does not apply to combines when guards could create fire hazards.

"Constant-running drives" means drives that continue to rotate when the engine is running and all clutches are disengaged.

NEW SECTION

WAC 296-307-18015 What training must an employer provide for employees who use agricultural equipment? At the time of initial assignment and at least annually thereafter, you must instruct every employee in the safe operation and servicing of all equipment that the employee will use, including at least the following:

(1) Keep all guards in place when the machine is in operation.

(2) Only persons required for instruction or machine operation may ride on equipment, unless a passenger seat or other protective device is provided.

(3) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment.

EXCEPTION: When the machine must be running to be properly serviced or maintained, you must instruct employees in the steps and procedures necessary to safely service or maintain the equipment.

(4) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine.

(5) Lock out electrical power before performing maintenance or service on farmstead equipment.

NEW SECTION

WAC 296-307-18020 What requirements apply to machine controls? (1) If machine operation requires the presence of an operator on the machine, a "stop button" must be provided on the machine within reach of the operator.

(2) Power control devices must be marked to indicate the function and machine they control. "On" and "off" must be marked.

(3) "Stop" buttons must be red or orange. Each machine must have one or more stop buttons according to the working position of the operators.

(4) Power control devices must be located or guarded to prevent unexpected or accidental movement of the control. "Start" buttons must be recessed.

NEW SECTION

WAC 296-307-18025 How must steam pipes be guarded? (1) All steam pipes or pipes hot enough to burn a person (other than coil pipes, radiators for heating rooms or buildings, or pipes on portable steam engines and boilers) must be guarded with a standard safeguard, unless guarded by location.

(2) All exposed hot pipes within seven feet of the floor or working platform, or within fifteen inches measured horizontally from stairways, ramps, or fixed ladders, must be covered with insulating material or be guarded to prevent contact.

PART M**GUARDING TOOLS AND EQUIPMENT;
FARM SHOPS; MATERIALS HANDLING**

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-18503 What general requirements apply to powered saws? (1) You must ensure that all cracked saw blades are removed from service, except as indicated in WAC ((296-306A-18515)) 296-307-18515(6).

(2) Inserting a wedge between a saw disk and its collar to form a "wobble saw" for rabbeting or dadoing is prohibited.

EXCEPTION: This does not apply to properly designed adjustable rabbeting blades.

(3) ((You must ensure that any saw used for ripping has anti-kick-back fingers on each side and a spreader.))

(4) You must ensure that ripping and ploughing are permitted only against the direction in which the saw turns. Mark the direction of saw rotation on the hood, and attach a permanent warning sign to the rear of the guard that prohibits ripping or ploughing from that position.

(5)) You must provide and ensure that employees use push sticks or push blocks in sizes and types suitable for the work to be done.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-18506 How must band saws be guarded? (1) You must ensure that all band wheels are completely encased or guarded on both sides. Guards must be constructed of ((not less than)) at least No. 14 U.S. gauge metal, nominal two-inch wood material, or mesh or perforated metal of ((not less than)) at least U.S. gauge No. 20 with maximum openings ((not greater than)) of three-eighths inch.

(2) You must ensure that all nonworking portions of the band saw blade are enclosed or guarded ((except the working side of the blade between the guide and the table)). The working side of the blade between the guide and the table may be left open to work on the stock.

(3) You must ensure that the guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard protects the saw blade at the front and outer side.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-18509 How must radial arm saws be guarded? (1) You must ensure that the upper hood completely encloses the upper portion of the blade, including the end of the saw arbor. The upper hood must be constructed to protect the operator from flying material, and to deflect sawdust. The sides of the lower exposed portion of the blade must be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock. You may use an alternative lower blade guard if it provides equivalent protection.

(2) You must provide ((a mechanism to prevent the leading edge of the saw from passing the front edge of the table or roll case)) an adjustable stop to prevent the forward travel of the blade beyond the position necessary to complete the cut.

(3) You must equip a radial arm-saw((s)) with a mechanism to return the saw and keep it in position at the back of the table or behind the rip fence.

For example: You may use a counter-weight or a saw retractor device, or tilt the ((arm sufficiently to maintain the saw at the back when)) front of the radial arm saw unit up enough to maintain the blade at the back of the table or behind the rip fence when the pull handle is released by the operator.

(4) You must ensure that ripping and ploughing are permitted only against the direction in which the saw turns. Mark the direction of the saw rotation on the hood, and attach a permanent warning sign to the rear of the guard that prohibits ripping or ploughing from that position. (Where the blade teeth exit the upper hood when set up for ripping would be the rear of the saw in this case.) Each radial arm saw used for ripping must be provided with antikickback fingers or dogs to prevent the saw from throwing the material or stock back at the operator.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-18512 How must table saws be guarded? (1) You must ensure that each circular ((crescent)) blade table saw used for ripping or crosscutting is guarded by a standard hood that covers the saw ((at all times at least to the depth of the teeth)) blade above the material completely at all times during the cut. The hood must adjust itself automatically to the thickness of, and must remain in contact with, the material being cut.

EXCEPTION: When finished surfaces of stock may be marred by the guard, it may be raised slightly to avoid contact. The hood must be designed to protect the operator from flying material.

(2) You must ensure that any table saw used for ripping has antikickback fingers or dogs and a spreader.

(3) While used ((in performing)) for rabbeting, ploughing, grooving or ((dado operations they)) dadoing a table saw may be used without an antikickback device and a spreader((, but)). Upon completion ((of such operations)), the antikickback device and spreader must be replaced immediately.

((3))) (4) You must ensure that the part of the table saw that is beneath the table is fully guarded to prevent employee contact with the portion of the blade below the table.

((4))) (5) Power transmission components of table saws must be guarded according to WAC ((296-306A-280)) 296-307-280.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-18515 How must circular fuel-wood saws be guarded? (1) You must ensure that fuel-wood saws are guarded by a standard guard that completely encloses the

blade to the depth of the teeth, except for the area where material is fed into the blade.

(2) You must ensure that the tables of fuel-wood saws is constructed so that material being sawed is supported on both sides of the blade.

(3) You must provide a mechanism that will prevent the leading edge of the saw from passing the front edge of the table or roll case.

(4) You must provide tilting tables of fuel-wood saws with a backrest for the full length of the table. The backrest must extend upward from the table platform at least to the height of the saw opening. An opening in a backrest must be a maximum of two inches. The backrest frame and filler must be constructed of material strong and rigid enough to prevent distortion under normal use.

(5) Power transmission components of fuel-wood saws must be guarded according to WAC ((296-306A-280)) 296-307-280.

(6) When a circular fuel-wood saw blade develops a crack, you must discontinue its use until properly repaired, according to the following measurements.

Length of crack	Diameter of saw in inches
1/2"	12"
1"	24"
1-1/2"	36"

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-190 Guarding bench grinders ((and)), abrasive wheels, and portable grinders.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-19006 What rules apply to guarding abrasive wheels? (1) Abrasive wheels must be used only on machines provided with safety guards.

EXCEPTION: This requirement does not apply to the following:

- (a) Wheels used for internal work while the wheel is within the work being ground.
- (b) Mounted wheels 2 inches and smaller in diameter, used in portable operations.
- (c) Types 16, 17, 18, 18R, and 19 cones, plugs, and threaded hole pot balls where the work offers protection.
- (d) Specially shaped "sickle grinding" wheels mounted in mandrel-type bench or floor stands.

(2) The safety guard must cover the spindle end, nut, and flange projections.

EXCEPTIONS:

- (a) When the work provides protection to the operator, the spindle end, nut, and outer flange may be exposed. When the work entirely covers the side of the wheel, the side covers of the guard may be omitted.

- (b) The spindle end, nut, and outer flange may be exposed on portable machines designed for, and used with, type 6, 11, 27, and 28 abrasive wheels, cutting off wheels, and tuck pointing wheels.
- (c) The spindle end, nut, and outer flange may be exposed on machines designed as portable saws.

(3) The guard must cover the sides and periphery of the wheel.

EXCEPTIONS:

- (a) Bench and floor stands;
- (i) The maximum permissible angle of exposure is 90°. This exposure must begin at a point not more than 65° above the horizontal plane of the wheel spindle.
- (ii) Wherever the nature of the work requires contact with the wheel below the horizontal plane of the spindle, the exposure must not exceed 125°. This exposure must begin at a point not more than 65° above the horizontal plane of the wheel spindle.
- (b) Swing-frame grinders may only be exposed on the bottom half; the top half of the wheel must be enclosed at all times.
- (c) Where the work is applied to the top of the wheel, the exposure of the grinding wheel periphery must not exceed 60°.
- (d) When the work entirely covers the side of the wheel, the side covers of the guard may be omitted.

(4) The safety guard must be mounted to maintain proper alignment with the wheel, and the strength of the fastenings must exceed the strength of the guard.

(5) Take care to see that the safety guard is properly positioned before starting the mounted wheel.

(6) Abrasive wheel machinery guards must meet the design specifications of ANSI B7.1-1970.

(7) Exception: WAC ((296-306A-19006)) 296-307-19006 does not apply to natural sandstone wheels and metal, wooden, cloth, or paper discs, with a layer of abrasive on the surface.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-19009 What are the use, mounting, and guarding rules for abrasive wheels? (1) Immediately before mounting, the operator must closely inspect and sound (ring test) all wheels to make sure they are not damaged. Before mounting the wheel, the operator must check the spindle speed of the machine to be certain that it does not exceed the maximum operating speed marked on the wheel.

"Ring test" means to tap the wheel gently with a light nonmetallic implement, such as the handle of a screwdriver for light wheels, or a wooden mallet for heavier wheels.

(2) Grinding wheels must fit freely on the spindle and remain free under all grinding conditions. The wheel hole must be made suitably oversized to ensure that heat and pressure do not create a hazard.

(3) All contact surfaces of wheels, blotters, and flanges must be flat and free of foreign matter.

(4) Bushings used in the wheel hole must not exceed the width of the wheel and must not contact the flanges.

(5) On offhand grinding machines, work rests must be used to support the work. The work rest must be rigid and adjustable to compensate for wheel wear. Work rests must be kept adjusted closely to the wheel with a maximum opening of one-eighth inch to prevent the work from jamming between the wheel and the rest. The work rest must be securely clamped after each adjustment and shall not be adjusted with the wheel in motion.

(6) Goggles or face shields must be used when grinding.

(7) Nonportable grinding machines must be securely mounted on substantial floors, benches, foundations, or other adequate structures.

(8) After mounting, abrasive wheels must be run at operating speed with the safety guard in place and properly adjusted, or in a protected enclosure for at least one minute before applying work. During this time, no one may stand in front of or in line with the wheel.

(9) Grinders or abrasive wheels that vibrate or are out of balance must be repaired before use.

(10) Abrasive wheels not designed for the machine or guard must not be mounted on a grinder.

(11) Side grinding must only be performed with wheels designed for this purpose.

Note: Light grinding on the side of straight wheels is permitted only when very delicate pressure is applied.

(12) Where the operator may stand in front of the opening, safety guards must be adjustable to compensate for wheel wear. The distance between the wheel periphery and the adjustable tongue or the guard above the wheel must not exceed one-quarter inch.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-19012 What requirements apply to flanges? (1) Grinding machines must have flanges.

(2) All abrasive wheels must be mounted between flanges that are at least one-third the diameter of the wheel. Regardless of flange type used, the wheel must always be guarded. Blotters must be used according to this section.

(3) Design and material requirements include:

(a) Flanges must be designed to transmit the driving torque from the spindle to the grinding wheel.

(b) Flanges must be made of steel, cast iron, or other material of equal or greater strength and rigidity.

(4) An abrasive wheel that is designed to be held by flanges must not be operated without them. Except for those types requiring flanges of a special design, flanges must be at least one-third the diameter of the wheel.

(5) Facings of compressible material (blotters) must be inserted between the abrasive wheel and flanges to ensure uniform distribution of flange pressure.

(6) All flanges must be maintained in good condition. When the bearing surfaces become damaged, they should be trued or refaced. When refacing or truing, exercise care to make sure that proper relief and rigidity is maintained before starting the wheel.

((7) Where the operator may stand in front of the opening, safety guards must be adjustable to compensate for

wheel wear. The distance between the wheel periphery and the adjustable tongue or the guard above the wheel must not exceed one-quarter inch.)

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-20505 What requirements apply to guarding portable powered tools? (1) All portable, power-driven circular saws with a blade diameter greater than 2 inches must have guards above and below the base plate or shoe.

(a) The upper guard must cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts.

(b) The lower guard must cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work.

(c) When the tool is withdrawn from the work, the lower guard must automatically and instantly return to covering position.

(2) Portable belt sanding machines must have guards at each nip point where the sanding belt runs onto a pulley. These guards must prevent the hands or fingers of the operator from coming in contact with the nip points. The unused run of the sanding belt must be guarded against accidental contact.

(3) Portable electric powered tools must meet the electrical requirements of chapter ((296-306A)) 296-307 WAC Part

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-22012 What rules apply to walk-behind rotary mowers? (1) The horizontal angle of the grass discharge opening(s) in the blade enclosure must not contact the operator area.

(2) There must be one of the following at all grass discharge openings:

(a) A minimum of 3 inches between the end of the discharge chute and the blade tip circle; or

(b) A rigid bar fastened across the discharge opening, secured to prevent removal without the use of tools. The bottom of the bar must be no higher than the bottom edge of the blade enclosure.

(3) The highest point(s) on the blade enclosure front, except discharge-openings, must be a maximum of 1-1/4 inches above the lowest blade position. Mowers with a swing-over handle are considered to have no front in the blade enclosure and therefore must comply with WAC ((296-306A-22009)) 296-307-22009(1).

(4) The mower handle must be fastened to the mower to prevent loss of control by unintentional uncoupling while in operation.

(5) Mower handles must be locked in the normal operating position(s) so that they cannot be accidentally disengaged during normal mower operation.

(6) A swingover handle must meet the requirements of this section.

(7) Wheel drive disengaging controls, except deadman controls, must move opposite to the direction of the vehicle motion in order to disengage the drive. Deadman controls may operate in any direction to disengage the drive.

(8) You must ensure that each walk-behind rotary mower has a positive constant-pressure device that requires the operator to hold the device in the "on" position to operate the mower. Using rope or string or other material to tie the constant pressure device in the "on" position is prohibited.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-22509 What rules apply to the operation and maintenance of jacks? (1) If the foundation is not firm, you must block the base of the jack. If the cap might slip, you must place a block in between the cap and the load.

(2) The operator must watch the stop indicator, which must be kept clean, in order to determine the limit of travel. The indicated limit must not be overrun.

(3) After the load has been raised, it must immediately be cribbed, blocked, or otherwise secured. Working under a load raised only with jacks is prohibited.

(4) Hydraulic jacks exposed to freezing temperatures must be supplied with an adequate antifreeze liquid.

(5) All jacks must be properly lubricated at regular intervals. The lubricating instructions of the manufacturer should be followed, and only lubricants recommended by the manufacturer should be used.

(6) You must ensure that each jack is thoroughly inspected according to the service conditions and at least:

(a) For constant or intermittent use at one locality, once every 6 months;

(b) For jacks sent out of shop for special work, when sent out and when returned;

(c) For a jack subjected to abnormal load or shock, immediately before and immediately thereafter.

(7) Repair or replacement parts must be examined for possible defects.

(8) Jacks that are out of order must be tagged, and not be used until repaired.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-230 What are the general requirements for materials handling and storage? (1) Safe clearances of three feet must be allowed for aisles, loading docks, doorways, and wherever turns or passage must be made. Passageways must be kept clear and in good repair, with no obstructions.

(2) Bags, bales, boxes, and other containers stored in tiers must be made secure against sliding or collapse.

(3) Storage areas must be kept free from any accumulation of materials that could cause tripping, fire, or explosion.

(4) Employees must be instructed in proper lifting or moving techniques and methods. Mechanical devices or assistance in lifting must be used when moving heavy objects.

(5) When removing material stored in piles, employees must remove material in a manner that maintains the stability of the pile and prevents collapse.

(6) Storage areas must have proper drainage.

(7) You must provide clearance signs to warn of clearance limits.

(8) For powered industrial truck (forklift) requirements, see WAC ((~~296-306A-520~~) 296-307-520).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-232 What requirements apply to conveyors? Conveyors must be constructed, operated, and maintained according to ANSI B 20.1-1957.

(1) When the return strand of a conveyor operates within seven feet of the floor, there must also be a trough strong enough to carry the weight resulting from a broken chain.

(2) If the strands are over a passageway, a means must be provided to catch and support the ends of the chain in the event of a break.

(3) When the working strand of a conveyor crosses within three feet of the floor level in passageways, a bridge must be provided for employees to cross over the conveyor.

(4) Whenever conveyors pass adjacent to or over working areas or passageways, protective guards must be installed. These guards must be designed to catch and hold any load or materials that may fall off or dislodge and injure an employee.

(5) Employees must be prohibited from walking on the rolls of roller-type conveyors (((, except in an emergency))). If employees must walk on roller-type conveyors because of an emergency, the conveyor must be shut off first.

(6) Guards, screens, or barricades that are strong enough to prevent material from falling must be installed on all sides of the shaftway of elevator-type conveyors except at openings where material is loaded or unloaded. Automatic shaftway gates or suitable barriers must be installed at each floor level where material is loaded or unloaded from the platform.

(7) Conveyors must have an emergency stopping device that can be reached from the conveyor. The device must be located near the material entrance to each chopper, mulcher, saw, or similar equipment. The device must be located so that it can stop the conveyor before an employee enters the point of operation of the machine fed by the conveyor.

EXCEPTION: The emergency stopping device is not required where the conveyor leading into the equipment is under constant control of an operator with full view of the material entrance and the conveyor is located where the operator cannot fall onto it.

(8) Where conveyors are over seven feet high, means must be provided to safely permit essential inspection and maintenance operations.

(9) Any part showing signs of significant wear must be inspected carefully and replaced before it creates a hazard.

(10) Replacement parts must be equal to or exceed the manufacturer's specifications.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-24003 What does this section cover?

WAC ((~~296-306A-240~~) 296-307-240) covers sanitation for employees who normally work in fixed, indoor places of agricultural employment.

A "fixed, indoor workplace" is one where the employees perform a majority of their duties at that site.

This does not cover field employees who only occasionally enter a shop or other farm building as part of their normal duties. Field employees are covered by the field sanitation requirements of WAC ((~~296-306A-095~~) 296-307-095).

This section does not cover measures for the control of toxic materials.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25012 What protection must an employer provide for wall openings and holes? (1) Every wall opening from which there is a drop of more than 4 feet must be guarded by one of the following:

(a) A rail, roller, picket fence, half door, or equivalent barrier.

The guard may be removable but should be hinged or mounted so it can be easily replaced. When employees working below the opening are exposed to falling materials, a removable toeboard or the equivalent must also be provided. When the opening is unused, the guard must be kept in position even with a door on the opening. In addition, a grab handle must be provided on each side of the opening with its center approximately 4 feet above floor level and of standard strength and mounting.

(b) An extension platform onto which materials can be hoisted for handling, and that has side rails or equivalent guards of standard specifications.

(2) Every chute wall opening from which there is a drop of more than 4 feet must be guarded according to subsection (1) of this section or as required by the conditions.

(3) Every window wall opening at a stairway landing, floor, platform, or balcony, from which there is a drop of more than 4 feet, and where the bottom of the opening is less than 3 feet above the platform or landing, must be guarded by standard slats, standard grillwork according to WAC ((~~296-306A-25042~~) 296-307-25042(3), or a standard railing.

Where the window opening is below the landing, or platform, a standard toeboard must be provided.

(4) Every temporary wall opening must have adequate guards that may be of less than standard construction.

(5) Where there is a hazard of materials falling through a wall hole, and the lower edge of the near side of the hole is less than 4 inches above the floor, and the far side of the hole is more than 5 feet above the next lower level, the hole must be protected by a standard toeboard or a solid enclosing screen, or according to WAC ((~~296-306A-25042~~) 296-307-25042(3)).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25015 What protection must an employer provide for open-sided floors, platforms, and runways? (1) Every open-sided floor or platform 4 feet or more above an adjacent floor or ground level must be guarded by a standard railing (or the equivalent according to WAC ((~~296-306A-10003(3)~~) 296-307-25027)) on all open sides, except where there is an entrance to a ramp, stairway, or fixed ladder. The railing must have a toeboard wherever, beneath the open sides:

- (a) A person can pass; or
- (b) There is moving machinery; or
- (c) Materials falling onto equipment would create a hazard.

(2) Every runway must be guarded by a standard railing (or the equivalent according to WAC ((~~296-306A-25027~~) 296-307-25027)) on all open sides that are 4 feet or more above floor or ground level. Wherever tools, machine parts, or materials are likely to be used on the runway, a toeboard must also be provided on each exposed side.

Runways used exclusively for special purposes (such as oiling, shafting, or filling tank cars) may have the railing on one side omitted when operating conditions require, if the hazard is minimized by using a runway at least 18 inches wide. Where people entering runways become exposed to machinery, electrical equipment, or hazards other than from falling, additional guarding may be necessary.

(3) Regardless of height, all open-sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, or similar hazardous equipment, must be guarded with a standard railing and toeboard.

(4) Tools and loose materials must not be left on overhead platforms and scaffolds.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26003 What does this section cover?

WAC ((~~296-306A-260~~) 296-307-260 covers the safe design and construction of fixed general industrial stairs. Fixed general industrial stairs includes interior and exterior stairs around machinery, tanks, and other equipment, and stairs leading to or from floors, platforms, or pits.

This section does not apply to stairs used for fire exits, to construction operations, to private buildings or residences, or to articulated stairs that are installed on floating roof tanks or on dock facilities, where the angle changes with the rise and fall of the base support.

Stairs of public and private buildings at loading or receiving docks, in maintenance areas, etc., or stairs that are used exclusively by employees, are considered "fixed industrial steps" and must meet these requirements.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26030 What requirements apply to railings and handrails on fixed stairs? Standard railings

must be provided on the open sides of all exposed stairways and stair platforms. Handrails must be provided on at least one side of closed stairways, preferably on the right side descending. Stair railings and handrails must be installed according to WAC ((~~296-306A-250~~) 296-307-250).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26033 What requirements apply to alternating tread-type stairs? "Alternating tread-type stairs" means stairs with a series of steps between 50 and 70 degrees from horizontal, attached to a center support rail in an alternating manner so that a user of the stairs never has both feet at the same level at the same time.

(1) Alternating tread-type stairs must be designed, installed, used, and maintained according to the manufacturer's specifications, and must have the following:

- (a) Stair rails on all open sides;
- (b) Handrails on both sides of enclosed stairs;
- (c) Stair rails and handrails that provide an adequate handhold for a user grasping it to avoid a fall;
- (d) A minimum of 17 inches between handrails;
- (e) A minimum width of 22 inches overall;
- (f) A minimum tread depth of 8 inches;
- (g) A minimum tread width of 7 inches; and
- (h) A maximum rise of 9 1/2 inches to the tread surface of the next alternating tread.

(2) Alternating tread-type stairs must have a maximum 20-foot continuous rise. Where more than a 20-foot rise is necessary to reach the top of a required stair, one or more intermediate platforms must be provided according to WAC ((~~296-306A-26027~~) 296-307-26027).

(3) Stairs and platforms must be installed so the top landing of the alternating tread stair is flush with the top of the landing platform.

(4) Stair design and construction must sustain a load of at least five times the normal live load, and be at least strong enough to carry safely a moving concentrated load of 1,000 pounds.

(5) Treads must have slip-resistant surfaces.

(6) Where a platform or landing is used, the width must be at least as wide as the stair and at least 30-inches deep in the direction of travel. Stairs must be flush with the top of the landing platform.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-27010 What requirements apply to using aerial manlift equipment? (1) The manufacturer's instructional manual, if any, must be used to establish the proper operational sequences and maintenance procedures. If there is no manual, you must develop instructions. The instructions must be available for reference by operators.

(2) The assigned operator must make a daily visual inspection and perform the tests recommended by the manufacturer.

(3) Only employees qualified by training or experience may operate aerial manlifts.

(4) Employees must report defective aerial manlift equipment to you as soon as identified. Using defective equipment is prohibited when the defect may cause an accident.

(5) When moving to and from the job site, the basket of the manlift must be in the low position.

(6) Unsafe practices are prohibited, such as, sitting or standing on the basket edge, standing on material placed across the basket, or working from a ladder set inside the basket.

(7) The basket must not be rested on a fixed object so that the weight of the boom is supported by the basket.

(8) The employee and the aerial manlift equipment must maintain distance from high voltage lines according to WAC ((296-306A-150)) 296-307-150.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28002 What power transmission belts are covered by this section? WAC ((296-306A-280)) 296-307-280 covers all types and shapes of power transmission belts.

EXCEPTION: The following power transmission belts are exempt from WAC ((296-306A-280)) 296-307-280 when operating at 250 feet per minute or less:

- (1) Flat belts that are one inch wide or less.
- (2) Flat belts that are 2" wide or less and are free from metal lacing or fasteners.
- (3) Round belts that are 1/2" in diameter or less.
- (4) Single strand V-belts that are 13/32" wide or less.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28006 What general requirements apply to machine guarding? (1) All power transmission components must be guarded according to the requirements of this section.

(2) You must protect employees from coming into contact with moving machinery parts by:

- (a) A guard or shield or guarding by location; or
- (b) A guardrail or fence whenever a guard or shield or guarding by location is infeasible.

(3) Strength and design of guards.

(a) Guards must be designed and located to prevent inadvertent contact with the hazard.

(b) Unless otherwise specified, each guard and its supports must be strong enough to withstand the force that a 250 pound person would exert leaning on or falling against the guard.

(c) Guards must be securely fastened to the equipment or building.

(4) ~~((Shields, guards, and access doors that will prevent accidental contact with rotating machine parts on constant-running drives must be in place when the machine is running.~~

Exception: This requirement does not apply to combines when guards could create fire hazards.

~~"Constant running drives" means drives that continue to rotate when the engine is running and all clutches are disengaged.~~

((5))) A guard or shield on stationary equipment must be provided at the mesh point or pinch point where the chain or belt contacts the sprocket or pulley.

((((6))) (5) Machines that will throw stock, material, or objects must be covered or provided with a device designed and constructed to minimize this action. (Machines such as rip saws, rotary mowers and beaters, rotary tillers are included in this classification.)

((((7))) When the periphery of the blades of a fan is less than 7 feet above the floor or working level, the blades must be guarded. The guard must have openings no larger than 1/2 inch.

((8))) (6) For requirements relating to the control of hazardous energy (lockout-tagout) see WAC ((296-306A-320)) 296-307-320.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28014 What requirements apply to prime-mover guards? "Flywheels" include flywheels, balance wheels, and flywheel pulleys mounted and revolving on crankshaft of engine or other shafting.

"Prime movers" include steam, gas, oil, and air engines, motors, steam and hydraulic turbines, and other equipment used as a source of power.

(1) Unless guarded by location, flywheels must be guarded according to the following requirements:

(a) Guard enclosures are made of sheet, perforated, or expanded metal, or woven wire.

(b) Guard rails are between 15 and 20 inches from the rim. When a flywheel extends into a pit or is within 12 inches of the floor, a standard toeboard is provided.

(c) When the upper rim of a flywheel extends through a working floor, it is surrounded by a guardrail and toeboard.

(d) Exception: When a flywheel with a smooth rim 5 feet or less in diameter cannot be guarded by the above methods, you must guard by meeting the following requirements:

On the exposed side, cover the flywheel spokes with a disk that makes a smooth surface and edge, and provides for inspection. You may leave an open space, less than 4 inches wide, between the outside edge of the disk and the rim of the wheel, to turn the wheel over. If you use a disk, keys or other projections left uncovered by the projections shall be cut off or covered.

Note: This exception does not apply to flywheels with solid web centers.

(e) At the flywheel of a gas or oil engine, you may provide an adjustable guard for starting the engine or for running adjustment. A slot opening for a jack bar is permitted.

(f) For flywheels above working areas, you must install guards that are strong enough to hold the weight of the flywheel if the shaft or wheel mounting fails.

(2) Cranks and connecting rods, when exposed to contact, must be guarded according to WAC ((296-306A-28046)) 296-307-28046 and ((296-306A-28048)) 296-307-

28048, or by a guardrail according to WAC ((296-306A-28060) 296-307-28060).

(3) Tail rods or extension piston rods must be guarded according to WAC ((296-306A-28046) 296-307-28046 and ((296-306A-28048) 296-307-28048), or by a guardrail on the sides and end, with a clearance of between 15 and 20 inches when rod is fully extended.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28016 What requirements apply to guarding shafting? Revolving shafts must be guarded by a standard safeguard unless guarded by location.

(1) All shafting must be secured against excessive end movement.

(2) Guarding horizontal shafting.

(a) Unless guarded by location, all exposed parts of horizontal shafting, must be enclosed in a guard that covers the shafting completely or by a trough that covers the sides and top or sides and bottom of the shafting as location requires.

(b) Shafting under bench machines must be enclosed by a guard that covers the shafting completely or by a trough that covers the sides and top or sides and bottom of the shafting as location requires. The sides of the trough must extend to at least 6 inches from the underside of table. If shafting is near the floor, the trough must extend to at least 6 inches from the floor. In every case, the sides of trough must extend at least 2 inches beyond the shafting or projection.

Exception:

Maintenance runways are exempt from this requirement. "Maintenance runway" means any permanent runway or platform used for oiling, maintenance, running adjustment, or repair work, but not for passenger way.

(3) Unless guarded by location, vertical and inclined shafting must be enclosed according to WAC ((296-306A-28046) 296-307-28046 and ((296-306A-28050) 296-307-28050 through WAC ((296-306A-28060) 296-307-28060)).

Exception: Maintenance runways are exempt from this requirement.

(4) Projecting shaft ends.

(a) Projecting shaft ends must have a smooth edge and end and must not project more than one-half the diameter of the shaft unless guarded by nonrotating caps or safety sleeves.

(b) Unused keyways must be filled up or covered.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28018 What requirements apply to guarding pulleys? (1) Unless guarded by location, pulleys must be guarded according to WAC ((296-306A-28046) 296-307-28046 and ((296-306A-28050) 296-307-28050 through WAC ((296-306A-28060) 296-307-28060)). Pulleys serving as balance wheels (e.g., punch presses) on which the point of contact between belt and pulley is more than 6 feet 6 inches from the floor or platform may be guarded with a disk covering the spokes.

(2) If the distance to the nearest fixed pulley, clutch, or hanger is equal to or less than the width of the belt, then you must provide a guide to prevent the belt from leaving the pulley on the side where insufficient clearance exists.

(3) Where there are overhanging pulleys on line, jack, or countershafts with no bearing between the pulley and the outer end of the shaft, you should provide a guide to prevent the belt from running off the pulley.

(4) Pulleys with cracks, or pieces broken out of rims are prohibited.

(5) Pulleys must be designed and balanced for the operating speed.

(6) Composition or laminated wood pulleys must not be installed where they are likely to deteriorate.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28020 What requirements apply to guarding horizontal belt, rope, and chain drives? "Belts" include all power transmission belts, such as flat belts, round belts, V-belts, etc., unless otherwise specified.

(1) Where both runs of horizontal belts are 7 feet or less from the floor level, the guard must extend to at least 15 inches above the belt or to a standard height. (See Table P-1.)

Exception:

Where both runs of a horizontal belt are 42 inches or less from the floor, the belt must be fully enclosed according to WAC ((296-306A-28046) 296-307-28046 and ((296-306A-28050) 296-307-28050 through WAC ((296-306A-28060) 296-307-28060)).

(2) In power development rooms, a guardrail may be used instead of the guard.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28022 What requirements apply to guarding overhead horizontal belt, rope, and chain drives? (1) Unless guarded by location, overhead horizontal belts must be guarded on the sides and bottom according to WAC ((296-306A-28054) 296-307-28054).

(2) Unless guarded by location, horizontal overhead belts must be guarded for their entire length when:

(a) Located over passageways or work places and traveling 1,800 feet or more per minute.

(b) The center to center distance between pulleys is 10 feet or more.

(c) The belt is 8 inches wide or more.

(3) Where the upper and lower runs of horizontal belts are located so that employees can pass between them, the passage must be either:

(a) Completely barred according to WAC ((296-306A-28046) 296-307-28046 and ((296-306A-28050) 296-307-28050 through WAC ((296-306A-28060) 296-307-28060); or

(b) In a passage that employees must use, there must be a platform over the lower run guarded on either side by a railing that is completely filled in with wire mesh or other filler, or by a solid barrier. The upper run must be guarded to pre-

vent contact by the employee or by objects carried by the employee.

(4) Overhead chain and link belt drives must be guarded according to the same requirements as overhead horizontal belts.

(5) American or continuous system rope drives located where the condition of the rope (particularly the splice) cannot be constantly and conveniently observed, must have an alarm (preferably electric-bell type) that will warn when the rope begins to fray.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28024 What requirements apply to guarding vertical and inclined belts? (1) Vertical and inclined belts must be guarded according to WAC ((~~296-306A-28044~~) 296-307-28044 and ((~~296-306A-28050~~) 296-307-28050 through WAC ((~~296-306A-28060~~) 296-307-28060).

(2) All guards for inclined belts must provide a minimum clearance of 7 feet between belt and floor at any point outside of the guard.

(3) A vertical or inclined belt may be guarded with a nip-point belt and pulley guard, if it is:

(a) 2-1/2 inches wide or less;

(b) Running at a speed of less than one thousand feet per minute; and

(c) Free from metal lacings or fastenings.

"Nip-point belt and pulley guard" means a device that encloses the pulley and has rounded or rolled edge slots through which the belt passes.

(4) Vertical belts running over a lower pulley more than seven feet above floor or platform must be guarded according to the same requirements as horizontal overhead belts, if the belt is:

(a) Located over passageways or work places and traveling 1,800 feet or more per minute;

(b) Eight inches wider or more.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28030 What requirements apply to guarding gears, sprockets, and chains? (1) Gears must be guarded by one of the following methods:

(a) A complete enclosure; or

(b) A standard guard according to WAC ((~~296-306A-28050~~) 296-307-28050 through ((~~296-306A-28060~~) 296-307-28060), at least 7 feet high extending 6 inches above the mesh point of the gears; or

(c) A band guard covering the face of gear. The guard must have flanges extended inward beyond the root of the teeth on the exposed side or sides. If a part of the train of gears guarded by a band guard is less than 6 feet from the floor, the gear must be guarded by a disk guard or by a complete enclosure at least 6 feet tall.

(2) Hand-operated gears used only to adjust hand-powered machine parts may be unguarded. However, we recommend guarding these gears.

(3) Unless guarded by location, all sprocket wheels and chains must be enclosed. Where the drive extends over other machine or working areas, you must provide protection against falling parts.

Exception: This section does not apply to manually operated sprockets.

(4) When gears require frequent oiling, you must provide openings with hinged or sliding self-closing covers. All points not readily accessible must have oil feed tubes if lubricant is added while machinery is in motion.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28040 What requirements apply to guarding clutches, cutoff couplings, and clutch pulleys?

(1) Unless guarded by location, clutches, cutoff couplings, or clutch pulleys with projecting parts must be enclosed by a stationary guard constructed according to WAC ((~~296-306A-28046~~) 296-307-28046). You may use a "U" type guard.

(2) In enginerooms, a guardrail, preferably with toe-board, may be used instead of the guard if the room is only occupied by engineroom attendants.

(3) A bearing support next to a friction clutch or cutoff coupling must have self-lubricating bearings that require infrequent maintenance.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28042 What requirements apply to guarding belt shifters, clutches, shippers, poles, perches, and fasteners? "Belt pole" (sometimes called a "belt shipper" or "shipper pole") means a device used in shifting belts on and off fixed pulleys on line or countershaft where there are no loose pulleys.

(1) Tight and loose pulleys must have a permanent belt shifter with a mechanical means to prevent the belt from creeping from loose to tight pulley.

(2) Belt shifter and clutch handles must be rounded. They must be as far as possible from danger of accidental contact, but within easy reach of the operator. Where belt shifters are not directly over a machine or bench, the handles must be cut off 6 feet 6 inches above floor level.

(3) All belt and clutch shifters of the same type in each shop should move in the same direction to stop machines, i.e., either all right or all left.

Exception: This requirement does not apply to a friction clutch on a countershaft carrying two clutch pulleys with open and crossed belts. In this case the shifter handle has three positions and the machine is at a standstill when the clutch handle is in the neutral or center position.

(4) When belt poles must be used as a substitute for mechanical shifters, they must be big enough for employees to grasp them securely. Poles must be smooth and preferably of straight grain hardwood, such as ash or hickory. The edges of rectangular poles should be rounded. Poles should extend from the top of the pulley to within approximately 40 inches of the floor or working platform.

(5) Where loose pulleys or idlers are not practical, belt perches such as brackets, rollers, etc., must be used to keep idle belts away from the shafts. Perches should be substantial and designed for safe belt shifting.

(6) Belts that must be shifted by hand and belts within seven feet of the floor or working platform that are not guarded according to WAC ((~~296-306A-28046~~) 296-307-28046) must not be fastened with metal, nor with any other fastening that creates a hazard.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28048 What requirements apply to disk, shield, and U-guards? (1) A disk guard must have a sheet-metal disk of at least No. 22 gauge fastened by U-bolts or rivets to the spokes of pulleys, flywheels, or gears. To prevent contact with sharp edges of the disk, the edge must be rolled or wired. In all cases, the nuts must have locknuts on the unexposed side of the wheel.

(2) A shield guard must have a frame filled in with wire mesh or expanded, perforated, or solid sheet metal.

(3) If the shield area is less than six square feet, the wire mesh or expanded metal may be fastened in a framework of 3/8-inch solid rod, 3/4-inch by 3/4-inch by 1/8-inch angle iron, or a metal construction of equivalent strength. Metal shields may have edges entirely rolled around a 3/8-inch solid iron rod.

(4) A U-guard consisting of a flat surface with edge members must cover the under surface and lower edge of a belt, multiple chain, or rope drive. It must be constructed of materials specified in Table P-1, and must meet the requirements of WAC ((~~296-306A-28054~~) 296-307-28054 through ((~~296-306A-28058~~) 296-307-28058). Edges must be smooth and, if the size of the guard requires, be reinforced by rolling, wiring, or by binding with angle or flat iron.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28052 When may wood guards be used? Wood guards may be used where fumes would cause rapid deterioration of metal guards and outdoors where extreme cold or extreme heat make metal guards and railings undesirable.

(1) Wood must be sound, tough, and without loose knots.

(2) Guards must be made of planed lumber not less than 1-inch rough board measure, with rounded edges and corners.

(3) Wood guards must be securely fastened together with wood screws, hardwood dowel pins, bolts, or rivets.

(4) Wood guards must be equal in strength and rigidity to metal guards specified in WAC ((~~296-306A-28050~~) 296-307-28050 and Table P-1.

Note: Requirements for the construction of standard wood railings are in WAC ((~~296-306A-28060~~) 296-307-28060.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-28060 What materials must be used for guardrails and toeboards? (1) A guardrail used to guard power transmission parts must be 42 inches tall, with a mid-rail between the top rail and the floor.

(2) Posts must be 8 feet apart or less. They must be permanent and substantial, smooth, and free from protruding nails, bolts, and splinters. If made of pipe, the post must be at least 1-1/4 inches inside diameter. If posts are made of metal shapes or bars, the section must be as strong as posts made of 1-1/2 by 1-1/2 by 3/16-inch angle iron. If posts are made of wood, the posts must be at least 2 by 4 inches. The upper rail must be 2 by 4 inches, or two 1 by 4 inch strips, one at the top and one at the side of the posts. The midrail must be at least 1 by 4 inches.

(3) The rails (metal shapes, metal bars, or wood), should be on the side of the posts that gives the best protection and support. Where panels are fitted with expanded metal or wire mesh (as noted in Table 1) the middle rails may be omitted. Where guard is exposed to contact with moving equipment, additional strength may be necessary.

(4) Toeboards must be at least 4 inches tall, of wood, metal, or metal grill of a maximum 1-inch mesh. Toeboards at flywheel pits should be placed as close to edge of the pit as possible.

PROPOSED

Table P-1
TABLE OF STANDARD MATERIALS AND DIMENSIONS

Material	Clearance from moving part at all points (inches)	Largest mesh or opening allowable (inches)	Minimum gauge (U.S. Standard) or thickness (inches)	Minimum height of guard from floor or platform level (feet)
<i>Woven wire</i>	Under 2	3/8	No. 16	7
	2-4	1/2	No. 16	7
	Under 4	1/2	No. 16	7
	4-15	2	No. 12	7
<i>Expanded metal</i>	Under 4	1/2	No. 18	7
	4-15	2	No. 13	7
<i>Perforated metal</i>	Under 4	1/2	No. 20	7
	4-15	2	No. 14	7
<i>Sheet metal</i>	Under 4		No. 22	7
	4-15		No. 22	7
<i>Wood or metal strip crossed</i>	Under 4	3/8	Wood 3/4 Metal No. 16	7
	4-15	2	Wood 3/4 Metal No. 16	7
<i>Wood or metal strip not crossed</i>	Under 4	1/2 width	Wood 3/4 Metal No. 16	7
	4-15	1 width	Wood 3/4 Metal No. 16	7
<i>Standard rail</i>	Min. 15 Max. 20			

Table P-2
HORIZONTAL OVERHEAD BELTS, ROPES, AND CHAINS
7 FEET OR MORE ABOVE FLOOR OR PLATFORM

	Width 0"-14" inclusive	Material
MEMBERS		
Framework	1 1/2"x1 1/2"x1/4"	Angle iron
Filler (belt guards)	1 1/2"x3/16"	Flat iron
Filler and vertical side member	No. 20 A.W.G.	Solid sheet metal
Filler supports	2"x5/16" flat iron	Flat and angle
Guard supports	2"x5/16"	Flat iron
FASTENINGS		
Filler supports to framework	(2) 3/16"	Rivets
Filler flats to supports (belt guards)	(1) 5/16"	Flush rivets
Filler to frame and supports (chain guards)	3/16"	Rivets spaced
Guard supports to framework	(2) 3/6"	Rivets or bolts
Guard and supports to overhead ceiling	1/4"x3 1/2" lag screws or 1/2" bolts	Lag screws or bolts
DETAILS—SPACING, ETC.		
Width of guards	One-quarter wider than belt, rope, or chain drive	
Spacing between filler supports	20" center to center	
Spacing between filler flats (belt guards)	2" apart	
Spacing between guard supports	36" center to center	
OTHER BELT GUARD FILLING PERMITTED		
Sheet metal fastened as in chain guards	No. 20 A.W.G.	Solid or perforated
Woven wire, 2" mesh	No. 12 A.W.G.	
CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD		
Distance center to center of shafts	Up to 15' inclusive	Over 40'
Clearance from belt, or chain to guard	16"	120"

	Width over 14" to 24" inclusive	Material
MEMBERS		
Framework	2"x2"x5/16"	Angle iron
Filler (belt guards)	2"x3/16"	Flat iron
Filler and vertical side member	No. 18 A.W.G.	Solid sheet metal
Filler supports	2"x3/8" flat iron	Flat and angle
Guard supports	2"x3/8"	Flat iron

FASTENINGS		
Filler supports to framework	(2) 3/6"	Rivets
Filler flats to supports (belt guards)	(1) 5/16"	Flush rivets
Filler to frame and supports (chain guards)	8" centers on sides and 4" centers on bottom	
Guard supports to framework	(2) 7/16"	Rivets or bolts
Guard and supports to overhead ceiling	5/8"x4" lag screws or 5/8" bolts	Lag screws or bolts

DETAILS—SPACING, ETC.		
Width of guards		
Spacing between filler supports	16" C. to C	
Spacing between filler flats (belt guards)	2 1/2" apart	
Spacing between guard supports	36" C. to C	

OTHER BELT GUARD FILLING PERMITTED		
Sheet metal fastened as in chain guards	No. 18 A.W.G.	Solid or perforated
Woven wire, 2" mesh	No. 10 A.W.G.	

CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD		
Distance center to center of shafts	Over 15' to 25'	Over 40' inclusive
Clearance from belt/chain to guard	10"	20"

	Width over 24"	Material
MEMBERS		
Framework	3"x3"x3/8"	Angle iron
Filler (belt guards)	2"x5/16"	Flat iron
Filler and vertical side member	No. A.W.G.	Solid sheet metal
Filler supports	2 1/2"x2 1/2"x1/4" angle	Flat and angle
Guard supports	2 1/2"x3/8"	Flat iron

FASTENINGS		
Filler supports to framework	(3) 1/2"	Rivets
Filler flats to supports (belt guards)	(2) 3/8"	Flush rivets
Filler to frame and supports (chain guards)		
Guard supports to frame work	(2) 5/8"	Rivets or bolts
Guard and supports to overhead ceiling	3/4" x 6" lag screws or 3/4" bolt	Lag screws or bolts

DETAILS—SPACING, ETC.		
Width of guards		
Spacing between filler supports	16" C. to C.	
Spacing between filler flats (belt guards)	4" apart	
Spacing between guard supports	36" C. to C.	

OTHER BELT GUARD FILLING PERMITTED		
Sheet metal fastened as in chain guards	No. 18 A.W.G.	Solid or perforated
Woven wire, 2" mesh	No. 8 A.W.G.	

CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD		
Distance center to center of shafts	Over 25' to 40' inclusive	Over 40'
Clearance from belt, or chain to guard	15"	20"

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-29005 What requirements apply to auger conveying equipment? "Augers" means screw conveyors and related accessories designed primarily for conveying agricultural materials on farms.

(1) Power take-off shafts must be guarded according to WAC ((~~296-306A-28046~~) 296-307-28046).

(2) All augers must be covered or guarded when exposed to contact.

(3) You must ensure that each sweep auger has its top half shielded by a guard. All guard openings must be no larger than 4 3/4 inches across.

(4) You must ensure that the exposed auger at the hopper and the intake is guarded or designed to prevent accidental contact with the rotating inlet area. The guard must extend at least 2 1/2 inches above and below the exposed auger. Openings in the guard, for the free flow of material, must be no larger than 4 3/4 inches across and must be strong enough to support 250 pounds at mid span.

(5) The hand raising winch must have a control that will hold the auger at any angle, and that will only respond to the control. You must ensure that the operator is able to lower the auger without disengaging the control. The maximum force required on the handle to raise or lower the auger manually must be 50 pounds.

(6) The wire rope lifting pulleys must be grooved to fit the wire rope used.

(7) In order to avoid separation, you must provide a positive restraint between the auger tube and the under-carriage lifting arm. You must provide stops that restrict the maximum raised angle and minimum lowered angle.

(8) Wire ropes (cables) must be rust resistant and selected for the design load and service intended.

(9) You must provide the auger operator with service and operation instructions that include safe operation and servicing practices.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-30003 What does this section cover? WAC ((~~296-306A-300~~) 296-307-300 applies to the guarding and care of farmstead equipment.

"Farmstead equipment" means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-30009 How must other power transmission components of farmstead equipment be guarded?

(1) ((~~The mesh or nip points of all power driven gears, belts, chains, sheaves, pulleys, sprockets, and idlers must be guarded~~)) All power transmission parts must be guarded according to WAC 296-307-280.

(2) ((All revolving shafts, including projections such as bolts, keys, or set screws, must be guarded.))

Exception: The following may be unguarded:

((a))) Smooth shafts and shaft ends (without any projecting bolts, keys, or set screws)((, ~~revolving~~)) may be unguarded if they:

(a) Revolve at less than 10 RPM((, ~~on~~)); and

(b) Are part of feed handling equipment used on the top surface of materials in bulk storage facilities.

((b) Smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.))

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-30018 What requirements apply to electrical control for maintaining and servicing farmstead equipment? (1) You must ensure that only the employee maintaining or servicing equipment has control of the electrical power source by:

(a) Providing an exclusive, positive locking means on the main switch that can be operated only by the employee performing the maintenance or service; or

(b) For material handling equipment in a bulk storage structure, by providing on the equipment an electrical or mechanical means to disconnect the power. Minimum lock-out means must meet the requirements of WAC ((~~296-306A-320~~) 296-307-320).

(2) All circuit protection devices, including those that are an integral part of a motor, must have a manual reset, except where:

(a) A manual reset is infeasible because of the nature of the operation, distances involved, and the amount of time normally spent by employees in the area of the affected equipment;

(b) An electrical disconnect switch is available to the employee within fifteen feet of the equipment being maintained or serviced; and

(c) A sign, prominently posted near each hazardous component, warns the employee that unless the electrical disconnect switch is utilized, the motor could automatically reset while the employee is working on the hazardous component.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32001 What does this section cover?

(1) WAC ((~~296-306A-320~~) 296-307-320 covers the servicing and maintenance of machines and equipment in which the unexpected start up of the machine or equipment or release of stored energy could cause injury to employees. This standard establishes minimum performance requirements for the control of such hazardous energy.

(2) Normal production operations are not covered by this standard. Servicing and/or maintenance that takes place during normal production operations is covered by this standard only if:

(a) An employee is required to remove or bypass a guard or other safety device; or

(b) An employee is required to place a body part into a point of operation or where an associated danger zone exists during a machine operating cycle.

Exception:

Minor servicing activities, that take place during normal production operations, are not covered by this standard if they are routine, repetitive, and integral to the use of the equipment for production, provided that the work is performed using alternative measures that provide effective protection.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32003 When does this section not apply? (1) WAC ((~~296-306A-320~~) 296-307-320) does not apply to work on cord and plug connected electric equipment when:

(a) Unexpected energization or start up of the equipment is controlled by unplugging the equipment from the energy source; and

(b) The plug is under the exclusive control of the employee performing the servicing or maintenance.

(2) WAC ((~~296-306A-320~~) 296-307-320) does not apply to hot tap operations involving transmission and distribution systems for substances such as gas, steam, water, or petroleum products when they are performed on pressurized pipelines, when:

(a) Continuity of service is essential;

(b) Shutdown of the system is impractical; and

(c) Documented procedures are followed, and special equipment is used that will provide proven effective protection for employees.

(3) WAC ((~~296-306A-320~~) 296-307-320) does not cover exposure to electrical hazards from work on, near, or with conductors or equipment in electric utilization installations. These hazards are covered in chapter ((~~296-306A~~) 296-307 WAC Part T.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32009 How does an employer determine when to use lockout vs. tagout? (1) If an energy isolating device is not capable of being locked out, your energy control program must use a tagout system.

(2) If an energy isolating device is capable of being locked out, your energy control program must use lockout unless a tagout system will provide full employee protection according to WAC ((~~296-306A-32011~~) 296-307-32011).

(3) Whenever major replacement or major repair, renovation, or modification of a machine or equipment is performed, and whenever new machines or equipment are installed, energy isolating devices for such machines or equipment must be designed to accept a lockout device.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32017 How often must the energy control procedure be inspected? (1) You must conduct an inspection of the energy control procedure at least annually to

ensure that the procedure and the requirements of this standard are followed.

(a) An authorized employee, other than the one(s) using the energy control procedure, must perform the inspection.

(b) The inspection must be conducted to correct any deviations or inadequacies identified.

(c) Where lockout is used for energy control, the inspection must include a review, between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure.

(d) Where tagout is used for energy control, the inspection must include a review, between the inspector and each authorized and affected employee, of that employee's responsibilities under the energy control procedure, and the elements of WAC ((~~296-306A-32021~~) 296-307-32021).

(2) You must certify that the inspections have been performed. The certification must identify the machine or equipment on which the energy control procedure was being used, the date of the inspection, the employees included in the inspection, and the person performing the inspection.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32035 What requirements apply to testing and positioning machines and equipment? When lockout or tagout devices must be temporarily removed from the energy isolating device and the machine or equipment energized to test or position the machine or equipment, the following sequence of actions must be followed:

(1) Clear the machine or equipment of tools and materials according to WAC ((~~296-306A-32033~~) 296-307-32033 (1)(a).

(2) Remove employees from the machine or equipment area according to WAC ((~~296-306A-32033~~) 296-307-32033 (1)(b).

(3) Remove the lockout or tagout devices as specified in WAC ((~~296-306A-32033~~) 296-307-32033(3)).

(4) Energize and proceed with testing or positioning.

(5) Deenergize all systems and reapply energy control measures in accordance with WAC ((~~296-306A-32031~~) 296-307-32031) to continue the servicing and/or maintenance.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-32039 What requirements apply to group lockout or tagout? (1) When servicing and/or maintenance is performed by a crew or other group, they must use a procedure that provides a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device.

(2) Group lockout or tagout devices must be used according to the procedures required by WAC ((~~296-306A-32013~~) 296-307-32013) including, but not limited to, the following:

(a) An authorized employee has primary responsibility for a set number of employees working under the protection of a group lockout or tagout device (such as an operations lock); and

(b) A method for the authorized employee to determine if individual group members are exposed to release of stored energy hazards; and

(c) When more than one crew or group is involved, assignment of overall lockout or tagout control responsibility to an authorized employee designated to coordinate individual group members and ensure continuity of protection; and

(d) Each authorized employee must affix a personal lockout or tagout device to the group lockout device when beginning work, and must remove those devices when the work is complete.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-34003 What does this section cover?

(1) WAC ((~~296-306A-340~~) 296-307-340) applies to the placement, use, maintenance, and testing of portable fire extinguishers provided for employee use. WAC ((~~296-306A-34012~~) 296-307-34012) does not apply to extinguishers provided for employee use on the outside of workplace buildings or structures. If you do not intend for employees to use extinguishers, and your emergency action plan and fire prevention plan meet the requirements of WAC ((~~296-306A-35018~~) 296-307-35018), then only the requirements of WAC ((~~296-306A-34015~~) 296-307-34015 and ((~~296-306A-34018~~) 296-307-34018) apply.

(2) All standpipe and hose systems, automatic sprinkler systems, fixed extinguishing systems, dry-chemical fixed extinguishing systems, water-spray and foam, and fire detection systems, must be installed according to state and local ordinances, codes, and regulations governing such installations.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-34006 Who is exempt from the requirements of this section? (1) You are exempt from all requirements of this section, if:

(a) You have implemented a written fire safety policy that requires all employees to evacuate immediately when the fire alarm sounds; and

(b) You have an emergency action plan and a fire prevention plan meeting the requirements of WAC ((~~296-306A-35015~~) 296-307-35015 and ((~~296-306A-35018~~) 296-307-35018); and

(c) Extinguishers are not available for employee use in the workplace.

Note: ((If a specific section of this chapter requires you to provide a portable fire extinguisher, this exemption does not apply.) If you are covered by one of the following sections requiring you to provide a portable fire extinguisher, then you may not apply this exemption:

- WAC 296-307-07013(12)—Transporting employees;
- WAC 296-307-34009(8)—Storage of flammables; or
- WAC 296-307-49503(2)—Welding.

(2) You are exempt from the distribution requirements in WAC ((~~296-306A-34012~~) 296-307-34012), if:

(a) You have an emergency action plan meeting the requirements of WAC ((~~296-306A-35015~~) 296-307-35015) that authorizes only certain employees to use the available portable fire extinguishers; and

(b) The plan requires all other employees to evacuate immediately when the fire alarm sounds.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-34503 What does this section cover?

(1) WAC ((~~296-306A-345~~) 296-307-345) applies to all emergency employee alarms required by a specific WAC chapter. This section does not apply to discharge or supervisory alarms required on various fixed extinguishing systems or to supervisory alarms on fire suppression, alarm or detection systems unless they are intended to be employee alarm systems.

(2) The maintenance, testing, and inspection requirements of this section apply to all local fire alarm signaling systems used for alerting employees regardless of the other functions of the system.

(3) All predischarge employee alarms required by this chapter must meet the requirements of WAC ((~~296-306A-34506~~) 296-307-34506 and ((~~296-306A-34512~~) 296-307-34512).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-35003 What does this section cover?

WAC ((~~296-306A-350~~) 296-307-350) requires you to provide exit routes for employees to leave the workplace safely during emergencies. This section does not apply to mobile workplaces, such as vehicles or vessels.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-35012 What are the operation and maintenance requirements for exit routes? You must ensure that each workplace meets the following requirements:

(1) The workplace exit route is maintained to minimize danger to employees during an emergency.

(a) The workplace exit route is free of explosive or highly flammable furnishings or decorations.

(b) Accumulations of flammable or combustible waste materials are controlled.

(c) An exit route does not require employees to travel toward materials that burn very quickly, emit poisonous fumes, or are explosive, unless those materials are effectively shielded from the exit route.

(2) Each exit route is adequately lit.

(3) Each exit is clearly visible and is marked by a distinctive sign reading "exit."

(a) An exit door is free of signs or decorations that obscure its visibility.

(b) Signs are posted along the exit route indicating the direction of travel to the nearest exit.

(c) The line-of-sight to an exit sign is uninterrupted.

(d) Any doorway or passage that might be mistaken for an exit is marked "not an exit" or with an indication of its actual use.

(e) An exit sign is illuminated to a surface value of at least 5 foot candles by a reliable light source and shows a designated color. Self-luminous or electroluminescent signs have a minimum luminance surface value of .06 footlamberts.

(4) Fire retardant paints or other coatings used in the workplace are maintained.

(5) Each safeguard to protect employees during an emergency is maintained in proper working order.

(6) Employees do not occupy a workplace under construction until an exit route that meets these requirements is available for the portion of the workplace to be occupied.

(a) Employees do not occupy a workplace during repair or alteration unless either all exits and existing fire protection are maintained or alternate fire protection is provided that ensures an equivalent level of safety.

(b) Flammable or explosive materials used during construction or repair do not expose employees to hazards not otherwise present in the workplace or impede emergency escape from the workplace.

(7) An operable employee alarm system with a distinctive signal to warn employees of fire or other emergencies is installed and maintained. No employee alarm system is required if employees can see or smell a fire or other hazard so that it would provide adequate warning to them. The employee alarm system complies with the requirements of WAC ((296-306A-345)) 296-307-345.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-35015 What are the requirements for an emergency action plan? (1) You must develop an emergency action plan for each part of the workplace ((whenever another WISHA standard requires one)) as required by WAC 296-307-030 (3)(d).

(a) The plan must be in writing, kept in the workplace, and made available to employees on request.

(b) An employer of 10 or fewer employees may communicate the plan orally to employees rather than develop a written plan.

(2) An emergency action plan must include:

(a) Procedures for emergency evacuation, including exit route assignments;

(b) Procedures to account for all employees after evacuation;

(c) Procedures for reporting a fire or other emergency;

(d) Procedures to follow for emergency operation or shut down of critical equipment before evacuation;

(e) Procedures to follow for rescue and medical duties;

(f) Procedures for operating and maintaining an emergency alarm system; and

(g) Names or job titles of employees to be contacted to get more information about what to do in an emergency.

(3) You must designate employees to assist in the safe emergency evacuation of other employees. You must ensure that the designated employees receive training in emergency evacuation procedures.

(4) You must review the emergency action plan with each employee covered by the plan:

(a) When the plan is developed or the employee is assigned initially to the job;

(b) When the employee's responsibilities under the plan change; and

(c) When the plan is changed.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-35018 What are the requirements for a fire prevention plan? (1) You must develop a fire prevention plan for each part of the workplace ((whenever another WISHA standard requires one)) if required by WAC 296-307-34006(1).

(a) The plan must be in writing, kept in the workplace, and made available to employees on request.

(b) An employer of 10 or fewer employees may communicate the plan orally to employees rather than develop a written plan.

(2) A fire prevention plan must include:

(a) A list of all major fire hazards, including proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard;

(b) Procedures to control accumulations of flammable and combustible waste materials;

(c) Procedures for regular maintenance of safeguards installed on heat producing equipment to prevent accidental ignition of combustible materials;

(d) Names or job titles of employees responsible for maintaining equipment to prevent or control sources of ignition or fires;

(e) Names or job titles of employees responsible for control of fuel source hazards.

(3) You must:

(a) Inform employees of the fire hazards to which they are exposed; and

(b) Review with each employee those parts of the fire prevention plan necessary for self-protection upon initial assignment to a job.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-36005 What does this part cover? (1) Chapter ((296-306A)) 296-307 WAC Part T covers methods to protect against electrical hazards in agricultural workplaces.

(2) Chapter ((296-306A)) 296-307 WAC Part T does not cover:

- Installations in watercraft, or automotive vehicles; or
- Electric welding. (See chapter ((296-306A)) 296-307 WAC Part V.)

(3) Unless otherwise provided in this chapter all electrical work, installation, and wire capacities must be according to the National Electrical Code, NFPA 70-1973; ANSI C1-1971, and all other applicable standards administered by the department of labor and industries.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-36230 What access and working space must be provided for electrical equipment over 600 volts, nominal? (1) Conductors and equipment used on circuits exceeding 600 volts, nominal, must meet all requirements of WAC ((296-306A-36224)) 296-307-36221 and the additional requirements of this section. This section does not apply to equipment on the supply side of the service conductors.

(2) Electrical installations in a vault, room, closet or area surrounded by a wall, screen, or fence, with access controlled by lock and key or other approved means, are considered accessible to qualified persons only. A wall, screen, or fence less than 8 feet high is not considered to prevent access unless it has other features that provide a degree of isolation equivalent to an 8 foot fence. The entrances to all buildings, rooms, or enclosures containing exposed live parts or exposed conductors operating at over 600 volts, nominal, must be kept locked or under the observation of a qualified person at all times.

(a) Electrical installations with exposed live parts must be accessible to qualified persons only.

(b) Electrical installations that are open to unqualified persons must be made with metal-enclosed equipment or enclosed in a vault or in an area, with access controlled by a lock. If metal-enclosed equipment is installed so that the bottom of the enclosure is less than 8 feet above the floor, the door or cover must be kept locked. Metal-enclosed switchgear, unit substations, transformers, pull boxes, connection boxes, and other similar associated equipment must be marked with appropriate caution signs. If equipment is exposed to physical damage from vehicular traffic, guards must be provided to prevent damage. Ventilating or similar openings in metal-enclosed equipment must be designed so that foreign objects inserted through these openings will be deflected from energized parts.

(3) You must provide and maintain enough space around electric equipment to permit ready and safe operation and maintenance of equipment. Where energized parts are exposed, the minimum clear workspace must be at least 6 feet 6 inches high (measured vertically from the floor or platform), or less than 3 feet wide (measured parallel to the equipment). The depth must meet the requirements of Table T. The workspace must be adequate to permit at least a 90-degree opening of doors or hinged panels.

(a) The minimum clear working space in front of electric equipment such as switchboards, control panels, switches, circuit breakers, motor controllers, relays, and similar equipment must be at least that specified in Table T unless otherwise indicated. Distances must be measured from the live parts if they are exposed, or from the enclosure front or opening if the live parts are enclosed. However, working space is

not required in back of equipment such as deadfront switchboards or control assemblies where there are no renewable or adjustable parts (such as fuses or switches) on the back and where all connections are accessible from another direction. Where rear access is required to work on deenergized parts on the back of enclosed equipment, a minimum working space of 30 inches horizontally shall be provided.

Table T
Minimum Depth of Clear Working Space
in Front of Electric Equipment

Nominal voltage to ground	Conditions (ft)		
	(a)	(b)	(c)
601 to 2,500	3	4	5
2,501 to 9,000	4	5	6
9,001 to 25,000	5	6	9
25,001 to 75kV	6	8	10
Above 75kV	8	10	12

Note: Minimum depth of clear working space in front of electric equipment with a nominal voltage to ground above 25,000 volts may be the same as for 25,000 volts under conditions (a), (b) and (c) for installations built prior to April 16, 1981.

Conditions:

(a) Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides guarded by suitable wood or other insulating materials. Insulated wire or insulated busbars operating at 300 volts or less are not considered live parts.

(b) Exposed live parts on one side and grounded parts on the other side. Concrete, brick, or tile walls will be considered grounded surfaces.

(c) Exposed live parts on both sides of the workspace (not guarded as in (a)) with the operator between.

(b) All working spaces around electric equipment must be adequately lit. The lighting outlets shall be arranged so that anyone changing lamps or making repairs on the lighting system will not be endangered by live parts or other equipment. The points of control must be located so that no one is likely to come in contact with any live part or moving part of the equipment while turning on the lights.

(c) Unguarded live parts above working space must be elevated to at least the height specified below:

Elevation of Unguarded Energized Parts Above Working Space

Nominal voltage between phases	Minimum elevation
601 to 7,500	8 feet 6 inches
7,501 to 35,000	9 feet
Over 35kV	9 feet + 0.37 inches per kV above 35kV

Note: Minimum elevation may be 8 feet for installations built prior to April 16, 1981, if the nominal voltage between phases is in the range of 601-6600 volts.

(4) Entrance and access to workspace must meet the following requirements:

(a) At least one entrance that is at least 24 inches wide and 6 feet 6 inches high must be provided to give access to the working space around electric equipment. On switchboard and control panels over 48 inches wide, there must be one entrance at each end of the board where practical. Where bare energized parts at any voltage or insulated energized parts above 600 volts are located adjacent to the entrance, they must be suitably guarded.

(b) Permanent ladders or stairways must be provided to give safe access to the working space around electric equipment installed on platforms, balconies, mezzanine floors, or in attic or roof rooms or spaces.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-36636 How must high voltage systems be grounded? Grounded high voltage (1000 volts or more) systems and circuits must meet all requirements of WAC ((~~296-306A-366~~) 296-307-366 and the additional requirements of this section.

(1) Systems supplying portable or mobile high voltage equipment, other than substations installed on a temporary basis, must meet the following requirements:

(a) Portable and mobile high voltage equipment must be supplied from a system having its neutral grounded through an impedance. If a delta-connected high voltage system is used to supply the equipment, a system neutral must be derived.

(b) Exposed noncurrent-carrying metal parts of portable and mobile equipment must be connected by an equipment grounding conductor to the point at which the system neutral impedance is grounded.

(c) Ground-fault detection and relaying must be provided to automatically deenergize any high voltage system component that has developed a ground fault. The continuity of the equipment grounding conductor must be continuously monitored to deenergize automatically the high voltage feeder to the portable equipment on loss of continuity of the equipment grounding conductor.

(d) The grounding electrode to which the portable or mobile equipment system neutral impedance is connected must be isolated from and separated in the ground by at least 20 feet from any other system or equipment grounding electrode. There must be no direct connection between the grounding electrodes, such as buried pipe, fence, etc.

(2) All noncurrent-carrying metal parts of portable equipment and fixed equipment including their associated fences, housings, enclosures, and supporting structures shall be grounded. However, equipment that is guarded by location and isolated from ground need not be grounded. Additionally, pole-mounted distribution apparatus over 8 feet above ground or grade level need not be grounded.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-36803 Does this section apply to factory-assembled equipment? WAC ((~~296-306A-368~~) 296-307-368 does not apply to conductors that are an integral part of factory-assembled equipment.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37203 What does this section cover? WAC ((~~296-306A-372~~) 296-307-372 covers the requirements for electric equipment and wiring in locations that are classified based on the properties of the flammable vapors, liquids or gases, or combustible dusts or fibers that may be present and the likelihood that a flammable combustible concentration or quantity is present. Each room, section, or area must be considered individually to determine its classification.

All requirements in this part apply to hazardous locations, unless otherwise indicated.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37209 What equipment, wiring methods, and installations may be used in hazardous locations? Equipment, wiring methods, and installations of equipment in hazardous locations must be intrinsically safe, or approved for the hazardous location, or safe for the hazardous location. Requirements for each of these options are as follows:

(1) Equipment and associated wiring approved as intrinsically safe are permitted in any hazardous location for which it is approved.

(2) Requirements to be approved for the hazardous location:

(a) Equipment must be approved for the class of location and for the ignitable or combustible properties of the specific gas, vapor, dust, or fiber that will be present.

(b) Equipment must be marked to show the class, group, and operating temperature or temperature range, based on operation in a 40 degrees C ambient, for which it is approved. The temperature marking must be a maximum of the ignition temperature of the specific gas or vapor to be encountered. The following provisions apply to specific equipment:

(i) Nonheat-producing equipment, such as junction boxes, conduit, and fittings, and heat-producing equipment with a maximum temperature of 100 degrees C (212 degrees F) need not have a marked operating temperature or temperature range.

(ii) Fixed lighting fixtures marked for use in Class I, Division 2 locations only, need not be marked to indicate the group.

(iii) Fixed general-purpose equipment in Class I locations (other than lighting fixtures) that is acceptable for use in Class I, Division 2 locations need not be marked with the class, group, division, or operating temperature.

(iv) Fixed dust-tight equipment (other than lighting fixtures) that is acceptable for use in Class II, Division 2 and

Class III locations need not be marked with the class, group, division, or operating temperature.

(3) Equipment that is safe for the location shall be of a type and design that provides protection from the hazards arising from combustible and flammable vapors, liquids, gases, dusts, or fibers.

Note: Equipment that meets the requirements of The National Electrical Code, NFPA 70, shall be considered in compliance with the requirements of WAC ((~~296-306A-372~~) 296-307-372).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37603 What does this section cover?

WAC ((~~296-306A-376~~) 296-307-376) applies to work performed on exposed live parts (involving either direct contact or contact by means of tools or materials) or near enough to them for employees to be exposed to any hazard they present.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37606 Who may work on energized parts? Only qualified persons may work on electric circuit parts of equipment that have not been deenergized under the procedures of WAC ((~~296-306A-37807~~) 296-307-37807). Qualified persons must be capable of working safely on energized circuits and must be familiar with the proper use of special precautionary techniques, personal protective equipment, insulating and shielding materials, and insulated tools.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37612 What requirements apply to qualified persons working near overhead lines? When a qualified person is working near overhead lines, whether in an elevated position or on the ground, the person must not approach, or take any conductive object without an approved insulating handle, closer to exposed energized parts than shown in WAC ((~~296-306A-150~~) 296-307-150) unless:

(1) The person is insulated from the energized part (gloves, with sleeves if necessary, rated for the voltage involved are considered to be insulation of the person from the energized part on which work is performed); or

(2) The energized part is insulated both from all other conductive objects at a different potential and from the person; or

(3) The person is insulated from all conductive objects at a potential different from that of the energized part.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37615 What requirements apply to vehicles and mechanical equipment near overhead lines?

(1) Any vehicle or mechanical equipment that may have parts of its structure elevated near energized overhead lines must be operated so that a clearance of 10 ft. is maintained. If the

voltage is higher than 50kV, the clearance must be increased 0.4 inch for every 1kV over the voltage. The clearance may be reduced only if:

(a) The vehicle is in transit with its structure lowered, the clearance may be reduced to 4 ft. If the voltage is higher than 50kV, the clearance must be increased 0.4 inch for every 1kV over that voltage.

(b) Insulating barriers are installed to prevent contact with the lines, and if the barriers are rated for the voltage of the line being guarded and are not a part of or an attachment to the vehicle or its raised structure, the clearance may be reduced to a distance within the designed working dimensions of the insulating barrier.

(2) If the equipment is an aerial lift insulated for the voltage involved, and if the work is performed by a qualified person, the clearance (between the uninsulated portion of the aerial lift and the power line) may be reduced to the distance given in WAC ((~~296-306A-150~~) 296-307-150).

(3) Employees standing on the ground must not contact the vehicle or mechanical equipment or any of its attachments, unless:

(a) The employee is using protective equipment rated for the voltage; or

(b) The equipment is located so that no uninsulated part of its structure (that portion of the structure that provides a conductive path to employees on the ground) can come closer to the line than permitted in this section.

(4) If any vehicle or mechanical equipment that may have parts of its structure elevated near energized overhead lines is intentionally grounded, employees working on the ground near the point of grounding must not stand at the grounding location whenever there is a possibility of overhead line contact. Additional precautions, such as the use of barricades or insulation, must be taken to protect employees from hazardous ground potentials, depending on earth resistivity and fault currents, which can develop within the first few feet or more outward from the grounding point.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37801 What does this section cover?

(1) WAC ((~~296-306A-376~~) 296-307-376 and ((~~296-306A-378~~) 296-307-378) cover electrical safety-related work practices for both qualified persons (those who have training in avoiding the electrical hazards of working on or near exposed energized parts) and unqualified persons (those with little or no such training) working on, near, or with the following installations:

(a) Installations of electric conductors and equipment within or on buildings or other structures, and on other premises such as yards, parking, and other lots, and industrial substations;

(b) Installations of conductors that connect to the supply of electricity;

(c) Installations of other outside conductors on the premises; and

(d) Installations of optical fiber cable where such installations are made along with electric conductors.

(2) ((~~Chapter 306-376 WAC and WAC 296-306A-378~~)) WAC 296-307-367 and 296-307-378 cover work performed by unqualified persons on, near, or with the installations listed in subsection (3) of this section.

(3) WAC ((~~296-306A-376~~)) 296-307-376 and ((~~296-306A-378~~)) 296-307-378 do not apply to work performed by qualified persons on or directly associated with the following installations:

(a) Installations for the generation, control, transformation, transmission, and distribution of electric energy (including communication and metering) located in buildings used for such purposes or located outdoors.

Work on or directly associated with generation, transmission, or distribution installations includes:

(i) Work performed directly on installations, such as repairing distribution lines or repairing a feed-water pump for the boiler in a generating plant.

(ii) Work directly associated with installations, such as line-clearance tree trimming and replacing utility poles.

(iii) Work on electric utilization circuits in a generating plant where:

- The circuits are combined with installations of power generation equipment or circuits; and

- The generation equipment or circuits present greater electrical hazards than those posed by the utilization equipment or circuits (such as exposure to higher voltages or lack of overcurrent protection).

(b) Installations in watercraft, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(c) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations of railways used exclusively for signaling and communication purposes.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37803 How must employees be trained on safety practices? (1) The training requirements in this section apply to employees who face a risk of electrical shock that is not reduced to a safe level by the electrical installation requirements of WAC ((~~296-306A-362~~)) 296-307-362 through ((~~296-306A-374~~)) 296-307-374.

(2) Training contents must include the following:

(a) Employees must be trained in and familiar with the safety-related work practices required by WAC ((~~296-306A-376~~)) 296-307-376 through ((~~296-306A-378~~)) 296-307-378 that apply to their job assignments.

(b) Employees who are covered by this section but who are not qualified persons must also be trained in and familiar with any electrically related safety practices that are not covered by this standard, but that are necessary for their safety.

(c) Qualified persons must, at a minimum, be trained in and familiar with the following:

(i) The skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment;

(ii) The skills and techniques necessary to determine the nominal voltage of exposed live parts; and

(iii) The clearance distance specified in WAC ((~~296-306A-376~~)) 296-307-376 and the corresponding voltages to which the qualified person will be exposed.

Note 1: For the purposes of WAC ((~~296-306A-376~~)) 296-307-376 and ((~~296-306A-378~~)) 296-307-378, an employee must have the training required for a qualified person in order to be considered a qualified person.

Note 2: Qualified persons whose work on energized equipment involves either direct contact or contact by means of tools or materials must also have the training needed to meet WAC ((~~296-306A-376~~)) 296-307-376.

(3) You must provide either classroom or on-the-job training. The degree of training provided must be determined by the risk to the employee.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37807 What work practices must be followed for work on exposed deenergized parts? (1) This section applies to work on exposed deenergized parts or near enough to them to expose the employee to any electrical hazard they present. Conductors and parts of electric equipment that have been deenergized but have not been locked out or tagged must be treated as energized parts, and WAC ((~~296-306A-376~~)) 296-307-376 applies to work on or near them.

(2) While any employee is exposed to contact with parts of fixed electric equipment or circuits which have been deenergized, the circuits energizing the parts must be locked out or tagged or both according to the requirements of this section. The requirements must be followed in the order in which they are presented.

"Fixed equipment" means equipment that is fastened or connected by permanent wiring methods.

Note: Lockout and tagging procedures that comply with WAC ((~~296-306A-320~~)) 296-307-320 will also be deemed to comply with WAC ((~~296-306A-37807~~)) 296-307-37807 through ((~~296-306A-37817~~)) 296-307-37817 if:

- The procedures address the electrical safety hazards covered by this part; and
- The procedures include the requirements of WAC ((~~296-306A-37813~~)) 296-307-37813(4) and ((~~296-306A-37815~~)) 296-307-37815(2).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37809 Must an employer have a written copy of lockout-tagout procedures? The employer must maintain a written copy of the procedures outlined in WAC ((~~296-306A-37807~~)) 296-307-37807 through ((~~296-306A-37817~~)) 296-307-37817 and must make it available for inspection by us or by employees.

The written procedures may be in the form of a copy of WAC ((~~296-306A-37807~~)) 296-307-37807 through ((~~296-306A-37817~~)) 296-307-37817.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-37825 What safety-related work practices relate to flammable materials? Where flammable

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materials are present only occasionally, electric equipment capable of igniting them must not be used, unless measures are taken to prevent hazardous conditions from developing.

Such materials include, but are not limited to: flammable gases, vapors, or liquids; combustible dust; and ignitable fibers or flyings.

Note: Electrical installation requirements for locations where flammable materials are present on a regular basis are contained in WAC ((296-306A-372)) 296-307-372.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-38006 What requirements apply to general protective equipment and tools? (1) When working near exposed energized conductors or circuit parts, each employee must use insulated tools or handling equipment if the tools or handling equipment might make contact with such conductors or parts. If the insulating capability of insulated tools or handling equipment is subject to damage, the insulating material must be protected.

(2) Ropes and handlines used near exposed energized parts must be nonconductive.

(3) Protective shields, protective barriers, or insulating materials must be used to protect each employee from shock, burns, or other electrically related injuries while that employee is working near exposed energized parts that might be accidentally contacted or where dangerous electric heating or arcing might occur. When normally enclosed live parts are exposed for maintenance or repair, they must be guarded to protect unqualified persons from contact with the live parts.

(4) Altering techniques must be used to warn and protect employees from hazards that could cause injury due to electric shock, burns, or failure of electric equipment parts.

(5) Safety signs, safety symbols, or accident prevention tags must be used where necessary to warn employees about electrical hazards that may endanger them, as required by WAC ((296-306A-330)) 296-307-330.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-38012 What electrical requirements apply to electrical protective devices? Insulating blankets, matting, covers, line hose, gloves, and sleeves made of rubber must meet the following electrical requirements:

(1) Equipment must be capable of withstanding the a-c proof-test voltage specified in Table 1 or the d-c proof-test voltage specified in Table 2.

(a) The proof-test must reliably indicate that the equipment can withstand the voltage involved.

(b) The test voltage must be applied continuously for three minutes for equipment other than matting and must be applied continuously for one minute for matting.

(c) Gloves must also be capable of withstanding the a-c proof-test voltage specified in Table 1 after a sixteen-hour water soak.

(2) When the a-c proof-test is used on gloves, the 60 hertz proof-test current must not exceed the values specified in Table 1 at any time during the test period.

(a) If the a-c proof-test is made at a frequency other than 60 hertz, the permissible proof-test current must be computed from the direct ratio of the frequencies.

(b) For the test, gloves (right side out) must be filled with tap water and immersed in water to a depth that is in accordance with Table 3. Water must be added to or removed from the glove, as necessary, so that the water level is the same inside and outside the glove.

(c) After the sixteen-hour water soak, the 60 hertz proof-test current may exceed the values given in Table 1 by not more than 2 milliamperes.

(3) Equipment that has been subjected to a minimum breakdown voltage test must not be used for electrical protection.

(4) Material used for Type II insulating equipment must be capable of withstanding an ozone test, with no visible effects. The ozone test must reliably indicate that the material will resist ozone exposure in actual use. Any visible signs of ozone deterioration of the material, such as checking, cracking, breaks, or pitting, is evidence of failure to meet the requirements for ozone-resistant material.

Note: Rubber insulating equipment meeting the following national consensus standards is considered to be in compliance with WAC ((296-306A-38009, 296-306A-38012, and 296-306A-38015)) 296-307-38009, 296-307-38012, and 296-307-38015:

- American Society for Testing and Materials (ASTM) D 120-87, Specification for Rubber Insulating Gloves.
- ASTM D 178-93, Specification for Rubber Insulating Matting.
- ASTM D 1048-93, Specification for Rubber Insulating Blankets.
- ASTM D 1049-93, Specification for Rubber Insulating Covers.
- ASTM D 1050-90, Specification for Rubber Insulating Line Hose.
- ASTM D 1051-87, Specification for Rubber Insulating Sleeves.

These standards contain specifications for conducting the tests required in this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-38015 What workmanship and finish requirements apply to electrical protective devices? Insulating blankets, matting, covers, line hose, gloves, and sleeves made of rubber must meet the following workmanship and finish requirements:

(1) Equipment must be free of harmful physical irregularities that can be detected by the tests or inspections required in WAC ((296-306A-38012)) 296-307-38012.

(2) Surface irregularities that may be present on all rubber goods because of imperfections on forms or molds or because of inherent difficulties in the manufacturing process and that may appear as indentations, protuberances, or imbedded foreign material are acceptable if:

(a) The indentation or protuberance blends into a smooth slope when the material is stretched.

(b) Foreign material remains in place when the insulating material is folded and stretches with the insulating material surrounding it.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40001 What does this section cover? WAC ((296-306A-400)) 296-307-400 covers the transportation and application of anhydrous ammonia.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40005 What general requirements apply to the storage and handling of anhydrous ammonia? (1) All employees must use at least gloves and goggles ((and/or)) and may supplement with a face shield while working on or with charged anhydrous ammonia equipment.

(2) You must ensure that equipment is inspected before each day's work. Conditions that would contribute to leaks shall be corrected.

(3) Hose end-valves must be closed when not in use to prevent accidental discharge in case the main valve is opened.

(4) Relief and vapor valves must discharge away from the operator's working position.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40007 What requirements apply to systems mounted on farm wagons (implements of husbandry) for the transportation of ammonia? All anhydrous ammonia containers with a capacity of 3,000 gallons or less and equipment mounted on farm wagons (implements of husbandry) that is used to transport ammonia must meet the requirements of this section.

WAC ((296-306A-40011)) 296-307-40011 through ((296-306A-40037)) 296-307-40037 also apply unless otherwise noted.

(1) Containers must meet the following mounting requirements:

(a) The farm wagon or container has a stop so the container does not dislodge from its mounting when a farm wagon stops suddenly.

(b) The container is anchored to the farm wagon at one or more places on each side of the container.

(c) The weight of containers mounted on four-wheel farm wagons, is distributed evenly over both axles.

(d) When the cradle and the container are not welded together, material between them eliminates metal-to-metal friction.

(2) Container accessories must meet the following requirements:

(a) Each container has a fixed maximum liquid-level gauge.

(b) All containers with more than 250-gallon capacity have a pressure gauge with a dial graduated from 0-400 psi.

(c) The filling connection is fitted with one of the following:

(i) A combination back-pressure check valve and excess-flow valve; or

(ii) One double or two single back-pressure check valves; or

(iii) A positive shut-off valve that has either an internal back-pressure check valve or an internal excess flow valve.

(d) All containers with more than 250-gallon capacity are equipped for spray loading or with an approved vapor return valve.

(e) All vapor and liquid connections have approved excess flow valves or quick-closing internal valves that are only open for operating.

Exception: Safety-relief valves and connections that are specifically exempted by WAC ((296-306A-40019)) 296-307-40019(5) are exempt from this requirement.

(f) Fittings are protected from physical damage by a rigid guard. The guard is designed to withstand force from any direction, equal to twice the weight of the container and lading, at a safety factor of four. If the guard is fully enclosed, the safety-relief valves are properly vented through the guard.

(g) If a liquid withdrawal line is installed in the bottom of a container, the connections and hose are at least as high as the lowest horizontal edge of the farm wagon axle.

(h) Both ends of the hose are secure while in transit.

(3) Each side and the rear end of the container must be marked in letters at least four inches high, with the words "ANHYDROUS AMMONIA" or, "CAUTION—AMMONIA," or marked according to DOT regulations.

(4) Farm wagons (implements of husbandry) must meet all state regulations and the following requirements:

(a) All farm wagons must be securely attached to the vehicle drawing them by drawbars with safety chains.

(b) A farm wagon must be constructed so that it will follow the path of the towing vehicle and will prevent the towed wagon from whipping or swerving dangerously from side to side.

(c) All farm wagons must have five gallons or more of readily available clean water.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40009 What requirements apply to systems mounted on farm wagons (implements of husbandry) for the application of ammonia? This section applies to systems mounted on farm equipment that are used for the field application of ammonia.

WAC ((296-306A-40011)) 296-307-40011 through ((296-306A-40037)) 296-307-40037 also apply unless otherwise noted.

(1) All containers must be securely mounted.

(2) Container valves and accessories must meet the following requirements:

(a) Each container has a fixed maximum liquid-level gauge.

(b) The filling connection is fitted with one of the following:

(i) A combination back-pressure check valve and excess-flow valve; or

(ii) One double or two single back-pressure check valves; or

(iii) A positive shut-off valve that has either an internal back-pressure check valve or an internal excess flow valve.

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(c) An excess-flow valve is not required in the vapor connection if the controlling orifice is a maximum of 7/16 inch in diameter and the valve is a hand-operated shut-off valve. To assist in filling applicator tanks, you may bleed vapors to the open air, if this requirement is met.

(d) Metering devices may be connected directly to the tank withdrawal valve. You may use a union type connection between the tank valve and metering device. You may use remote mounting of metering devices if the hose meets the requirements of Appendix B. When the applicator tank is trailed and the metering device is remotely mounted, such as on the tractor tool bar, you must use an automatic break-away type, self-closing coupling.

(e) No excess-flow valve is required in the liquid withdrawal line if the controlling orifice between the contents of the container and the outlet of the shut-off valve is a maximum of 7/16 inch in diameter.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40013 What requirements apply to the construction, original test, and requalification of non-refrigerated containers? The code is the Unfired Pressure Vessel Code of the American Society of Mechanical Engineers (Section VIII of the ASME Boiler Construction Code), 1952, 1956, 1959, 1962, 1965, 1968 and 1971 editions, the joint code of the American Petroleum Institute and the American Society of Mechanical Engineers (API-ASME Code) 1951 edition, and amendments or later editions, as adopted.

(1) Containers used with systems covered in WAC ((296-306A-40005)) 296-307-40005 and ((296-306A-40007)) 296-307-40007 must be constructed and tested according to the code.

Exception: Construction under Table UW-12 at a basic joint efficiency of under 80% is prohibited. Containers built according to code are exempt from paragraphs UG-125 to UG-128, inclusive, and paragraphs UG-132 and UG-133 of the code.

Note: This subsection allows the continued use or reinstallation of containers constructed and maintained according to the 1949, 1950, 1952, 1956, 1959, 1962, 1965 and 1968 editions of the Unfired Pressure Vessel Code of the ASME or any revisions thereof in effect at the time of fabrication.

(2) Containers more than 36 inches in diameter or 250 gallons water capacity must be constructed to meet one or more of the following requirements:

(a) Containers must be stress relieved after fabrication according to the code; or

(b) Cold-formed heads, when used, must be stress relieved; or

(c) Hot-formed heads must be used.

(3) Welding to the shell, head, or any other part of the container subject to internal pressure must be according to the code. Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the container manufacturer.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40015 How must nonrefrigerated containers and systems (other than DOT containers) be marked? (1) System nameplates, when required, must be permanently attached to the system so they are readily accessible for inspection.

(2) Each container or system covered in WAC ((296-306A-40005)) 296-307-40005 and ((296-306A-40007)) 296-307-40007 must be marked as follows:

(a) With indication that the container or system meets the requirements of the code under which the container is constructed.

(b) With indication on the container and system nameplate when the system is designed for underground installation.

(c) With the name and address of the supplier of the container or the trade name of the container and with the date of fabrication.

(d) With the water capacity of the container in pounds at 60°F or gallons, United States standard.

(e) With the design pressure in pounds per square inch gauge.

(f) With the wall thickness of the shell and heads.

(g) With indication of the maximum fill level for liquid anhydrous ammonia between 20°F and 100°F. Markings must be in increments of not more than 20°F.

Exception: Containers with fixed maximum level indicators, such as fixed length dip tubes, or containers that are filled by weight are exempt from this requirement.

(h) With the outside surface area in square feet.

(i) With minimum temperature in Fahrenheit for which the container is designed.

(j) The marking must be on the container itself or on a permanently attached nameplate.

(3) All main operating valves on permanently installed containers with a capacity of over 3,000 water gallons must be identified to show whether the valve is in liquid or vapor service. The valve must be identified as follows:

(a) The word LIQUID (or LIQUID VALVE), VAPOR (or VAPOR VALVE), as appropriate, must be placed on or within twelve inches of the valve by means of a stencil tag or decal.

(b) Liquid valves must be painted orange and vapor valves must be painted yellow. The legend ORANGE-LIQUID, YELLOW-VAPOR must be displayed in one or more conspicuous places at each permanent storage location. The legend must have letters at least two inches high and must be placed against a contrasting background.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40021 What requirements apply to piping, tubing, and fittings? (1) All piping, tubing and fittings must be made of material suitable for anhydrous ammonia service.

(2) All piping, tubing and fittings must be designed for a pressure of at least the maximum pressure to which they may be subjected in service.

(3) All piping must be well supported and allow for expansion and contraction. All refrigeration system piping must conform to the Refrigeration Piping Code (ANSI B31.5 1966 addenda B31.1a-1968), a section of the American Standard Code for Pressure Piping, as it applies to ammonia.

(4) Piping used on nonrefrigerated systems must meet the requirements of ASTM A-53-1969 Grade B Electric Resistance Welded and Electric Flash Welded Pipe. Pipe must be at least Schedule 40 when joints are welded, or welded and flanged. Pipe must be at least Schedule 80 when joints are threaded. Brass, copper, or galvanized steel pipe or tubing is prohibited.

(5) All metal flexible connections for permanent installations must have a minimum working pressure of 250 psig (safety factor of 4). For temporary installations, you may use hose that meets the requirements of WAC ((~~296-306A-40023~~) 296-307-40023).

(6) Cast iron fittings are prohibited. You must use fittings made especially for ammonia service of malleable or nodular iron that meet the requirements of Specification ASTM A47 or ASTM A395.

(7) All piping, tubing, and fittings must allow for expansion, contraction, jarring, vibration, and settling.

(8) You must make adequate provision to protect all exposed piping from physical damage from moving machinery, the presence of automobiles or trucks, or other strain on the piping.

(9) Joint compounds must be resistant to ammonia.

(10) After assembly, all piping and tubing must be tested and proved to be free from leaks at pressure that is at least equal to the normal operating pressure of the system.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40023 What specifications must hoses meet? (1) Hose used in ammonia service and subject to container pressure must meet the requirements of the joint Rubber Manufacturers Association and the Fertilizer Institute "Hose Specifications for Anhydrous Ammonia."

(2) Hose subject to container pressure must be designed for a minimum working pressure of 350 psig and a minimum burst pressure of 1750 psig. Hose assemblies must be able to withstand a test pressure of 500 psig.

(3) Hose and hose connections on the low pressure side of flow control or pressure reducing valves on devices discharging to atmospheric pressure must be designed for the maximum low side working pressure. All connections must be designed, constructed, and installed to prevent leaks when connected.

(4) Where liquid transfer hose is not drained after transfer operations, the hose must have an approved shut-off valve at the discharge end. You must provide a method to prevent excessive hydrostatic pressure in the hose. (See WAC ((~~296-306A-40025~~) 296-307-40025.)

(5) On all hose 1/2-inch outside diameter and larger, used for the transfer of anhydrous ammonia liquid or vapor, you must ensure that the following information is etched, cast, or impressed at five-foot intervals:

- xxx psig (Maximum working pressure)
- Manufacturer's Name or Trademark
- Year of Manufacture

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40025 What requirements apply to safety-relief devices? (1) Every container used in systems covered by WAC ((~~296-306A-400~~) 296-307-400) must have one or more spring-loaded safety-relief valves or the equivalent.

(2) The discharge from safety-relief valves must be vented away from the container, upward, and unobstructed to the atmosphere. All safety-relief valve discharge openings must have suitable raincaps that allow free discharge of the vapor and prevent water from entering. You must provide a method to drain condensate. The rate of discharge must be as follows:

Surface Area sq. ft.	Flow Rate CFM Air	Surface Area sq. ft.	Flow Rate CFM Air	Surface Area sq. ft.	Flow Rate CFM Air
20	258	185	1,600	900	5,850
25	310	190	1,640	950	6,120
30	360	195	1,670	1,000	6,380
35	408	200	1,710	1,050	6,640
40	455	210	1,780	1,100	6,900
45	501	220	1,850	1,150	7,160
50	547	230	1,920	1,200	7,410
55	591	240	1,980	1,250	7,660
60	635	250	2,050	1,300	7,910
65	678	260	2,120	1,350	8,160
70	720	270	2,180	1,400	8,410
75	762	280	2,250	1,450	8,650
80	804	290	2,320	1,500	8,900
85	845	300	2,380	1,550	9,140
90	885	310	2,450	1,600	9,380
95	925	320	2,510	1,650	9,620
100	965	330	2,570	1,700	9,860
105	1,010	340	2,640	1,750	10,090
110	1,050	350	2,700	1,800	10,330
115	1,090	360	2,760	1,850	10,560
120	1,120	370	2,830	1,900	10,800
125	1,160	380	2,890	1,950	11,030
130	1,200	390	2,950	2,000	11,260
135	1,240	400	3,010	2,050	11,490
140	1,280	450	3,320	2,100	11,720
145	1,310	500	3,620	2,150	11,950
150	1,350	550	3,910	2,200	12,180
155	1,390	600	4,200	2,250	12,400
160	1,420	650	4,480	2,300	12,630
165	1,460	700	4,760	2,350	12,850
170	1,500	750	5,040	2,400	13,080
175	1,530	800	5,300	2,450	13,300
180	1,570	850	5,590	2,500	13,520

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Surface area = total outside surface area of container in square feet. When the surface area is not stamped on the name plate or when the marking is not legible, calculate the area with one of the following formulas:

- Hemispherical heads: Area = (Length in feet) X (outside diameter in feet) X 3.1416.
- Other than hemispherical heads: Area = (Length in feet) + (0.3 outside diameter in feet) X (outside diameter in feet) X 3.1416.
- Spherical container: Area = (outside diameter in feet)² X 3.1416.
- Flow rate: CFM air = cubic feet per minute of air required at standard conditions, 60F and atmospheric pressure (14.7 psia).

For containers with total outside surface area greater than 2,500 sq. ft., the formula is: Flow rate CFM air = 22.11 A0.82 where A = outside surface area of the container in square feet.

(3) Container safety-relief valves must be set for start to discharge as follows, according to the design pressure of the container.

Containers	Minimum	Maximum*
ASME U-68, U-69	110%	125%
ASME U-200, U-201	95%	100%
ASME 1952, 1956, 1959, 1962, 1965, 1968 or 1971	95%	100%
API-ASME	95%	100%
U.S. Coast Guard	As required by USCG regulations	
DOT	As required by DOT regulations	

*Note: Plus a relief valve manufacturer's tolerance of ten percent.

(4) Safety-relief devices used in systems covered by WAC ((296-306A-400)) 296-307-400 must be constructed to discharge at a rate equal to or greater than the rates required in subsection (2) of this section before the pressure exceeds 120% (not including the tolerance referred to in subsection (3) of this section) of the maximum permitted start-to-discharge pressure setting of the device.

(5) Safety-relief valves must be arranged to minimize tampering. If the pressure setting adjustment is external, the relief valves must have a sealable adjustment.

(6) Shut-off valves installed between the safety-relief valves and the containers or systems described in WAC ((296-306A-400)) 296-307-400 are prohibited.

Exception: A shut-off valve may be used where the arrangement of the valve allows the required capacity flow through the relief valves.

Exception example 1: A three-way valve installed under two safety-relief valves, each of which has the required rate of discharge and is installed to allow either of the safety-relief valves to be closed off, but does not allow both safety valves to be closed off at the same time.

Exception example 2: Two separate relief valves are installed with individual shut-off valves. The two shut-off valve stems must be mechanically interconnected to allow the full required flow of one safety-relief valve at all times.

Exception example 3: A safety-relief valve manifold that allows one valve of two, three, four or more to be closed off and the remaining valve or valves will provide not less than the rate of discharge shown on the manifold nameplate.

(7) Safety-relief valves must have direct communication with the vapor space of the container.

(8) Each safety-relief valve used with systems described in WAC ((296-306A-400)) 296-307-400 must be plainly and permanently marked as follows:

- (a) With the letters "AA" or the symbol NH3.
- (b) The pressure in pounds per square inch gauge (psig) at which the valve is set to start to discharge.
- (c) The rate of discharge of the valve in cubic feet per minute of air at 60°F and atmospheric pressure (14.7 psia).
- (d) The manufacturers name and catalog number.

For example: A safety-relief valve marked AA-250-4200 (air) mean the valve is suitable for use on an anhydrous ammonia container; that it is set to start to discharge at 250 psig; and that its rate of discharge is 4,200 cubic feet per minute of air.

(9) No connection to the safety-relief valve may restrict the flow capacity on either the upstream or downstream side.

(10) The manufacturer or supplier of a safety-relief valve manifold must publish complete data showing the flow rating through the combined assembly of the manifold with safety-relief valves installed. The manifold flow rating must be determined by testing the manifold with all but one valve discharging. The flow rate must be determined by the restricted opening or openings or those having the lowest flow. The valve must be marked as required in subsection (7) of this section.

(11) A hydrostatic relief valve must be installed between each pair of valves in the liquid ammonia piping or hose where liquid may be trapped to release into the atmosphere at a safe location.

(12) Discharge from safety-relief devices must not terminate in or beneath any building.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40033 What requirements apply to tank car unloading points and operations? (1) Provisions for unloading tank cars must meet DOT requirements.

(2) Unloading operations must be performed by reliable employees who are properly instructed and responsible for careful compliance with all procedures.

(3) Caution signs must be placed on the track or car to give necessary warning to anyone approaching car from the open end of the siding. The signs must be left up until after car is unloaded and disconnected from discharge connections. Signs must be of metal or other suitable material, at least 12 by 15 inches, and bear the words "STOP—Tank car connected" or "STOP—Men at work." The word "STOP" must be in letters at least four inches high and the other words in

letters at least two inches high. The letters must be white on a blue background.

(4) The track of a tank car siding must be substantially level.

(5) Brakes must be set and wheels blocked on all cars being unloaded.

(6) Tank cars of anhydrous ammonia must be unloaded only at approved locations meeting the requirements of WAC ((296-306A-4002S)) 296-307-40025(4) and ((296-306A-40034)) 296-307-40031(8).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-40039 What requirements apply to electrical equipment and wiring? (1) Electrical equipment and wiring for use in ammonia installations must be general purpose or weather resistant as appropriate.

(2) Where concentrations of ammonia in the air in excess of 16% by volume are likely to be encountered, electrical equipment and wiring must be specified by and installed according to chapter ((296-306A)) 296-307 WAC Part T, for Class I, Group D locations.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41001 What does this part cover? Chapter ((296-306A)) 296-307 WAC Part U2 covers the storage and handling of liquefied petroleum gases.

The requirements of WAC ((296-306A-410)) 296-307-410 apply to all LP-gas installations covered by this part.

For additional requirements related to:	See WAC:
Cylinder systems	((296-306A-415)) <u>296-307-415</u>
Systems using non-DOT containers	((296-306A-420)) <u>296-307-420</u>
LP-gas as a motor fuel	((296-306A-425)) <u>296-307-425</u>
Storage of containers awaiting use or resale	((296-306A-430)) <u>296-307-430</u>
LP-gas installations on commercial vehicles	((296-306A-435)) <u>296-307-435</u>
LP-gas service stations	((296-306A-440)) <u>296-307-440</u>

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41017 Where must containers be located? You must ensure that containers are located according to the following:

(1) Containers and first stage regulating equipment are located outdoors.

Containers may be located indoors under any of the following conditions:

(a) In buildings used exclusively for container charging, vaporization pressure reduction, gas mixing, gas manufacturing, or distribution;

(b) When portable use is necessary and meets the requirements of WAC ((296-306A-41509)) 296-307-41509;

(c) LP-gas fueled stationary or portable engines that meet the requirements of WAC ((296-306A-42521)) 296-307-42521 or ((296-306A-42523)) 296-307-42523;

(d) LP-gas fueled industrial trucks that meet the requirements of WAC ((296-306A-42525)) 296-307-42525;

(e) LP-gas fueled vehicles garaged according to WAC ((296-306A-42527)) 296-307-42527, or

(f) Containers awaiting use or resale when stored according to WAC ((296-306A-430)) 296-307-430.

(2) Each individual container is located away from the nearest important building, group of buildings, or line of adjoining property that may be built on, according to Table U-1.

**TABLE U-1
Minimum distances**

Water capacity per container	Containers	Between above-ground containers	
	Under-ground	Above-ground	
Less than			
125 gals ^a	10 feet	None	None
125-250 gals	10 feet	10 feet	None
251-500 gals	10 feet	10 feet	3 feet
501-2,000 gals	25 feet ^b	25 feet ^b	3 feet
2,001-30,000 gals	50 feet	50 feet	5 feet
30,001-70,000 gals	50 feet	75 feet	1/4 of sum of diameters of adjacent containers
70,001-90,000 gals	50 feet	100 feet	1/4 of sum of diameters of adjacent containers

(a) If the total water capacity of a multicontainer installation at a consumer site is 501 gallons or more, the minimum distance must comply with this table, applying the aggregate capacity instead of the capacity per container. For multiple installations, installations must be at least twenty-five feet apart. Do not apply the MINIMUM DISTANCES BETWEEN ABOVEGROUND CONTAINERS to such installations.

(b) Distance requirements may be reduced to 10 feet for a single container of 1200 gallons water capacity or less, if the container is at least 25 feet from any other LP-gas container of more than 125 gallons water capacity.

(c) In buildings devoted exclusively to gas manufacturing and distributing operations, the distances may be reduced if no containers of more than 500 gallons water capacity are located closer than ten feet to gas manufacturing and distributing buildings.

(3) Containers installed for use must not be stacked one above the other.

(4) In industrial installations involving containers of 180,000 gallons total water capacity or more, where serious exposures from the container to adjacent properties are common, firewalls or other means of protection designed and constructed according to good engineering practices are required.

(5) Readily ignitable material such as weeds and long dry grass is removed within ten feet of any container.

(6) The minimum separation between LP-gas containers and flammable liquid tanks is twenty feet; the minimum separation between a container and the centerline of the dike is ten feet.

EXCEPTION: This does not apply when LP-gas containers of 125 gallons or less capacity are installed adjacent to Class III flammable liquid tanks of 275 gallons or less capacity.

(7) The accumulation of flammable liquids under adjacent LP-gas containers is prevented by a means such as diking, diversion curbs, or grading.

(8) When dikes are used with flammable liquid tanks, no LP-gas containers are located within the diked area.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41025 What requirements apply to safety devices? (1) Every container except those constructed according to DOT specifications and every vaporizer (except motor fuel vaporizers and vaporizers described in WAC ((296-306A-41029)) 296-307-41029(3) and ((296-306A-42007)) 296-307-42007 (6)(a) whether heated by artificial means or not, must have one or more safety-relief valves of spring-loaded or equivalent type. These valves must be arranged to afford free vent to the outer air with discharge not less than five feet horizontally away from any opening into the building that is below such discharge. The rate of discharge must be according to the requirements of subsection (2) or (4) of this section.

(2) Minimum required rate of discharge in cubic feet per minute of air at one hundred twenty percent of the maximum permitted start to discharge pressure for safety-relief valves to be used on containers other than those constructed according to DOT specification must be as follows:

Surface area sq. ft.	Flow rate CFM air	Surface area sq. ft.	Flow rate CFM air	Surface area sq. ft.	Flow rate CFM air
20 or less	626	170	3,620	550	9,470
25	751	175	3,700	600	10,170
30	872	180	3,790	650	10,860
35	990	185	3,880	700	11,550
40	1,100	190	3,960	750	12,220
45	1,220	195	4,050	850	13,540

50	1,330	200	4,130	900	14,190
55	1,430	210	4,300	950	14,830
60	1,540	220	4,470	1,000	15,470
65	1,640	230	4,630	1,050	16,100
70	1,750	240	4,800	1,100	16,720
75	1,850	250	4,960	1,150	17,350
80	1,950	260	5,130	1,200	17,960
85	2,050	270	5,290	1,250	18,570
90	2,150	280	5,450	1,300	19,180
95	2,240	290	5,610	1,350	19,780
100	2,340	300	5,760	1,400	20,380
105	2,440	310	5,920	1,450	20,980
110	2,530	320	6,080	1,500	21,570
115	2,630	330	6,230	1,550	22,160
120	2,720	340	6,390	1,600	22,740
125	2,810	350	6,540	1,650	23,320
130	2,900	360	6,690	1,700	23,900
135	2,990	370	6,840	1,750	24,470
140	3,080	380	7,000	1,800	25,050
145	3,170	390	7,150	1,850	25,620
150	3,260	400	7,300	1,900	26,180
155	3,350	450	8,040	1,950	26,750
160	3,440	500	8,760	2,000	27,310
165	3,530				

Surface area = total outside surface area of container in square feet.

(3) When the surface area is not stamped on the name plate or when the marking is not legible, calculate the area with one of the following formulas:

- Hemispherical heads: Area = (overall length) X (outside diameter) X 3.1416.

- Other than hemispherical heads: Area = (overall length) + 0.3 (outside diameter) X (outside diameter) X 3.1416.

Note: This formula is not exact, but will give results within the limits of practical accuracy for the sole purpose of sizing relief valves.

- Spherical container: Area = (outside diameter)² X 3.1416.

- Flow rate: CFM air = required flow capacity in cubic feet per minute of air at standard conditions, 60°F and atmospheric pressure (14.7 psia).

For containers with total outside surface area greater than 2,000 sq. ft., the formula is: Flow rate CFM air = 53.632 A 0.82 where A = outside surface area of the container in square feet.

Valves not marked "air" have flow rate marking in cubic feet per minute of LP-gas. These can be converted to ratings in cubic feet per minute of air by multiplying the LP-gas ratings by factors listed below. Air flow ratings can be converted to ratings in cubic feet per minute of LP-gas by dividing the air ratings by the factors listed below.

AIR CONVERSION FACTORS

Container type	100	125	150	175	200
Air conversion factor	1.162	1.142	1.113	1.078	1.010

(4) The minimum required rate of discharge for safety-relief valves for LP-gas vaporizers (steam heated, water heated, and direct fired) must be determined as follows:

(a) Obtain the total surface area by adding the surface area of vaporizer shell in square feet directly in contact with LP-gas and the heat exchanged surface area in square feet directly in contact with LP-gas.

(b) Obtain the minimum required rate of discharge in cubic feet of air per minute, at 60°F and 14.7 psia from subsection (2) of this section, for this total surface area.

(5) Container and vaporizer safety-relief valves must be set to start to discharge, with relation to the design pressure of the container, according to the following:

Containers	Minimum (percent)	Maximum (percent)
ASME Code; Par. U-68, U-69—1949 and earlier editions	110	0
ASME Code; Par. U-200, U-201—1949 edition	88	0
ASME Code—1950, 1952, 1956, 1959, 1962, 1965 and 1968 (Division I) editions	88	0
API—ASME Code—all editions	88	??
DOT	As prescribed in 49 CFR Chapter I	

* Manufacturers of safety-relief valves are allowed a plus tolerance not exceeding 10% of the set pressure marked on the valve.

(6) Safety-relief devices used with systems employing non-DOT containers must be constructed to discharge at not less than the rates shown in subsection (2) of this section, before the pressure is in excess of 120% of the maximum (not including the 10% referred to in subsection (5) of this section) permitted start-to-discharge pressure setting of the device.

(7) In high temperature areas, you must use a lower vapor pressure product or a higher designed pressure vessel to prevent the safety valves from opening. The tanks may be protected by cooling devices such as spraying, shading, or other means.

(8) Safety-relief valves must be arranged to minimize tampering. For external pressure setting or adjustment, the relief valves must have an approved sealable adjustment.

(9) Shut-off valves are prohibited between safety-relief devices and the container, equipment, or piping.

EXCEPTION: A shut-off valve may be used where the arrangement of the valve allows the required capacity flow through the safety-relief device.

(10) Safety-relief valves must have direct communication with the vapor space of the container.

(11) Each safety-relief valve must be plainly and permanently marked with the following:

(a) Container type of the pressure vessel on which the valve is designed to be installed;

(b) The pressure in psig at which the valve is set to discharge;

(c) The actual rate of discharge of the valve in cubic feet per minute of air at 60°F and 14.7 psia; and

(d) The manufacturer's name and catalog number.

For example: T200-250-4050 AIR: Indicates that the valve is suitable for use on a Type 200 container, that it is set to start to discharge at 250 psig; and that its rate of discharge is 4,050 cubic feet per minute of air.

(12) Safety-relief valve assemblies and their connections must be large enough to provide the required rate of flow for the container on which they are installed.

(13) A hydrostatic relief valve must be installed between each pair of shut-off valves on LP-gas liquid piping. The start-to-discharge pressure setting of such relief valves must be a maximum of 500 psig. The minimum setting on relief valves installed in piping connected to non-DOT containers shall be 140% of the container relief valve setting. For piping connected to DOT containers, the minimum must be 400 psig. The relief valve should not be installed in the pump discharge piping if the same protection can be provided by installing the relief valve in the suction piping. The start-to-discharge pressure setting of such a relief valve, if installed on the discharge side of a pump, must exceed the maximum pressure permitted by the recirculation device in the system.

(14) The discharge from any safety-relief device must not terminate in or beneath any building.

EXCEPTION: This requirement does not apply to relief devices covered by WAC ((296-306A-41017(1), 296-306A-41507(1) or 296-306A-41509)) 296-307-41017(1), 296-307-41507(1), or 296-307-41509.

(15) Container safety-relief devices and regulator relief vents must be located at least five feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41027 How must indirect fired vaporizers be constructed and installed? Indirect fired vaporizers utilizing steam, water, or other heating medium must be constructed and installed according to the following:

(1) Vaporizers must be constructed according to the requirements of WAC ((296-306A-41011)) 296-307-41011 and must be permanently marked as follows:

(a) With the code marking signifying the specifications to which the vaporizer is constructed;

(b) With the allowable working pressure and temperature for which the vaporizer is designed;

(c) With the sum of the outside surface area and the inside heat exchange surface area expressed in square feet; and

(d) With the name or symbol of the manufacturer.

(2) Vaporizers with an inside diameter of six inches or less exempted by the ASME Unfired Pressure Vessel Code, Section VIII of the ASME Boiler and Pressure Vessel Code, 1968, must have a design pressure of at least 250 psig and need not be permanently marked.

(3) Heating or cooling coils installed inside a storage container are prohibited.

(4) Vaporizers may be installed in buildings, rooms, sheds, or lean-tos used exclusively for gas manufacturing or distribution, or in other light, noncombustible structures that are well ventilated near the floor line and roof.

Exception:

When vaporizing and/or mixing equipment is in a structure not used exclusively for gas manufacturing or distribution, the structure or room must be separated from the remainder of the building. The separation must be a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall must have no openings or pipe or conduit passing through it. Such structure or room must have adequate ventilation and must have a roof or at least one exterior wall of lightweight construction.

(5) All DOT vaporizers must have, at or near the discharge, a safety-relief valve providing an effective rate of discharge according to WAC ((296-306A-41025)) 296-307-41025.

(6) The heating medium lines into and out of the vaporizer must have a mechanism to prevent the flow of gas into the heat systems in the event of tube rupture in the vaporizer. Vaporizers must have an automatic means to prevent liquid from passing through the vaporizers to the gas discharge piping.

(7) The device that supplies heat to produce steam, hot water, or other heat may be installed in a building, compartment, room, or lean-to ventilated near the floorline and roof to the outside. The device must be separated from all compartments or rooms containing LP-gas vaporizers, pumps, and central gas mixing devices by a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall must have no openings or pipes or conduit passing through it.

Exception: This requirement does not apply to the domestic water heaters that may supply heat for a vaporizer in a domestic system.

(8) Gas-fired heating systems supplying heat exclusively for vaporization must have automatic safety devices to shut off the flow of gas to main burners, if the pilot light should fail.

(9) Vaporizers may be an integral part of a fuel storage container directly connected to the liquid section or gas section or both.

(10) Fusible plugs are prohibited on vaporizers.

(11) Vaporizer houses must not have unprotected drains to sewers or sump pits.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41031 How must direct gas-fired vaporizers be constructed and installed? Direct gas-fired vaporizers must be constructed, marked, and installed as follows:

(1) According to the requirements of the *American Society of Mechanical Engineers Boiler and Pressure Vessel Code*, 1968, that apply to the maximum working conditions for which the vaporizer is designed.

(2) With the name of the manufacturer; rated Btu input to the burner; the area of the heat exchange surface in square feet; the outside surface of the vaporizer in square feet; and the maximum vaporizing capacity in gallons per hour.

(3) Vaporizers may be connected to the liquid section or the gas section of the storage container, or both. The container must have a manually operated valve in each connection that completely shuts off when desired, all flow of gas or liquid from container to vaporizer.

(4) Vaporizers with a maximum capacity of 35 gallons per hour must be located at least 5 feet from container shut-off valves. Vaporizers more than 35 gallon capacity but a maximum of 100 gallons per hour must be located at least 10 feet from the container shut-off valves. Vaporizers having a capacity greater than 100 gallons per hour must be located at least 15 feet from container shut-off valves.

(5) Vaporizers may be installed in buildings, rooms, housings, sheds, or lean-tos used exclusively for vaporizing or mixing of LP-gas. Vaporizing housing structures must be noncombustible, and well ventilated near the floorline and the highest point of the roof. When vaporizer and/or mixing equipment is located in a structure or room attached to or within a building, such structure or room must be separated from the remainder of the building by a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall must have no openings or pipes or conduit passing through it. The structure or room must have adequate ventilation, and a roof or at least one exterior wall of lightweight construction.

(6) Vaporizers must have at or near the discharge, a safety-relief valve providing an effective rate of discharge according to WAC ((296-306A-41025)) 296-307-41025. The relief valve must be located where it is not subjected to temperatures over 140°F.

(7) Vaporizers must have suitable automatic means to prevent liquid passing from the vaporizer to the gas discharge piping of the vaporizer.

(8) Vaporizers must have means for manually turning off the gas to the main burner and pilot.

(9) Vaporizers must have automatic safety devices to shut off the flow of gas to main burners if the pilot light should fail. When the flow through the pilot exceeds 2,000 Btu per hour, the pilot also must have an automatic safety device to shut off the flow of gas to the pilot should the pilot flame be extinguished.

(10) Pressure regulating and pressure reducing equipment located within 10 feet of a direct fired vaporizer must be separated from the open flame by an airtight noncombustible partition.

(11) Except as provided in subsection (5) of this section, the following minimum distances must be maintained between direct fired vaporizers and the nearest important building, group of buildings, or line of adjoining property that may be built on:

(a) Ten feet for vaporizers with a vaporizing capacity of 15 gallons per hour or less;

- (b) Twenty-five feet for vaporizers with a vaporizing capacity of 16-100 gallons per hour;
- (c) Fifty feet for vaporizers with a vaporizing capacity over 100 gallons per hour.

(12) Direct fired vaporizers must not raise the product pressure above the design pressure of the vaporizer equipment or above the pressure shown in the second column of Table U-8.

(13) Fusible plugs are prohibited on vaporizers.

(14) Vaporizers must not have unprotected drains to sewers or sump pits.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41039 What requirements apply to LP-gas in buildings? (1) Vapor may be piped into buildings at pressures over 20 psig only if the buildings or separate areas thereof:

(a) Are constructed according to this section;

(b) Are used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines, industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard;

(c) Are buildings, structures, or equipment under construction or undergoing major renovation.

(2) Liquid may be permitted in buildings as follows:

(a) In buildings, or separate areas of buildings, used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines, industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard; and when such buildings, or separate areas are constructed according to this section.

(b) In buildings, structures, or equipment under construction or undergoing major renovation if the temporary piping meets the following conditions:

(i) Liquid piping inside the building meets the requirements of WAC ((296-306A-41021)) 296-307-41021 and is a maximum of three-fourths iron pipe size. Copper tubing with an outside diameter of 3/4 inch or less may be used if it meets the requirements of Type K of Specifications for Seamless Water Tube, ANSI H23.1-1970 (ASTM B88-1969). (See Table U-2.) All such piping must be protected against construction hazards. Liquid piping inside buildings must be kept to a minimum. Such piping must be securely fastened to walls or other surfaces to provide adequate protection from breakage and located to subject the liquid line to the lowest ambient temperatures.

(ii) A shut-off valve must be installed in each intermediate branch line where it takes off the main line and must be readily accessible. A shut-off valve must also be placed at the appliance end of the intermediate branch line. Such shut-off valve must be upstream of any flexible connector used with the appliance.

(iii) Suitable excess flow valves must be installed in the container outlet line supplying liquid LP-gas to the building.

A suitable excess flow valve must be installed immediately downstream of each shut-off valve. Excess flow valves must be installed where piping size is reduced and must be sized appropriately.

(iv) Hydrostatic relief valves must be installed according to WAC ((296-306A-41025)) 296-307-41025(13).

(v) Using hose to carry liquid between the container and the building or at any point in the liquid line, except at the appliance connector, is prohibited.

(vi) Where flexible connectors are necessary for appliance installation, such connectors must be as short as practical and must meet the requirements of WAC ((296-306A-41021)) 296-307-41021(4) or ((296-306A-41023)) 296-307-41023.

(vii) Release of fuel when any section of piping or appliances is disconnected must be minimized by either of the following methods:

(A) Using an approved automatic quick-closing coupling (closing in both directions when coupled in the fuel line); or

(B) Closing the valve nearest to the appliance and allowing the appliance to operate until the fuel in the line is consumed.

(viii) See WAC ((296-306A-41509)) 296-307-41509 for the conditions under which portable containers may be brought indoors.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41041 What requirements apply to transfer of liquids? When transferring liquids, you must ensure that:

(1) At least one attendant remains close to the transfer connection from the time the connections are first made until they are finally disconnected, during the transfer of the product.

(2) Containers must be filled or used only upon authorization of the owner.

(3) Containers manufactured according to DOT specifications authorized by DOT as a "single trip" or "nonrefillable container" must not be refilled or reused in LP-gas service.

(4) Gas or liquid must not be vented to the atmosphere to assist in transferring contents of one container to another, except as provided in WAC ((296-306A-42509)) 296-307-42509(4). A listed pump may use LP-gas in the vapor phase as a source of energy. The gas may be vented to the atmosphere at a rate not to exceed that from a No. 31 drill size opening, if venting and liquid transfer are located at least 50 feet from the nearest important building.

(5) Filling fuel containers for industrial trucks or motor vehicles from industrial bulk storage containers must be performed at least ten feet from the nearest important masonry-walled building or at least twenty-five feet from the nearest important building or other construction and always at least 25 feet from any building opening.

(6) Filling portable containers, containers mounted on skids, fuel containers on farm tractors, or similar applications, from storage containers used in domestic or commercial service, must be performed at least 50 feet from the nearest important building.

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(7) The filling connection and the vent from the liquid level gauges in containers, filled at point of installation, must be at least ten feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

(8) Fuel supply containers must be gauged and charged only in the open air or in buildings especially provided for that purpose.

(9) Marketers and users must exercise precaution to ensure that only those gases for which the system is designed, examined, and listed, are employed in its operation, particularly with regard to pressures.

(10) Pumps or compressors must be designed for use with LP-gas. When compressors are used they must normally take suction from the vapor space of the container being filled and discharge to the vapor space of the container being emptied.

(11) Pumping systems, when equipped with a positive displacement pump, must include a recirculating device that limits the differential pressure on the pump under normal operating conditions to the maximum differential pressure rating of the pump. The discharge of the pumping system must be protected so that pressure is a maximum of 350 psig. If a recirculation system discharges into the supply tank and contains a manual shut-off valve, an adequate secondary safety recirculation system must be incorporated that has no means of rendering it inoperative. Manual shut-off valves in recirculation systems must be kept open except during an emergency or when repairs are being made to the system.

(12) When necessary, unloading piping or hoses must have suitable bleeder valves for relieving pressure before disconnection.

(13) Agricultural air moving equipment, including crop dryers, shall be shut down when supply containers are filling unless the air intakes and sources of ignition on the equipment are located 50 feet or more from the container.

(14) Agricultural equipment employing open flames or equipment with integral containers, such as flame cultivators, weed burners, and tractors, must be shut down during refueling.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41047 What electrical requirements apply to LP-gas installations? (1) Electrical equipment and wiring must be specified by and installed according to chapter ((296-306A)) 296-307 WAC Part T, for ordinary locations.

(2) Fixed electrical equipment and wiring installed within classified areas must comply with Table U-5 and must be installed according to chapter ((296-306A)) 296-307 WAC Part T.

EXCEPTION: This provision does not apply to fixed electrical equipment at residential or commercial installations of LP-gas systems, LP-gas used as a motor fuel, or to LP-gas system installations on commercial vehicles.

TABLE U-5

Part	Location	Extent of classified area ¹	Equipment shall be suitable for Class I, Group D ²
A	Storage containers other than DOT cylinders	Within 15 feet in all directions from connections, except connections otherwise covered in this table	Division 2
B	Tank vehicle and tank car loading and unloading ³	Within 5 feet in all directions from connections regularly made or disconnected for product transfer	Division 1
		Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade (See Figure H-1)	Division 2
C	Gauge vent openings other than those on DOT cylinders	Within 5 feet in all directions from point of discharge	Division 1
		Beyond 5 feet but within 15 feet in all directions from point of discharge	Division 2
D	Relief valve discharge other than those on DOT cylinders	Within direct path of discharge <i>Note: Fixed electrical equipment should not be installed</i>	Division 1
		Within 5 feet in all directions from point of discharge	Division 1
		Beyond 5 feet but within 15 feet in all directions from point of discharge except within the direct path of discharge	Division 2
E	Pumps, compressors, gas-air mixers and vaporizers other than direct fired		
	Indoors without ventilation	Entire room and any adjacent room not separated by a gastight partition	Division 1

Part	Location	Extent of classified area ¹	Equipment shall be suitable for Class I, Group D ²	Part	Location	Extent of classified area ¹	Equipment shall be suitable for Class I, Group D ²
		Within 15 feet of the exterior side of any exterior wall or roof that is not vaportight or within 15 feet of any exterior opening	Division 2		With adequate mechanical ventilation	Entire pit or trench	Division 2
	Indoors with adequate ventilation ⁴	Entire room and any adjacent room not separated by a gastight partition	Division 2		Entire room and any adjacent room not separated by a gastight partition		Division 2
	Outdoors in open air at or above grade	Within 15 feet in all directions from this equipment and within the cylindrical volume between the horizontal equator of the sphere and grade (See Figure H-1)	Division 2		Within 15 feet in all directions from pit or trench when located outdoors		Division 2
F	Service station dispensing units	Entire space within dispenser enclosure, and 18 inches horizontally from enclosure exterior up to an elevation 4 ft. above dispenser base. Entire pit or open space beneath dispenser	Division 1	H	Special buildings or rooms for storage of portable containers	Entire room	Division 2
		Up to 18 inches above grade within 20 ft. horizontally from any edge of enclosure	Division 2		Pipelines and connections containing operational bleeds, drips, vents or drains	Within 5 ft. in all directions from point of discharge	Division 1
<i>Note:</i> For pits within this area, see Part F of this table						Beyond 5 ft. from point of discharge, same as Part E of this table	
G	Pits or trenches containing or located beneath LP-gas valves, pumps, compressors, regulators, and similar equipment			J	Container filling		
	Without mechanical ventilation	Entire pit or trench	Division 1		Indoors without ventilation	Entire room	Division 1
		Entire room and any adjacent room not separated by a gastight partition	Division 2		Indoors with adequate ventilation ⁴	Within 5 feet in all directions from connections regularly made or disconnected for product transfer	Division 1
		Within 15 feet in all directions from pit or trench when located outdoors	Division 2		Outdoors in open air	Within 5 feet in all directions from connections regularly made or disconnected for product transfer	Division 1
						Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade (See Fig. H-1.)	Division 2

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Part	Location	Extent of classified area ¹	Equipment shall be suitable for Class I, Group D ²
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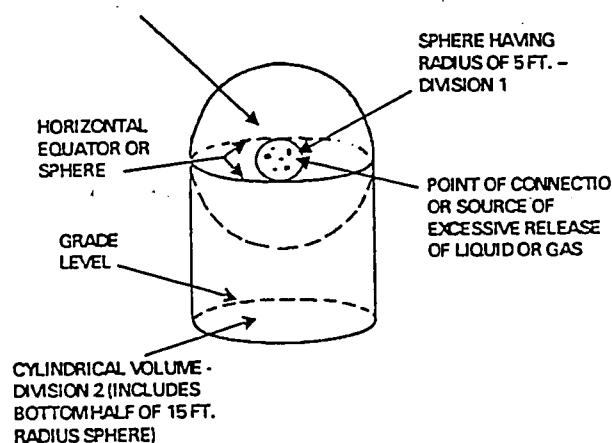
¹The classified area must not extend beyond an unpierced wall, roof, or solid vaportight partition.

²See chapter 296-46 WAC, and chapter 296-306A WAC Part T.

³When classifying the extent of a hazardous area, consider the possible variations in the spotting of tank cars and tank vehicles at the unloading points and the effect these variations of actual spotting point may have on the point of connection.

⁴Ventilation, either natural or mechanical, is considered adequate when the concentration of the gas in a gas-air mixture does not exceed twenty-five percent of the lower flammable limit under normal operating conditions.

SPHERE HAVING RADIUS OF 15 FT. - DIVISION 2



CYLINDRICAL VOLUME - DIVISION 2 (INCLUDES BOTTOM HALF OF 15 FT. RADIUS SPHERE)

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41049 What requirements apply to liquid-level gauging devices? (1) Each container manufactured after December 31, 1965, and filled on a volumetric basis must have a fixed liquid-level gauge to indicate the maximum permitted filling level according to subsection (5) of this section. Each container manufactured after December 31, 1969, must have permanently attached to the container adjacent to the fixed level gauge a marking showing the percentage full that will be shown by that gauge. When used with a variable liquid-level gauge, the fixed liquid-level gauge will act as a check on the variable gauge. Gauges must be used in charging containers as required in WAC ((296-306A-41034)) 296-307-41034.

(2) All variable gauging devices must be arranged so that the maximum liquid level for butane, for a 50/50 mixture of butane and propane, and for propane, to which the container may be charged, is easily determined. Liquid levels from empty to full must be marked on the system nameplate or gauging device. Dials of magnetic or rotary gauges must show whether they are for cylindrical or spherical containers

and whether for aboveground or underground service. The dials of gauges for aboveground containers of over 1,200 gallons water capacity must be so marked.

(3) Gauging devices that require bleeding of the product to the atmosphere, such as the rotary tube, fixed tube, and slip tube, shall be designed so that the bleed valve maximum opening is not larger than a No. 54 drill size, unless provided with excess flow valve.

(4) Gauging devices must have a design working pressure of at least 250 psig.

(5) Length of tube or position of fixed liquid-level gauge must be designed to indicate the maximum level to which the container may be filled for the product contained. This level shall be based on the volume of the product at 40°F at its maximum permitted filling density for aboveground containers and at 50°F for underground containers. You must calculate the filling point for which the fixed liquid level gauge must be designed according to this section.

Note: It is impossible to set out in a table the length of a fixed dip tube for various tank capacities because of the various tank diameters and lengths, and because the tank may be installed either vertically or horizontally. If you know the maximum permitted filling volume in gallons, however, you can determine the length of the fixed tube by using a strapping table from the container manufacturer.

The fixed tube should be long enough so that when its lower end touches the surface of the liquid in the container, the contents of the container will be the maximum permitted volume as determined by the following formula:

Water capacity of container ¹ (gals.)	X filling density ²	Maximum
Specific gravity of LP-gas ¹ x volume		volume
correction factor ³ x 100		of LP-gas

¹Measure at 60°F.

²From WAC ((296-306A-41037)) 296-307-41037(1).

³For aboveground containers the liquid temperature is assumed to be 40°F and for underground containers the liquid temperature is assumed to be 50°F. To correct the liquid volumes at these temperatures to 60°F, use the following factors:

(a) To determine maximum volume of LP-gas for which a fixed length of dip tube must be set:

**TABLE U-6
VOLUME CORRECTION FACTORS**

Specific gravity	Aboveground	Underground
0.500	1.033	1.017
.510	1.031	1.016
.520	1.029	1.015
.530	1.028	1.014
.540	1.026	1.013
.550	1.025	1.013
.560	1.024	1.012
.570	1.023	1.011
.580	1.021	1.011
.590	1.020	1.010

(b) To calculate the maximum volume of LP-gas that can be placed in a container when determining the length of the dip tube expressed as a percentage of total water content of the container, use the formula in (c) of this subsection.

(c) Determine the maximum weight of LP-gas that may be placed in a container for determining the length of a fixed dip tube by multiplying the maximum volume of LP-gas from Table U-6 by the pounds of LP-gas in a gallon at 40°F for aboveground and at 50°F for underground containers. Typical pounds per gallon are specified below:

Example: Assume a one hundred gallon total water capacity tank for aboveground storage of propane having a specific gravity of 0.510 at 60°F.

$$\frac{100 \text{ (gals.)} \times 42 \text{ (filling density)}}{0.510 \times 1.031 \text{ (correction factor from Table U-6)} \times 100} = \frac{4200}{52.6}$$

$\frac{4200}{52.6} = 79.8$ gallons propane, the maximum amount permitted to be placed in a 100-gallon total water capacity above ground container equipped with a fixed dip tube.

Maximum volume of LP-gas (from formula in (a) of this subsection)	= Maximum percent of LP-gas
x 100	

Total water content of container in gallons	= Maximum percent of LP-gas
---	-----------------------------

	Aboveground, pounds per gallon	Underground, pounds per gallon
Propane	4.37	4.31
N Butane	4.97	4.92

(6) Fixed liquid-level gauges used on non-DOT containers must be stamped on the exterior of the gauge with the letters DT followed by the vertical distance (expressed in inches and carried out to one decimal place) from the top of container to the end of the dip tube or to the centerline of the gauge when located at the maximum permitted filling level. For portable containers that may be filled in the horizontal and/or vertical position the letters DT must be followed by V with the vertical distance from the top of the container to the end of the dip tube for vertical filling, and with H followed by the proper distance for horizontal filling. For DOT containers the stamping must be placed both on the exterior of the gauge and on the container. On aboveground or cargo containers where the gauges are positioned at specific levels, the marking may be specified in percent of total tank contents and the marking must be stamped on the container.

(7) Columnar gauge glasses must be restricted to charging plants where the fuel is withdrawn in the liquid phase only. They must have valves with metallic handwheels, excess flow valves, and extra-heavy glass adequately protected with a metal housing applied by the gauge manufacturer. They must be shielded against the direct rays of the sun. Columnar gauge glasses are prohibited on tank trucks, motor

fuel tanks, and containers used in domestic, commercial, and industrial installations.

(8) Float gauging devices or equivalent that do not require flow for their operation and that have connections extending outside the container do not have to have excess flow valves if the piping and fittings are adequately designed to withstand the container pressure and are properly protected against physical damage and breakage.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41501 What does this section cover?

WAC ((296-306A-415)) **296-307-415** applies to systems using DOT containers. Cylinder systems must meet all requirements of WAC ((296-306A-410)) **296-307-410** (unless otherwise indicated) and the additional requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41507 What additional requirements apply to cylinder systems installed outdoors?

(1) Containers must not be buried below ground. However, systems may be installed in a compartment or recess below grade level, such as a niche in a slope or terrace wall that is used for no other purpose, if the container and regulating equipment are not in contact with the ground, and the compartment or recess is drained and ventilated horizontally to the outside air from its lowest level, with the outlet at least 3 feet away from any building opening below the level of the outlet.

(2) Except as provided in WAC ((296-306A-41025)) **296-307-41025(14)**, the discharge from safety-relief devices must be located at least three feet away from any building opening that is below the level of discharge and must not terminate beneath any building unless the space is well ventilated to the outside and is not enclosed on more than two sides.

(3) Containers must be set on firm foundation or otherwise firmly secured; the possible effect of settling on the outlet piping must be guarded against by a flexible connection or special fitting.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-41513 What requirements apply to safety devices for cylinder systems?

(1) Containers must have safety devices as required by DOT regulations.

(2) A final stage regulator of an LP-gas system (excluding any appliance regulator) must have, on the low-pressure side, a relief valve that is set to start to discharge within the limits specified in Table U-7.

PROPOSED

TABLE U-7

**Relief valve start-to-discharge
pressure setting (percent of
regulator delivery pressure)**

Regulator delivery pressure	Minimum	Maximum
1 psig or less	200	300
Above 1 psig but not over 3 psig	140	200
Above 3 psig	125	200

(3) When a regulator or pressure relief valve is used indoors for other than purposes specified in WAC ((296-306A-41017)) 296-307-41017(1), the relief valve and the space above the regulator and relief valve diaphragms shall be vented to the outside air with the discharge outlet located at least three feet horizontally away from any building opening that is below such discharge.

Exception: This requirement does not apply to individual appliance regulators when protection is otherwise provided, nor to WAC ((296-306A-41509)) 296-307-41509 and ((296-306A-41025)) 296-307-41025(14). In buildings devoted exclusively to gas distribution, the space above the diaphragm need not be vented to the outside.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42001 What does this section cover? WAC ((296-306A-420)) 296-307-420 applies to systems using storage containers not constructed according to DOT specifications. Non-DOT containers must meet all requirements of WAC ((296-306A-410)) 296-307-410 (unless otherwise indicated) and the additional requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42007 What additional requirements apply to safety devices for non-DOT containers? (1) All safety devices must comply with the following:

(a) All container safety-relief devices must be located on the containers.

(b) In industrial and gas manufacturing plants, discharge pipe from safety-relief valves on pipe lines within a building must discharge upward and be piped to a point outside a building.

(c) Safety-relief device discharge terminals must be located to provide protection against physical damage and must be fitted with loose raincaps. Return bends and restrictive pipefittings are prohibited.

(d) If desired, discharge lines from two or more safety-relief devices located on the same unit, or similar lines from two or more different units, may be run into a common discharge header, if the cross-sectional area of the header is at least equal to the sum of the cross-sectional area of the individual discharge lines, and the setting of safety-relief valves are the same.

(e) Each storage container of over 2,000 gallons water capacity must have a suitable pressure gauge.

(f) A final stage regulator of an LP-gas system (excluding any appliance regulator) must have, on the low-pressure side, a relief valve that is set to start to discharge within the limits specified in Table U-7.

(g) When a regulator or pressure relief valve is installed indoors, the relief valve and the space above the regulator and relief valve diaphragms must be vented to the outside air with the discharge outlet located not less than 3 feet horizontally away from any opening into the building that is below such discharge.

Exception:

This requirement does not apply to individual appliance regulators already protected. In buildings devoted exclusively to gas distribution, the space above the diaphragm need not be vented to the outside.

(2) Safety devices for aboveground containers must be provided as follows:

(a) Containers of 1,200 gallons water capacity or less that may contain liquid fuel when installed aboveground must have the rate of discharge required by WAC ((296-306A-41025)) 296-307-41025(2) provided by a spring-loaded relief valve or valves. In addition to the required spring-loaded relief valve, a suitable fuse plug may be used if the total discharge area of the fuse plug for each container does not exceed 0.25 square inch.

(b) The fusible metal of the fuse plugs must have a yield temperature of 208°F minimum and 220°F maximum. Relief valves and fuse plugs must have direct communication with the vapor space of the container.

(c) On a container having a water capacity between 125 and 2,000 gallons, the discharge from the safety-relief valves must be vented away from the container upwards and unobstructed to the open air so that it prevents any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. Suitable provision must be made for draining condensate that may accumulate in the relief valve or its discharge pipe.

(d) On containers of 125 gallons water capacity or less, the discharge from safety-relief devices must be located at least 5 feet horizontally away from any opening into the building below the level of such discharge.

(e) On a container having a water capacity greater than 2,000 gallons, the discharge from the safety-relief valves must be vented away from the container upwards to a point at least 7 feet above the container, and unobstructed to the open air so that it prevents any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. Suitable provision must be made so that any liquid or condensate that may accumulate inside of the safety-relief valve or its discharge pipe will not render the valve inoperative. If a drain is used, the container, adjacent containers, piping, or equipment must be protected against impingement of flame resulting from ignition of product escaping from the drain.

(3) On all containers that are installed underground and that contain no liquid fuel until buried and covered, the rate of discharge of the spring-loaded relief valve installed thereon may be reduced to a minimum of 30% of the rate of discharge specified in WAC ((296-306A-41025)) 296-307-41025(2).

Containers so protected must remain covered after installation until the liquid fuel has been removed. Containers that may contain liquid fuel before being installed underground and before being completely covered with earth are aboveground containers when determining the rate of discharge requirement of the relief valves.

(4) On underground containers of over 2,000 gallons water capacity, the discharge from safety-relief devices must be piped directly upward to a point at least 7 feet above the ground.

(5) Where the manhole or housing may become flooded, the discharge from regulator vent lines must be above the highest probable water level. All manholes or housings must have ventilated louvers or equivalent, and the area of openings must be equal to or exceed the combined discharge areas of the safety-relief valves and other vent lines that discharge their content into the manhole housing.

(6) Safety devices for vaporizers must be provided as follows:

(a) Vaporizers of less than 1 quart total capacity, heated by the ground or the surrounding air, need not have safety-relief valves if adequate tests demonstrate that the assembly is safe without safety-relief valves.

(b) Fusible plugs are prohibited on vaporizers.

(c) In industrial and gas manufacturing plants, safety-relief valves on vaporizers within a building must be piped to a point outside the building and be discharged upward.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42013 How must non-DOT containers be installed? (1) Containers installed aboveground must have substantial masonry or noncombustible structural supports on firm masonry foundation, unless otherwise indicated.

(2) Aboveground containers must be supported as follows:

(a) Horizontal containers must be mounted on saddles that permit expansion and contraction. Structural metal supports may be used when they are protected against fire. Suitable means of preventing corrosion must be provided on that portion of the container in contact with the foundations or saddles.

(b) Containers of 2,000 gallons water capacity or less may be installed with nonfireproofed ferrous metal supports if mounted on concrete pads or footings, and if the distance from the outside bottom of the container shell to the concrete pad, footing, or the ground is a maximum of 24 inches.

(3) Any container may be installed with nonfireproofed ferrous metal supports if mounted on concrete pads or footings, and if the distance from the outside bottom of the container to the ground is a maximum of 5 feet, if the container is in an isolated location.

(4) Partially buried containers must meet the following requirements:

(a) The portion of the container below the surface and for a vertical distance not less than 3 inches above the surface of the ground is protected to resist corrosion, and the container

is protected against settling and corrosion as required for fully buried containers.

(b) Partially buried containers must meet the same spacing requirements as underground tanks.

(c) Relief valve capacity must be the same as for aboveground containers.

(d) Container is protected against vehicular damage by location or other means.

(e) Partially buried containers must meet the same requirements for filling densities as for aboveground containers.

(5) Containers buried underground must be placed so that the top of the container is at least 6 inches below grade. Underground containers subject to abrasive action or physical damage must be:

(a) Placed not less than 2 feet below grade; or

(b) Otherwise protected against such physical damage.

It is not necessary to cover the portion of the container to which manhole and other connections are affixed. When necessary to prevent floating, containers must be securely anchored or weighted.

(6) Containers must be given a protective coating before being placed underground. This coating must be equivalent to hot-dip galvanizing or to two coatings of red lead followed by a heavy coating of coal tar or asphalt. In lowering the container into place, take care to prevent damage to the coating. Any damage to the coating must be repaired before backfilling.

Containers must be set on a firm foundation (firm earth may be used) and surrounded with earth or sand firmly tamped in place. Backfill should be free of rocks or other abrasive materials.

(7) Containers with foundations attached (portable or semiportable containers with suitable steel runners or skids popularly known as "skid tanks") must meet the requirements of WAC ((296-306A-410)) 296-307-410 and the following:

(a) If they are to be used at a given general location for a temporary period of 6 months at most, they may be without fire-resisting foundations or saddles but must have adequate ferrous metal supports.

(b) They must not be located with the outside bottom of the container shell more than 5 feet above the surface of the ground unless fire-resisting supports are provided.

(c) The bottom of the skids must be between 2 and 12 inches below the outside bottom of the container shell.

(d) Flanges, nozzles, valves, fittings, and the like, having communication with the interior of the container, must be protected against physical damage.

(e) When not permanently located on fire-resisting foundations, piping connections must be flexible enough to minimize breakage or leakage of connections if the container settles, moves, or is otherwise displaced.

(f) Skids, or lugs for attachment of skids, must be secured to the container according to the rules under which the container is designed and built (with a minimum factor of safety of four) to withstand loading in any direction equal to four times the weight of the container and attachments when filled to the maximum permissible loaded weight.

(8) Field welding where necessary must be made only on saddle plates or brackets that were applied by the manufacturer of the tank.

(9) For aboveground containers, secure anchorage or adequate pier height must be provided against possible container flotation wherever high floodwater might occur.

(10) When permanently installed containers are interconnected, you must allow for expansion, contraction, vibration, and settling of containers, and interconnecting piping. Where flexible connections are used, they must be approved and designed for a bursting pressure of at least five times the vapor pressure of the product at 100°F. Nonmetallic hose is prohibited for permanently interconnecting containers.

(11) Container assemblies listed for interchangeable installation aboveground or underground must meet the requirements for aboveground installations for safety-relief capacity and filling density. For installation aboveground all other requirements for aboveground installations apply. For installation underground all other requirements for underground installations apply.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42023 What other requirements apply to non-DOT containers? (1) Aboveground containers must be kept properly painted.

(2) Vaporizers for internal combustion engines must meet the requirements of WAC ((296-306A-42515)) 296-307-42515.

(3) Gas regulating and mixing equipment for internal combustion engines must meet the requirements of WAC ((296-306A-42517)) 296-307-42517.

(4) Where vaporized gas on the low-pressure side of the system may condense to a liquid at normal operating temperatures and pressures, means must be provided to revaporize condensate.

(5) You must protect LP-gas systems against damage from vehicular traffic.

(6) Avoid the use of pits when possible, except pits fitted with automatic flammable vapor detecting devices. No drains or blowoff lines must be directed into or in proximity to sewer systems used for other purposes.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42501 What does this section cover?

(1) WAC ((296-306A-425)) 296-307-425 applies to internal combustion engines, fuel containers, and pertinent equipment for the use of LP-gases as a motor fuel on easily movable, readily portable units including self-propelled vehicles. This section does not apply to containers for transportation of LP-gases nor to marine fuel use.

(2) All uses of LP-gas as a motor fuel must meet all requirements of WAC ((296-306A-410)) 296-307-410 (unless otherwise indicated) and the additional requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42503 What general requirements apply to LP-gas used as a motor fuel? (1) Fuel may be used from the cargo tank of a truck while in transit, but not from cargo tanks on trailers or semitrailers. Fuel may be used from the cargo tanks to operate stationary engines if the wheels are securely blocked.

(2) Passenger-carrying vehicles must not be fueled while passengers are on board.

(3) Industrial trucks (including lift trucks) equipped with permanently mounted fuel containers must be charged outdoors. Charging equipment must meet the requirements of WAC ((296-306A-440)) 296-307-440.

(4) LP-gas fueled industrial trucks must comply with the Standard for Type Designations, Areas of Use, Maintenance and Operation of Powered Industrial Trucks, NFPA 505-1969.

(5) Engines on vehicles must be shut down while fueling if the fueling operation involves venting to the atmosphere.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42519 What is the maximum container capacity allowed? A single fuel container used on passenger carrying vehicles must have a maximum of 200 gallons water capacity. A single fuel container on other vehicles normally operating on the highway must have a maximum of 300 gallons water capacity except as provided in WAC ((296-306A-42503)) 296-307-42503(1).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42521 What requirements apply to stationary engines used indoors? Stationary engines and gas turbines installed in buildings, including portable engines used instead of or to supplement stationary engines, must comply with the Standard for the Institution and Use of Stationary Combustion Engines and Gas Turbines, NFPA 37-1970, and the appropriate requirements of WAC ((296-306A-410)) 296-307-410 through ((296-306A-420)) 296-307-420.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-42523 What requirements apply to portable engines used indoors? (1) Portable engines may be used in buildings only for emergency use, and according to WAC ((296-306A-42521)) 296-307-42521.

(2) Exhaust gases must be discharged outside the building or to an area where they will not constitute a hazard.

(3) Provision must be made to supply sufficient air for combustion and cooling.

(4) An approved automatic shut-off valve must be provided in the fuel system ahead of the engine, designed to prevent flow of fuel to the engine when the ignition is off or if the engine should stop.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43001 What does this section cover?

WAC ((296-306A-430)) 296-307-430 applies to the storage of portable containers a maximum of 1,000 pounds water capacity, filled or partially filled, at user location but not connected for use, or in storage for resale by dealers or resellers. This section does not apply to containers stored at charging plants or at plants devoted primarily to the storage and distribution of LP-gas or other petroleum products.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43501 What does this section cover?

(1) WAC ((296-306A-435)) 296-307-435 applies to:

(a) LP-gas system installations on vehicles (self-propelled, trailers, or semitrailers) used for commercial or construction purposes;

(b) All exchangeable container systems with container capacities greater than 105 pounds water capacity (approximately 45 pounds LP-gas capacity); and

(c) Systems using containers permanently mounted on vehicles.

(2) All LP-gas installations on commercial vehicles must meet all requirements of WAC ((296-306A-410)) 296-307-410 (unless otherwise indicated) and the additional requirements of this section. When such a vehicle is permanently parked, and LP-gas is supplied from a system not mounted on and secured to the unit, WAC ((296-306A-415)) 296-307-415 and ((296-306A-420)) 296-307-420 also apply.

(3) This section does not apply to LP-gas motor fuel systems covered by WAC ((296-306A-425)) 296-307-425.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43503 How must containers be constructed? Containers must be constructed according to WAC ((296-306A-41011)) 296-307-41011, and marked according to the applicable requirements of WAC ((296-306A-41015)) 296-307-41015, and must also meet the following:

(1) Containers designed for use as portable cylinders must be constructed according to DOT specifications.

(2) All other containers whether designed for permanent mounting, or for portable or semiportable use (such as skid tanks), must be constructed as provided for by WAC ((296-306A-41009)) 296-307-41009(4) and ((296-306A-41011)) 296-307-41011(1).

(3) Nonrecessed container fittings and accessories must be protected against damage by either:

(a) Their location;

(b) The vehicle frame or bumper; or

(c) Protective housing. The housing must meet the requirements under which the tanks are fabricated with respect to design and construction and must be designed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with the liquid at a safety factor of at least four, based on the ultimate strength of the material used. The housing must have a

weather cover if necessary to ensure proper operation of valves and safety devices.

(4) Manually operated shut-off valves or self-closing internal valves must be closed except during transfer operations.

(5) Permanently installed containers must meet the following requirements:

(a) Tank motor vehicles with frames not made integral with the tank, as by welding, must have turnbuckles or similar positive devices for drawing the tank down tight on the frame. In addition, suitable stops or anchors must be attached to the frame and/or the tank to prevent relative motion between them from starting, stopping, and turning. The stops and anchors must be installed to be accessible for inspection and maintenance.

(b) Any tank motor vehicle designed and constructed so that the cargo tank constitutes the stress member used instead of a frame must be supported by external cradles enclosing at least 120 degrees of the shell circumference. The design calculations must include beam stress, shear stress, torsion stress, bending moment, and acceleration stress for the cargo tank as a whole using a factor of safety of four, based on the ultimate tensile strength of the material. Maximum concentrated stresses that might be created at pads and cradles due to shear, bending, and torsion shall also be calculated according to Appendix G of the American Society of Mechanical Engineers, Unfired Pressure Vessel Code, 1968. Fully loaded vehicles must be assumed to be operating under highway conditions equal to two "g" loading. The effects of fatigue shall be taken into consideration. Cargo tanks mounted on frames may be supported by upright supports attached to pads if these factors are taken into account.

(c) Where any tank support is attached to any part of a tank head, the stresses imposed upon the head must be provided for as required above.

(d) Tank supports, stops, anchors, and bumpers must not be welded directly to the tank but must be attached by means of pads of the same material as the tank. The pad thickness must be at least 1/4 inch, or the thickness of the shell material if less, and no greater than the shell material. Each pad must extend at least four times its thickness, in each direction, beyond the weld attaching the support, bumper, stop, or anchor. Each pad must be preformed to an inside radius no greater than the outside radius of the tank at the place of attachment. Each pad corner must be rounded to a radius at least one-fourth the width of the pad, and no greater than one-half the width of the pad. Weepholes and tell-tale holes, if used, must be drilled or punched before the pads are attached to the tank. Each pad must be attached to the tank by continuous fillet welding using filler material having properties that meet the recommendations of the maker of the shell and head material.

(6) Portable or semiportable containers must meet the applicable requirements of WAC ((296-306A-42507)) 296-307-42507(3). Containers designed for permanent installation as part of systems under WAC ((296-306A-420)) 296-307-420 are prohibited.

(a) Filling connections must have an approved automatic back pressure check valve, excess flow check valve, or quick

closing internal valve to prevent excessive escape of gas in case the filling connection is broken.

Exception: Where the filling and discharge connect on a common opening in the container shell, and the opening is fitted with a quick-closing internal valve, the automatic valve is not required.

Every inlet and outlet connection must have a manually or automatically operated shut-off valve. Liquid discharge openings, except those for engine fuel lines, on tanks built after September 1, 1965, must be fitted with a remotely controlled internal shut-off valve. Valves must meet the following requirements:

(i) The seat of the valve must be inside the tank, or in the opening nozzle or flange, or in a companion flange bolted to the nozzle or flange.

(ii) All parts of the valve inside the tank, nozzle, or companion flange must be made of material that protects against corrosion or other deterioration in the presence of the lading.

(iii) The parts must be arranged so that damage to parts exterior to the tank will not prevent effective seating of the valve.

(iv) The valve may be operated mechanically, by hydraulically, or by air, or gas pressure.

(v) The valve must have remote means of automatic closure, both mechanical and thermal, in at least two places for tanks over 3,500 gallons water capacity. These remote control stations must be located at each end of the tank and diagonally opposite. The thermal control mechanism must have a fusible element with a melting point between 220°F and 208°F. At least one remote control station must be provided for tanks of 3,500 gallons water capacity or less, and such actuating means may be mechanical.

(b) All other connections to containers, except those used for gauging devices, thermometer wells, safety-relief devices, and plugged openings, must have suitable automatic excess flow valves, or may instead be fitted with quick-closing internal valves.

The control mechanism for the internal valve must have a secondary control, remote from the fill or discharge connections (for use in the event of accidents or fire during delivery operations), and such control mechanism must have a fusible element with a melting point not over 220°F or less than 208°F.

(c) Excess flow valves must close automatically at the rated flow of vapor or liquid as specified by the valve manufacturers. The flow rating of the piping beyond the excess flow valve must be greater than that of the excess flow valve and such rating must include valves, fittings, and hose.

Exception: When branching or necessary restrictions are incorporated in a piping system so that flow ratings are less than that of the excess flow valve and the tank, then additional excess flow valves must be installed in the piping where such flow rate is reduced.

(d) Container inlets and outlets, except those used for safety-relief valves, liquid-level gauging devices, and pressure gauges, must be labeled to designate whether they communicate with vapor or liquid space when the container is filled to maximum permitted filling density. Labels may be on the valves.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43509 What requirements apply to valves and accessories? Container valves and accessories must be provided, protected and mounted as follows:

(1) Systems using DOT cylinders according to WAC ((296-306A-41511)) 296-307-41511.

(2) All other systems according to WAC ((296-306A-42005)) 296-307-42005 (2) through (8).

(3) Portable, semiportable and permanently mounted containers shall be mounted and protected as provided under WAC ((296-306A-43503)) 296-307-43503 (2), (5), and (6).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43511 What requirements apply to safety devices? (1) DOT containers must have safety-relief devices as required by DOT regulations.

(2) A final stage regulator of an LP-gas system (excluding any appliance regulator) must have, on the low-pressure side, a relief valve that is set to start to discharge within the limits specified in Table U-7.

(3) The relief valve and space above the regulator and relief valve diaphragms must be vented to the outside air and terminate at a position to minimize the possibility of vapors accumulating at sources of ignition.

(4) Whenever equipment such as a cargo heater or cooler on commercial vehicles is designed to be in operation while in transit, suitable means to stop the flow such as an excess flow valve or other device, must be installed. This device will be actuated to stop the flow in the event of the break in the fuel supply line. All excess flow valves must comply with WAC ((296-306A-41019)) 296-307-41019(3).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-43515 What requirements apply to enclosures and mounting? (1) Housing or enclosures must be designed to provide proper ventilation.

(2) Hoods, domes, or removable portions of cabinets must have means to keep them firmly in place during transit.

(3) The assembly must hold the containers firmly in position and prevent their movement during transit according to WAC ((296-306A-42507)) 296-307-42507(3).

(4) Containers must be mounted on a substantial support or base secured firmly to the vehicle chassis. Neither the container nor its support must extend below the frame.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-44001 What does this section cover? WAC ((296-306A-440)) 296-307-440 applies to storage containers, dispensing devices, and pertinent equipment in service stations where LP-gas is stored and dispensed into fuel tanks of motor vehicles. LP-gas service stations must meet all requirements of WAC ((296-306A-410)) 296-307-410 and the requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-44007 What requirements apply to safety devices? (1) All safety-relief devices must be installed as follows:

(a) On the container and directly connected with the vapor space.

(b) Safety-relief valves and discharge piping shall be protected against physical damage. The outlet must have loose-fitting rain caps. There shall be no return bends or restrictions in the discharge piping.

(c) The discharge from two or more safety-relief valves with the same pressure settings may be run into a common discharge header. The cross-sectional area of such header must be at least equal to the sum of the individual discharges.

(d) Discharge from a safety-relief device that terminates in or beneath any building is prohibited.

(2) Aboveground containers must have safety-relief valves as follows:

(a) The rate of discharge, which may be provided by one or more valves, must be at least that specified in WAC ((296-306A-41025)) 296-307-41025(2).

(b) The discharge from safety-relief valves must be vented upward to the open air to prevent impingement of escaping gas upon the container. You must use loose-fitting rain caps. On a container having a water capacity greater than 2,000 gallons, the discharge from the safety-relief valves must be vented upward away from the container to a point at least 7 feet above the container. Provisions must be made so that any liquid or condensate accumulation inside the relief valve or its discharge pipe will not render the valve inoperative. If a drain is used, you must protect the container, adjacent containers, piping, or equipment against impingement of flame resulting from ignition of the product escaping from the drain.

(3) Underground containers must have safety-relief valves as follows:

(a) The discharge from safety-relief valves must be piped upward to a point at least 10 feet above the ground. The discharge lines or pipes must be adequately supported and protected against physical damage.

(b) In areas where the manhole or housing may flood, the discharge from regulator vent lines should be above the highest probable water level.

(c) If no liquid is put into a container until after it is buried and covered, the rate of discharge of the relief valves may be reduced to at least 30 percent of the rate shown in WAC ((296-306A-41025)) 296-307-41025(2). If liquid fuel is present during installation of containers, the rate of discharge must be the same as for aboveground containers. Only empty containers may be uncovered.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45001 What general requirements apply to hazardous materials and flammable and combustible liquids? (1) Fuel and other flammable and combustible liquids must be stored, handled and marked according to

the recommendations of the National Fire Protection Association (NFPA) or other agencies with jurisdiction.

(2) You must ensure that compressed gas cylinders under your control are in a safe condition to the extent that you can determine by visual inspection. Inspections must be conducted according to the hazardous materials regulations of the Department of Transportation (49 CFR Parts 171-179 and 14 CFR Part 103).

Exception: Where those regulations are not applicable, inspections must be conducted according to the Compressed Gas Association Pamphlets C-6-1968 and C-8-1962.

(3) Compressed gas cylinders, portable tanks, and cargo tanks must have pressure relief devices installed and maintained according to Compressed Gas Association Pamphlets S-1.1-1963 and 1965 addenda and S-1.2-1963.

(4) The following equipment must be shut down during refueling:

- Tractors;
- Agricultural equipment employing open flames; and
- Equipment with integral containers, such as flame cultivators, weed burners.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45003 What requirements apply to dip tanks containing flammable or combustible liquids? Dip tanks containing flammable or combustible liquids must meet the requirements of WAC ((296-306A-450)) 296-307-450.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45009 What general requirements apply to the construction of dip tanks? (1) Dip tanks and drainboards must be constructed of substantial noncombustible material, and their supports must be of heavy metal, reinforced concrete, or masonry. Where dip tanks extend through a floor to the story below or where the weakening of the tank supports by fire may result in the tank collapse, supports should be of material with at least 1-hour fire resistance.

(2) The capacity of the salvage tank must be greater than the capacity of the dip tanks to which they are connected.

(3) All dip tanks exceeding 150 gallons liquid capacity or having a liquid surface area exceeding 4 square feet must be protected by at least one of the automatic extinguishing facilities in WAC ((296-306A-45021)) 296-307-45021 (2), (3), (4), (5) or (6).

Exception: Hardening and tempering tanks must meet the requirements of WAC ((296-306A-45023)) 296-307-45023.

(4) Dip tanks that use a conveyor system must be arranged so that, in the event of fire, the conveyor system must automatically stop and the bottom drains shall open. Conveyor systems must automatically stop unless required ventilation is in full operation.

(5) When dip tank liquids are heated by dipping heated articles or by other application of heat to the liquid, you must

prevent a temperature rise greater than 50°F below the flash-point of the liquid.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45017 What measures must an employer take to prevent hazards from electrical and other ignition sources? (1) In vapor areas, there must be no open flames, spark producing devices, or heated surfaces hot enough to ignite vapors. Electrical wiring and equipment in any vapor area must be explosion proof as required in chapter ((296-306A)) 296-307 WAC Part T for Class I locations and must meet the requirements of chapter ((296-306A)) 296-307 WAC Part T.

Exception: The requirements for electrostatic apparatus are in WAC ((296-306A-45027)) 296-307-45027.

(2) Electrical equipment is prohibited in the vicinity of dip tanks, drainboards, or drying operations that are subject to splashing or dripping of dip tank liquids, unless the equipment is approved for locations containing deposits of readily ignitable residues and explosive vapors.

Exception: Wiring in rigid conduit or in threaded boxes or fittings containing no taps, splices, or terminal connections are permitted. Other exceptions are in WAC ((296-306A-45027)) 296-307-45027.

(3) In any floor space outside a vapor area but within 20 feet and not separated by tight partitions, open flames or spark producing devices are prohibited. Electrical wiring and equipment must meet the requirements of chapter ((296-306A)) 296-307 WAC Part T.

Exception: Open flames are only allowed as specifically permitted in NFPA Standard No. 86A-1969, Ovens and Furnaces, paragraph 200-7.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45021 What requirements must fire extinguishing systems meet? (1) Dip tank areas must have portable fire extinguishers suitable for flammable and combustible liquid fires, and that meet the requirements of WAC ((296-306A-085)) 296-307-085.

(2) Automatic water spray extinguishing systems must meet the requirements of ANSI/NFPA No. 13, Sprinkler Systems, and NFPA No. 13, Sprinkler Systems Maintenance, and shall be arranged to protect tanks, drainboards, and stock over drainboards.

(3) Automatic foam extinguishing systems must meet the requirements of ANSI/NFPA No. 11, Foam Extinguishing Systems.

(a) The foam-producing material must be suitable for intended use, taking into account the characteristics of the dip tank liquid.

(b) The overflow pipe must be arranged to prevent foam from floating away and clogging the overflow pipe. You must use one of the following methods:

(i) The overflow pipe may be extended through tank wall and terminated in an ell pointing downward. The bottom of

the overflow pipe at the point it enters the tank wall should be a maximum of 2 inches above the opening or the face of the ell.

(ii) The overflow pipe inlet may have a removable screen of 1/4-inch mesh with an area at least twice the cross-sectional area of overflow pipe. Screens that may be clogged by dip tank ingredients must be inspected and cleaned periodically.

(4) Automatic carbon dioxide systems must meet the requirements of ANSI/NFPA No. 12, Carbon Dioxide, and must be arranged to protect dip tanks and drainboards. The system must be arranged to protect stock over drainboards unless the stock is otherwise protected with automatic extinguishing facilities.

(5) Dry chemical extinguishing systems must meet the requirements of ANSI/NFPA No. 17, Dry Chemical Systems, and must be arranged to protect dip tanks and drainboards. The system must be arranged to protect stock over drainboards unless the stock is otherwise protected with automatic extinguishing facilities.

(6) Dip tank covers must meet the following requirements:

(a) Covers arranged to close automatically in the event of fire must be actuated by approved automatic devices and shall also be designed for manual operation.

(b) Covers must be of substantial noncombustible material or tin-clad with enclosing metal applied with locked joints.

(c) Chains or wire rope must be used for the cover support or operating mechanism where a burnt cord would interfere with the device action.

(d) Covers must be kept closed when tanks are not in use.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45023 What requirements apply to hardening and tempering tanks? (1) Tanks must be located as far as practical from furnaces and away from combustible floors.

(2) Tanks must have a noncombustible hood and vent or other equivalent means of venting to the outside of the building that will serve as a vent in case of fire. All vent ducts must be treated as flues and be kept away from combustible roofs or materials.

(3) Tanks must be designed so that the maximum workload is incapable of raising the temperature of the cooling medium to within 50°F below its flashpoint, or tanks must have circulating cooling systems that will provide equal protection.

(4) Tanks must have a high temperature limit switch arranged to sound an alarm when the temperature of the quenching medium reaches within 50°F below the flashpoint. If practical from an operating standpoint, such limit switches must also shut down conveying equipment supplying work to the tank.

(5) All hardening and tempering tanks exceeding 500 gallons liquid capacity or having a liquid surface area exceeding 25 square feet must be protected with at least one of the

automatic extinguishing facilities conforming to WAC ((~~296-306A-45021~~) 296-307-45021) (2), (3), (4), (5) or (6).

(6) Using air under pressure to fill or to agitate oil tanks is prohibited.

(7) Bottom drains may be combined with the oil circulating system or arranged independently to drain the oil to a safe location. The drain valve must be operated automatically with approved heat actuated devices or manually. The valve of a manual device must be operated from a safe distance.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-45027 What requirements apply to electrostatic apparatus? (1) All requirements of WAC ((~~296-306A-450~~) 296-307-450) apply to electrostatic detearing equipment unless otherwise specified.

(2) Electrostatic apparatus and devices used in connection with paint detearing operations must be approved.

(3) Transformers, powerpacks, control apparatus, and all other electrical portions of the equipment must be located outside the vapor area or must meet the requirements of WAC ((~~296-306A-45017~~) 296-307-45017).

Exception: This requirement does not apply to high voltage grids and their connections.

(4) Electrodes must be substantially constructed, rigidly supported in permanent locations, and insulated from ground. Insulators must be nonporous and noncombustible.

(5) High voltage leads to electrodes must be permanently supported on suitable insulators, and guarded against accidental contact or grounding. An automatic means must be provided for grounding and discharging any accumulated residual charge on the electrode assembly or the secondary circuit of the high voltage transformer when the transformer primary is disconnected from the supply source.

(6) Maintain space between goods being deteared and electrodes or conductors of at least twice the sparking distance. A sign stating the sparking distance must be conspicuously posted near the assembly.

(7) Goods being deteared using the electrostatic process must be supported on conveyors. The conveyors must be arranged to maintain safe distances between the goods and the electrodes at all times. All goods must be supported to prevent any swinging or movement that would reduce the clearance to less than twice the sparking distance.

Exception: The electrostatic process is prohibited where goods being deteared are manipulated by hand.

(8) Electrostatic apparatus must have automatic controls that will operate immediately to disconnect the power supply to the high voltage transformer and to signal the operator under any of the following conditions:

(a) The ventilating fans stop or the ventilating equipment fails for any cause;

(b) The conveyor carrying goods past the high voltage grid stops;

(c) A ground or imminent ground at any point on the high voltage system occurs; or

(d) Clearance is reduced below twice the sparking distance.

(9) Adequate fencing, railings, or guards must be placed so that they ensure that the process is safely isolated from plant storage or employees. Such railings, fencing and guards must be of conducting material, adequately grounded, and should be at least 5 feet from processing equipment.

(10) Electrode insulators must be kept clean and dry.

(11) The detearing area must be ventilated according to WAC ((~~296-306A-45007~~) 296-307-45007).

(12) All areas for detearing must be protected by automatic sprinklers where this protection is available. Where this protection is not available, other approved automatic extinguishing equipment must be provided.

(13) Drip plates and screens subject to paint deposits must be removable and shall be taken to a safe place for cleaning.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48023 What requirements apply to fuel-gas manifolds? (1) Manifolds must be approved either separately for each component part or as an assembled unit.

(2) Fuel-gas cylinders connected to one manifold inside a building must be limited to a maximum total capacity of 300 pounds of LP-gas or 3,000 cubic feet of other fuel-gas. More than one such manifold with connected cylinders may be located in the same room if the manifolds are at least 50 feet apart or separated by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(3) Exception: Fuel-gas cylinders connected to one manifold having an aggregate capacity exceeding 300 pounds of LP-gas or 3,000 cubic feet of other fuel-gas must be located outdoors, or in a separate building or room constructed according to 252 (a)(8) and (9) CFR.

(4) Separate manifold buildings or rooms may also be used for the storage of drums of calcium carbide and cylinders containing fuel gases as provided in WAC ((~~296-306A-48007~~) 296-307-48007). Such buildings or rooms must have no open flames for heating or lighting and must be well ventilated.

(5) High-pressure fuel-gas manifolds must have approved pressure regulating devices.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48027 What requirements apply to low pressure oxygen manifolds? This section applies to cylinders with a maximum DOT service pressure of 200 psig.

(1) Manifolds must be of substantial construction suitable for use with oxygen at a pressure of 250 psig. They must have a minimum bursting pressure of 1,000 psig and must be protected by a safety-relief device that will relieve at a maximum pressure of 500 psig.

Note: DOT-4L200 cylinders have safety devices that relieve at a maximum pressure of 250 psig (or 235 psig if vacuum insulation is used).

(2) Hose and hose connections subject to cylinder pressure must meet the requirements of WAC ((~~296-306A-~~

PROPOSED

48049)) 296-307-48049. Hose must have a minimum bursting pressure of 1,000 psig.

(3) The assembled manifold including leads must be tested and proven gas-tight at a pressure of 300 psig. The fluid used for testing oxygen manifolds must be oil-free and not combustible.

(4) The location of manifolds must meet the requirements of WAC ((~~296-306A-48025~~) 296-307-48025).

(5) The following sign must be conspicuously posted at each manifold:

Low-Pressure Manifold

Do Not Connect High-Pressure Cylinders

Maximum Pressure—250 PSIG

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48029 What requirements apply to manifolding portable outlet headers? (1) Portable outlet headers must not be used indoors except for temporary service where the conditions preclude a direct supply from outlets located on the service piping system.

(2) Each outlet on the service piping from which oxygen or fuel-gas is withdrawn to supply a portable outlet header must have a readily accessible shut-off valve.

(3) Hose and hose connections used for connecting the portable outlet header to the service piping must meet the requirements of WAC ((~~296-306A-48051~~) 296-307-48051).

(4) Master shut-off valves for both oxygen and fuel-gas must be provided at the entry end of the portable outlet header.

(5) Portable outlet headers for fuel-gas service must have an approved hydraulic back-pressure valve installed at the inlet and preceding the service outlets, unless an approved pressure-reducing regulator, an approved backflow check valve, or an approved hydraulic back-pressure valve is installed at each outlet. Outlets provided on headers for oxygen service may be fitted for use with pressure-reducing regulators or for direct hose connection.

(6) Each service outlet on portable outlet headers must have a valve assembly that includes a detachable outlet seal cap, chained or otherwise attached to the body of the valve.

(7) Materials and fabrication procedures for portable outlet headers must comply with WAC ((~~296-306A-48033, 296-306A-48035, and 296-306A-48041~~) 296-307-48033, 296-307-48035, and 296-307-48041).

(8) Portable outlet headers must have frames that will support the equipment securely in the correct operating position and protect them from damage during handling and operation.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48031 What operating procedures apply to cylinder manifolds? (1) Cylinder manifolds must be installed under the supervision of someone familiar with the proper practices of construction and use.

(2) All component parts used in the methods of manifolding described in WAC ((~~296-306A-48023~~) 296-307-

48023 must have the materials, design and construction approved either separately or as an assembled unit.

(3) All manifolds and parts used in methods of manifolding must be used only for the gas or gases for which they are approved.

(4) When acetylene cylinders are coupled, approved flash arresters must be installed between each cylinder and the coupler block. For outdoor use only, and when the number of cylinders coupled does not exceed three, one flash arrester installed between the coupler block and regulator is acceptable.

(5) Each fuel-gas cylinder lead should have a backflow check valve.

(6) The maximum aggregate capacity of fuel-gas cylinders connected to a portable manifold inside a building must be 3,000 cubic feet of gas.

(7) Acetylene and liquefied fuel-gas cylinders must be manifolded vertically.

(8) The pressure in the gas cylinders connected to and discharged simultaneously through a common manifold must be approximately equal.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48033 How must service piping systems be designed? (1) Piping and fittings must comply with Section 2, Industrial Gas and Air Piping Systems, of the American National Standard Code for Pressure Piping, ANSI B 31.1-1967, if they do not conflict with subsections (2) and (3) of this section.

(2) Pipe must be at least Schedule 40 and fittings must be at least standard weight in sizes up to and including 6-inch nominal.

(3) Copper tubing must be Types K or L according to the Standard Specification for Seamless Copper Water Tube, ASTM B88-66a.

(4) Piping must be steel, wrought iron, brass or copper pipe, or seamless copper, brass or stainless steel tubing, except as provided in subsections (5) through (9) of this section.

(5) Oxygen piping and fittings at pressures in excess of 700 psig, must be stainless steel or copper alloys.

(6) Hose connections and hose complying with WAC ((~~296-306A-48051~~) 296-307-48051) may be used to connect the outlet of a manifold pressure regulator to piping if the working pressure of the piping is 250 psig or less and the length of the hose is a maximum of 5 feet. Hose must have a minimum bursting pressure of 1,000 psig.

(7) When oxygen is supplied to a service piping system from a low-pressure oxygen manifold without an intervening pressure regulating device, the piping system must have a minimum design pressure of 250 psig. A pressure regulating device must be used at each station outlet when the connected equipment is for use at pressures less than 250 psig.

(8) Piping for acetylene or acetylenic compounds must be steel or wrought iron.

(9) Unalloyed copper must only be used for acetylene or acetylenic compounds in listed equipment.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48501 What general requirements apply to resistance welding equipment? (1) All equipment must be installed by a qualified electrician according to the requirements of chapter ((296-306A)) 296-307 WAC Part T. There must be a safety-type disconnecting switch or a circuit breaker or circuit interrupter to open each power circuit to the machine, conveniently located at or near the machine, so that the power can be shut off when the machine or its controls are to be serviced.

(2) Ignitron tubes used in resistance welding equipment must have a thermal protection switch.

(3) Employees designated to operate resistance welding equipment must have been properly instructed and judged competent to operate such equipment.

(4) Controls of all automatic or air and hydraulic clamps must be arranged or guarded to prevent the operator from accidentally activating them.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-48505 What requirements apply to flash welding equipment? (1) Flash welding machines must have a hood to control flying flash. In cases of high production, where materials may contain a film of oil and where toxic elements and metal fumes are given off, ventilation must be provided according to WAC ((296-306A-50009)) 296-307-50009 through ((296-306A-50029)) 296-307-50029.

(2) For the protection of the operators of nearby equipment, fire-resistant curtains or suitable shields must be set up around the machine and in such a manner that the operator's movements are not hampered.

(3) If the welding process cannot be isolated, anyone who may be exposed to the hazard of arc flash must be properly protected.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49005 How must arc welding equipment be designed? (1) A controller integrally mounted in an electric motor driven welder must be able to carry the rated motor current, must be able to make and interrupt stalled rotor current of the motor, and may serve as the running over-current device if provided with the number of over-current units as specified by chapter ((296-306A)) 296-307 WAC Part T. Starters with magnetic undervoltage release should be used with machines installed more than one to a circuit to prevent circuit overload caused by simultaneously starting several motors upon return of voltage.

(2) On all types of arc welding machines, control apparatus must be enclosed except for the operating wheels, levers, or handles.

Note: Control handles and wheels should be large enough to be easily grasped by a gloved hand.

(3) Input power terminals, tap change devices, and live metal parts connected to input circuits must be completely enclosed and accessible only by tools.

(4) Terminals for welding leads should be protected from accidental electrical contact by employees or by metal objects i.e., vehicles, crane hooks, etc. You may provide protection with:

- Dead-front receptacles for plug connections;
- Recessed openings with nonremovable hinged covers;
- Heavy insulating sleeving or taping; or
- Other equivalent electrical and mechanical protection.

If a welding lead terminal that is intended to be used exclusively for connection to the work is connected to the grounded enclosure, it must be done by a conductor at least two AWG sizes smaller than the grounding conductor and the terminal must be marked to indicate that it is grounded.

(5) No connections for portable control devices (such as push buttons to be carried by the operator) must be connected to an a.c. circuit of higher than 120 volts. Exposed metal parts of portable control devices operating on circuits above 50 volts must be grounded by a grounding conductor in the control cable.

(6) Auto transformers or a.c. reactors must not be used to draw welding current directly from any a.c. power source having a voltage exceeding 80 volts.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49007 How must arc welding equipment be installed? Arc welding equipment, including the power supply, must be installed according to the requirements of chapter ((296-306A)) 296-307 WAC Part T.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49009 How must arc welding equipment be grounded? (1) The frame or case of the welding machine (except engine-driven machines) must be grounded according to the requirements of chapter ((296-306A)) 296-307 WAC Part T.

(2) Conduits containing electrical conductors must not be used for completing a work-lead circuit. Pipelines must not be used as a permanent part of a work-lead circuit, but may be used during construction, extension or repair if current is not carried through threaded joints, flanged bolted joints, or caulked joints and special precautions are used to avoid sparking at connection of the work-lead cable.

(3) Using chains, wire ropes, cranes, hoists, and elevators to carry welding current is prohibited.

(4) Where a structure, conveyor, or fixture is regularly used as a welding current return circuit, joints must be bonded or provided with adequate current collecting devices and appropriate periodic inspection should be conducted to ensure that no electrocution, shock, or fire hazard exists.

(5) All ground connections must be checked to determine that they are mechanically strong and electrically adequate for the required current.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49011 What requirements apply to supply connections and conductors? (1) A disconnecting switch or controller must be provided at or near each welding machine without a switch or controller mounted as an integral part of the machine. The switch must meet the requirements of chapter ((~~296-306A~~) 296-307) WAC Part T. Overcurrent protection must be provided as specified in chapter ((~~296-306A~~) 296-307) WAC Part T. A disconnect switch with overload protection or equivalent disconnect and protection means, permitted by chapter ((~~296-306A~~) 296-307) WAC Part T must be provided for each outlet intended for connection to a portable welding machine.

(2) For individual welding machines, the rated current-carrying capacity of the supply conductors must be at least that of the rated primary current of the welding machines.

(3) For groups of welding machines, the rated current-carrying capacity of conductors may be less than the sum of the rated primary currents of the welding machines supplied. The conductor rating must be determined according to the machine loading based on the use to be made of each welding machine and the allowance permissible in the event that all the welding machines supplied by the conductors will not be in use at the same time.

(4) In operations involving several welders on one structure, d.c. welding process requirements may require the use of both polarities; or supply circuit limitations for a.c. welding may require distribution of machines among the phases of the supply circuit. In such cases, no load voltages between electrode holders will be two times normal in d.c. or 1, 1.4, 1.73, or 2 times normal on a.c. machines. Similar voltage differences will exist if both a.c. and d.c. welding are done on the same structure.

(a) All d.c. machines must be connected with the same polarity.

(b) All a.c. machines must be connected to the same phase of the supply circuit and with the same instantaneous polarity.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49013 How must arc welding equipment be operated? (1) Employees assigned to operate or maintain arc welding equipment must be acquainted with the requirements of WAC ((~~296-306A-490, 296-306A-495, and 296-306A-500~~) 296-307-490, 296-307-495, and 296-307-500; if doing gas-shielded arc welding, also Recommended Safe Practices for Gas-Shielded Arc Welding, A6.1-1966, American Welding Society.

(2) Before starting operations, all connections to the machine must be checked to make certain they are properly made. The work lead must be firmly attached to the work; magnetic work clamps shall be freed from adherent metal particles of spatter on contact surfaces. Coiled welding cable must be spread out before use to avoid serious overheating and damage to insulation.

(3) You must ensure that the welding machine frame grounding is checked with special attention given to safety ground connections of portable machines.

(4) Cylinders must be kept away from radiators, piping systems, layout tables, etc., that may be used for grounding electric circuits. Any practice such as the tapping of an electrode against a cylinder to strike an arc is prohibited.

(5) There must be no leaks of cooling water, shielding gas or engine fuel.

(6) You must ensure that the machine has proper switching equipment for shutting down.

(7) Printed rules and instructions covering operation of equipment supplied by the manufacturers must be strictly followed.

(8) Electrode holders when not in use must be placed so that they cannot make electrical contact with persons, conducting objects, fuel or compressed gas tanks.

(9) Cables with splices within 10 feet of the holder are prohibited. The welder should not coil or loop welding electrode cable around parts of the body.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49501 What basic fire prevention precautions must be taken? For more information on these basic precautions and the special precautions of WAC ((~~296-306A-49503~~) 296-307-49503, including fire protection and prevention responsibilities of welders, cutters, their supervisors (including outside contractors), and management, see the Standard for Fire Prevention in Use of Cutting and Welding Processes, NFPA Standard 51B, 1962.

The basic precautions for fire prevention in welding or cutting work are:

(1) If the object to be welded or cut cannot readily be moved, all movable fire hazards in the vicinity must be taken to a safe place.

(2) If the object to be welded or cut cannot be moved and if all the fire hazards cannot be removed, then guards must be used to confine the heat, sparks, and slag, and to protect the fire hazards.

(3) If the requirements of this section cannot be met, then welding and cutting are prohibited.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-49503 What special fire prevention precautions must be taken? When the nature of the work to be performed falls within the scope of WAC ((~~296-306A-49501~~) 296-307-49501(2), certain additional precautions may be necessary:

(1) Wherever there are floor openings or cracks in the flooring that cannot be closed, precautions must be taken so that no readily combustible materials on the floor below will be exposed to sparks that drop through. The same precautions must be observed with regard to cracks or holes in walls, open doorways, and open or broken windows.

(2) Suitable fire extinguishing equipment must be maintained in a state of readiness for instant use. Such equipment

may consist of pails of water, buckets of sand, hose, or portable extinguishers depending upon the nature and quantity of the combustible material exposed.

(3) The following requirements apply to fire watch:

(a) Fire watchers are required whenever welding or cutting is performed in locations where other than a minor fire might develop, or any of the following conditions exist:

(i) Appreciable combustible material, in building construction or contents, closer than 35 feet to the point of operation.

(ii) Appreciable combustibles are more than 35 feet away but are easily ignited by sparks.

(iii) Wall or floor openings within a 35-foot radius expose combustible material in adjacent areas including concealed spaces in walls or floors.

(iv) Combustible materials are adjacent to the opposite side of metal partitions, walls, ceilings, or roofs and are likely to be ignited by conduction or radiation.

(b) Fire watchers must have fire extinguishing equipment readily available and be trained in its use. They must be familiar with facilities for sounding an alarm in the event of a fire. They must watch for fires in all exposed areas, try to extinguish them only when obviously within the capacity of the equipment available, or otherwise sound the alarm. A fire watch must be maintained for at least a half hour after completion of welding or cutting operations to detect and extinguish possible smoldering fires.

(4) Before cutting or welding is permitted, the area must be inspected by the individual responsible for authorizing cutting and welding operations. The responsible individual must designate precautions to be followed in granting authorization to proceed, preferably in the form of a written permit.

(5) Where combustible materials such as paper clipplings, wood shavings, or textile fibers are on the floor, the floor must be swept clean for a radius of 35 feet. Combustible floors must be kept wet, covered with damp sand, or protected by fire-resistant shields. Where floors have been wet down, employees operating arc welding or cutting equipment must be protected from possible shock.

(6) Cutting and welding are prohibited in the following situations:

(a) In areas not authorized by management.

(b) In sprinklered buildings while such protection is impaired.

(c) In the presence of explosive atmospheres (mixtures of flammable gases, vapors, liquids, or dusts with air), or where explosive atmospheres may develop inside uncleared or improperly prepared tanks or equipment that have previously contained such materials, or that may develop in areas with an accumulation of combustible dusts.

(d) In areas near the storage of large quantities of exposed, readily ignitable materials such as bulk sulphur, baled paper, or cotton.

(7) Where practical, all combustibles must be relocated at least 35 feet from the worksite. Where relocation is impractical, combustibles must be protected with flame-proofed covers or otherwise shielded with metal or asbestos guards or curtains. Edges of covers at the floor should be tight to prevent sparks from going under them. This precaution is

also important at overlaps where several covers are used to protect a large pile.

(8) Ducts and conveyor systems that might carry sparks to distant combustibles must be suitably protected or shut down.

(9) Where cutting or welding is done near walls, partitions, ceiling, or roof of combustible construction, fire-resistant shields or guards must be provided to prevent ignition.

(10) If welding is to be done on a metal wall, partition, ceiling, or roof, precautions must be taken to prevent ignition of combustibles on the other side, due to conduction or radiation, preferably by relocating combustibles. Where combustibles are not relocated, a fire watch on the opposite side from the work must be provided.

(11) Welding must not be attempted on a metal partition, wall, ceiling, or roof having a combustible covering nor on walls or partitions of combustible sandwich-type panel construction.

(12) Cutting or welding on pipes or other metal in contact with combustible walls, partitions, ceilings or roofs must not be undertaken if the work is close enough to cause ignition by conduction.

(13) You are responsible for the safe use of cutting and welding equipment on your property and:

(a) Based on fire potentials of plant facilities, you must establish areas and procedures for cutting and welding;

(b) You must designate an individual responsible for authorizing cutting and welding operations in areas not specifically designed for such processes;

(c) You must insist that cutters or welders and their supervisors are suitably trained in the safe operation of their equipment and the safe use of the process; and

(d) You must advise all contractors about flammable materials or hazardous conditions of which they may not be aware.

(14) The supervisor must:

(a) Ensure that cutting and welding equipment is handled and used safely.

(b) Determine the combustible materials and hazardous areas present or likely to be present in the work location.

(c) Protect combustibles from ignition by the following:

(i) Have the work moved to a location free from dangerous combustibles;

(ii) If the work cannot be moved, have the combustibles moved to a safe distance from the work or have the combustibles properly shielded against ignition; and

(iii) See that cutting and welding are so scheduled that plant operations that might expose combustibles to ignition are not started during cutting or welding.

(d) Secure authorization for the cutting or welding operations from the designated management representative.

(e) Determine that the cutter or welder secures their approval that conditions are safe before going ahead;

(f) Determine that fire protection and extinguishing equipment are properly located at the site; and

(g) Ensure fire watches are available at the site when required.

(15) Cutting or welding is permitted only in areas that are or have been made fire safe. Within the confines of an operating plant or building, cutting and welding should pref-

erably be done in a specific area designed for such work, such as a maintenance shop or a detached outside location. Such areas should be of noncombustible or fire-resistive construction, essentially free of combustible and flammable contents, and suitably segregated from adjacent areas. When work cannot be moved practically, as in most construction work, the area must be made safe by removing combustibles or protecting combustibles from ignition sources.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50005 What protective clothing must welders wear? (1) Employees exposed to the hazards created by welding, cutting, or brazing operations must be protected by personal protective equipment according to the requirements of chapter ((296-306A)) 296-307 WAC Part H. Appropriate protective clothing required for any welding operation will vary with the size, nature and location of the work to be performed.

(2) The following suggestions may be helpful when choosing protective clothing:

(a) Except when engaged in light work, all welders should wear flameproof gauntlet gloves.

(b) Flameproof aprons made of leather, asbestos, or other suitable material may help to protect against radiated heat and sparks.

(c) Woolen clothing is better than cotton because it is less easily ignited and helps to protect the welder from changes in temperature. Cotton clothing, if used, should be chemically treated to reduce its combustibility. All outer clothing such as jumpers or overalls should be reasonably free from oil or grease.

(d) Sparks may lodge in rolled-up sleeves, pockets, or cuffs. Therefore sleeves and collars should be buttoned, and clothing should have no front pockets. Trousers or overalls should be uncuffed.

(e) For heavy work, fire-resistant leggings, high boots, or other equivalent means should be used.

(f) In production work a sheet metal screen in front of the employee's legs can provide further protection against sparks and molten metal in cutting operations.

(g) Capes or shoulder covers made of leather or other suitable materials should be worn during overhead welding or cutting operations. Leather skull caps may be worn under helmets to prevent head burns.

(h) For welding and cutting overhead or in extremely confined spaces, ear protection is sometimes desirable.

(i) Where there is exposure to sharp or heavy falling objects, or a hazard of bumping in confined spaces, hard hats or head protectors must be used.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50009 What employee protection must be provided in confined spaces? "Confined space" means a relatively small or restricted space such as a tank, boiler, pressure vessel, or small compartment of a ship.

(1) Confined spaces must be ventilated. For ventilation requirements see WAC ((296-306A-50011)) 296-307-50011 through ((296-306A-50029)) 296-307-50029.

(2) When welding or cutting in a confined space, the gas cylinders and welding machines must be left outside. Before operations are started, heavy portable equipment mounted on wheels must be securely blocked to prevent accidental movement.

(3) Where a welder must enter a confined space through a manhole or other small opening, means must be provided for quickly removing the welder in case of emergency. When safety belts and lifelines are used, they must be attached so that the welder's body cannot be jammed in a small exit opening. An attendant with a preplanned rescue procedure must be stationed outside to observe the welder at all times and be able to put rescue operations into effect.

(4) After welding operations are completed, the welder must mark the hot metal or provide some other means of warning other employees.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50011 What general requirements apply to welding ventilation? (1) The following three factors in arc and gas welding must be considered when determining the amount of contamination to which welders may be exposed:

(a) Dimensions of space in which welding is to be done (especially ceiling height);

(b) Number of welders; and

(c) The possibility of hazardous fumes, gases, or dust according to the metals involved.

(2) Other factors involved may require ventilation or respiratory protective devices as needed to meet the requirements of this section. Such factors include:

(a) Atmospheric conditions;

(b) Heat generated; and

(c) Presence of volatile solvents.

(3) When welding must be performed in a space entirely screened on all sides, the screens must be arranged so that no serious restriction of ventilation exists. The screens should be mounted so that they are about 2 feet above the floor unless the work is performed at so low a level that the screen must be extended nearer to the floor to protect nearby employees from the glare of welding.

(4) Local exhaust or general ventilating systems must be provided and arranged to keep the amount of toxic fumes, gases, or dusts below the maximum allowable in chapter 296-62 WAC.

Note: A number of potentially hazardous materials are employed in fluxes, coatings, coverings, and filler metals used in welding and cutting or are released to the atmosphere during welding and cutting. These include but are not limited to the materials itemized in WAC ((296-306A-50019)) 296-307-50019 through ((296-306A-50029)) 296-307-50029.

(5) You must determine which potentially hazardous materials are associated with welding and cutting and inform employees through signs, labels or other appropriate means.

(a) Welding may produce fumes and gases hazardous to health. Avoid breathing these fumes and gases. Use adequate ventilation. See ANSI Z 49.1-1967, Safety in Welding and Cutting, published by the American Welding Society.

(b) Brazing (welding) filler metals containing cadmium in significant amounts must carry the following notice on tags, boxes, or other containers:

WARNING

CONTAINS CADMIUM—POISONOUS FUMES MAY BE FORMED ON HEATING

- Do not breathe fumes. Use only with adequate ventilation such as fume collectors, exhaust ventilators, or air-supplied respirators. See ANSI Z 49.1-1967.

- If chest pain, cough, or fever develops after use call physician immediately.

- Keep children away when using.

(c) Brazing and gas welding fluxes containing fluorine compounds must have a cautionary wording to indicate that they contain fluorine compounds. The American Welding Society recommends the following for brazing and gas welding fluxes:

CAUTION

CONTAINS FLUORIDES

This flux when heated gives off fumes that may irritate eyes, nose and throat.

- Avoid fumes. Use only in well-ventilated spaces.
- Avoid contact of flux with eyes or skin.
- Do not take internally.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50013 What ventilation must be provided for general welding and cutting? (1) Mechanical ventilation must be provided when welding or cutting is done on metals not covered in WAC ((296-306A-50019)) 296-307-50019 through ((296-306A-50029)) 296-307-50029 in the following locations:

- (a) In a space of less than 10,000 cubic feet per welder.
- (b) In a room with a ceiling height of less than 16 feet.

(c) In confined spaces or where the welding space contains partitions, balconies, or other structural barriers to the extent that they significantly obstruct cross-ventilation.

(2) Ventilation must be at the minimum rate of 2,000 cubic feet per minute per welder.

Exception:

This requirement does not apply where local exhaust hoods and booths that meet the requirements of WAC ((296-306A-50015)) 296-307-50015, or airline respirators approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes are provided. Natural ventilation is considered sufficient for welding or cutting operations where the restrictions in subsection (1) of this section are not present.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50019 What requirements apply to welding fluorine compounds? In confined spaces, welding or cutting involving fluxes, coverings, or other materials that contain fluorine compounds must be done according to WAC ((296-306A-50017)) 296-307-50017.

"Fluorine compound" means a compound that contains fluorine as an element in chemical combination, not as a free gas.

Note:

The need for local exhaust ventilation or airline respirators for welding or cutting in other than confined spaces will depend on the circumstances. However, such protection is desirable for fixed-location production welding and for all production welding on stainless steels. Where air samples taken at the welding location indicate that the fluorides liberated are below the maximum allowable concentration, such protection is not necessary.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50021 What requirements apply to welding zinc? (1) In confined spaces welding or cutting involving zinc-bearing base or filler metals or metals coated with zinc-bearing materials must be done according to WAC ((296-306A-50017)) 296-307-50017.

(2) Indoors, welding or cutting involving zinc-bearing base or filler metals coated with zinc-bearing materials must be done according to WAC ((296-306A-50015)) 296-307-50015.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50023 What requirements apply to welding lead? (1) In confined spaces, welding involving lead-base metals (erroneously called lead-burning) must be done according to WAC ((296-306A-50017)) 296-307-50017.

(2) Indoors, welding involving lead-base metals must be done according to WAC ((296-306A-50015)) 296-307-50015.

(3) In confined spaces or indoors, welding or cutting involving metals containing lead, other than as an impurity, or involving metals coated with lead-bearing materials, including paint, must be done using local exhaust ventilation or airline respirators. Outdoors, such operations must be done using respiratory protective equipment approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes. In all cases, employees in the immediate vicinity of the cutting operation must be protected as necessary by local exhaust ventilation or airline respirators.

Note: See chapter 296-62 WAC for additional requirements on lead.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-50027 What requirements apply to welding cadmium? (1) Welding or cutting indoors or in confined spaces involving cadmium-bearing or cadmium-coated base metals must be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions have established that employee exposure is within the acceptable concentrations defined by chapter 296-62 WAC. Outdoors, such operations must be done using respiratory protective equipment such as fume respirators approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes.

(2) Welding (brazing) involving cadmium-bearing filler metals must be done using ventilation as prescribed in WAC ((296-306A-50015)) 296-307-50015 or ((296-306A-50017)) 296-307-50017 if the work is to be done in a confined space.

Note: See chapter 296-62 WAC for additional requirements on cadmium.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52001 What does this section cover? WAC ((296-306A-520)) 296-307-520 applies to all powered industrial trucks used in agricultural operations.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52003 What is a "powered industrial truck"? "Powered industrial truck" (or "truck") means a fork truck, industrial tractor, platform lift truck, motorized hand truck, or other specialized industrial trucks, powered by electric motors or internal combustion engines. The definition does not include compressed gas-operated industrial trucks((, farm vehicles,)) or vehicles intended primarily for earth moving or over-the-road hauling.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52005 What manufacturer's requirements apply to powered industrial trucks? (1) All powered industrial trucks must meet the design and construction requirements for powered industrial trucks established in the ANSI B56.1-1969, "Powered Industrial Trucks."

(2) Approved trucks must have a label indicating approval by the testing laboratory as meeting the specifications and requirements of ANSI B56.1-1969.

(3) Modifications or additions must only be performed with the manufacturer's prior written approval. When modifications or additions are made, capacity, operation, and maintenance instruction plates, tags, or decals must be changed accordingly.

(4) If the truck is equipped with front-end attachments other than factory installed attachments, it ((shall)) must be marked to identify the attachments and show the approximate

weight of the truck and attachment combination at maximum elevation with the load centered from side to side.

(5) The user must ensure that all nameplates and markings are in place and legible.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52009 What must a user consider before choosing a powered industrial truck? Before choosing the industrial truck to use, the user must determine whether the atmosphere or location is hazardous or nonhazardous. The type of industrial truck ((shall)) must be chosen according to the requirements of WAC ((296-306A-52011)) 296-307-52011.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52011 What requirements determine which trucks to use in specific hazardous environments? Following are the minimum truck types required in specific hazardous environments. You may choose to use industrial trucks having greater safeguards.

(1) Powered industrial trucks are prohibited in atmospheres with a hazardous concentration of acetylene, butadiene, ethylene oxide, hydrogen (or gases or vapors equivalent in hazard to hydrogen, such as manufactured gas), propylene oxide, acetaldehyde, cyclopropane, diethyl ether, ethylene, isoprene, or unsymmetrical dimethyl hydrazine (UDMH).

(a) Approved EX trucks must be used in atmospheres containing hazardous concentrations of metal dust, including aluminum, magnesium, and their commercial alloys; other metals of similarly hazardous characteristics; or in atmospheres containing carbon black, coal, or coke dust.

(b) In atmospheres where dust of magnesium, aluminum or aluminum bronze may be present, fuses, switches, motor controllers, and circuit breakers of trucks must have enclosures specifically approved for such locations.

(2) Approved EX trucks must be used in atmospheres containing acetone, acrylonitrile, alcohol, ammonia, benzine, bensol, butane, ethylene dichloride, gasoline, hexane, lacquer solvent vapors, naphtha, natural gas, propane, propylene, styrene, vinyl acetate, vinyl chloride, or xylenes in quantities sufficient to produce explosive or ignitable mixtures.

(3) Approved DY, EE, or EX trucks must be used in locations where volatile flammable liquids or flammable gases are handled, processed or used, if the hazardous liquids, vapors or gases are normally confined within closed containers or closed systems from which they can escape only in case of accidental rupture or breakdown, or in case of abnormal equipment operation.

Approved DY, EE, or EX trucks may also be used in locations in which hazardous concentrations of gases or vapors are normally prevented by mechanical ventilation but that might become hazardous through failure or abnormal operation of the ventilating equipment.

(4) Approved DS, ES, GS, or LPS trucks must be used in locations used for the storage of hazardous liquids in sealed containers or liquefied or compressed gases in containers.

This classification includes locations where volatile flammable liquids or flammable gases or vapors are used but are hazardous only in case of an accident or an unusual operation condition.

The quantity of hazardous material that might escape in case of accident, the adequacy of ventilating equipment, the total area involved, and the business's history of explosions or fires are all factors that should be considered in determining which truck has sufficient safeguards for the location.

(a) Approved EX trucks must be used in atmospheres in which combustible dust is or may be suspended in quantities sufficient to produce explosive or ignitable mixtures, or where mechanical failure or abnormal operation of machinery or equipment might cause such mixtures to be produced.

(b) The EX classification usually includes the working areas of: Grain handling and storage plants, rooms containing grinders or pulverizers, cleaners, graders, scalpers, open conveyors or spouts, open bins or hoppers, mixers or blenders, automatic or hopper scales, packing machinery, elevator heads and boots, stock distributors, dust and stock collectors (except all-metal collectors vented to the outside), and all similar dust producing machinery and equipment in grain processing plants, starch plants, sugar pulverizing plants, malting plants, hay grinding plants, and other similar locations; and areas where combustible dust may, under normal operating conditions, be present in the air in quantities sufficient to produce explosive or ignitable mixtures.

(5) Approved DY, EE, or EX trucks must be used in atmospheres in which deposits or accumulations of combustible dust may be ignited by arcs or sparks from the truck, if combustible dust will not normally be suspended or thrown into suspension by the normal operation of equipment or apparatus in quantities sufficient to produce explosive or ignitable mixtures.

(6) Approved DY, EE, or EX trucks must be used in locations with easily ignitable fibers or flyings if the fibers or flyings are not likely to be suspended in quantities sufficient to produce ignitable mixtures.

(7) Approved DS, DY, ES, EE, EX, GS, or LPS trucks must be used in locations, including outside storage, where easily ignitable fibers are stored or handled, but are not processed or manufactured. E trucks that have been previously used in these locations may continue to be used.

(8) If storage warehouses and outside storage locations are hazardous, the specified approved truck must be used. If not classified as hazardous, any approved D, E, G, or LP truck may be used, or trucks meeting the requirements for these types may be used.

The Uses of Industrial Trucks in Hazardous Locations Unclassified & Class I

Classes	Unclassified	Class I locations			
Description of classes	Locations not possessing atmospheres as described in other columns	Locations in which flammable gases or vapors are, or may be, present in the air in quantities sufficient to produce explosive or ignitable mixtures			
Groups in classes	None	A	B	C	D
Examples of locations or atmospheres in classes and groups	Piers and wharves, inside and outside general storage, general industrial or commercial properties	Acetylene	Hydrogen	Ethyl ether	Gasoline Naphtha Alcohols Acetone Lacquer solvent Benzene
		1		2	
Divisions (nature of hazardous conditions)	None	Above condition exists continuously, intermittently, or periodically under normal operating conditions	Above condition may occur accidentally due to a puncture of a storage drum		

Class II & III

Classes	Class II location			Class III locations
Description of classes	Locations that are hazardous because of the presence of combustible dust			Locations where easily ignitable fibers or flyings are present but not likely to be in suspension in quantities sufficient to produce ignitable mixtures
Groups in classes	E	F	G	None
Examples of locations or atmospheres in classes and groups	Metal dust Coal dust Coke dust	Carbon black Starch dust Organic dust	Grain dust Flour dust	Baled waste, cocoa fiber, cotton, excelsior, hemp, istle, jute, kapok, oakum, sisal, Spanish moss, synthetic fibers, tow.
	1	2	1	2
Divisions (nature of hazardous conditions)	Explosive mixture may be present under normal operating conditions, or where failure of equipment may cause the condition to exist simultaneously with arcing or sparking of electrical equipment, or where dusts of an electrically conducting nature may be present	Explosive mixture not normally present, but where deposits of dust may cause heat rise in electrical equipment, or where such deposits may be ignited by arcs or sparks from electrical equipment	Locations in which easily ignitable fibers or materials producing combustible flyings are handled, manufactured, or used	Locations in which easily ignitable fibers are stored or handled (except in the process of manufacture)

Groups in classes—None, A, B, C, and D

Groups in classes	None	A	B	C	D	A	B	C	D
Types of trucks authorized:									
Diesel:									
Type D		D*							
Type DS									DS
Type DY									DY
Electric:									
Type E		E*							
Type ES									ES
Type EE									EE
Type EX									EX
Gasoline:					EX				
Type G	G*								
Type GS									GS
LP-Gas:									
Type LP	LP*								LPS
Type LPS									

*These types of trucks may also be used.

Groups in class—E, F, G, and None

Groups in classes	E	F	G	E	F	G	None	None
Types of trucks authorized:								
Diesel:								
Type D						DS		DS
Type DS						DY	DY	DY
Type DY								
Electric:								
Type E						ES		E
Type ES						EE		ES
Type EE						EX		EE
Type EX						EX		EX
Gasoline:		EX		EX				
Type G							GS	
Type GS								GS
LP-Gas:							LPS	
Type LP								LPS
Type LPS								

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52013 In what environments may converted trucks be used? When powered industrial trucks that were originally approved to use gasoline are converted to use LP-gas according to WAC ((~~296-306A-52047~~) 296-307-52047(12), they may be used in locations where G, GS or LP, and LPS trucks are specified.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52015 What requirements apply to overhead safety guards? (1) High-lift rider trucks must be fitted with an overhead guard manufactured according to WAC ((~~296-306A-52005~~) 296-307-52005(1), unless operating conditions do not permit.

(2) An overhead guard must be used as protection against falling objects.

Note: An overhead guard is intended to offer protection from the impact of small packages, boxes, bagged material, and other objects involved in the job, but not to withstand the impact of a falling capacity load.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52017 What requirements apply to load backrests? (1) A load backrest extension must be used whenever necessary to minimize the possibility of the load or part of it from falling rearward.

(2) If the type of load presents a hazard, the user must equip fork trucks with a vertical load backrest extension manufactured according to WAC ((~~296-306A-52005~~) 296-307-52005(1).

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-52047 What requirements apply to maintaining powered industrial trucks? (1) Powered industrial trucks must be removed from service when not in safe operating condition. All repairs must be made by an authorized employee.

(2) No repairs may be made in Class I, II, and III locations.

(3) When repairs to fuel and ignition systems of industrial trucks involve fire hazards, the repairs must be conducted only in designated locations.

(4) Trucks in need of repairs to the electrical system must have the battery disconnected prior to repair.

(5) Industrial truck parts must be replaced only by parts of equivalent safety.

(6) Industrial trucks must not be altered so that the relative positions of parts are different from when they were manufactured. Industrial trucks must not have parts added or eliminated, except as provided in WAC ((~~296-306A-52005~~) 296-307-52005). Fork trucks must not have additional counterweighting added unless approved by the truck manufacturer.

(7) Industrial trucks must be examined at least daily before being placed in service. Industrial trucks must not be placed in service if the examination shows any unsafe condition.

Where industrial trucks are used on a round-the-clock basis, they shall be examined after each shift. Defects must be immediately reported and corrected.

(8) Water mufflers must be filled daily or as frequently as necessary to prevent the water supply from dropping below 75 percent. Vehicles must not be operated if muffler screens or other parts are clogged. Any vehicle that emits hazardous sparks or flames from the exhaust system must immediately be removed from service until the emission of such sparks and flames has been eliminated.

(9) When the temperature of any part of any truck exceeds its normal operating temperature, the vehicle must be removed from service until the cause for overheating has been eliminated.

(10) Industrial trucks must be kept clean and free of excess accumulations of combustible materials, oil, and grease. Noncombustible agents should be used for cleaning trucks. Low flash point (below 100°F) solvents must not be used. High flash point (at or above 100°F) solvents may be used. Take precautions regarding toxicity, ventilation, and fire hazard according to the agent or solvent used.

(11) Glycol base antifreeze must be used in the engine cooling system.

(12) Industrial trucks originally approved to use gasoline fuel may be converted to use LP-gas fuel if the converted truck has the features specified for LP or LPS designated trucks. The converted equipment must be approved. You may find a description of the conversion system and the recommended method of installation in the "listed by report" of a nationally recognized testing laboratory.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-53001 What does this section cover? WAC ((~~296-306A-530~~) 296-307-530 applies to the servicing of multipiece and single-piece rim wheels used on large vehicles such as trucks, tractors, trailers, buses and off-road machines. It does not apply to servicing rim wheels used on automobiles, or on pickup trucks and vans with automobile tires or truck tires designated "LT."

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-53005 What training must an employer provide for employees who service rim wheels?

(1) You must implement a training program that covers at least the following:

(a) The hazards involved in servicing rim wheels;

(b) The safe operating procedures for the types of wheel serviced, described in WAC ((~~296-306A-53013~~) 296-307-53013 and ((~~296-306A-53015~~) 296-307-53015); and

(c) The applicable data contained in the charts (rim manuals) and the contents of this standard.

(2) You must ensure that each employee demonstrates and maintains the ability to service rim wheels safely, including the following:

- (a) Demounting tires (including deflation);
- (b) Inspecting and identifying the rim wheel components;
- (c) Mounting tires (including inflation with a restraining device or other safeguard required by this section);
- (d) Using the restraining device and other equipment required by this section;
- (e) Handling rim wheels;
- (f) Inflating the tire when a single-piece rim wheel is mounted on a vehicle;
- (g) Understanding the necessity of standing outside the trajectory both during inflation of the tire and during inspection of the rim wheel following inflation; and
- (h) Installing and removing rim wheels.

(3) If you believe that any employee is unable to read and understand the charts or rim manual, you must instruct the employee in the contents of the charts and rim manual in a manner that the employee can understand.

(4) You must evaluate each employee's ability to perform these tasks safely, and provide additional training as necessary to ensure that each employee maintains proficiency.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-307-28008	What training must an employer provide for employees who use agricultural equipment?
WAC 296-307-28010	What requirements apply to machine controls?
WAC 296-307-28012	What requirements apply to guarding steam pipes?

WSR 98-16-103

PROPOSED RULES

HORSE RACING COMMISSION

[Filed August 5, 1998, 11:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-10-110.

Title of Rule: WAC 260-24-560 Horse identifier, adding language to rule to allow identification other than the paddock, with commission prior approval.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Adding language to existing rule to allow identification of horses entered into a race in another location other than the paddock, with commission prior approval.

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: To add language to existing rule to allow for the identification of horses entered into a race to be identified at a location other than the paddock with prior approval from the racing commission.

Proposal Changes the Following Existing Rules: WAC 260-24-560 Horse identifier, additional language.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The enactment above is not anticipated to affect more than twenty percent of all industries nor more than ten percent of any one industry as defined by section 2(3), chapter by [6], Laws of 1982. Therefore, a small business [economic] impact statement has not been prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: City Council Chambers, 25 West Main, Auburn, WA 98001, on September 15, 1998, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, fax (360) 459-6461, by September 11, 1998.

Date of Intended Adoption: September 15, 1998.

August 5, 1998

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending WSR 98-01-145[, filed 12/19/97])

WAC 260-24-560 Horse identifier. The Horse identifier shall:

(1) When required, ensure the safekeeping of registration certificates and racing permits for horses stabled and/or racing on association grounds;

(2) Inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

(3) Examine every starter in the paddock, or other designated location approved by the commission, for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the commission for comparison with its registration certificate to verify the horse's identity; and

(4) Supervise the tattooing, branding or other method of identification approved by the appropriate breed registry and the commission for identification of any horse located on association grounds.

(5) The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

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

WSR 98-16-104
PROPOSED RULES
HORSE RACING COMMISSION
[Filed August 5, 1998, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-24-011.

Title of Rule: WAC 260-52-070 Declaring race "official."

Purpose: To utilize the "fast official" method of declaring a race official whereby jockeys claim of foul while still mounted and on the race track.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: To be able to declare the race official in a more timely manner.

Reasons Supporting Proposal: To bring into conformance with suggested uniform model rules.

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: The commission may authorize a racing association to employ a fast official method of declaring a race official whereby jockeys claim foul while still mounted and on the race track providing a written request from the racing association is received at least thirty days prior to the opening of the race meeting. Institution of this rule will allow the race to become official in more timely manner.

Proposal Changes the Following Existing Rules: Add language to existing WAC 260-52-070 to allow for the fast official method to be utilized.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The enactment above is not anticipated to affect more than twenty percent of all industries nor more than ten percent of any one industry as defined by section 2(3), chapter by [6], Laws of 1982. Therefore, a small business [economic] impact statement has not been prepared.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: City Council Chambers, 26 West Main, Auburn, WA 98001, on September 15, 1998, at 10:00 a.m.

Submit Written Comments to: Bruce Batson, Executive Secretary, Washington Horse Racing Commission, fax (360) 459-6461, by September 11, 1998.

Date of Intended Adoption: September 15, 1998.

August 5, 1998

Bruce Batson
Executive Secretary

AMENDATORY SECTION (Amending Rules 205 and 206, filed 4/21/61)

WAC 260-52-070 Declaring race "official." (1) The clerk of the scales shall weigh in all jockeys after each race, and after weighing, shall notify the stewards if the weights

are correct. The stewards may then declare the race official. However, the commission may authorize a racing association to employ a "fast official" method of declaring a race official whereby jockeys claim foul while still mounted and on the race track providing, a written request from the racing association is received at least thirty days prior to the opening of the race meeting. Such a request shall detail proposed procedures to be followed for weighing in and declaring a race official.

(2) Nothing in these rules shall be construed to prevent the placing judges, with the approval of the stewards, from correcting an error before the display of the sign "official" or from recalling the sign, "official" in case it has been displayed through error.

WSR 98-16-106
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed August 5, 1998, 11:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-09-043.

Title of Rule: Vocational funding requirements.

Purpose: To implement legislative requirements for school district vocational-secondary programs including: Establishing a ten percent limit on indirect charges to vocational secondary programs, and establishing minimum staff/student ratios for receiving enhanced state vocational staff allocations.

(1) The Objective of the Rule: To implement vocational funding requirements including: A limit on indirect cost charges to vocational-secondary programs, and minimum certificated staffing levels to qualify for enhanced state vocational staff allocations.

(2) Whether Changes to Other Rules or Statutes Would Achieve the Same Objective: No. The Office of Superintendent of Public Instruction (OSPI) currently has no rules on these topics. The rules implement new requirements in the state operating budget.

(3) How the Provisions of the Proposed Rule will be Coordinated with Other Rules of the Agency and Rules of Other State Agencies, Local Governments, and the Federal Government: Rules will be communicated to school districts through bulletins, report forms, and instructions published by OSPI.

(4) Whether the Agency has Chosen a Reasonable, Cost-Effective Manner to Achieve the Regulatory Objective: The agency has attempted to implement the legal requirements using existing data, forms, and reports to the extent possible.

(5) The Anticipated Environmental and Fiscal Consequences of Adopting and not Adopting the Proposed Rule, Recognizing the Difficulty of Quantifying Some Consequences: There are no known environmental consequences to adopting the rule. The rules will result in the reduction or recovery of state funding to districts not meeting state requirements.

(6) If a Rule Proposed in Order to Comply with Federal Law Contains Significant Differences from a Comparable Federal Rule or Standard, or if a Proposed Rule Provides Differences in Application to Public and Private Entities, Provide a Written Analysis Explaining the Nature of the Differences, Evaluating Their Consequences, and Providing a Rationale for Adopting the Rule as Drafted: The rule has no direct federal law consequence. The rule only applies to public entities.

Statutory Authority for Adoption: RCW 28A.150.290(2).

Statute Being Implemented: Section 502, chapter 149, Laws of 1998.

Summary: Rules define the method of calculating minimum required direct expenditures in vocational-secondary programs. Rules define the method of calculating actual school district vocational staff student ratios for state funding purposes.

Reasons Supporting Proposal: These rules are required to implement language in the state Operating Appropriations Act.

Name of Agency Personnel Responsible for Drafting: Rick Wilson, Office of Superintendent of Public Instruction, (360) 753-2298; Implementation: Allen Jones, Office of Superintendent of Public Instruction, (360) 753-2298; and Enforcement: Mike Bigelow, Office of Superintendent of Public Instruction, (360) 753-2298.

Name of Proponent: Office of Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The vocational-secondary indirect cost limit will require districts to demonstrate required levels of direct expenditures for the state funded vocational program. The Office of Superintendent of Public Instruction (OSPI) will calculate required direct expenditure levels and will recover state vocational allocations in districts failing to meet the required expenditure level.

The vocational-secondary staffing requirements will require districts to demonstrate minimum certificated staffing levels in the vocational program in order to qualify for the enhanced state staffing ratio of one certificated staff unit per 19.5 vocational full-time equivalent (FTE) students. SPI will calculate ratios based on vocational staff reported to the agency on Form S-275 and actual annual average FTE vocational enrollment reported on Form P-223. Districts will have an opportunity to report supplemental staff information to reach the required staffing level.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, on September 10, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 27, 1998, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by September 9, 1998.

Date of Intended Adoption: September 11, 1998.

August 5, 1998

Terry Bergeson

Superintendent of
Public Instruction

VOCATIONAL-SECONDARY INDIRECT COST LIMIT

NEW SECTION

WAC 392-121-550 Vocational-secondary indirect cost limit—Applicable code provisions—Purpose—Effective date. (1) WAC 392-121-550 through 392-121-556 define the ten percent limit on indirect cost charges to school district vocational-secondary programs as required by the Biennial Operating Appropriations Act.

(2) The purpose of these sections is to assure that state allocations for vocational-secondary education are expended by school districts to support vocational programs. The minimum levels defined here govern state funding only and should not be construed as recommended expenditure levels. Vocational-secondary expenditures will exceed the minimum level when a district uses local levy revenue or other discretionary revenue to support the vocational-secondary program.

(3) These sections are effective for the 1997-98 school year and thereafter.

NEW SECTION

WAC 392-121-552 Vocational-secondary indirect cost limit—Definitions. As used in WAC 392-121-550 through 392-121-556:

(1) "Program 31" means the vocational-basic-state program as defined in the *Accounting Manual for Public School Districts in the State of Washington*.

(2) "Prior school year program 31 net expenditure ratio" means the number calculated on Part III of Report F-196 Annual Year-End Financial Statements for the school year prior to the year of the indirect cost limit as follows:

(a) Determine the district's program 31 net program expenditures by adding distributed instructional support and district-wide support costs to program 31 direct expenditures and adjusting for abatements; and divide by

(b) The district's program 31 direct expenditures.

(3) "Basic allocation for vocational-secondary students" means the amount of money generated by a school district's vocational-secondary enrollment in the general apportionment formula using the state funding formula factors including the grade 4-12 staffing ratios without enhancement, and using the district's average certificated instructional staff mix factor for program 31 staff from the district's S-275 personnel report.

(4) "Vocational-secondary enhancement allocation" means the additional money above the basic allocation for

PROPOSED

vocational-secondary students generated by a school district's vocational-secondary enrollment as a result of the enhanced state vocational staffing ratio and enhanced nonemployee related cost allocation for vocational-secondary students. This enhancement shall be calculated using the district's average certificated instructional staff mix factor for program 31.

(5) "Vocational running start allocation" means the amount of money generated in the general apportionment formula by a school district's running start students enrolled in vocational courses in a community or technical college pursuant to chapter 392-169 WAC.

(6) "Total vocational-secondary allocations" means the sum of subsections (3), (4), and (5) of this section.

(7) "Composite vocational-secondary indirect rate" means the result of subsection (6) of this section divided by the district's minimum direct expenditures calculated pursuant to WAC 392-121-554.

NEW SECTION

WAC 392-121-554 Vocational-secondary indirect cost limit—Calculation of minimum direct expenditures. (1) Each school district's minimum required program 31 direct expenditures equal the sum of the following amounts:

(a) The basic allocation for vocational-secondary students divided by the prior school year program 31 net expenditure ratio determined pursuant to WAC 392-121-152(2).

(b) The vocational-secondary enhancement allocation divided by 1.1.

(c) The vocational running start allocation multiplied by 0.93.

(d) Any carry over from the prior school year allowed under WAC 392-121-556 (3)(b).

(2) If the district's program 31 direct expenditures for the school year as reported on the district's Report F-196 Annual Year-End Financial Statements equal or exceed the amount calculated in subsection (1) of this section, then the school district is presumed to be within the ten percent limit on indirect charges to the vocational-secondary program.

(3) Before December 31 after the close of the school year, the superintendent of public instruction shall notify each school district which reports program 31 direct expenditures below the minimum calculated in this section of the superintendent's intent to recover money.

NEW SECTION

WAC 392-121-556 Vocational-secondary indirect cost limit—School district requests for adjustment. (1) After receiving notice of the superintendent of public instruction's intent to recover money and before the ensuing January 15 a school district may request an adjustment to the calculation of the district's minimum direct expenditures pursuant to WAC 392-121-554. The request shall be in a form prescribed by the superintendent of public instruction and shall be signed by the school district superintendent.

(2) The request for adjustment shall be on one or more of the following grounds:

(a) The calculations or the data used in the calculations are in error; in which case the school district shall provide evidence of the error and the corrected data; or

(b) The district has carried over an amount not to exceed ten percent of the minimum direct expenditure amount (excluding any carry over from the prior year) for specified vocational-secondary expenditures in subsequent school years.

(3) The superintendent of public instruction shall consider requests for adjustment and shall:

(a) Revise the calculations if an error is found to have taken place; or

(b) Credit the carry over amount to the district's program 31 direct expenditures if the district's request for carry over is properly submitted.

NEW SECTION

WAC 392-121-558 Vocational-secondary indirect cost limit—Recovery of state allocations. (1) At the time of the January apportionment calculations after the close of the school year, the superintendent of public instruction shall recalculate each school district's minimum direct expenditures pursuant to WAC 392-121-554 and 392-121-556. From each district with program 31 direct expenditures below the required minimum level the superintendent of public instruction shall recover from the school district's general apportionment allocation as a prior year adjustment an amount equal to the lesser of the district's vocational-secondary enhancement allocation or the amount determined as follows:

(a) The district's total vocational-secondary allocations defined in WAC 392-121-552(6); minus

(b) The district's direct expenditures in program 31 (including any adjustments made pursuant to WAC 392-121-556) times the composite indirect rate defined in WAC 392-121-552(7).

(2) Recovery amounts calculated pursuant to subsection (1) of this section shall be adjusted after the January apportionment calculation if revised enrollment, staff mix, or expenditure data submitted by the district and accepted by the superintendent of public instruction materially affects the district's recovery amount.

VOCATIONAL-SECONDARY STAFFING FORMULA

NEW SECTION

WAC 392-121-560 Vocational-secondary staffing formula—Applicable code provisions—Effective date. WAC 392-121-560 through 392-121-568 determines school district state-funded certificated staffing ratios for vocational-secondary students in the general apportionment formula. These sections are effective for the 1998-99 school year and thereafter.

NEW SECTION

WAC 392-121-562 Vocational-secondary staffing formula—Definitions. As used in WAC 392-121-560 through 392-121-568:

(1) "Certificated staff" means the same as defined in WAC 392-121-200.

(2) "Program 31 staff" means the staff assigned to program 31 Vocational-Basic-State as defined in the *Accounting Manual for Public School Districts in the State of Washington* and consistent with the S-275 reporting instructions provided by the superintendent of public instruction.

(3) "School district vocational-secondary full-time equivalent (FTE) certificated staff" means the full-time equivalent of certificated staff reported for the school year in program 31 Vocational-Basic-State on Report S-275 plus any supplemental vocational-secondary certificated FTE staff reported pursuant to WAC 392-121-564.

(4) "School district vocational-secondary full-time equivalent (FTE) students" means vocational-secondary students reported by the school district on Report P-223 for the school year pursuant to WAC 392-121-138 including any vocational FTE enrollment for work based learning.

NEW SECTION

WAC 392-121-564 Vocational-secondary staffing formula—Reporting of supplemental staff. At any time after October 1 a school district may report supplemental vocational-secondary staff to the superintendent of public instruction on forms provided by the superintendent. The superintendent shall use data reported by the district to adjust the district's vocational-secondary certificated staff ratio as described in this section.

(1) If the district provides vocational-secondary instruction under contract and the contracted staff are not reported on the district's Report S-275 for the school year, the district may report the estimated number of vocational-secondary FTE students served under the contract. The superintendent of public instruction shall exclude these students in determining the district's vocational-secondary certificated staff ratio. If the actual vocational-secondary FTE students served under the contract differs by more than 10 percent and 2.0 FTE students, the district shall, after June 1 and before December 31, report to the superintendent the district's actual FTE students served under the contract to be used in the staff ratio calculation.

(2) If the district increases program 31 certificated staff after October 1 of the school year, the district may report such increased staff. The increase shall be determined for program 31 certificated staff in the same manner as supplemental FTE staff is determined in WAC 392-127-065. The superintendent of public instruction shall include the supplemental FTE in the calculation of the district's vocational-secondary certificated staffing ratio.

(3) If the district provides vocational-secondary instruction or any other service required for the operation of a state-approved vocational-secondary program under a supplemental contract with certificated staff and that service is not reflected in the certificated staff FTE reported by the district on Report S-275, the district may report the number of scheduled hours of such service for the school year. The superintendent of public instruction shall convert such hours of service to a certificated staff FTE equivalent by dividing

the number of hours by 900 (e.g., 225 hours divided by 900 equals 0.25 FTE).

(4) If the district maintains a ratio of program 31 classified instructional assistants to vocational-secondary FTE students in excess of the state-wide average ratio for the 1996-97 school year (i.e., 2.88/1000 FTE students), the district may request that these additional classified instructional assistants be considered in determining the district's vocational-secondary certificated staff ratio. The superintendent of public instruction shall convert such additional classified FTE staff to certificated staff equivalent FTE by dividing by two (e.g., 2.10 classified FTE equals 1.05 certificated FTE).

NEW SECTION

WAC 392-121-566 Vocational-secondary staffing formula—Calculation of school district vocational-secondary certificated staff ratios. Beginning in January of each school year, the superintendent of public instruction shall make a monthly calculation of each school district's vocational-secondary certificated staff ratio as follows:

(1) Determine the district's average year-to-date vocational-secondary FTE students for general apportionment purposes, excluding vocational running start FTE students and excluding FTE students reported pursuant to WAC 392-121-564(1);

(2) Determine the district's program 31 certificated FTE staff from the most recent S-275 data on file with the superintendent of public instruction and add any supplemental FTE staff reported by the school district pursuant to WAC 392-121-564 (2), (3), and (4); and

(3) Divide the result of subsection (1) of this section by the result of subsection (2).

NEW SECTION

WAC 392-121-568 Vocational-secondary staffing formula—Determination of state-funded vocational-secondary certificated staff ratio. For purpose of general apportionment funding pursuant to this chapter, a district's state-funded vocational-secondary certificated staff ratio shall be determined pursuant to this section.

(1) The superintendent of public instruction shall recognize an allowance for certificated staff in programs 94 Instruction Support and 97 District-wide Support equal to 11.8 percent of state allocated certificated staff. This is based on the actual three-year average percentage of total school district staff in programs 94 and 97 (school years 1994-95 through 1996-97). The result of this adjustment is to require 88.2 percent of state-funded vocational-secondary certificated staff to be reported in program 31 Vocational-Basic-State. The resulting minimum program 31 certificated staffing ratio for a district to qualify for the full state vocational staff allocation is 22.1 (19.5 divided by 0.882 equals 22.1). This allowance shall be adjusted by the superintendent of public instruction in the event accounting and personnel reporting instructions significantly change the proportion of staff reported in programs 94 and 97 or in the event that the actual state-wide average ratio for the prior three school years changes by more than two tenths of one percent.

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(2) The relationship between school district and state-funded ratios is summarized in the table below:

School District Ratio	State-Funded Ratio
22.10 or lower	19.50
22.11 to 22.68	S.D. ratio * 0.882
22.69 or higher	20.00

(3) A school district's initial state-funded vocational-secondary certificated staff ratio for general apportionment payments in the months of September through December of each school year shall be based on the school district's budgeted vocational-secondary certificated staff ratio submitted by the district on Report F-203.

(4) Beginning in January, and each month thereafter, the school district's state-funded ratio for general apportionment purposes shall be based on the most current year-to-date school district vocational-secondary certificated staffing ratio calculated by the superintendent of public instruction pursuant to WAC 392-121-566.

WSR 98-16-018
EXPEDITED ADOPTION
DEPARTMENT OF REVENUE
[Filed July 27, 1998, 3:52 p.m.]

Title of Rule: WAC 458-20-255 Carbonated beverage and syrup tax.

Purpose: To explain the application of the carbonated beverage and syrup tax imposed by chapter 82.64 RCW.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Chapter 82.64 RCW.

Summary: This rule is being revised to explain that the tax on carbonated beverages was repealed effective July 1, 1995 (chapter 7, Laws of 1994 sp. sess.). The current rule provides an incorrect tax rate for sales of syrup, and an incorrect statutory citation. The rule is being revised to also correct these errors.

Reasons Supporting Proposal: To incorporate chapter 7, Laws of 1994 sp. sess. (Referendum 43).

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, Suite 303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite 303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite 303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the application of the carbonated beverage and syrup tax imposed by chapter 82.64 RCW. The rule explains the exemption available for previously taxed carbonated beverage or syrup, and the exemption available for carbonated beverage or syrup that is transferred outside the state. The rule also explains the procedure for claiming a tax credit for similar carbonated beverage or syrup taxes paid to another state. The rule clarifies the provisions of chapter 82.64 RCW to help ensure that the tax program is correctly and consistently applied by taxpayers and department personnel.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-255 (Rule 255) Carbonated beverage and syrup tax. This rule is being revised to notify the reader that the tax on carbonated beverages has been repealed effective July 1, 1995, (chapter 7, Laws of 1994 sp. sess.). The department proposes to retain much of the language addressing this tax because the tax does apply within the statutory time-period provided by RCW 82.32.050. The rule provides an incorrect tax rate, and an incorrect statutory citation. The proposed changes correct these errors.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING

THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, AND RECEIVED BY October 3, 1998.

To inquire about the availability of this information in an alternate format for the visually impaired or a language other than English, please call the multilingual coordinator at (360) 753-3217.

July 27, 1998

Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending WSR 91-20-058, filed 9/24/91, effective 10/25/91)

WAC 458-20-255 Carbonated beverage and syrup tax.

(1) **Introduction.** ((Under the provisions of chapter 80, Laws of 1991, a tax is imposed, effective June 1, 1991, upon)) In 1991, the legislature amended chapter 82.64 RCW to impose a tax on the volume of carbonated beverages and syrups sold at wholesale and retail in this state with specific credits and exemptions provided. This tax is an excise tax ((upon the business activity of selling)) on sales of carbonated beverages or syrups in this state. It is imposed in addition to all other taxes of an excise or property tax nature and is not in lieu of any other such taxes.

The tax on sales of carbonated beverages was repealed effective July 1, 1995, by Referendum 43. (Chapter 7, Laws of 1994 sp.s.) The tax on sales of syrup still applies.

(2) **Definitions.** For purposes of this section the following terms will apply.

(a) "Tax" means the carbonated beverage or syrup tax imposed by chapter ((80, Laws of 1991)) 82.64 RCW.

(b) "Carbonated beverage" has its ordinary meaning and includes any nonalcoholic liquid intended for human consumption which contains carbon dioxide.

(i) Thus, "carbonated beverage" includes but is not limited to soft drinks, "soda pop," mineral waters, seltzers, fruit juices, or any other nonalcoholic beverages, including carbonated waters, which are produced for human consumption and which contain any amount of carbon dioxide.

(ii) However, "carbonated beverage" does not include bromides or other carbonated liquids commonly sold as pharmaceuticals.

(c) "Previously taxed carbonated beverage or syrup" means a carbonated beverage or syrup in respect to which a tax has been paid under ((this)) chapter 82.64 RCW. A "previously taxed carbonated beverage" includes carbonated beverages in respect to which the tax has been paid on either the carbonated beverage or on the syrup in the carbonated beverage. ((+) Example:)) For example, a retailer who produces a carbonated beverage by adding water and carbonation to a syrup, ((upon)) on which the tax has been paid to and collected by a wholesaler, incurs no additional tax liability because the tax has been paid upon the syrup and collected by the wholesaler.

(d) "Syrup" means a concentrated liquid which is added to carbonated water to produce a carbonated beverage. ((+))

Thus, "syrup" includes the concentrated liquid marketed by manufacturers to which the purchaser adds water and/or carbon dioxide, or, carbonated water to produce a carbonated beverage.

(e) "State" means for the credit provisions of this section:

(i) A state of the United States other than Washington, or any political subdivision of such other state,

(ii) The District of Columbia, and

(iii) Any foreign country or political subdivision thereof.

(f) Except as otherwise expressly defined in this section, the definitions of terms provided in chapters 82.04, 82.08, and 82.12 RCW apply equally for this section. Other terms not expressly defined in these chapters or this section are to be given their common and ordinary meanings.

(3) **Tax imposition** ((~~rate~~) and measure. ((a)) The tax is imposed ((upon)) on the wholesale or retail ((business activity of selling)) sale of carbonated beverages or syrups within this state. However, the tax on sales of carbonated beverages does not apply to such sales after June 30, 1995. (Chapter 7, Laws of 1994 sp.s.)

(a) The tax shall be paid by the buyer to the wholesaler and each wholesaler shall collect the tax from the buyer unless the wholesaler is prohibited from collecting the tax from the buyer under the Constitution of this state or the Constitution or laws of the United States in which case the wholesaler is liable for the amount of the tax. The amount of the tax required to be collected by the wholesaler is a debt from the buyer to the wholesaler until the tax is paid by the buyer to the wholesaler. A wholesaler who fails or refuses to collect the tax with intent to violate the provisions of ((this)) chapter 82.64 RCW or to gain some advantage directly or indirectly, is guilty of a misdemeanor. When a retailer sells carbonated beverages or uses syrup which the retailer has purchased from ((an out-of-state)) a wholesaler who has not collected the tax, the retailer must report and pay the tax.

(i) When a bottler produces a carbonated beverage end product, the measure of the tax shall be the volume of the carbonated beverage end product sold at wholesale or retail.

(ii) Manufacturers of syrup are taxable on the ((business activity of selling)) sales of syrup only when such syrup is removed from the production process and sold without further processing by them or another manufacturer or bottler.

(iii) Examples. An ingredient used in the manufacturing process by a bottler of carbonated beverages is never taxed even if the ingredient is a syrup. Therefore, a manufacturer of syrup who sells an ingredient to another manufacturer of syrup or a bottler((,)) is not taxed on the ingredient sold even if the ingredient is a syrup. The product sold is not a taxable syrup but an ingredient in the manufacturing process. The purchasing manufacturer or bottler is taxed upon the end product produced by such manufacturer of syrup or bottler, or by a contract bottler hired by ((him)) the manufacturer or bottler. Similarly, a manufacturer of syrup or bottler who receives a product from an out-of-state source for use as an ingredient in the manufacturing or bottling process is taxed when the end product produced is sold.

(b) The tax ((~~rate and measure~~)) for carbonated beverages is ((eighty four one thousandths of a cent per)) imposed on each ounce of product sold. The tax ((~~rate and measure~~)) for syrup is ((seventy five cents per gallon)) imposed on each

gallon of product sold. Fractional amounts shall be taxed proportionally.

(4) **Exemptions.** The following are exempt from the tax:

(a) Any successive ((possession)) sale of a previously taxed carbonated beverage or syrup.

(i) In order to verify the payment of the tax, all persons selling or otherwise transferring possession of taxed beverages or syrup, except retailers, shall separately itemize the amount of the tax on the invoice, bill of lading, or other instrument of sale. Beer and wine wholesalers selling carbonated beverages or syrup upon which the tax has been paid and who are prohibited under RCW ((68-28-010)) 66.28.010 from having a direct or indirect financial interest in any retail business may, in lieu of a separate itemization of the amount of the tax, provide a statement on the instrument of sale that the carbonated beverage and syrup tax has been paid. For purposes of the payment and the itemization of the tax, the tax computed on standard units of a product, cases, liters, gallons, etc., may be stated in an amount rounded to the nearest cent. In competitive bid documents, the tax will be considered to not be included in the bid price unless the bid documents separately itemizes the tax. In either case, the tax must be separately itemized on the instrument of sale except when the separate itemization is prohibited by law.

(ii) Any person prohibited by federal or state law, ruling or requirement from itemizing the tax on an invoice, bill of lading, or other document of delivery shall retain the documentation necessary for verification of the payment of the tax.

(iii) A subsequent sale of carbonated beverages or syrups sold or delivered upon an invoice, bill of lading, or other document of sale which contains a separate itemization of the tax shall be exempt from the tax.

(iv) However, a subsequent sale of carbonated beverages or syrups sold or delivered to the subsequent seller upon an invoice, bill of lading or other document of sale which does not contain a separate itemization of the tax is conclusively presumed to be previously untaxed carbonated beverage or syrup and the wholesaler must report and pay the tax. The retailer must report and pay the tax when the retailer purchases from ((an out-of-state)) a wholesaler who has not collected the tax.

(v) This exemption for taxes previously paid is available for any person selling previously taxed carbonated beverage or syrup even though the previous payment may have been satisfied by the use of credits or offsets available to the prior seller.

(vi) Example. Company A sells to Company B a carbonated beverage or syrup upon which it has paid a similar carbonated beverage or syrup tax in another state. Company A takes a credit against its Washington tax liability in the amount of the other state's tax paid. It provides Company B with an invoice containing a separate itemization of the tax. Company B's subsequent sale is tax exempt even though Company A has not directly paid Washington's tax but has used a credit against its Washington liability.

(b) Any carbonated beverage or syrup that is transferred to a point outside the state for use outside the state.

(i) The exemption for the sale of exported carbonated beverages or syrups may be taken by any seller within the

chain of distribution of such products in this state. To perfect its entitlement to this exemption the seller of such carbonated beverage or syrup must take from its buyer or transferee of the carbonated beverage or syrup a written certification in substantially the following form:

Certificate of Tax Exempt Export Carbonated Beverages or Syrup

I hereby certify that the carbonated beverages or syrups specified herein, purchased by the undersigned, from (seller), are for export for use or sale outside Washington state. I will become liable for and pay any carbonated beverage or syrup tax due ((upon)) on all or any part of such products which is not so exported outside Washington state. This certificate is given with full knowledge of, and subject to the legally prescribed penalties for fraud and tax evasion.

Registration No. Type of Business
(If applicable)

Firm Name

Registered Name

(If different)

Authorized Signature

Title

Identity of Carbonated Beverages or Syrups((e))
(Kind and amount
by volume)

Date

This certificate may be used so long as some portion of the product is exported. Sellers are under no obligation to verify the amount of the product to be exported by their buyers providing such certificates. Buyers providing such certificates are, however, subject to penalties and interest, for any late payment of tax due on products not exported.

(ii) Each successive sale of such carbonated beverages or syrups must, in turn, take a certification in substantially this form from any other person to whom such carbonated beverages or syrups are sold. Failure to take and keep such certifications as part of its permanent records will incur carbonated beverage or syrup tax liability by such sellers if the tax has not been previously paid.

(iii) Persons who themselves export or cause the exportation of such products to persons outside this state for further sale or use outside this state must keep the proofs of actual exportation required by WAC 458-20-193 (Inbound and out-bound sales of tangible personal property).

(c) Persons or activities which the state is prohibited from taxing under the United States Constitution ((are tax exempt)).

This exemption extends to the U.S. government, its agencies and instrumentalities, and to any sale the taxation of which has been expressly reserved or preempted under the laws of the United States. This exemption applies only to purchases by the United States, its agencies and instrumentalities. The exemption does not apply to persons who sell carbonated beverages or syrups to agencies and instrumentalities of the United States located in this state. When the United

States or its agencies or instrumentalities purchases carbonated beverages or syrup from a wholesaler who is required to collect this tax from its buyer, the wholesaler itself is liable for, and must report and pay, the tax on the volume of product sold to the United States or its agencies or instrumentalities.

((d) The sale of any carbonated beverages or syrups prior to June 1, 1991, is tax exempt. Sales of carbonated beverages and syrups after June 1, 1991, are exempt if carbonated beverage and syrup possession tax has been paid on the product.

It is the intent, under the law, that this exemption will apply to the carbonated beverages or syrups throughout their succeeding chain of distribution for the life of those carbonated beverages or syrups. That is, carbonated beverages or syrups already possessed as of May 31, 1991, and upon which the possession carbonated beverage and syrup tax has been paid will not incur another tax liability upon the sale of the product after May 31, 1991).

((e))) (d) Any sale at wholesale of a trademarked carbonated beverage or syrup by any person to a person commonly known as a bottler who is appointed by the owner of the trademark to manufacture, distribute, and sell such trademarked carbonated beverage within a specific geographic territory.

(5) **Credit.** Credit shall be allowed against the taxes imposed ((in this section)) by chapter 82.64 RCW for any carbonated beverage or syrup tax paid to another state with respect to the same carbonated beverage or syrup. The amount of the credit shall not exceed the tax liability arising under ((this)) chapter 82.64 RCW with respect to that carbonated beverage or syrup.

(a) "Carbonated beverage or syrup tax" means a tax:

(i) That is imposed on the sale at wholesale of carbonated beverages or syrup and is not generally imposed on other activities or privileges; and

(ii) That is measured by ((the value of)) volume of the carbonated beverage or syrup.

((In order for this credit to apply, the other state's tax must be significantly similar to Washington's tax in all its various respects. The taxable incident must be the wholesale sale of carbonated beverages or syrups without deductions for costs of doing business, such that the other state's tax does not constitute an income tax or added value tax.))

((This credit may be taken for the amount of any other state's qualifying tax which has actually been paid as a result of the same carbonated beverage or syrup being previously sold by the same person in another taxing jurisdiction before Washington state's tax is incurred.))

((d))) The amount of credit is limited to the amount of tax paid in this state upon the wholesale sale of the same carbonated beverage or syrup in this state. Also, the credit may not be applied against any tax paid or owed in this state other than the carbonated beverage or syrup tax imposed by chapter ((80 Laws of 1991)) 82.64 RCW.

(6) **How and when to pay tax.**

((a))) The tax must be reported on a special line of the combined excise tax return designated "syrup" ("carbonated beverage or syrup((e))" on returns covering periods prior to the repeal of the tax on sales of carbonated beverages). The volume reported shall be the net volume subject to tax, i.e., the gross volume sold less volume exempt.

((b)) (a) The tax is due for payment together with the timely filing of the return upon which it is reported, covering the tax reporting period during which the carbonated beverage or syrup is sold.

(i) A wholesaler making a wholesale sale of carbonated beverage or syrup in this state must collect the tax from the buyer and report and pay it to the department. The buyer is not obligated to report or pay the tax.

(ii) A retailer making a retail sale in this state of carbonated beverage or syrup purchased from ((an out-of-state)) a wholesaler who has not collected the tax must collect the tax from the buyer and report and pay it to the department. The buyer is not obligated to report or pay the tax.

((e)) The taxable incident or event is the sale of the carbonated beverage or syrup. Tax is due for payment by the first seller, whether wholesaler or retailer, of carbonated beverage or syrup upon which the tax has not been paid. It is the intent of the law that all carbonated beverages or syrups sold in this state should incur this tax liability only once unless they are expressly exempt.

((d)) (b) Various circumstances may arise whereby a person will sell carbonated beverages or syrups in this state, some of which have been previously taxed in this or other states and some of which may not. In such cases formulary tax reporting may be used, only after receipt of a special ruling issued by the department of revenue authorizing such formulary reporting.

(7) **How and when to claim credit.** Any tax credit available to the taxpayer should be claimed and offset against tax liability reported on the same excise tax return when possible. The tax return form provides a line for reporting tax on carbonated beverages and syrups and the credit shall be taken on the line for taking "other credits" as an offset against the tax reported. A statement showing the computation of the credit must be provided. It is not required that any other documents or other evidences of entitlement to credits be submitted with the report. Such proofs must be retained in permanent records for the purpose of verification of credits taken.

(8) ((**Notice to consumers by retailers that purchase price includes Washington drug fund tax.** Chapter 80, Laws of 1991 authorizes the voluntary posting or print advertising by certain retailers that the price of the product includes the Washington drug fund tax. The intent of this voluntary program is to increase public and consumer awareness of the state's drug problem and its enforcement measures.

(9)) **Administrative provisions.** The provisions of chapters 82.32 and 82.04 RCW regarding due dates, reporting periods, tax return requirements, interest and penalties, tax audits and limitations, disputes and appeals, and all such general administrative provisions apply equally to the carbonated beverage or syrup tax.

WSR 98-16-046
EXPEDITED ADOPTION
BOARD OF TAX APPEALS

[Filed July 31, 1998, 2:55 p.m.]

Title of Rule: Chapter 456-09 WAC, Formal hearings—Practice and procedure: WAC 456-09-310, 456-09-320, 456-09-325, 456-09-365, 456-09-410, and 456-09-430.

Purpose: Amending the above sections to reflect the new requirements imposed by sections 1, 2, and 3, chapter 54, Laws of 1998, and to update existing filing procedures to include electronic mail transmissions.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 82.03.130, 82.03.190, and 84.08.130 as amended by chapter 54, Laws of 1998.

Summary: These amendments simplify the requirements for filing an appeal with the Board of Tax Appeals and serving the responding party.

Reasons Supporting Proposal: These amendments are needed to comply with sections 1, 2, and 3, chapter 54, Laws of 1998, and to simplify existing procedures for filing an appeal.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Richard A. Virant, 910 5th Avenue S.E., Olympia, (360) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: During the 1998 legislative session, the Board of Tax Appeals (board) requested legislation that would simplify the process for filing tax appeals with the board. The legislation was signed into law, and the proposed amendments to chapter 456-09 WAC implement these legislative changes. The amendments remove the requirement for appellants to serve a copy of their notice of appeal on the responding party. The amendments create a requirement for the board to transmit a copy of the notice of appeal to the responding party. The proposed amendments also update the board's existing rules for filing documents by facsimile machine or electronic mail transmission.

Proposal Changes the Following Existing Rules: WAC 456-09-310 is being amended to allow appellants to file any type of tax appeal using forms provided by the board.

WAC 456-09-320 is being amended to implement the legislative changes dealing with filing and service of a notice of appeal. The amendment removes the requirement for appellants to serve a copy of their notice of appeal on the responding party. The amendment also creates a requirement for the board to transmit a copy of the notice of appeal to the responding party within thirty days of its receipt by the board.

WAC 456-09-325 is being amended to update the procedures for filing a notice of appeal by facsimile machine or electronic mail transmission.

WAC 456-09-365 is being amended to reflect the fact that the board will now be mailing a copy of the notice of appeal to the responding party, and to include procedures for requesting a formal hearing in a direct appeal to the board.

WAC 456-09-410 is being amended to remove the requirement that the appellant must serve a copy of the notice of appeal on the responding party. The board will now be responsible for transmitting a copy of the notice to appeal of the responding party.

WAC 456-09-430 is being amended to update the procedures for serving papers by facsimile machine or electronic mail transmission.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Richard A. Virant, Executive Director, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504-0915, AND RECEIVED BY October 5, 1998.

July 29, 1998

R. A. Virant
Executive Director

AMENDATORY SECTION (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

WAC 456-09-310 Notice of appeal—Forms—Contents. (1) For all appeals, an appellant may file a notice of appeal using forms provided by the board.

(2) In the alternative, an appellant may file a notice of appeal that shall substantially contain:

(a) A caption in the following form:

BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

Appellant,		Name of county in which property is located (if applicable)
v.		Docket No.
		NOTICE OF APPEAL
Respondent.		Re: (Type of tax, e.g., excise, property)

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

(b) Numbered paragraphs stating:

(i) Appellant's name, mailing address, telephone number, and that of the representative, if any.

(ii) The date of the order or determination from which the appeal is taken together with a copy of the order, decision, or application appealed from.

(iii) The nature of the tax, and:

(A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;

(B) In property tax cases, a legal description or parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant; and

(C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis under which exempt status should be granted or denied, and the use of the property.

(iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention, and the issue to be adjudicated in the proceeding.

(v) A notice of intention that the hearing be held pursuant to the Administrative Procedure Act.

(vi) The relief sought.

(c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

((2) For informal appeals from property valuation decisions of a board of equalization or property exemption decisions of the department of revenue, the appellant may use forms provided by the board.))

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 456-09-320 Notice of appeal—Filing and service ((and filing)). (1) The original notice of appeal and a copy of the order or determination that is being appealed shall be filed with the board ((and a copy served upon all other parties in accordance with the provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-09-440)). The board shall transmit a copy of the notice of appeal and a copy of the order or determination that is being appealed to the responding party within thirty days of its receipt by the board.

(2) Appeals not timely filed ((and served)) as provided by statute and this regulation shall be dismissed. Appeals not properly filed ((and served)) may be dismissed if the appealing party fails to substantially comply with this regulation.

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 456-09-325 Date of filing—Filing via facsimile machine or electronic mail transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be ((*prima facie*)) evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be ((*prima facie*)) evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine or electronic mail transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile machine or electronic mail document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's facsimile machine or computer shall be ((*prima facie*)) evidence of the date and time of receipt of transmission.

(b) The original ((*document*)) notice of appeal must be filed with the board within ten business days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 456-09-365 Conversion of hearing. (1) The respondent, as a party to an appeal pursuant to RCW 84.08.130 (appeal from board of equalization) may, within twenty calendar days from the date of the board's mailing of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) If a direct appeal is requested pursuant to RCW 84.40.038(3), either party may state upon the direct appeal form that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), the department of revenue may, within thirty calendar days from the date of ((*receipt*)) the board's mailing of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

((3))) (4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

AMENDATORY SECTION (Amending Order 89-02, filed 5/2/89)

WAC 456-09-410 Service of papers. (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented: Provided, That this shall not apply to the notice of appeal.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

AMENDATORY SECTION (Amending WSR 90-11-105, filed 5/22/90, effective 6/22/90)

WAC 456-09-430 Service of papers—When complete. ((1) Except as provided in subsection (2) of this section, service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be deemed completed when deposited with a telegraph company properly addressed with the charges prepaid. Service by facsimile shall be deemed complete only when the following procedure is observed:

(a) The original document must be filed with the board within ten days from the date of transmission.

(b) Facsimile confirmation of transmission.

(c) All transmissions are sent at the risk of the sender.

(2) This section shall not extend any applicable time for appeal to the board nor extend the time for providing notice of appeal to any named party.) Service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by facsimile machine or electronic mail shall be deemed complete only when the original document is filed with the board within ten business days from the date of transmission. All facsimile machine or electronic mail transmissions are sent at the risk of the sender. This section shall not extend any applicable time for appeal to the board.

WSR 98-16-047

**EXPEDITED ADOPTION
BOARD OF TAX APPEALS**

[Filed July 31, 1998, 2:59 p.m.]

Title of Rule: Chapter 456-10 WAC, Informal hearings—Practice and procedure; WAC 456-10-310, 456-10-320, 456-10-325, 456-10-360, 456-10-410, 456-10-430, and 456-10-570.

Purpose: Amending the above sections to reflect the new requirements imposed by sections 1, 2, and 3, chapter 54, Laws of 1998, and to update existing filing procedures to include electronic mail transmissions. WAC 456-10-570 is amended to allow the clerk of the board to grant an appellant's oral motion to dismiss their appeal prior to the hearing.

Statutory Authority for Adoption: RCW 82.03.170.

Statute Being Implemented: RCW 82.03.130, 82.03.190, and 84.08.130 as amended by chapter 54, Laws of 1998.

Summary: These amendments simplify the requirements for filing an appeal with the Board of Tax Appeals and serving the responding party.

Reasons Supporting Proposal: These amendments are needed to comply with sections 1, 2, and 3, chapter 54, Laws

of 1998, and to simplify existing procedures for filing and withdrawing an appeal.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Richard A. Virant, 910 5th Avenue S.E., Olympia, (360) 753-5446.

Name of Proponent: Board of Tax Appeals, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: During the 1998 legislative session, the Board of Tax Appeals (board) requested legislation that would simplify the process for filing tax appeals with the board. The legislation was signed into law, and the proposed amendments to chapter 456-10 WAC implement these legislative changes. The amendments remove the requirement for appellants to serve a copy of their notice of appeal on the responding party. The amendments create a requirement for the board to transmit a copy of the notice of appeal to the responding party. The proposed amendments also update the board's existing rules for filing documents by facsimile machine or electronic mail transmission, and for granting an appellant's oral motion to dismiss their appeal.

Proposal Changes the Following Existing Rules: WAC 456-10-310 is being amended to allow appellants to file any type of tax appeal using forms provided by the board.

WAC 456-10-320 is being amended to implement the legislative changes dealing with filing and service of a notice of appeal. The amendment removes the requirement for appellants to serve a copy of their notice of appeal on the responding party. The amendment also creates a requirement for the board to transmit a copy of the notice of appeal to the responding party within thirty days of its receipt by the board.

WAC 456-10-325 is being amended to update the procedures for filing a notice of appeal by facsimile machine or electronic mail transmission.

WAC 456-10-360 is being amended to reflect the fact that the board will now be mailing a copy of the notice of appeal to the responding party, and to include procedures for requesting a formal hearing in a direct appeal to the board.

WAC 456-10-410 is being amended to remove the requirement that the appellant must serve a copy of the notice of appeal on the responding party. The board will now be responsible for transmitting a copy of the notice of appeal to the responding party.

WAC 456-10-430 is being amended to update the procedures for serving papers by facsimile machine or electronic mail transmission.

WAC 456-10-570 is being amended to allow the clerk of the board to grant an appellant's oral motion to dismiss an appeal made prior to the hearing date. Appellants will no longer be required to submit a written motion to dismiss their appeal. This amendment will simplify the withdrawal process for appellants and the board.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT

STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING, AND THEY MUST BE SENT TO Richard A. Virant, Executive Director, Board of Tax Appeals, 910 5th Avenue S.E., Olympia, WA 98504-0915, AND RECEIVED BY October 5, 1998.

July 29, 1998

R. A. Virant

Executive Director

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

WAC 456-10-310 Notice of appeal—Forms—Contents. (1) For ((informal appeals from decisions of a board of equalization or property exemption decisions of the department of revenue, the)) all appeals, an appellant may ((use)) file a notice of appeal using forms provided by the board.

(2) In ((all other cases,)) the alternative, an appellant may file a notice of appeal that shall substantially contain:

(a) A caption in the following form:

BEFORE THE BOARD OF TAX APPEALS STATE OF WASHINGTON

Appellant,		Name of county in which property is located (if applicable)
		Docket No.
v.		NOTICE OF APPEAL
Respondent.		Re: (Type of tax, e.g., excise, property)

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

(b) Numbered paragraphs stating:

(i) Appellant's name, mailing address, telephone number, and that of the representative, if any.

(ii) The date of the order or determination from which the appeal is taken, together with a copy of the order, decision, or application appealed from.

(iii) The nature of the tax, and:

(A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;

(B) In property tax cases, a legal description or parcel number of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as alleged by the appellant; and

(C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis

under which exempt status should be granted or denied, and the use of the property.

(iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention.

(v) The relief sought.

(c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

WAC 456-10-320 Notice of appeal—Filing and service ((and filing)). (1) The original notice of appeal and a copy of the order or determination that is being appealed shall be filed with the board ((and a copy served upon all other parties in accordance with the provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-10-440)). The board shall transmit a copy of the notice of appeal and a copy of the order or determination that is being appealed to the responding party within thirty days of its receipt by the board.

(2) Appeals not timely filed ((and served)) as provided by statute and this regulation shall be dismissed. Appeals not properly filed ((and served)) may be dismissed if the appealing party fails to substantially comply with this regulation.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

WAC 456-10-325 Date of filing—Filing via facsimile machine or electronic mail transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be ((prima facie)) evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be ((prima facie)) evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine or electronic mail transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile machine or electronic mail document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's facsimile machine or computer shall be ((prima facie)) evidence of the date and time of receipt of transmission.

(b) The original ((document)) notice of appeal must be filed with the board within ten business days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

AMENDATORY SECTION (Amending Order 95-02, filed 2/8/95, effective 3/11/95)

WAC 456-10-360 Conversion of hearing. (1) The respondent, as a party to an appeal pursuant to RCW 84.08.130 (appeal from board of equalization) may, within twenty calendar days from the date of the board's mailing of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) If a direct appeal is requested pursuant to RCW 84.40.038(3), either party may state upon the direct appeal form that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), the department of revenue may, within thirty calendar days from the date of ((receipt)) the board's mailing of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

((3))) (4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-410 Service of papers. (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented: Provided, That this shall not apply to the notice of appeal.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

AMENDATORY SECTION (Amending WSR 90-11-106, filed 5/22/90, effective 6/22/90)

WAC 456-10-430 Service of papers—When complete. ((1) Except as provided in subsection (2) of this section, service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be deemed completed when deposited with a telegraph company properly addressed with the charges prepaid. Service by facsimile shall be deemed complete only when the following procedure is observed:

(a) The original document must be filed with the board within ten days from the date of transmission.

(b) Facsimile confirmation of transmission.

(c) All transmissions are sent at the risk of the sender.

(2) This section shall not extend any applicable time for appeal to the board nor extend the time for providing notice of appeal to any named party.) Service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by facsimile machine or electronic mail shall be deemed complete only when the original document is filed with the board within ten business days from the date of transmission. All facsimile machine or electronic mail transmissions are sent at the risk of the sender. This section shall not extend any applicable time for appeal to the board.

AMENDATORY SECTION (Amending Order 89-03, filed 5/2/89)

WAC 456-10-570 Motions—Application—Requirements. (1) Any application for an order or ruling is a motion. Every motion, unless made during hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) All motions shall be properly captioned and signed by the party or their attorney.

(3) The board will deny or dismiss any motion unless the moving party, before motion, has made a good faith effort to confer with the other parties concerning the issues in dispute. The moving party shall include in the motion a statement of compliance with this subsection.

(4) A response to the motion shall be filed within ten days after the date of service.

(5) In the motion and response, the parties shall specify the amount of time required for argument, whether appearance by telecommunication is requested, the names and telephone numbers of all parties served with the motion or response, and whether court reporting services are requested.

(6) Notwithstanding above, the clerk may grant an oral motion of the appellant to dismiss the appeal made prior to the hearing date. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.



WSR 98-15-066
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 13, 1998, 1:35 p.m., effective July 30, 1998]

Date of Adoption: July 13, 1998.

Purpose: These rules implement state and federal legislation concerning welfare and immigration reform as it impacts eligibility for medical programs. These rules have also been rewritten to meet the intent of the Governor's Executive Order 97-02. Adds a new section WAC 388-510-1005.

Citation of Existing Rules Affected by this Order: Amending WAC 388-500-0005, 388-503-0310, 388-505-0520, 388-507-0740, 388-510-1020, and 388-523-2305.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530.

Other Authority: RCW 74.04.005, 74.08.331, 74.08A.010, [74.08A.]100, [74.08A.]210, [74.08A.]230, 74.09.510, 74.12.255, Public Law 104-193 (1997) and the Balanced Budget Act [of] 1997.

Adopted under notice filed as WSR 98-08-081 on April 1, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-500-0005, editorial change in the definition of "nursing facility." Added cross-references in the definition of "categorically needy."

WAC 388-503-0310(13), added clarifying language concerning medical extensions.

WAC 388-503-0310(21), added clarifying language concerning a child eligible for SSI on August 22, 1996.

WAC 388-507-0740, added language concerning state family assistance (SFA) and SFA-related persons.

WAC 388-523-2305, added language concerning SFA and SFA-related persons.

These changes from the proposed language to the adopted versions were made based on public comments.

These changes were recommended to reflect intended medical assistance administration policy. Changes other than editorial were necessary to clarify that certain rules apply both to temporary assistance for needy families (TANF) and to state family assistance (SFA).

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 6, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 6, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The

department is required to implement, and comply with, state and federal welfare legislation by August 1, 1997. These rules have been in effect on an emergency basis which will expire on July 30, 1998.

Effective Date of Rule: July 30, 1998.

July 13, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3913, filed 10/25/95, effective 10/28/95)

WAC 388-500-0005 Medical definitions. Unless defined in this chapter or ((*specifically defined*)) in other chapters of the *Washington Administrative Code*, ((*the department shall*)) use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

((**Application**) for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.)

((**Assignment Medicare**) means the method by which the provider receives payment for services under Part B of Medicare.))

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

((**Assistance unit**) means a person or members of a family unit who are eligible for medical care.

((**Authorization**) means official approval for department action.))

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

- * A federal cash Title XVI benefit; and/or
- * State supplement under Title XVI; or
- * Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a ((*for hire*)) vehicle for hire designed and used to transport a physically restricted person ((confined to a wheelchair or persons otherwise physically restricted)).

"Carrier" means:

* An organization contracting with the federal government to process claims under Part B of Medicare; or

* A health insurance plan contracting with the department.

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act ((and is:

* A client receiving or eligible to receive cash assistance under:

* Aid to families with dependent children (AFDC);
* Supplemental security income (SSI), including a client grandfathered person and a person with an essential spouse;

* State supplement;
* Continuing state funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or

* Special categories.
* A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:

* Foster care;
* Subsidized adoption;
* A nursing facility or intermediate care facility for mentally retarded; or

* An approved inpatient psychiatric facility.
* A person who would be eligible for cash assistance except for the person's institutional status.

* A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.

* A qualified severely impaired disabled person under sixty-five years of age who works.

* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments.

* A pregnant woman;
* Who meets AFDC financial eligibility standards;
* Who would qualify for AFDC if the baby was already born;

* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or

* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.

* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;

* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;

* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.

* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.

* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, born before September 30, 1983, with income allowed by AFDC.

* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.

* A Medicare eligible person whose income does not exceed one hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* An alien as defined under WAC 388-510-1020; or
* A person whose categorical eligibility is protected by statute). See WAC 388-503-0310, chapter 388-517 WAC and WAC 388-523-2305.

"Children's health program" means a state-funded medical program for children under age eighteen ((years of age)):

* Whose family income does not exceed one hundred percent of the federal poverty level; and

* Who are not otherwise eligible under Title XIX of the Social Security Act.

((Client" means an applicant for or recipient of DSHS medical care programs.))

"Coinsurance-Medicare" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"Community services office (CSO)" means an office of the department which administers social and health services at the community level.

((Copayment" means a fixed dollar amount that is the responsibility of the client.))

"Couple" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married except when determining institutional eligibility.

"Deductible-Medicare" means an initial specified amount that is the responsibility of the client.

* "Part A of Medicare-inpatient hospital deductible" means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

* "Part B of Medicare-physician deductible" means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"Delayed certification" means ((e)) department approval of a person's eligibility for medicaid made after the established application processing time limits.

"Department" means the state department of social and health services.

"Early and periodic screening, diagnosis and treatment (EPSDT)" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"Electronic fund transfers (EFT)" means automatic bank deposits to a client's or provider's account.

"Emergency medical condition" means the sudden onset of a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- * Placing the patient's health in serious jeopardy;
- * Serious impairment to bodily functions; or
- * Serious dysfunction of any bodily organ or part.

"Emergency medical expense requirement" means a specified amount of expenses for ambulance, emergency room or hospital services, including physician services in a hospital, incurred for an emergency medical condition that a client must incur prior to certification for the medically indigent program.

"Essential spouse" see "spouse."

"Extended care patient" means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

"Garnishment" means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

"Grandfathered client" means:

- * A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and
- * Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and
- * Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and
- * An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the Medicaid program and for each consecutive month after December 1973 who:
 - * Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and
 - * Remains institutionalized.

((("Health insuring organization (HIO)" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.))

"Health maintenance organization (HMO)" means an entity ((that)) licensed by the office of the insurance commis-

sioner to provide((s)) comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

"Healthy kids," see "EPSDT."

"Home health agency" means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

"Hospital" means an institution licensed as a hospital by the ((official state licensing authority)) department of health.

"Income for an SSI-related client," means((, for an SSI related client,)) the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

* **"Earned income"** means gross wages for services rendered and/or net earnings from self-employment. ((Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.))

* **"Unearned income"** means all other income.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded((, but does not include correctional institutions)).

* **"Institution-public"** means an institution, including a correctional institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

* **"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

* **"Institution for the mentally retarded or a person with related conditions"** means an institution that:

* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

* **"Medical institution"** means an institution:

* Organized to provide medical care, including nursing and convalescent care;

* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

* Authorized under state law to provide medical care; and

* Staffed by professional personnel. Services include adequate physician and nursing care.

"Intermediary" means an organization having an agreement with the federal government to process Medicare claims under Part A.

"Legal dependent" means a person for whom another person is required by law to provide support.

"Limited casualty program (LCP)" means a medical care program for medically needy, as defined under WAC 388-503-0320 and for medically indigent, as defined under WAC 388-503-0370.

"Medicaid" means the federal aid Title XIX program under which medical care is provided to persons eligible for:

* Categorically needy program as defined in WAC 388-503-0310 and ((388-503-1105)) 388-511-1105; or

* Medically needy program as defined in WAC 388-503-0320.

"Medical assistance." ((means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined in WAC 388-503-0310 and 388-503-1105.)) See "**Medicaid**."

"Medical assistance administration (MAA)" means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"Medical assistance unit (MAU)" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"Medical consultant" means a physician employed by the department.

"Medical facility" see "**Institution**."

"Medically indigent (MI)" means a state-funded medical program((, part of the limited casualty program,)) for a person ((with limited income and resources)) who has an emergency medical condition requiring hospital-based services.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction((, and)). There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Medically needy (MN)" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income ((and/or resources)) above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

"Medicare" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

* **"Part A"** covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

* **"Part B"** is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"Medicare assignment" means the method by which the provider receives payment for services under Part B of Medicare.

"Month of application" means the calendar month a person files the application for medical care ((unless)). When the application is for the medically needy program, ((then)) at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"Nursing facility" means any institution or facility the department licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

* Department certifies; and

* Facility and the department agree the facility may provide skilled nursing facility care.

"Outpatient" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"Patient transportation" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"Physician" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

"Professional activity study (PAS)" means a compilation of inpatient hospital data ((by diagnosis and age)), conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. ((These data were published in a book entitled, *Length of Stay in PAS Hospitals, Western*. The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.))

"Professional review organization for Washington (PRO-W)" means the state level organization responsible for determining whether health care activities:

* Are medically necessary;

* Meet professionally acceptable standards of health care; and

* Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"Prosthetic devices" means replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

* Artificially replace a missing portion of the body;

* Prevent or correct physical deformity or malfunction; or

* Support a weak or deformed portion of the body.

"Provider" or **"provider of service"** means an institution, agency, or person:

* ((Having)) Who has a signed agreement with the department to furnish medical care ((and)), goods, and/or services to clients; and

* Is eligible to receive payment from the department.

"Resources for an SSI-related client" ((mean, for an SSI-related client,)) means cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

* If an individual can reduce a liquid asset to cash, it is a resource.

* If an individual cannot reduce an asset to cash, it is not considered an available resource.

* Liquid ((-)) means properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash ((in-hand, stocks)), savings, checking accounts, stocks, mutual fund shares, mortgage, or a promissory note((s)).

* Nonliquid ((-)) means all other property both real and personal ((shall be)) evaluated ((according to)) at the price the item can reasonably be expected to sell for on the open market ((in the particular geographical area involved)).

"(Retroactivity) Retroactive period" means the ((period of no more than)) three calendar months before the month of application ((month of an otherwise eligible person under the Federal aid Title XIX program)).

"Spell of illness" see "benefit period."

"Spenddown" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"Spouse" means:

* **"Community spouse"** means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waivered program as described under chapter 388-515 WAC.

* **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person, with whom such ((spouse)) a person lives.

* **"Essential spouse"** means, ((for the purposes of SSI,)) a ((spouse)) husband or wife whose needs were taken into account in determining ((the need of an)) old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

* **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

* **"Institutionalized spouse"** means a married person in an institution or receiving services from a home or community-based waivered program.

* **"Nonapplying spouse"** means ((the)) an SSI-eligible person's husband or wife, who has not applied for assistance((, of an SSI-eligible person)).

"SSI-related" means an aged, blind or disabled person not receiving an SSI cash grant.

((**"State office or SO"** means the medical assistance administration of the department of social and health services.))

"Supplemental security income (SSI) program, Title XVI" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"Supplementary payment (SSP)" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

* **"Mandatory state supplement"** means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

* **"Optional state supplement"** means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"Third party" means any entity that is or may be liable to pay all or part of the medical cost of care of a ((federal Medicaid or state)) medical ((care)) program client.

"Title XIX" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"Transfer" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

* An intentional act or transfer; or

* Failure to act to preserve title to the resource.

"Value-fair market for an SSI-related person" means((, for SSI-related medical eligibility,)) the current value of a resource at the ((going)) price for which the resource can reasonably be expected to sell on the open market ((in the particular geographic area involved)).

"Value of compensation received" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser of a resource.

"Value-uncompensated" means, for SSI-related medical eligibility, the fair market value of a resource, minus the amount of compensation received in exchange for the resource.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 97-03-036, filed 1/9/97, effective 2/9/97)

WAC 388-503-0310 Categorically needy eligible persons. ((The department shall determine)) A person eligible for categorically needy medical assistance ((a client who)) is:

(1) Not eligible for or receiving temporary assistance for needy families (TANF) cash benefits but who meets the eligibility criteria for aid to families with dependent children (AFDC) that were in effect on July 16, 1996 except the person's:

(a) Earned income is treated as described under WAC 388-507-0740; and

(b) Resources are treated as described under WAC 388-505-0580.

This group shall include, but is not limited to, the special situations described under WAC 388-507-0740.

(2) Receiving or eligible to receive a cash assistance payment under:

(a) ((Aid to families with dependent children (AFDC) TANF. For the purpose of determining eligibility for a medical program, any reference to AFDC((A)) includes TANF;) or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for noninstitutional categorically needy medical assistance.

((2))) (3) A person twenty years of age or younger who ((meets the)):

(a) Meets the one-person ((AFDC)) TANF financial requirements and is in:

(i) ((Foster care; or

(ii) Subsidized adoption; or

(iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

((4))) (ii) An approved inpatient psychiatric facility.

(b) ((Eligibility requirements under chapter 388-509 WAC) Is in foster care; or

(c) Receives subsidized adoption.

((3))) (4) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in subsection ((3))) (4)(c)(i) of this section by the client's spouse and/or other financially responsible family member living in the same household.

((4))) (5) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

((5))) (6) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; ((and))

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

((6)) Effective January 1, 1991,))

(7) Any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

((7))) (8) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

((8))) (9) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the permanently and totally disabled (APTD); ((and))

(b) Was entitled to or received retirement, survivors, and disability insurance (RSI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

((9)) (10) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

((10)) (11) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

((11)) (12) A child ((eighteen years of) under age ((or younger)) nineteen meeting residence, citizenship, and Social Security number requirements whose countable family income is at or under two hundred percent of the FPL.

((12)) (13) A family ((unit)) member who is ineligible for ((AFDC financial)) medical assistance ((as a result (wholly or in part))) because of the collection or increased collection of child or spousal support ((shall be)). The family is eligible for medical assistance for four months beginning with the month of ineligibility((,)) if the family ((unit)) received ((AFDC financial)) medical assistance in at least three of the six months immediately preceding the month of ineligibility;

((13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

- (a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and
- (b) A member of such family continues to be employed; and
- (c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.)

(14) Denied ((AFDC)) TANF cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

- (a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is an SSI-related institutionalized person and has gross income above the cash assistance level but below three hundred percent of the Federal Benefit Rate as defined under WAC 388-250-1700.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) ((A person)) Eligible for and accepting hospice services as described under WAC 388-86-047 and who ((shall be)) is:

(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or

(b) AFDC or TANF categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for ((AFDC)) TANF or SSI cash assistance because of deeming of income of the alien's sponsors as described under WAC 388-218-1695;

(20) ((Not an inmate of a public institution;

(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

(22)) A client who:

- (a) Was entitled to RSDI benefits in August 1972; and
- (b) Is ineligible for ((AFDC)) TANF or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

(21) A child who received SSI payments on August 22, 1996, and who, but for the change in disability criteria would continue to be eligible for SSI benefits;

(22) Not an inmate of a public institution.

AMENDATORY SECTION (Amending Order 3983, filed 6/6/96, effective 7/7/96)

WAC 388-505-0520 Citizenship ((and alien status))

((1) The department shall provide Medicaid to)) An otherwise eligible person ((who is)) may receive Medicaid when the person is:

- ((a)) (1) A citizen or national of the United States; ((or
b)) (2) A North American Indian born in Canada claiming ((fifty percent)):

((i)) (a) Fifty percent Indian blood; or
((ii)) (b) Less than fifty percent Indian blood ((and who)) when the person has maintained United States residency since ((before)) December 25, 1952((,-

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRU-COL) in the United States; or

(d) An alien lawfully present in the United States according to sections 203 (a)(7), 207(e), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

(e) An alien granted lawful temporary residence, or permanent residence according to sections 245(a), 210, 210(f), and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA), unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or

(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.

(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five year disqualification period, the department shall provide Medicaid to an otherwise eligible person when the alien is:

- (a) Aged, blind, or disabled; or
- (b) Seventeen years of age or under; or
- (c) Pregnant; or
- (d) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(3) When an alien as described under subsection (1)(e) or (f) of this section is still under the five year disqualification period, and is not described under subsection (2) of this section, the department shall provide medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.

(4) For any other alien, when such alien meets the eligibility requirements of a Medicaid program other than citizen-

~~ship or alien status requirements, the department shall provide Medicaid as follows:~~

(a) Full scope medical services for a pregnant woman; or
 (b) Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-500-0005.

(5) Medical care services and children's health programs do not require citizenship/alien status); or

(3) A noncitizen who is otherwise eligible and who meets provisions described in chapter 388-510 WAC.

AMENDATORY SECTION (Amending Order 3954, filed 3/13/96, effective 4/13/96)

WAC 388-507-0740 Special situations. (1) ((The department)) A client shall ((not allow the AFDC thirty dollars plus one third earned income exemption for clients applying solely for medical assistance, unless the conditions under subsection (2) of this section apply)) receive a fifty percent family earned-income exemption and the actual dependent care amount deduction described in WAC 388-505-0590 when the client:

(a) Applies for or receives temporary assistance for needy families (TANF) or state family assistance (SFA) cash benefits;

(b) Applies for or receives TANF-related or SFA-related medical only benefits; or

(c) Is not eligible for or receiving TANF benefits but who meets the eligibility criteria for AFDC that were in effect on July 16, 1996.

This subsection does not apply to a client described in subsection (2) of this section.

(2) ((The department)) A client shall ((allow the exemption in subsection (1) of this section when the family has:

(a) Received AFDC cash assistance in one of the four preceding months; and

(b) Not already received the exemption for a maximum of four consecutive months; or

(c) Already received the exemption for the maximum period, but has subsequently not received AFDC cash assistance for at least twelve consecutive months)) receive a ninety dollar earned-income exemption, and the actual dependent care amount deduction, when a client applies for or receives noncash medical only benefits described under chapter 388-508 WAC, Pregnant women medical eligibility and chapter 388-509 WAC, Children's medical eligibility.

(3) ((The department shall consider an AFDC client terminated from cash assistance as)) A person is eligible for Medicaid ((when termination was solely due to an AFDC client:)

(a) Ceasing to attend school; or
 (b) Refusing)) if the person:
 (a) Would be eligible for, but chooses not to receive, TANF; or

(b) Is not eligible for or receiving TANF solely because the person:

(i) Has received sixty months of financial assistance or is a member of an assistance unit which has received sixty months of financial assistance;

(ii) Is not attending school;

(iii) Refuses to participate in ((the job opportunities and basic skills (JOBS) training program)) TANF work activities;

(iv) Is an unmarried minor parent and is not in a department-approved living situation as described under WAC 388-215-1660;

(v) Is a parent or caretaker relative who fails to notify the department within five days of the date the child leaves the home and the child's absence will exceed ninety days as described under WAC 388-215-1115;

(vi) Is a fleeing felon or fleeing to avoid prosecution for a felony charge, or a probation and parole violator;

(vii) Is convicted of a drug-related felony as described under WAC 388-215-1570;

(viii) Is convicted of receiving benefits unlawfully as described under WAC 388-46-110;

(ix) Is convicted of misrepresenting residence to obtain assistance in two or more states as described under WAC 388-46-120; or

(x) Has gross earnings exceeding the TANF gross income standard.

(4) ((The department shall not consider)) A person is eligible for SFA-related medical if the person:

(a) Would be eligible for, but chooses not to receive SFA; or

(b) Is not eligible for, or receiving, SFA solely because of the restrictions in subsection (3)(b) of this section.

(5) Diversion cash assistance, issued under chapter 388-222 WAC, is exempt income when determining eligibility for a medical program.

(6) The following requirements do not apply to a TANF-related or SFA-related family applying for or receiving medical:

(a) Work quarters as described under WAC 388-215-1385; or

(b) Unemployment as described under WAC 388-215-1375.

(7) The transfer of a resource ((when determining)) does not affect the medical program eligibility for a person who is not institutionalized. For an institutionalized client, refer to WAC 388-513-1365.

NEW SECTION

WAC 388-510-1005 Definitions—Aliens. "Legal immigrant" means an alien residing in the United States who is lawfully present with intent to remain. A legal immigrant includes, but is not limited to, an alien meeting PRUCOL criteria.

"Nonimmigrant" means an alien legally residing in the country but without an intent to remain permanently or who is not lawfully present.

"PRUCOL" means a person permanently residing under color of law.

"Qualified alien" means an alien:

(1) Who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 12, Sec. 101 (a)(20));

(2) Who is a refugee admitted to the United States under section 207 of such Act;

(3) Who is granted asylum under section 208 of Act;

(4) Whose deportation is being withheld under section 243(h) of such Act;

(5) Who is paroled into the United States under section 212(d)(5) of such Act for a period of at least one year;

(6) Who is granted conditional entry under section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(7) Who is a victim of domestic violence or an immigrant child that has been battered or subjected to extreme cruelty when:

(a) The immigrant petitions for legal status under section 204(a) of the INA or a petition for suspension of deportation under section 244(a) of the INA; and

(b) The person responsible for the battery no longer resides with the immigrant.

(8) Who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, or

(9) Who is an Amerasian immigrant as defined in the Balanced Budget Agreement of 1997.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-510-1020 Alien—Eligibility. ((The department shall provide Medicaid to an otherwise eligible person who meets the criteria as described under WAC 388-505-0520.)) (1) For the purpose of determining eligibility for a medical program, the terms "qualified alien" or "nonqualified alien" indicates the immigration status of the alien, not the eligibility status for a particular medical program.

(2) An alien receiving temporary assistance for needy families (TANF) or Supplemental Security Income (SSI) is eligible for Medicaid.

(3) A qualified alien as described in WAC 388-510-0005 is eligible for categorically needy (CN) Medicaid who:

(a) Arrived in the United States on or before August 21, 1996; and

(b) Is otherwise eligible for a Medicaid program.

(4) A legal immigrant is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or before August 21, 1996;

(b) Would be eligible for a Medicaid program but for immigration status; and

(c) Does not meet the definition of qualified alien in WAC 388-510-1005.

(5) An alien is eligible for CN Medicaid who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Is otherwise eligible for a Medicaid program; and

(c) Is a refugee, an asylee, an alien who has had deportation withheld, a Cuban/Haitian or an Amerasian as described in WAC 388-510-1005;

(d) Is an alien who is active duty with the United States military;

(e) Is an honorably discharged veteran of the United States Armed Forces, including the following who fought on behalf of the United States:

(i) Filipino soldiers in World War II;

(ii) Hmong and Lao soldiers during the Vietnam conflict;

(iii) The spouse or unmarried dependent child of a veteran described in subsection (5)(d) or (e) of this section.

(f) Is a qualified alien who has resided in the United States for five years.

(6) A family with child(ren) is eligible for state-funded CN scope of care who:

(a) Arrived in the United States on or after August 22, 1996;

(b) Has resided in Washington for twelve-consecutive months as described under WAC 388-215-1210; and

(c) Is determined eligible for or receiving state family assistance (SFA).

(7) A legal immigrant who does not meet the alien criteria described under subsection (5)(c), (d), (e) or (f) of this section is eligible for state-funded medical care services, as described under WAC 388-529-2930, who:

(a) Arrived in the United States on or after August 22, 1996; and

(b) Is determined eligible for and is receiving financial assistance under the general assistance - unemployable (GA-U) program.

(8) A noncitizen pregnant woman is eligible for state-funded CN scope of care:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under chapter 388-508 WAC.

(9) A noncitizen child is eligible for state-funded CN scope of care under the children's health program:

(a) Who is not eligible for coverage under a CN Medicaid program;

(b) Regardless of date of arrival into the United States; and

(c) Who would be eligible under WAC 388-509-0920.

(10) Regardless of the date of arrival into the United States, a noncitizen who meets Medicaid eligibility requirements, other than citizenship, is eligible for emergency medical care and services:

(a) Only for the necessary treatment of an emergency medical condition as defined under WAC 388-500-0005; and

(b) With the exception of routine prenatal or postpartum care or organ transplants as defined in WAC 388-87-115(2).

(11) Refer to chapter 388-518 WAC, Limited casualty program—Medically indigent for a noncitizen who:

(a) Does not meet Medicaid program requirements;

(b) Has an emergency medical condition; or

(c) Requires an organ transplant.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-523-2305 Medical extensions. (1) Refer to:

(a) WAC 388-508-0830 for extensions for a pregnant woman; and

(b) WAC 388-508-0835 for the family planning extension.

(2) A family ((unit)) ineligible for ((AFDC cash)) medical assistance or state family assistance (SFA)-related medical because of the collection or increased collection of child

or spousal support ((shall be)), is eligible for medical assistance for four months beginning with the month of ineligibility, provided the family ((unit)):

(a) Is eligible for and received ((AFDC cash)) medical assistance or SFA-related medical in three or more of the six months immediately preceding the month of ineligibility; and

(b) Continues to meet all AFDC, or temporary assistance for needy families (TANF), SFA, or related medical eligibility criteria except income.

(3) ((The department shall find eligible for medical assistance, an AFDC)) A family ((unit which becomes)), ineligible for or requesting termination from TANF or SFA medical or cash assistance because of((-

((e))) income from, or hours of, employment of the caretaker relative((,-or

((b)) The loss of the thirty dollars plus one third earned income deduction; or

((e)) The loss of the thirty dollar earned income deduction.

Such AFDC family unit as described under (a), (b), or (e) of this subsection)) shall remain eligible for medical assistance for six calendar months when the family ((unit)):

((f))) (a) Received ((AFDC)) medical assistance or SFA-related medical in three or more of the six months immediately preceding the month of ineligibility; and

((f))) (b) Includes a child.

(4) The ((AFDC)) family ((unit)), under subsection (3) of this section, shall be:

(a) Eligible for six additional calendar months of medical assistance or SFA-related medical provided the family ((unit)):

(i) Continues to include a child; and

(ii) Received TANF-related or SFA-related medical ((assistance)) for the entire six-month extension under subsection (3) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative for the preceding three-month period. The client shall report by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of medical assistance when the:

(i) Family's average gross monthly earned income, less the cost of child care related to employment of the caretaker relative, exceeds one hundred eighty-five percent of the Federal Poverty Level when averaged over the immediately preceding three-month period; or

(ii) Caretaker relative has no earnings in one or more of the three previous months, unless lack of earnings is due to good cause.

(5) An AFDC, TANF, or SFA family member shall not be eligible for the extensions in subsections (3) and (4) of this section when the department finds the person ineligible for AFDC, TANF, or SFA in any of the last six months before the extension because of fraud.

WSR 98-16-001

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 22, 1998, 1:10 p.m.]

Date of Adoption: July 21, 1998.

Purpose: (1) Clarify the process of registering confidential vessels; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Clarifying WAC 308-93-241 Confidential vessel registration—Application procedure, 308-93-242 Confidential vessel program—Agency contact, 308-93-243 Confidential vessel registrations—Inventory, 308-93-244 Confidential vessel registrations—Refusal and removal, and 308-93-245 Confidential vessel registrations—Records disclosure.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100, 88.02.120.

Adopted under notice filed as WSR 98-12-072 on June 1, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 21, 1998

Evelyn P. Yenson

Director

AMENDATORY SECTION (Amending WSR 92-15-023, filed 7/6/92, effective 8/6/92)

WAC 308-93-241 Confidential vessel registration—Application procedures. ((1) Requests for confidential vessel registration shall be in writing, addressed to the Administrator, Title and Registration Services, Department of Licensing, Olympia, Washington and shall be accompanied by the following:

(a) An application for confidential vessel registrations, on a form furnished by the department;

(b) An explanation in support of the request for confidential vessel registrations, on a form furnished by the department, setting the purposes for which the vessel registration will be used, and why confidential vessel registrations are necessary to accomplish this purpose;

(c) Copies of documents establishing that the vessel is owned or controlled by the agency requesting issuance of confidential vessel registrations; acceptable documents include, but are not limited to, current certificate of title or

registration, manufacturer's statement of origin, court order or seizure documents;

(d) Such other documentation as the department at its own discretion may reasonably require.

(2) The request, application, and explanation shall be signed by the agency head or designated contact person.) (1) A government agency requesting confidential vessel registration shall:

(a) Write to the department on their letterhead requesting one or more vessels be included in the confidential vessel program;

(b) Complete an application form approved by the department;

(c) Provide a copy of the current certificate of ownership or registration certificate showing the vessel is registered to the government agency.

(2) The letter of request and application shall be signed by the government agency head or designated contact person.

AMENDATORY SECTION (Amending WSR 92-15-023, filed 7/6/92, effective 8/6/92)

WAC 308-93-242 Confidential vessel ((registration)) program—Agency contact. (((1) Except as provided in subsection (2) of this section, the only person authorized to request issuance of confidential vessel registrations or sign correspondence pertaining to the confidential vessel registration program, is the agency head, which shall include regional federal agency administrators and military commanding officers.

(2) The agency head may designate a maximum of two additional individuals within the agency as contact persons authorized to sign applications and correspondence pertaining to the confidential vessel registration program.

(3) The agency head must submit information to the department of licensing on a form provided by the department, indicating the name, title, address, and telephone number of each additional contact person.

(4) Upon removal or replacement of an agency head or designated contact person, the department of licensing shall be notified in writing within five days of the change, and a new form as indicated in subsection (3) of this section shall be forwarded to the department.) (1) A government agency head or designee may apply for confidential vessel registrations or sign correspondence pertaining to confidential vessel registrations.

(2) The government agency head may designate a maximum of two agency employees to represent the agency regarding confidential vessel registrations. The government agency head shall provide the name, title, address, and telephone number of each designee.

(3) A government agency head or designee shall notify the department in writing within five days of any change in the agency head or designee.

AMENDATORY SECTION (Amending WSR 92-15-023, filed 7/6/92, effective 8/6/92)

WAC 308-93-243 Confidential vessel registrations—((Annual)) Inventory. (By May 31 of each year, each

agency having confidential vessel registrations in its possession shall furnish an inventory of the confidential vessel registrations to the department. The inventory shall include:

(1) A list of confidential vessel registrations;

(2) The make, year of manufacture, and identification number of each vessel bearing confidential vessel registrations;

(3) A certification, signed by the agency head or designated contact person, that all vessel registrations issued to the agency are being utilized solely for those purposes specified by RCW 88.02.035.) (1) The department shall provide an inventory listing of vessels to each agency participating in the confidential vessel registration program. Each government agency shall verify the accuracy of the information by:

(a) Correcting any erroneous information;

(b) Delete vessels no longer in the program;

(c) Adding vessels in the program, but not shown on the inventory listing;

(d) Signing the inventory listing certifying that all confidential vessel registrations shown on the listing are being utilized under RCW 88.02.035(3); and

(e) Returning the inventory listing to the department.

(2) The department shall not renew a vessel shown on the inventory listing until the government agency has complied with the requirements of subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 92-15-023, filed 7/6/92, effective 8/6/92)

WAC 308-93-244 Confidential vessel registrations—Refusal and removal. (((1) The department of licensing may cancel or refuse to issue or reissue a confidential vessel registration when it has reason to believe the registration is being used for purposes not authorized in RCW 88.02.035. Issuance of the registration would violate the intent or meaning of the referenced statute.

(2) When an agency no longer requires a confidential vessel registration or the registration is canceled, the validation decal must be removed and destroyed and the confidential registration returned to the department of licensing for deletion from the agency's inventory.) (1) The department may cancel or refuse to issue or renew a confidential vessel registration when the department or chief of the Washington state patrol has reasonable cause to believe the registration is not being used for purposes authorized in RCW 88.02.035.

(2) When a government agency no longer requires a confidential vessel registration or the registration is cancelled:

(a) The government agency shall remove and destroy the validation decal and return the confidential vessel registration to the department; and

(b) The department shall delete the confidential vessel registration record from the confidential vessel program.

AMENDATORY SECTION (Amending WSR 92-15-023, filed 7/6/92, effective 8/6/92)

WAC 308-93-245 Confidential vessel registrations—Records disclosure. (((1) In accordance with RCW 42.17.310(2), files, records, documents, and any other information pertaining to the confidential vessel registration pro-

gram shall be exempt from public inspection and copying, as such disclosure would be contrary to vital government interests.

(2) Information concerning the confidential vessel registrations issued to any particular agency shall not be released, except to the agency head or the designated contact person(s).

(3) Nothing herein shall be construed to prohibit the disclosure of statistical information which is not descriptive of the identity of the confidential vessel or its usage.) (1) Because disclosure of confidential vessel registration information is contrary to vital government interest, the department shall not disclose files, records, documents, and any other information pertaining to the confidential vessel registration program. These records are exempt from public inspection and copying under RCW 42.17.310(2).

(2) The department shall not release information concerning confidential vessel registrations to anyone other than the government agency head or the designee of the agency that owns the vessel.

(3) The department may disclose confidential vessel statistical information if the information is not descriptive of the identity of the confidential vessel or its usage.

**WSR 98-16-002
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed July 22, 1998, 1:14 p.m.]

Date of Adoption: July 21, 1998.

Purpose: (1) Clarify the process of confidential license plates; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Clarifying WAC 308-96A-080 Confidential license plates—Application procedures, 308-96A-085 Confidential license plates—Agency contact, 308-96A-090 Confidential vehicle license plates—Inventory, 308-96A-095 Confidential license plates—Refusal and removal, and 308-96A-097 Confidential license plates—Records disclosure.

Statutory Authority for Adoption: RCW 46.08.066.

Adopted under notice filed as WSR 98-12-073 on June 1, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 21, 1998

Evelyn P. Yenson

Director

AMENDATORY SECTION (Amending Order TL/RG-12, filed 5/8/85)

WAC 308-96A-080 Confidential license plates—Application procedures. ((1) Every request for confidential license plates shall be made in writing, on stationery of the requesting agency, to the department of licensing, and shall be accompanied by the following:

(a) An application for confidential license plates, on a form furnished by the department;

(b) Except for those confidential plates authorized by RCW 46.08.066(3), by an explanation in support of the request for confidential license plates, on a form furnished by the department, setting forth the purposes for which the plates will be used, and why confidential license plates are necessary to accomplish this purpose;

(c) Copies of documents establishing that the vehicle is owned or controlled by the agency requesting issuance of confidential license plates; acceptable documents include, but are not necessarily limited to, current certificate of title or registration, manufacturer's statement of origin, and court orders or seizure documents;

(d) Such other documentation as the department may reasonably require.

(2) The request, application, and explanation shall be signed by the agency head or an individual designated by the agency head as the authorized contact person as provided in WAC 308-96A-085.

(3) Every request for confidential license plates will be reviewed on an individual basis to ensure compliance with RCW 46.08.066. The department has the authority to reject or refuse applications which do not conform to the provisions of the referenced statute, and rules and regulations of the department.

(4) Applications for confidential license plates to be used for the personal security of a public official or employee will be forwarded by the department to the Washington state patrol for review and recommendation prior to final determination by the department.) (1) A government agency requesting confidential license plates shall:

(a) Write to the department on their letterhead requesting one or more vehicles be included in the confidential license plate program;

(b) Complete an application form approved by the department;

(c) Provide a copy of the current certificate of ownership, registration certificate or other documents approved by the department showing the vehicle is owned or operated by the government agency.

(2) The letter of request and application shall be signed by the government agency head or designated contact person.

AMENDATORY SECTION (Amending Order TL/RG-12, filed 5/8/85)

WAC 308-96A-085 Confidential license plates—

Agency contact. ((1) Except as provided in subsection (2) of this section, the only person authorized to request issuance of confidential license plates or sign correspondence pertaining to the confidential plate licensing program, is the agency head, which shall include regional federal agency administrators and military commanding officers.

(2) The agency may designate a maximum of two individuals as contact persons authorized to apply for confidential plates and sign correspondence pertaining to the confidential plate licensing program.

(3) The agency head must submit information to the department of licensing, on a form provided by the department, indicating the name, title, address and telephone number of each contact person authorized to apply for confidential license plates.

(4) Upon removal or replacement of an agency head or designated contact person, the department of licensing shall be notified in writing within five days of the change, and a new form as indicated in subsection (3) of this section shall be forwarded to the department.) (1) A government agency head or designee may apply for confidential license plates or sign correspondence pertaining to confidential license plates.

(2) The government agency head may designate a maximum of two agency employees to represent the agency regarding confidential license plates. The government agency head shall provide the name, title, address, and telephone number of each designee.

(3) A government agency head or designee shall notify the department in writing within five days of any change in the agency head or designee.

AMENDATORY SECTION (Amending Order TL/RG-12, filed 5/8/85)

WAC 308-96A-090 Confidential license plates—

((Annual)) Inventory. ((1) At least once each year, at a time designated by the department of licensing, each agency having confidential license plates in its possession shall furnish an inventory of the confidential license plates to the department. The inventory shall include:

(a) A list of confidential license plates in alphabetical order;

(b) The make, year of manufacture and identification number of each vehicle bearing confidential license plates;

(c) A certification, signed by the agency head or designated contact person, that all plates issued to the agency are being utilized solely for those purposes specified by RCW 46.08.066.) (1) The department shall provide an inventory listing of vehicles, scheduled to be renewed within the next quarter, to each agency participating in the confidential vehicle license plate program. Each government agency shall verify the accuracy of the information by:

(a) Correcting any erroneous information;

(b) Deleting vehicles no longer in the program;

(c) Adding vehicles in the program, but not shown on the inventory listing;

(d) Signing the inventory listing certifying that all confidential license plates shown on the listing are being utilized under RCW 46.08.066; and

(e) Returning the inventory listing to the department.

(2) The department shall not renew a vehicle shown on the quarterly inventory listing until the government agency has complied with the requirements of subsection (1) of this section.

AMENDATORY SECTION (Amending Order TL/RG-12, filed 5/8/85)

WAC 308-96A-095 ((Cancellation of)) Confidential license plates—Refusal and removal. ((1) When an agency no longer requires a set of confidential license plates, the plates and fictitious registration are to be returned to the confidential plate program administrator at the department of licensing for deletion from the agency's inventory.

(2) The department of licensing may cancel or refuse to reissue confidential license plates when it has reasonable grounds to believe that the plates are being used for purposes not authorized under RCW 46.08.066, or otherwise believes continued issuance of the plates would violate the intent or meaning of the referenced statute.) (1) The department may cancel or refuse to issue or renew confidential license plates when the department or chief of the Washington state patrol has reasonable cause to believe the license plates are not being used for purposes authorized in RCW 46.08.066.

(2) When a government agency no longer requires confidential license plates or the license plates are cancelled:

(a) The government agency shall remove and destroy the license plates and registration or return them to the department; and

(b) Notify the department in writing that the confidential license plates have been removed and destroyed. The department shall delete the confidential license plates record from the confidential program.

AMENDATORY SECTION (Amending Order TL/RG-12, filed 5/8/85)

WAC 308-96A-097 Confidential license plates—Records disclosure. ((1) In accordance with RCW 42.17.310(2), files, records, documents, and any other information pertaining to the confidential licensing program shall be exempt from public inspection and copying, as such disclosure would be contrary to vital government interests.

(2) Information concerning the confidential license plates issued to any particular agency shall not be released, except to the agency head or the designated contact person(s).

(3) Nothing herein shall be construed to prohibit the disclosure of statistical information which is not descriptive of the identity of the confidential vehicle or its usage.) (1) Because disclosure of confidential license plate information is contrary to vital government interest, the department shall not disclose files, records, documents, and any other information pertaining to the confidential license plate program. These records are exempt from public inspection and copying under RCW 42.17.310(2).

(2) The department shall not release information concerning confidential license plates to anyone other than the government agency head or the designee of the agency that owns the vehicle.

(3) The department may disclose confidential vehicle statistical information if the information is not descriptive of the identity of the confidential vehicle or its usage.

**WSR 98-16-019
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed July 27, 1998, 3:56 p.m.]

Date of Adoption: July 27, 1998.

Purpose: To implement SHB 1261 (chapter 238, Laws of 1997). This legislation authorizes the department to prepare a step-ranged tax credit table to be used by businesses when determining the amount of small business credit available to them.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-104 Small business tax relief based on volume of business.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 98-10-123 on May 6, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 27, 1998
Claire Hesselholt
Rules Manager

AMENDATORY SECTION (Amending WSR 97-08-050, filed 3/31/97, effective 5/1/97)

WAC 458-20-104 Small business tax relief based on volume of business. ((1) **Introduction.** This section explains the small business B&O tax credit (RCW 82.04.4451), and the public utility tax income exemptions (RCW 82.16.040). Chapter 111, Laws of 1996, amended RCW 82.16.040 to increase the income exemptions for the public utility tax, effective July 1, 1996. (See also WAC 458-20-101 on tax registration and tax reporting requirements.)

(2) Business and occupation tax. Persons subject to 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.

(a) If the amount of B&O tax 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 will be allowed. If the amount of B&O tax 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. The credit cannot be less than zero. RCW 82.04.4451.

(b) Persons having multiple tax reporting accounts are eligible for only one small business tax credit per tax reporting period.

(c) Spouses who operate distinct and separate businesses that have different tax registrations are each eligible for the small business tax credit.

(3) Retail sales tax. Persons making retail sales must collect and remit all applicable retail sales taxes even if B&O tax is not due. There is no small business tax credit or volume of business exemption for retail sales tax.

(4) Public utility tax. Persons subject to public utility tax are exempt from 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 maximum exemption for the assigned reporting period. RCW 82.16.040. The maximum exemptions for public utility tax are:

Monthly reporting basis	\$2,000 per month
Quarterly reporting basis	\$6,000 per quarter
Annual reporting basis	\$24,000 per annum

If the taxable amount for a reporting period equals or exceeds the maximum exemption, tax must be remitted on the full taxable amount. The public utility tax maximum exemptions 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.

Maximum Credit available for quarterly filers ($3 \times \$35$)	\$105
B&O Tax	\$.90
 Credit Available	 \$.90
Net B&O Tax Due	0

(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.

Twice the Maximum Credit available for quarterly filers ($2 \times \$105$)	\$210
Less: B&O Tax	\$120
 Credit Available	 \$.90
Net B&O Tax Due	\$.30

(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.

Twice the Maximum Credit available for quarterly filers ($2 \times \$105$)	\$210
Less: B&O Tax	\$250
 Credit Available	 \$ 0
Net B&O Tax Due	\$ 250

(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 multi-

ple 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.

Wholesaling B&O Tax	\$.90
Add: Manufacturing B&O Tax	\$.70

Subtotal of B&O Tax	\$160
Less: MATC	\$ 60

Total B&O Tax Liability	\$100
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Maximum Credit available for quarterly filers ($3 \times \$35$)	\$105
B&O Tax	\$100

Credit Available	\$100
Net B&O Tax Due	0

(e) OK Inc. has two separate tax reporting accounts with the department, both of which have been assigned quarterly reporting periods. OK Inc. is only allowed one small business B&O tax credit for the activity of both accounts. The total B&O tax for both accounts for this quarter is one hundred fifty dollars (one hundred dollars from the first account and fifty dollars from the second account). Its maximum small business tax credit is sixty dollars.

B&O tax account #1	\$100
B&O tax account #2	\$ 50

Total B&O tax	\$150
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Twice the Maximum Credit available for quarterly filers ($2 \times \$105$)	\$210
Less: B&O tax	(\$150)

Credit Available	\$ 60
Net B&O Tax Due	\$.90

The credit should be taken from the account that will allow for it to be deducted in full. If one account does not have enough B&O tax to absorb the full credit, it can be applied on the other account until the full credit is used. If the reporting frequency is different between the two accounts, the small business tax credit should not be taken until the filing of the less frequent tax reporting account (the credit computation for the two accounts must cover the same period of time).

(f) 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 five thousand eight hundred dollars. BB Corporation is exempt for the payment of public utility tax because BB's taxable public utility

income does not exceed the six thousand dollar maximum exemption for this reporting period.)) (1) **Introduction.** This rule explains the small business B&O tax credit (RCW 82.04.4451), and the public utility tax income exemption (RCW 82.16.040). The public utility tax exemption is a fixed amount, or threshold, based on the reporting frequency assigned to the account. The amount of small business B&O tax credit available on a return can increase or decrease, depending on the reporting frequency of the account and the net B&O tax liability for that return. Readers should refer to WAC 458-20-22801 (Tax reporting frequency—Forms) for an explanation of how the department assigns a particular reporting frequency to each account. Readers may also want to refer to WAC 458-20-101 for an explanation of Washington's tax registration and tax reporting requirements.

(2) **The small business B&O tax credit.** Persons subject to 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. RCW 82.04.4451 authorizes the department of revenue to create a tax credit table to be used by all taxpayers when determining the amount of their small business B&O tax credit. Taxpayers are required to use the tax credit table to determine the appropriate amount of their small business credit. A tax credit table for each of the monthly, quarterly and annual reporting frequencies is provided in this rule (see subsection (5) of this section). As required by statute, the table has been prepared in such a manner that no taxpayer owes a greater amount of tax by using the mandatory table than would have been owed by using the statutory credit formula.

(a) The small business tax credit applies to the entire reporting period, even though the business may not have been operating during the entire period.

(b) Taxpayers who are spouses that operate distinct and separate businesses are each eligible for the small business tax credit.

(c) Taxpayers who are eligible for the small business credit should follow the steps outlined in subsection (4) of this section to find the amount of credit available to them. Taxpayers who have other B&O credits to apply on a return, in addition to the small business credit, may need to refer to the multiple business and occupation tax credit worksheet in subsection (3) of this section before determining the amount of small business credit available to them. Subsection (5) of this section contains the tax credit tables for taxpayers with assigned reporting frequencies of either monthly, quarterly, or annual.

(3) **Multiple business and occupation tax credit worksheet.** The small business tax credit should be computed after claiming any other B&O tax credits available under chapter 82.04 RCW (Business and occupation tax), but prior to any B&O tax credits provided under other chapters of Title 82 RCW (Excise taxes). For example, the multiple activities tax credit, high technology credit and ride share credit should be taken before the small business credit is determined and applied, but the pollution control credit and cogeneration fee credit should be taken only after the small business credit has been applied. Proper application of the small business credit may never result in a B&O tax liability less than zero and cannot create a carryover amount for future periods. The following multiple B&O tax credit worksheet gives taxpayers an example of the process they should follow to ensure that credits are applied in the necessary order.

MULTIPLE B&O TAX CREDIT WORKSHEET

1.	<u>Determine the total Business and Occupation (B&O) tax due from the B&O section of your Combined Excise Tax Return.</u>	\$ _____
2.	<u>Add together the credit amounts taken for:</u>	
	<u>Multiple Activities Tax Credit</u>	\$ _____
	<u>From Schedule C (if applicable)</u>	\$ _____
	<u>(Add any other B&O tax credits from chapter 82.04 RCW that will be applied to this return period)</u>	+ \$ _____
	<u>Total (Enter 0 if none of these credits are being taken.)</u>	= \$ _____
3.	<u>Subtract line 2 from line 1. This is the total B&O tax allowable for the Small Business Credit.</u>	\$ _____
4.	<u>Find the tax credit table which matches the reporting frequency assigned to the account, then find the total B&O tax due amount which include your figure from item 3, above.</u>	
5.	<u>Read across to the next column. This is the amount of the Small Business Credit to be used on the Combined Excise Tax Return.</u>	\$ _____

(a) For example, ABC Manufacturing and Distributing has been assigned a quarterly reporting frequency. During

one quarter, ABC owes one hundred ninety dollars in wholesaling B&O tax, plus another seventy dollars in manufactur-

ing B&O tax, for a total B&O tax due of two hundred sixty dollars. ABC qualifies for a multiple activities tax credit (MATC) and completes a Schedule C which identifies a MATC of seventy dollars. The MATC is one of the credits from chapter 82.04 RCW and should be subtracted from the B&O tax due amount before referring to the small business tax credit table. Using the worksheet, line one for ABC is the two hundred sixty dollars of total B&O tax due. Line two is the total of B&O credits available, in this case the MATC, and equals seventy dollars. Line three directs that the seventy dollars of B&O credits should be subtracted from the original two hundred sixty dollars of B&O taxes due, which leaves one hundred ninety dollars of B&O taxes potentially available for application of the small business credit (subsections (4) and (5) of this section).

(4) Using the tax credit table to determine your small business credit. The following steps explain how to use the tax credit table:

(a) Determine the total B&O tax amount from the combined excise tax return. This amount will normally be the total of the tax amounts calculated for each classification in the B&O section of the combined excise tax return. However, if additional B&O credits will be taken on the return, refer to subsection (3) of this section and the multiple B&O tax credit worksheet before going to step (b).

(b) Find the small business tax credit table that matches the assigned reporting frequency (i.e., the monthly table shown in subsection (5)(a) of this section, the quarterly table in subsection (5)(b) of this section, or the annual table in subsection(5)(c) of this section).

(c) Find the "If Your Total Business and Occupation Tax is" column of the tax credit table and come down the column until you find the range of amounts which includes the total B&O tax due figure obtained from the combined excise tax return or multiple B&O tax credit worksheet.

(d) Read across to the "Your Small Business Credit is" column. The figure shown is the amount of the small business tax credit that can be claimed on the "Small Business B&O Tax Credit" line in the "Credits" section of the combined excise tax return.

(e) For example, continue with ABC Manufacturing and Distribution which was introduced in subsection (3)(a) of this

section. After completing the multiple B&O tax credit worksheet, ABC had one hundred and ninety dollars of B&O tax liability left for potential application of the small business credit. ABC refers to the quarterly small business tax credit table (subsection (5)(b) of this section) and finds the "If Your Total Business and Occupation Tax is" column. Following down that column, ABC finds the tax range of one hundred eighty-six to one hundred ninety-one dollars and comes over to the "Your Small Business Credit is" column which shows that a credit in the amount of twenty-five dollars is available. This credit amount should be entered in the "Credits" section of ABC's combined excise tax return before calculating the total tax due for that return.

(5) Tax credit tables. Taxpayers must use the tax credit table to determine the correct amount of small business credit available to them. The monthly, quarterly and annual reporting frequencies each have their own corresponding tax credit table. Taxpayers must be careful to use the table that matches their assigned reporting frequency.

(a) Small business credit table for **MONTHLY** reporting frequency:

<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>
<u>At Least</u>	<u>But Less Than</u>	
\$0	\$36	The Amount of Business and Occupation Tax Due
\$36	\$41	\$35
\$41	\$46	\$30
\$46	\$51	\$25
\$51	\$56	\$20
\$56	\$61	\$15
\$61	\$66	\$10
\$66	\$71	\$5
\$71	or more	\$0

(b) Small business credit table for **QUARTERLY** reporting frequency:

<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>
<u>At least</u>	<u>But Less Than</u>	
\$0	\$106	The Amount of Business and Occupation Tax Due
\$106	\$111	\$105
\$111	\$116	\$100
\$116	\$121	\$95
\$121	\$126	\$90
\$126	\$131	\$85
\$131	\$136	\$80
\$136	\$141	\$75
\$141	\$146	\$70
\$146	\$151	\$65

<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>
<u>At least</u>	<u>But Less Than</u>	
\$161	\$166	\$50
\$166	\$171	\$45
\$171	\$176	\$40
\$176	\$181	\$35
\$181	\$186	\$30
\$186	\$191	\$25
\$191	\$196	\$20
\$196	\$201	\$15
\$201	\$206	\$10
\$206	\$211	\$5

<u>\$151</u>	<u>\$156</u>	<u>\$60</u>		<u>\$211</u>	<u>or more</u>	<u>\$0</u>
<u>\$156</u>	<u>\$161</u>	<u>\$55</u>				

(c) Small business credit table for ANNUAL reporting frequency:

<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>	<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>
<u>At Least</u>	<u>But Less Than</u>		<u>At Least</u>	<u>But Less Than</u>	
<u>\$0</u>	<u>\$421</u>	<u>The Amount of Business and Occupation Tax Due</u>	<u>\$631</u>	<u>\$636</u>	<u>\$210</u>
<u>\$421</u>	<u>\$426</u>	<u>\$420</u>	<u>\$636</u>	<u>\$641</u>	<u>\$205</u>
<u>\$426</u>	<u>\$431</u>	<u>\$415</u>	<u>\$641</u>	<u>\$646</u>	<u>\$200</u>
<u>\$431</u>	<u>\$436</u>	<u>\$410</u>	<u>\$646</u>	<u>\$651</u>	<u>\$195</u>
<u>\$436</u>	<u>\$441</u>	<u>\$405</u>	<u>\$651</u>	<u>\$656</u>	<u>\$190</u>
<u>\$441</u>	<u>\$446</u>	<u>\$400</u>	<u>\$656</u>	<u>\$661</u>	<u>\$185</u>
<u>\$446</u>	<u>\$451</u>	<u>\$395</u>	<u>\$661</u>	<u>\$666</u>	<u>\$180</u>
<u>\$451</u>	<u>\$456</u>	<u>\$390</u>	<u>\$666</u>	<u>\$671</u>	<u>\$175</u>
<u>\$456</u>	<u>\$461</u>	<u>\$385</u>	<u>\$671</u>	<u>\$676</u>	<u>\$170</u>
<u>\$461</u>	<u>\$466</u>	<u>\$380</u>	<u>\$676</u>	<u>\$681</u>	<u>\$165</u>
<u>\$466</u>	<u>\$471</u>	<u>\$375</u>	<u>\$681</u>	<u>\$686</u>	<u>\$160</u>
<u>\$471</u>	<u>\$476</u>	<u>\$370</u>	<u>\$686</u>	<u>\$691</u>	<u>\$155</u>
<u>\$476</u>	<u>\$481</u>	<u>\$365</u>	<u>\$691</u>	<u>\$696</u>	<u>\$150</u>
<u>\$481</u>	<u>\$486</u>	<u>\$360</u>	<u>\$696</u>	<u>\$701</u>	<u>\$145</u>
<u>\$486</u>	<u>\$491</u>	<u>\$355</u>	<u>\$701</u>	<u>\$706</u>	<u>\$140</u>
<u>\$491</u>	<u>\$496</u>	<u>\$350</u>	<u>\$706</u>	<u>\$711</u>	<u>\$135</u>
<u>\$496</u>	<u>\$501</u>	<u>\$345</u>	<u>\$711</u>	<u>\$716</u>	<u>\$130</u>
<u>\$501</u>	<u>\$506</u>	<u>\$340</u>	<u>\$716</u>	<u>\$721</u>	<u>\$125</u>
<u>\$506</u>	<u>\$511</u>	<u>\$335</u>	<u>\$721</u>	<u>\$726</u>	<u>\$120</u>
<u>\$511</u>	<u>\$516</u>	<u>\$330</u>	<u>\$726</u>	<u>\$731</u>	<u>\$115</u>
<u>\$516</u>	<u>\$521</u>	<u>\$325</u>	<u>\$731</u>	<u>\$736</u>	<u>\$110</u>
<u>\$521</u>	<u>\$526</u>	<u>\$320</u>	<u>\$736</u>	<u>\$741</u>	<u>\$105</u>
<u>\$526</u>	<u>\$531</u>	<u>\$315</u>	<u>\$741</u>	<u>\$746</u>	<u>\$100</u>
<u>\$531</u>	<u>\$536</u>	<u>\$310</u>	<u>\$746</u>	<u>\$751</u>	<u>\$95</u>
<u>\$536</u>	<u>\$541</u>	<u>\$305</u>	<u>\$751</u>	<u>\$756</u>	<u>\$90</u>
<u>\$541</u>	<u>\$546</u>	<u>\$300</u>	<u>\$756</u>	<u>\$761</u>	<u>\$85</u>
<u>\$546</u>	<u>\$551</u>	<u>\$295</u>	<u>\$761</u>	<u>\$766</u>	<u>\$80</u>
<u>\$551</u>	<u>\$556</u>	<u>\$290</u>	<u>\$766</u>	<u>\$771</u>	<u>\$75</u>
<u>\$556</u>	<u>\$561</u>	<u>\$285</u>	<u>\$771</u>	<u>\$776</u>	<u>\$70</u>
<u>\$561</u>	<u>\$566</u>	<u>\$280</u>	<u>\$776</u>	<u>\$781</u>	<u>\$65</u>
<u>\$566</u>	<u>\$571</u>	<u>\$275</u>	<u>\$781</u>	<u>\$786</u>	<u>\$60</u>
<u>\$571</u>	<u>\$576</u>	<u>\$270</u>	<u>\$786</u>	<u>\$791</u>	<u>\$55</u>
<u>\$576</u>	<u>\$581</u>	<u>\$265</u>	<u>\$791</u>	<u>\$796</u>	<u>\$50</u>
<u>\$581</u>	<u>\$586</u>	<u>\$260</u>	<u>\$796</u>	<u>\$801</u>	<u>\$45</u>
<u>\$586</u>	<u>\$591</u>	<u>\$255</u>	<u>\$801</u>	<u>\$806</u>	<u>\$40</u>
<u>\$591</u>	<u>\$596</u>	<u>\$250</u>	<u>\$806</u>	<u>\$811</u>	<u>\$35</u>
<u>\$596</u>	<u>\$601</u>	<u>\$245</u>	<u>\$811</u>	<u>\$816</u>	<u>\$30</u>
<u>\$601</u>	<u>\$606</u>	<u>\$240</u>	<u>\$816</u>	<u>\$821</u>	<u>\$25</u>
<u>\$606</u>	<u>\$611</u>	<u>\$235</u>	<u>\$821</u>	<u>\$826</u>	<u>\$20</u>
<u>\$611</u>	<u>\$616</u>	<u>\$230</u>	<u>\$826</u>	<u>\$831</u>	<u>\$15</u>

<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>	<u>If Your Total Business and Occupation Tax is:</u>		<u>Your Small Business Credit is:</u>
<u>At Least</u>	<u>But Less Than</u>		<u>At Least</u>	<u>But Less Than</u>	
<u>\$616</u>	<u>\$621</u>	<u>\$225</u>	<u>\$831</u>	<u>\$836</u>	<u>\$10</u>
<u>\$621</u>	<u>\$626</u>	<u>\$220</u>	<u>\$836</u>	<u>\$841</u>	<u>\$5</u>
<u>\$626</u>	<u>\$631</u>	<u>\$215</u>	<u>\$841</u>	<u>or more</u>	<u>\$0</u>

(6) Retail sales tax must be reported. Persons making retail sales must collect and pay all applicable retail sales taxes even if B&O tax is not due. There is no small business tax credit or volume of business exemption for retail sales tax.

(7) The public utility tax income exemption. Persons subject to public utility tax are exempt from payment of this tax for any reporting period in which the gross taxable amount reported under the combined total of all public utility tax classifications does not equal or exceed the maximum exemption for the assigned reporting period. Effective July 1, 1996, the public utility tax exemption amounts stated in RCW 82.16.040 were increased to:

Monthly reporting basis	\$ 2,000 per month
Quarterly reporting basis	\$ 6,000 per quarter
Annual reporting basis	\$ 24,000 per annum

(a) If the taxable amount for a reporting period equals or exceeds the maximum exemption, tax must be remitted on the full taxable amount.

(b) The public utility tax maximum exemptions apply to the entire reporting period, even though the business may not have operated during the entire period.

(c) The public utility tax exemption or threshold is not affected by the amounts reported in the B&O tax section or any of the other tax sections of the combined excise tax return.

(d) For example, assume that the DEF corporation registers and starts business activities on February 1st. A quarterly reporting frequency is assigned to DEF by the department of revenue. During the two months of the first quarter that DEF is actively in business, DEF's public utility tax gross is seven thousand dollars, but after deductions the total taxable amount is five thousand dollars. In this case, DEF does not owe any public utility tax because the taxable amount of five thousand dollars is less than the six thousand dollar threshold for quarterly taxpayers. The fact that DEF was in business during only two months out of the three months in the quarter has no effect on the threshold amount. However, if DEF had no deductions available, the taxable amount would be seven thousand dollars and public utility tax would be due on the full taxable amount.

Purpose: (1) To implement SSB 6603; and (2) to meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-010 Definitions, 308-93-050 Vessels exempted from registration, excise tax, and titling and 308-93-640 Reciprocity; and new sections WAC 308-93-055 Foreign vessels operating in this state—Identification document required and 308-93-056 Out of country vessels operating in this state—Identification document required.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100.

Adopted under notice filed as WSR 98-13-044 on June 9, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Required WACs to be effective immediately pursuant to legislation changes caused by SSB 6603 enacted during the 1998 legislative session.

Effective Date of Rule: July 30, 1998.

July 29, 1998
Evelyn P. Yenson
Director

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-010 Definitions. Unless the context clearly indicates otherwise, the following definitions apply to the rules in this chapter:

(1) ("Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

WSR 98-16-029

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 29, 1998, 11:09 a.m., effective July 30, 1998]

Date of Adoption: July 29, 1998.

PERMANENT

(3) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(4) "Declaration of value form" means the department of revenue form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for lifesaving purposes.

(11) "Manufacturer's statement of origin (MSO)" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(13) "Prebill" and "no bill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

(14) "Previous ownership document" means the last issued certificate of title and/or registration.

(15) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(16) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(17) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

(18) "Tender" means a craft used exclusively to furnish transportation from a larger vessel to shore and return.

(19) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

(20) "Valid marine document" means a document issued by the United States Coast Guard which declares a vessel to be a documented vessel of the United States.

(21) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

(22) "Waters of this state" means any waters within the territorial limits of this state.

(23) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

(24) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

(25) "Cruising license" means an annual certificate issued by U.S. customs service pursuant to 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.) "Bare boat" means a vessel rented without a crew.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Charter vessel" means a vessel rented with a crew.

(4) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(5) "Declaration of value form" means the department of licensing form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(6) "Director" means the director of the department of licensing.

(7) "Display permit" means the document issued by the department, its agents or subagents, for display on the vessel for which it was issued under the authority of WAC 308-93-055 or 308-93-056.

(8) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(9) "Exclusively" means solely and without exception.

(10) "Foreign vessel" means a vessel registered in accordance with the laws of another state.

(11) "Houseboat" means any vessel as defined in RCW 88.02.010(1). For registration and certificate of ownership purposes, a houseboat does not include any building on a float used in whole or in part for human habitation as a single-family dwelling which is not powered by self propulsion by mechanical means or wind.

(12) "Identification documents" means the registration receipt and display permit issued under the authority of WAC 308-93-055 or 308-93-056.

(13) "Issuing authority" means a state that has a numbering system approved by the Coast Guard or the Coast Guard where a number system has not been approved.

(14) "Legal owner/secured party" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 88.02.070.

(15) "Lifeboat" means watercraft used exclusively for lifesaving purposes.

(16) "Manufacturer's statement of origin" (MSO) or "Manufacturer's certificate of origin" (MCO) means a certifi-

cate issued by a manufacturer describing the vessel and certifying the first conveyance after manufacture.

(17) "Out of country vessel" means a vessel registered or numbered by the laws of a country other than the United States, or has a valid United States Customs Service Cruising License.

(18) "Overall length" means a straight-line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(19) "Paperless title" means electronic ownership record.

(20) "Person" includes every natural person, firm, copartnership, corporation, association or organization.

(21) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(22) "Principle use" means when a vessel is used, or is to be used, on waters of this state for one hundred eighty-three days or more.

(23) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(24) "Release of interest" means the act of signing over any ownership in a vessel. A release of interest is also a notarized or certified document relinquishing interest in a vessel.

(25) "Renewal notice" and "special mailer" means the notice to renew a vessel registration mailed by the department to the owner.

(26) "Tender" means watercraft used exclusively to furnish transportation from a larger vessel to shore and return.

(27) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement is acquiring an equity in the vessel and there is no option to buy.

(28) "United States Customs Service Cruising License" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.

(29) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

(30) "Valid marine document" means a document issued by the United States Coast Guard which declares a vessel to be a documented vessel of the United States.

(31) "Vessel data form" means the form, approved by the department, completed by the applicant describing the vessel.

(32) "Waters of this state" means any waters within the territorial limits of this state.

AMENDATORY SECTION (Amending WSR 96-16-038, filed 8/1/96, effective 9/1/96)

WAC 308-93-050 Vessels exempted from registration, excise tax and titling. The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Vessels exempt from registration ((pursuant to)) under RCW 88.02.030;

((Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, unless the vessel is physically located in this state for a period of more than sixty days in any twelve-month period. A vessel that is validly registered in another state but is removed to this state for principal use is subject to titling, registration and assessment of excise taxes, unless otherwise exempt;))

((3))) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters((-));

((4))) (3) Vessels owned by Indian tribes and tribal members as provided in WAC 308-93-700 through 308-93-770.

NEW SECTION

WAC 308-93-055 Foreign vessels operating in this state—Identification document required. (1) Beginning January 1, 1998, the owner of a foreign vessel having been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, whose vessel is remaining in this state for personal use or enjoyment for more than sixty days of use shall:

(a) Obtain a two month identification document issued by the department, its agents or subagents on or by the sixty-first day. The second identification document shall be purchased on or by the one hundred twenty-first day of use in this state;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable, per identification document;

(d) Provide proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification;

(e) Provide proof of current foreign vessel registration or current United States Coast Guard certificate of documentation;

(f) Not use more than two identification documents in any continuous twelve-month period. The twelve months begins on the date the vessel first entered this state;

(g) Keep the identification document placard and temporary registration on the vessel while on the waters of this state;

(h) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) If the vessel owner is not available, the person applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel and a copy of the vessel owner's out-of-state driver's license or photo identification.

NEW SECTION

WAC 308-93-056 Out of country vessels operating in this state—Identification document required. (1) Beginning March 27, 1998, the owner of an out of country vessel having been issued a valid number or registration by a country other than the United States or a United States Customs Cruising License, whose vessel is remaining in this state for personal use or enjoyment for more than sixty days of use shall:

(a) Obtain a permanent identification document issued by the department, its agents or subagents on or by the sixty-first day;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable;

(d) Provide proof the out of country vessel is currently registered or numbered, or a valid United States Customs Cruising License. Such proof may be, but is not limited to, the valid numbers or registration issued by a country other than the United States or a United States Custom Service Cruising License;

(e) Keep the identification document placard and registration on the vessel while on the waters of this state;

(f) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) If the vessel owner is not available, person(s) applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel and a copy of the valid numbers or registration issued by a country other than the United States or a United States Custom Service Cruising License.

(3) The identification document is valid as long as the vessel continues to be registered in a country other than the United States or has a United States Custom Service Cruising License. New owners may apply for a corrected vessel out of country registration listing the new owner's name and address. The new owner shall pay a nonrefundable fee of three dollars plus a filing fee and subagent fee, if applicable.

AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

WAC 308-93-640 Reciprocity. (1) A vessel owned by a resident of ((another)) a foreign state which is already covered by a number in full force and effect issued to it pursuant to federal laws or a numbering system of such state shall be exempt from registration requirements for a period of sixty days in any twelve-month period but only to the extent a similar reciprocity is granted for vessels registered in the state of Washington. However, on or before the sixty-first day of use in this state, the owner of a foreign vessel shall obtain a two-month vessel identification document issued by the department, its agents or subagents in accordance with WAC 308-93-055.

(2) When a vessel is removed to the state of Washington as a new state of principal use, Washington shall recognize the validity of a number awarded by any other issuing authority for a period of at least sixty days before requiring numbering in this state.

WSR 98-16-030

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed July 29, 1998, 11:14 a.m.]

Date of Adoption: July 29, 1998.

Purpose: To meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-93-074 Application for titles—Commercial fishing, 308-93-075 Inspection of certificate, 308-93-080 Registration certificate, 308-93-085 Contents of a certificate of registration, 308-93-300 Original application—Renewals—Fees—Preissuance, when, 308-93-330 Certificate of title—Application, 308-93-420 Special mailing and 308-93-630 Assignment of hull identification number; amending WAC 308-93-060 Registration period, 308-93-070 Application for title/registration, 308-93-071 Class "A" and Class "B" titles, 308-93-073 New vessels, 308-93-078 Temporary permits, 308-93-285 Vessel length measurement, 308-93-350 Incorrect endorsements or erasures, 308-93-360 Application for title required and 308-93-620 Hull identification number required; and new section WAC 308-93-069 Application for certificate of ownership/registration—Accompanied by.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100.

Adopted under notice filed as WSR 98-13-044 on June 9, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 9, Repealed 8.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 9, Repealed 8; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 29, 1998

Evelyn P. Yenson

Director

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

WAC 308-93-060 Registration period. The vessel registration period is July 1 of the current year through June 30 of the following year for purposes of chapter 88.02 RCW.

Any vessels registered for the first time in Washington will be assessed the registration fee for the registration period in which the vessel is registered. In addition, excise tax in the amount prescribed in chapter 82.49 RCW will be assessed

through the current registration period ((in which the vessel is registered)).

When registering a vessel((s being registered)) in Washington for the first time and ((assigned)) assigning a registration period of eleven months or less ((shall have)) or transferring ownership of a vessel for which the registration has expired, the annual excise tax shall be reduced by one-twelfth for each full month of the registration period ((which has passed by the date when the vessel is registered in Washington)) they did not own or possess the vessel. The registration fee ((will)) shall not be abated ((for the registration period in which the vessel is registered)).

When a transfer of ownership occurs on a vessel previously registered in this state and whose registration has expired, there is assessed a registration fee of six dollars for the current registration period and excise tax from the expiration date of the previous registration. If the person seeking registration verifies that the vessel was acquired subsequent to expiration of the previous registration, excise tax will be assessed from the date of acquisition through the current registration period in which the vessel is being registered).

NEW SECTION

WAC 308-93-069 Application for certificate of ownership/registration—Accompanied by. Vessel owners shall submit with their application for certificate of ownership or registration all proper fees and excise tax and the following documentation when appropriate:

- (1) Excise exemption affidavit; and/or
- (2) A copy of the bill of sale or sales agreement; and/or
- (3) Declaration of value form; and/or
- (4) Previous ownership document properly released; and/or
- (5) Proof of sales tax paid; and/or
- (6) Manufacturer's statement of origin, factory invoice, or carpenter certificate; and/or
- (7) Release of interest form; and/or
- (8) Other verification of ownership approved by the department to include:
 - (a) A judgment from a district or superior court of any county of this state awarding ownership; or
 - (b) Document from an involuntary divestiture sale or auction; and/or
 - (9) Copy of certificate of documentation of vessel issued by the United States Coast Guard.
- (10) Upon application for a vessel certificate of ownership an authorized agent or employee shall verify the application and supporting documents to ensure accuracy. If all requirements are not met, an authorized agent or employee shall refuse to accept the application.
- (11) When the application has been received, the department may recheck the application. If there is an error which precludes issuance of the certificate of ownership the department shall delay issuance of certificate of ownership until proper documentation has been received.

AMENDATORY SECTION (Amending WSR 96-04-004, filed 1/25/96, effective 2/25/96)

WAC 308-93-070 Application for ((title/registration)) certificate of ownership/registration—Contents.

((1)) An application for certificate of ownership or registration of a vessel shall be completed and shall include:

- (a) The names, addresses, and department assigned customer account numbers for all owners of the vessel being registered including lessees and lessors, and legal owners if applicable.
- (b) Make, model year and length of vessel.
- (c) Type of power (gasoline, diesel, propane, other, etc.).
- (d) Primary use.
- (e) Primary method of propulsion (inboard, outboard, inboard/outboard, jet, sail, other, etc.).
- (f) Type of vessel (open, cabin, house, or other).
- (g) Primary vessel construction (fiberglass, wood, aluminum, etc.).
- (h) County of moorage.
- (i) United States Coast Guard issued number, if any.
- (j) Purchase price and purchase year of vessel or declared value and year of declaration. Purchase price includes the price purchaser paid for the vessel, vessel motor, or engine, and all other equipment and accessories, excluding boat trailers, purchased in a single transaction.
- (k) Hull identification number.
- (l) Vessel registration numbers previously issued by any issuing authority, if any.
- (m) That the application is for a new number, renewal or transfer of ownership.
- (n) State in which vessel is or will be principally used.
- (o) United States Coast Guard document number, if applicable.
- (p) Name and address of all persons perfecting a security interest (legal owner), except for United States Coast Guard documented vessels, or a certified statement by the registered owner that the vessel is free of all liens.
- (q) In the event a vessel is homemade, the registered owner must complete and sign a declaration of value form.
- (r) The names of all owners will appear on the application for registration and title. The application must be signed by all registered owner applicants. Signature must be notarized or certified by an authorized license agent.
- (s) The application for certificate of ownership or registration shall be accompanied by the following where applicable:
 - (a) A copy of the bill of sale or sales agreement.
 - (b) Declaration of value form.
 - (c) All proper fees and excise tax.
 - (d) Previous ownership document properly released.
 - (e) Excise exemption affidavit.
 - (f) Proof of sales tax paid.
 - (g) Manufacturer's statement of origin or original factory invoice.
 - (h) Copy of carpenter certificate.
 - (i) Release of interest form.
 - (j) Other verification of ownership.
 - (k) Copy of certificate of ownership of vessel issued by United States Coast Guard.

(6) An application made for a vessel to be leased or rented without propulsion machinery will indicate "other" for type of power in subsection (1)(e) of this section and for primary method of propulsion in subsection (1)(e) of this section.) (1) When Washington becomes the new state of principal use, Washington shall recognize the validity of a vessel number issued by any other issuing authority for a period of sixty days before requiring numbering in this state.

(2) Vessel owners applying for certificate of ownership or registration of a vessel shall submit an application, which includes:

- (a) Expiration date of the certificate of registration;
- (b) The name of each owner of the vessel and if the vessel is subject to security interest, the name of each secured party;
- (c) The department assigned customer account number for each owner of the vessel including secured parties if available;
- (d) The address at which one of the owners regularly receives mail;
- (e) The mailing address of the first secured party;
- (f) The Washington registration number if assigned;
- (g) Make and model year;
- (h) Length of vessel;
- (i) Type of power (gasoline, diesel, etc.);
- (j) Primary use (commercial, pleasure, etc.);
- (k) Primary method of propulsion (inboard, sail, etc.);
- (l) Type of vessel (runabout, cabin, etc.);
- (m) Primary vessel construction (fiberglass, wood, etc.);
- (n) County of moorage;
- (o) Hull identification number, if one has been assigned;
- (p) Latest purchase price and purchase year or, if the vessel was not acquired by purchase, a declaration of value and year of declaration. For the purposes of this section, purchase price or declared value includes the vessel, vessel motor, or engine, and all other equipment and accessories, excluding a boat trailer, purchased or acquired in a single transaction;
- (q) United States Coast Guard document number, if applicable.

(3) Upon original application for certificate of ownership/registration of a homemade vessel, the owner shall complete and sign a declaration of value form. The owner's signature shall be notarized/certified in accordance with WAC 308-93-470.

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

WAC 308-93-071 Class "A" and Class "B" ((titles)) certificate of ownership. From June 30, 1985, through June 30, 1990, there were two classes of vessel ((titles)) certificate of ownership: Class "A" and Class "B."

Effective July 1, 1990, the "A" and "B" classifications of vessel ((titles)) certificate of ownership were discontinued. All vessel ((titles)) certificate of ownership, regardless of any classification previously assigned are considered to be exclusive evidence of ownership unless a person can provide sufficient evidence the certificate of ((title)) ownership was issued in error or is invalid for some other reason.

AMENDATORY SECTION (Amending Order TL/RG 25, filed 5/7/86).

WAC 308-93-073 New vessels. Application for certificate of ((title)) ownership to a ((new)) vessel never before licensed or titled ((or sold by an in-state or out-of-state dealer or manufacturer must)) shall be accompanied by a manufacturer's statement of origin, carpenter's certificate, or a copy of the factory invoice.

((If the date of sale shown on the manufacturer's statement of origin, carpenter's certificate, or factory invoice was prior to July 1, 1985, a UCC search with appropriate releases must also accompany the application.))

(1) The manufacturer's statement of origin, carpenter's certificate, or factory invoice must reflect the model year, make, length and hull identification number of the vessel.

((1) No)) (2) The department shall not accept any manufacturer's statement of origin, carpenter's certificate, or factory invoice ((can be accepted)) for the issuance of a ((title)) certificate of ownership unless all persons named((, including dealers,)) on the manufacturer's statement of origin, including dealers, have released or assigned their interest thereon, or on a ((department)) release of interest form approved by the department.

((2))) (3) Dealer to dealer transfers may be accomplished either by appropriate endorsement of the manufacturer's statement of origin, carpenter's certificate, or factory invoice, or ((by a department)) release of interest form approved by the department. A complete chain of ownership ((must)) shall be reflected from the original dealer named on the manufacturer's statement of origin to the retail selling dealer making the application.

((3))) (4) A copy of the factory invoice may be used in lieu of the manufacturer's statement of origin or carpenter's certificate only when such documents are not available and obtaining a replacement from the manufacturer would cause an undue amount of delay in titling the vessel. ((An affidavit of fact describing why the statement of origin or carpenter's certificate is not available must be attached to the photocopy of the factory invoice.)) A certificate of fact describing why the statement of origin or carpenter's certificate is not available shall be accompanied by the photocopy of the factory invoice and any necessary releases of interest on a form approved by the department.

AMENDATORY SECTION (Amending Order TL/RG 25, filed 5/7/86)

WAC 308-93-078 Temporary ((permits)) use of an unregistered vessel. ((A notarized bill of sale reflecting the name and address of the purchaser, the model year, make, and hull identification number of the vessel, and the date of sale, may be used as a temporary permit in lieu of the registration certificate for a period not to exceed 15 days from the date of sale reflected on the bill of sale. The notarized bill of sale must be carried on the vessel.)) A purchaser from a private party of an unregistered vessel may operate the vessel on Washington waters for fifteen consecutive days from the date of purchase using the notarized bill of sale in lieu of a registration certificate. The notarized bill of sale shall be carried on the vessel and contain:

- (1) The name and address of the purchaser;
- (2) The model year, make, and hull identification number of the vessel;
- (3) The date of sale; and
- (4) The name, address and signature of the seller.

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

WAC 308-93-285 Vessel length measurement.

The overall length of a vessel first provided by the owner on application for certificate of ownership (((may not be changed without verification of remeasurement, except when incorrectly entered by the department. The vessel length measurement provided by the owner))) shall be rounded down to the nearest whole foot.

((2) Any vessel owner may request the vessel length measurement to be modified by making application for a new certificate of ownership reflecting a new measurement. The application must include a written verification of the new measurement by:

(a) A copy of the vessel's MSO or other document from the vessel manufacturer providing length measurement specifications for that model vessel; or

(b) An official measurement provided on a letterhead document from a law enforcement agency, a port agency, or from the United States Coast Guard and verified with a signature of a representative of that agency.)) Vessel measurement shall be from the tip of the bow to the stern of the vessel down the centerline but not including boomkinds, swim ladders, outboard engines, or other extremities.

(2) Changing the recorded vessel length, except when incorrectly entered by the department requires:

(a) Verification of remeasurement on official letterhead document including the vessel description and signed by a representative of:

(i) A law enforcement agency; or

(ii) A port agency; or

(iii) The United States Coast Guard; or

(iv) Authorized representatives of the department.

(b) Documentation from the vessel manufacturer providing the correct length for that model vessel.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

WAC 308-93-350 ((Incorrect endorsements or)) Erasures and alterations and incorrect information.

((1) ((If a certificate of title or application has been signed in error, a line must be drawn through the erroneous signature. An affidavit must be attached to explain when, why and by whom the signature was stricken. A release of interest is required from the person signing in error unless that person has signed the affidavit.

((2) If an erasure has been made on a certificate of title or application, an affidavit must be attached. The affidavit must state why and by whom the erasure was made. A release of interest must be signed by the one whose name was erased if the identity of the person can be determined.

(3) A name erroneously shown on the title as the purchaser must have either a release of interest from the erroneously named purchaser or a statement by the owner of record that the sale was not completed.)) The department may refuse to accept any certificate of ownership when ownership or vessel information has been altered. A replacement ownership document may be required.

((2) The department may require an affidavit explaining any erasure or alteration on the application, certificate of ownership, or any supporting documentation.

((3) The department may require a notarized/certified release of interest when:

(a) A signature or name that has been altered or erased appears on an application; or

(b) A security interest is named to be shown on the new certificate of ownership and the applicant claims there is no lien; or

((c) A security interest is shown incorrectly or is altered on the application for certificate of ownership. In lieu of a release of interest, Washington licensed vessel dealers may attach an affidavit explaining the error in the security interest.

AMENDATORY SECTION (Amending Order TL-RG-19, filed 11/19/85)

WAC 308-93-360 Application for ((title)) certificate of ownership required. An application for certificate of ((title)) ownership is required when:

((1) Whenever the ownership of a vessel changes;

((2) When there is a legal change of name of the registered or legal owner of a vessel;

((3) When there is a change of name of a business entity owning a vessel;

((4) When a proprietorship or partnership forms a corporation whether or not a business name is changed;

((5) When a proprietorship or partnership purchases a corporation which will no longer be operated as a corporation whether or not the business name is changed;

((6) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value in the case of reissue applications;

((7) Whenever the hull identification number is changed;

((8) Whenever a second legal owner is to be added to the certificate of title. The application shall show the address of only the first named legal owner;

((9) Whenever a vessel is to be registered for the first time as required by chapter 88.02 RCW, except for a vessel having a valid marine document as a vessel of the United States.)) A person purchases a new vessel unless otherwise exempt from chapter 88.02 RCW.

((2) There is a change of ownership due to:

((a) Sale;

((b) Gift;

((c) Inheritance;

((d) Trade;

((e) Addition or deletion of an owner;

((f) Proprietorship or partnership forming a corporation, whether or not the business name is changing; or

(g) Proprietorship or partnership purchasing a corporation which will no longer be operated as a corporation, whether or not the business name is changed.

(3) There is a name change of:

- (a) The owner;
- (b) The secured party; or

(c) A business entity as shown on the current certificate of ownership.

(4) There is no change in the owner of the vessel but the certificate of ownership needs to be reissued because:

(a) A lien has been satisfied and the lien holder's name needs to be removed;

(b) A lien holder's name needs to be added. If a secondary lien holder is being added, the address of only the primary lien holder will be recorded;

(c) There is a change of lien holders;

(d) There has been a structural change in the vessel that changes the physical description of the vessel on the current certificate of ownership; or

(e) The vessel hull identification number has been altered, or removed, or needs to be corrected on the vessel or on the certificate of ownership.

AMENDATORY SECTION (Amending Order TL-RG-19, filed 11/19/85)

WAC 308-93-620 Hull identification number required. (No person shall operate a boat on the waters of this state for which registration and titling is required unless such boat has a hull identification number or application for such number has been made. Hull identification numbers must be clearly imprinted, or otherwise permanently affixed to the outboard side of the transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident. No)) (1) A person shall not operate a vessel on the waters of this state for which registration or titling is required unless the vessel has a hull identification number.

(2) The department may assign an appropriate hull identification number to a vessel when there is no hull identification number on the vessel. A hull identification number shall be clearly imprinted, or otherwise permanently affixed above the waterline of the vessel in such a way that alteration, removal or replacement would be obvious or evident. The hull identification number minimum height shall be 1/4 of an inch and shall be placed on:

(a) The outboard starboard side of the transom; or

(b) The outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, if there is no transom.

(3) A person, firm, association or corporation shall not destroy, remove, alter, cover, or deface the hull identification number.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-93-074	Application for titles--Commercial fishing vessels.
WAC 308-93-075	Inspection of certificate.
WAC 308-93-080	Registration certificate.
WAC 308-93-085	Contents of a certificate of registration.
WAC 308-93-300	Original applications—Renewals—Fees—Preissuance, when.
WAC 308-93-330	Certificate of title—Application.
WAC 308-93-420	Special mailing.
WAC 308-93-630	Assignment of hull identification number.

WSR 98-16-031

PERMANENT RULES

SECRETARY OF STATE

[Filed July 29, 1998, 1:45 p.m.]

Date of Adoption: July 24, 1998.

Purpose: Changes and clarifications to the Washington Electronic Authentication Act, chapter 19.34 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-180-235; and amending WAC 434-180-130, 434-180-200, 434-180-215, 434-180-240, and 434-180-245.

Statutory Authority for Adoption: Chapter 19.34 RCW, including RCW 19.34.030, 19.34.040, 19.34.100, 19.34.400, 19.34.500 and chapter 33, Laws of 1998.

Adopted under notice filed as WSR 98-13-100 on June 17, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 July 24, 1998
 Tracy Guerin
 Deputy Secretary of State

AMENDATORY SECTION (Amending WSR 97-24-053, filed 11/26/97, effective 12/27/97)

WAC 434-180-130 Fees. Fees for services performed by the secretary of state are established in the following amounts:

(1) For application for a license as a certification authority:

(a) For the applicant's first year doing business as a licensed certification authority in this state: One thousand four hundred dollars;

(b) For the applicant's second year doing business as a licensed certification authority in this state: One thousand eight hundred dollars; and

(c) For the applicant's third or subsequent year doing business as a licensed certification authority in this state: Two thousand eight hundred dollars.

(2) For recognition as a repository, in addition to the license issuance or renewal fee paid pursuant to this section:

(a) For the applicant's first year doing business as a recognized repository in this state: One thousand four hundred dollars;

(b) For the applicant's second year doing business as a recognized repository in this state: One thousand eight hundred dollars; and

(c) For the applicant's third or subsequent year doing business as a recognized repository in this state: Two thousand eight hundred dollars.

(3) For recognition of a foreign license((~~, either:~~

~~(a) Two thousand eight hundred dollars; or~~

~~(b) Upon certification by the issuer of the foreign license that the applicant has been licensed as a certification authority in that jurisdiction for less than three years, the fee that would be due under subsection (1) of this section for a Washington license under the same circumstances. No applicant may file under this subsection (b) more than two times)).~~ One-half of the otherwise applicable fee as set forth under subsection (1) or (2) of this section.

(4) For qualification of operative personnel:

(a) For administering and scoring the examination required by WAC 434-180-215(3), fifty dollars per individual; and

(b) For qualifying operative personnel pursuant to WAC 434-180-215 and 434-180-220, other than (or in addition to) administering and scoring the examination, twenty-five dollars per individual.

AMENDATORY SECTION (Amending WSR 97-24-053, filed 11/26/97, effective 12/27/97)

WAC 434-180-200 Application for license as a certification authority. Any person desiring to be licensed as a certification authority must file an application pursuant to this chapter demonstrating compliance with the requirements

of RCW 19.34.100. To apply for a license, an applicant must submit all of the following:

(1) A completed application form as prescribed by WAC 434-180-210;

(2) The fee or fees provided by WAC 434-180-130;

(3) A certificate that shows the applicant as subscriber and is published in a recognized repository;

(4) A suitable guaranty, described by WAC 434-180-225, unless the applicant is a self-insured city, a self-insured county, or the department of information services of the state of Washington;

(5) ((~~Demonstration of sufficient working capital, pursuant to WAC 434-180-235,~~

((6))) Documentation, in the form of an information systems audit report, establishing that the applicant has the use of a trustworthy system as defined by WAC 434-180-360. The audit required by this subsection shall be performed pursuant to WAC 434-180-240, except that it is not required to establish anything more than that the applicant has the use of a trustworthy system;

((7)) ((6)) Materials establishing, to the satisfaction of the secretary that each person listed as operative personnel has qualified to act as operative personnel pursuant to WAC 434-180-215; and

((8)) ((7)) A written certification practice statement as described in WAC 434-180-330.

NEW SECTION

WAC 434-180-203 Designation of confidential information. Any certification authority, recognized repository, or applicant for licensure or recognition who believes that any information submitted to the secretary is legally exempt from public disclosure, inspection, or copying pursuant to law may designate such records upon submission to the secretary. Such designation does not conclusively establish the application of any exemption, but will assist the secretary in correctly responding to requests for public records. Any designation shall specify the precise information the party regards as subject to an exemption, and precise statute establishing the exemption.

AMENDATORY SECTION (Amending WSR 97-24-053, filed 11/26/97, effective 12/27/97)

WAC 434-180-215 Certification of operative personnel. The secretary shall not issue or renew a license as a certification authority unless the licensee documents that every individual employed or acting as operative personnel qualifies to act as operative personnel. This documentation shall include:

(1) Receipt of a completed form, signed by the individual under penalty of perjury, stating:

(a) The name (including all other names used in the past), date of birth, and business address of the individual;

(b) That the individual has not been convicted within the past ((fifteen)) seven years of a felony and has never been convicted of a crime involving fraud, false statement, or deception in any jurisdiction; and

(c) If the individual has resided in any nation other than the United States during the previous five years, the name of that nation and the period of residency.

(2) A criminal background check supporting the declaration required by subsection (1) of this section. This requirement is excused as to any individual for whom documentation satisfying this paragraph was submitted within the previous two years, even if the individual has changed employment. This check must include both of the following:

(a) A criminal background check compiled by a private sector provider, documenting a background check reasonably sufficient to disclose any criminal convictions within the previous seven years in any state or federal jurisdiction in the United States, its territories, or possessions, and any other jurisdiction specified pursuant to subsection (1)(c) of this section. This background check must contain information that is current to within thirty days of its date of submission; and

(b) The certified results of a criminal background check performed by the Washington state patrol or law enforcement agency where the operative personnel reside and are employed for the previous ((fifteen)) seven years, dated not more than thirty days prior to submission or such other jurisdictions as the secretary may reasonably request. Such check shall be performed using the individual's fingerprints.

(3) Satisfactory completion by the individual of a written examination demonstrating knowledge and proficiency in following the requirements of the Washington Electronic Authentication Act and these rules. The secretary shall develop an open book written test covering the subject matter of the act, and provide it upon request, which may include electronic access. The secretary may update or modify the test from time to time. The secretary shall indicate at the top of the test the percentage or number of questions that must be answered correctly in order to constitute satisfactory completion. No individual may take the examination more than once within a period of thirty days. A certification by the secretary that an individual has successfully completed this examination shall be valid for two years, and shall continue to satisfy the requirements of this subsection even if the individual changes employment.

(4) A licensed certification authority must remove a person from performing the functions of operative personnel immediately upon learning that the person has been convicted within the past fifteen years of a felony or has ever been convicted of a crime involving fraud, false statement, or deception, and must notify the secretary of this action within three business days.

AMENDATORY SECTION (Amending WSR 97-24-053, filed 11/26/97, effective 12/27/97)

WAC 434-180-240 Compliance audits. (1) A licensed certification authority shall obtain a compliance audit at least once every year. The auditor shall issue an opinion evaluating the degree to which the certification authority conforms to the requirements of this chapter and of chapter 19.34 RCW. If the certification authority is also a recognized repository, the audit must include the repository.

(2) For purposes of the opinion required by this section, the auditor shall exercise reasonable professional judgment as to whether a condition that does not strictly comply with legal requirements is or is not material, taking into consideration the circumstances and context. Noncompliance as to any of the following shall be deemed material, in addition to any others the auditor may judge to be material:

(a) Any condition of noncompliance with statute or rule that relates to the validity of a certificate;

(b) Any employee performing the functions of operative personnel who has not qualified pursuant to WAC 434-180-215;

(c) Any material indication that the certification authority has used any system other than a trustworthy system.

(3) An audit may be performed by any licensed certified public accountant, or, in the case of a public agency, by the Washington state auditor. For purposes of this section, licensed certified public accountants include any person holding a certified public accountant certificate issued pursuant to chapter 18.04 RCW, or any licensee under any equivalent law of any other jurisdiction. Any auditor, or group of auditors, performing an audit pursuant to this section shall include at least one individual who has been issued a current and valid certificate as either a certified information systems auditor, by the information systems audit and control foundation, or as a certified information systems security professional, by the International Information Systems Security Certification Consortium. The names of all individuals possessing such certificates shall be disclosed in the audit report, or in a cover letter accompanying that report.

(4) The certification authority shall file a copy of the audit report with the secretary, prior to the date the certification authority must renew its license pursuant to WAC 434-180-205. At the certification authority's option, it shall be sufficient to file a portion of the report if that report summarizes all audit exceptions and conditions of noncompliance (including, but not limited to, those stated in subsection (2) of this section) stated in the full report, and bears the auditor's signature. The report may be filed electronically, if it is validly digitally signed by the auditor, using a licensed certification authority. The secretary shall publish the report, or summary, in the certification authority disclosure record it maintains for the certification authority.

AMENDATORY SECTION (Amending WSR 97-24-053, filed 11/26/97, effective 12/27/97)

WAC 434-180-245 Recognition of foreign licenses.

(1) A certification authority licensed as such by a governmental entity other than the state of Washington, may act as a licensed certification authority in Washington only if, in addition to meeting any other requirements established by law for the transaction of business, it either:

(a) Obtains a license as a certification authority from the secretary; or

(b) Provides to the secretary a certified copy of a license issued by a governmental entity whose licensing or authorization requirements the secretary has found to be substantially similar to those of Washington, together with the fee required by WAC 434-180-130. A license recognized under

this subsection shall be valid in Washington only during the time it is valid in the issuing jurisdiction.

(2) The secretary may certify that the licensing or authorization requirements of another jurisdiction are substantially similar to those of Washington if, in order to obtain a license, the controlling law of the other jurisdiction requires that a licensed certification authority:

(a) Issue certificates based upon a system of public key cryptography using a trustworthy system. The law or administrative rule of another jurisdiction must establish standards determining what constitutes a trustworthy system. Those standards may differ from Washington's standards as set forth under WAC 434-180-360 as long as they are substantially similar in purpose and result;

(b) Provide a suitable guaranty in an amount of at least twenty-five thousand dollars;

(c) Employ as operative personnel only individuals who have demonstrated knowledge and proficiency in the requirements of the law regarding digital signatures, and who are free of felony criminal conviction for a minimum of seven years; and

(d) Be subject to a legally established system of enforcement of licensure requirements.

(3) If the requirements of another jurisdiction fail to be certified as substantially similar to those of Washington only because they do not satisfy subsection (2)(c) of this section, then the secretary shall recognize the license of a particular certification authority licensed by that jurisdiction if the certification authority complies with subsection (1)(b) of this section and, in addition, employs as operative personnel only individuals whom the secretary has certified pursuant to WAC 434-180-215.

(4) The secretary shall publish in the *State Register*, and make available upon request, a list of those jurisdictions which the secretary has certified pursuant to subsection (2) of this section. If a jurisdiction is not included in the list most recently published in the *State Register*, the secretary shall consider whether certification of such jurisdiction should be added, upon request of either the jurisdiction or a certification authority licensed by that jurisdiction and upon receipt of an English language copy of the applicable laws and regulations of that jurisdiction.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-180-235 Sufficient working capital.

WSR 98-16-044

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 31, 1998, 1:11 p.m., effective September 1, 1998]

Date of Adoption: July 31, 1998.

Purpose: To consolidate and simplify program and eligibility requirements for cash, food, and medical assistance to comply with criteria in the Governor's Executive Order 97.02. The rules being adopted have been consolidated, shortened and simplified by a special task team with members from Economic Services and Medical Assistance Administration in collaboration with clients, advocates, and the public. No program policy was changed in this process.

CHAPTER 388-400 WAC, PROGRAM SUMMARY	Summarizes assistance eligibility requirements by program.
CHAPTER 388-404 WAC, AGE REQUIREMENTS	Describes age requirements that apply to DSHS assistance programs.
CHAPTER 388-406 WAC, APPLICATIONS	Explains how the department accepts and processes an application for assistance.
CHAPTER 388-408 WAC, ASSISTANCE UNITS	Explains how different public assistance programs determine who makes up a single household.
CHAPTER 388-410 WAC, BENEFIT ERROR	Explains how program overpayments are determined and the methods used for collection.
CHAPTER 388-412 WAC, BENEFIT ISSUANCES	Explains how the department issues benefits for public assistance.
CHAPTER 388-414 WAC, CATEGORICAL ELIGIBILITY FOR FOOD	Explains that when a client is already eligible for certain programs, they are automatically eligible for food assistance.
CHAPTER 388-416 WAC, CERTIFICATION PERIOD	Explains how long an eligible client can receive assistance before the department rechecks eligibility.
CHAPTER 388-418 WAC, CHANGE OF CIRCUMSTANCES	Explains which changes in circumstance clients must report to the department.
CHAPTER 388-420 WAC, CHEMICAL DEPENDENCY FOOD ASSISTANCE	Describes when clients are eligible for food assistance while receiving alcohol or drug treatment.
CHAPTER 388-422 WAC, CHILD SUPPORT	Explains child support requirements that clients must meet in order to be eligible for assistance.
CHAPTER 388-424 WAC, CITIZENSHIP/ALIEN STATUS	Describes citizenship and alien status requirements for eligibility for cash, food and medical assistance.

CHAPTER 388-426 WAC, CLIENT COMPLAINTS	Provides for a complaint procedure for clients of assistance programs.	CHAPTER 388-448 WAC, INCAPACITY	Describes which clients meet definitions for general assistance-unemployable benefits and which children are considered deprived of parental support.
CHAPTER 388-428 WAC, CONFIDENTIALITY	Explain which client information the department can disclose for assistance programs and which is confidential.	CHAPTER 388-450 WAC, INCOME	Describes what is considered as income and how income affects a client's eligibility for cash, medical and food assistance.
CHAPTER 388-430 WAC, DEPRIVATION	Describes the factors which are considered when determining if a child is deprived of parental support.	CHAPTER 388-452 WAC, INTERVIEWING CLIENTS	Sets minimum criteria for client interviews for assistance programs.
CHAPTER 388-434 WAC, ELIGIBILITY REVIEWS AND RECERTIFICATIONS	Describes how the department reviews eligibility for cash and medical assistance benefits and how they recertify food assistance eligibility periodically.	CHAPTER 388-454 WAC, LIVING WITH A RELATIVE	Explain which relatives a child can live with to be eligible for assistance.
CHAPTER 388-436 WAC, EMERGENCY CASH ASSISTANCE	Define criteria for programs to provide cash assistance to clients under special or emergency circumstances.	CHAPTER 388-456 WAC, MONTHLY REPORTING	Explains when clients have to file monthly reports to remain eligible for assistance.
CHAPTER 388-437 WAC, EMERGENCY ASSIS- TANCE FOR FOOD STAMPS	Explains the conditions under which food stamps are available in a disaster.	CHAPTER 388-458 WAC, NOTICES TO CLIENTS	Sets criteria for when and how DSHS has to provide formal notice to a client before taking action.
CHAPTER 388-438 WAC, EMERGENCY ASSIS- TANCE FOR MEDICAL NEEDS	Explains who can receive services under special emergency medical assistance programs.	CHAPTER 388-460 WAC, PAYEES ON BENEFIT ISSUANCES	Explains how the department decides whose name to issue an assistance payment to in a household.
CHAPTER 388-440 WAC, EXCEPTION TO RULE	Explains circumstances under which the secretary of DSHS may grant an exception to policy requirements for an individual client.	CHAPTER 388-462 WAC, PREGNANCY	Explains the assistance programs available to women when they are pregnant.
CHAPTER 388-442 WAC, FELONS	Explains under what circumstances a felon is eligible for public assistance.	CHAPTER 388-464 WAC, QUALITY ASSURANCE	Require certain clients to cooperate with the quality assurance review process in ESA.
CHAPTER 388-444 WAC, FOOD STAMP EMPLOY- MENT AND TRAINING	Tells which clients have to participate in employment or training in order to receive assistance. Explains how these mandates relate to food assistance.	CHAPTER 388-466 WAC, REFUGEE PROGRAM	Explains eligibility requirements for refugee assistance.
CHAPTER 388-446 WAC, FRAUD	Describes what happens to clients suspected or convicted of committing fraud to receive assistance.	CHAPTER 388-468 WAC, RESIDENCY	Sets residency rules for public assistance eligibility.
		CHAPTER 388-470 WAC, RESOURCES	Explains how many assets a person may have and still be eligible for assistance benefits.
		CHAPTER 388-472 WAC, RIGHTS AND RESPONSI- BILITIES	Sets out mandated rights and responsibilities for clients.

CHAPTER 388-474 WAC, SUPPLEMENTAL SECURITY INCOME	Describes who may qualify for SSI benefits, what coverage is available, under what conditions they can be terminated and what overpayments or duplicate payments.
CHAPTER 388-476 WAC, SOCIAL SECURITY NUMBER	Tells when a social security number is a requirement and describes requirements when a social security number is not available for assistance programs.
CHAPTER 388-478 WAC, STANDARDS FOR PAYMENTS	Defines maximum and minimum payment standards for assistance programs.
CHAPTER 388-480 WAC, STRIKERS	Describe assistance eligibility provisions that apply when a person is on strike.
CHAPTER 388-482 WAC, STUDENT STATUS	Explain which students are eligible for food assistance.
CHAPTER 388-484 WAC, TANF/SFA FIVE YEAR TIME LIMIT	Provides for a limit to the length of time a person may receive assistance under Temporary Assistance for Needy Families or State Family Assistance programs.
CHAPTER 388-486 WAC, TEEN PARENTS	Explains eligibility criteria for unmarried pregnant or parenting teens to receive assistance.
CHAPTER 388-488 WAC, TRANSFER OF PROPERTY	Describes what happens to assistance eligibility when a client transfers property to another person.
CHAPTER 388-490 WAC, VERIFICATION	Lists mandatory verification requirements and criteria for additional verification requests.
WAC 388-503-0505	Defines eligibility for medical assistance programs.
WAC 388-503-0510	Defines eligibility for medical assistance programs
WAC 388-503-0515	Defines eligibility for medical assistance programs
WAC 388-505-0110	Describes medical assistance coverage for adults who can't be covered under Family Medical
WAC 388-505-0210	Describes children's Medicaid eligibility

WAC 388-505-0220	Explains when families are eligible for medical benefits.
WAC 388-517-0300	Explains the programs that help clients pay Medicare coverage out-of-pocket costs.
WAC 388-519-0100	Explains how a person may be eligible for medical assistance if their income exceeds specific limits.
WAC 388-519-0110	Explains how a person may be eligible for medical assistance if their income exceeds specific limits.
WAC 388-519-0120	Explains how a person may be eligible for medical assistance if their income exceeds specific limits.
WAC 388-523-0100	Explains when medical assistance benefits may be extended.
WAC 388-529-0100	Describes the medical coverage available to clients in medical programs.
WAC 388-529-0200	Describes the medical services available to eligible clients.

Citation of Existing Rules Affected by this Order:

Repealed

Chapter 388-49 WAC	FOOD ASSISTANCE PROGRAMS
WAC 388-055-0006	Summary of eligibility conditions
WAC 388-055-0008	Eligibility conditions-Refugee status
WAC 388-055-0010	Common eligibility conditions
WAC 388-055-0020	Work and training eligibility conditions
WAC 388-055-0030	Treatment of income and resources
WAC 388-055-0040	Refugee medical assistance
WAC 388-055-0060	Refugee notification and referral
WAC 388-200-1100	Grievance procedures
WAC 388-200-1150	Exception to rule
Chapter 388-210 WAC	APPLICATIONS FOR ASSISTANCE
Chapter 388-212 WAC	VERIFICATION OF ELIGIBILITY

Chapter 388-215 WAC	AFDC-CATEGORICAL ELIGIBILITY
Chapter 388-216 WAC	RESOURCE ELIGIBILITY
Chapter 388-217 WAC	TRANSFER OF PROPERTY
Chapter 388-218 WAC	AFDC-INCOME POLICIES
Chapter 388-219 WAC	GENERAL ASSISTANCE-INCOME POLICIES
Chapter 388-220 WAC	STATE FAMILY ASSISTANCE
Chapter 388-225 WAC	CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM-CEAP
Chapter 388-230 WAC	GENERAL ASSISTANCE FOR PREGNANT WOMEN
Chapter 388-233 WAC	GENERAL ASSISTANCE FOR CHILDREN
WAC 388-235-0010	Purpose of program
WAC 388-235-0020	Definitions
WAC 388-235-0030	Summary of eligibility conditions
WAC 388-235-0040	Assistance unit
WAC 388-235-0050	Age requirements
WAC 388-235-0060	Residence-Establishing
WAC 388-235-0070	Residence-Temporary absences
WAC 388-235-0080	Residence-Applicant living in another state
WAC 388-235-0090	Residence-Applicant receiving assistance from another state
WAC 388-235-0100	Citizenship and alien status
WAC 388-235-0110	Social Security number
WAC 388-235-2000	Resources
WAC 388-235-3000	Income
WAC 388-235-4000	GAU payment and need standards
Chapter 388-245 WAC	MAINTENANCE OF GRANT PROGRAMS
Chapter 388-250 WAC	GRANT STANDARDS
WAC 388-255-1350	Additional requirements for emergent situations
WAC 388-255-1400	One-time grant-Authorization-Disbursement
WAC 388-265-1010	Grant payment-General provisions
WAC 388-265-1050	Grant authorization
WAC 388-265-1100	Grant payee
WAC 388-265-1550	Client notification of protective payee or vendor payee
WAC 388-265-1700	Confidential information-Protective payee or vendor payee
WAC 388-265-1800	Warrant endorsement
WAC 388-265-1850	Warrant delivery

WAC 388-265-1900	Warrant cancellation
WAC 388-265-1950	Loss, theft, or destruction of a client's warrant
WAC 388-265-2000	Loss, theft, or destruction of a vendor warrant
Chapter 388-270 WAC	INCORRECT PAYMENTS
WAC 388-275-0020	SSI: Definitions
WAC 388-275-0030	SSI: Administrative Responsibilities
WAC 388-275-0050	SSI: Waiver of state supplement
WAC 388-275-0060	SSI: Payments
WAC 388-275-0070	SSI: Termination of state supplement
WAC 388-275-0090	SSI: Representative Payee

Amended

WAC 388-86-027	Describes requirements for the Healthy Kids program.
WAC 388-501-0135	Explains the program for clients needing help in the appropriate use of medical services.
WAC 388-505-0540	Assigns rights for medical programs.
WAC 388-538-060	Explains who is eligible for healthy options programs.
WAC 388-538-080	Explains who is exempt from healthy options programs.
WAC 388-538-095	Explains healthy options scope of care.
WAC 388-538-130	Explains who is removed from healthy options programs.

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

Adopted under notice filed as WSR 98-11-084 on May 19, 1998, and WSR 98-13-080 on June 16, 1998.

Changes Other than Editing from Proposed to Adopted Version:

RULE NUMBER	NATURE OF CHANGE	REASON FOR CHANGE
388-406-0045	To clarify what is accepted as good cause for a delay	Each of these changes was requested by a reviewer to make the rules easier to read, understand and use. After discussion with the program and, if needed, meeting with the reviewer, the

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		change was made to respond to reviewer comments.	388-468-0005	To clarify a household's eligibility for medical assistance
388-408-0055	To clarify the responsibility of the parent		388-470-0005	To clarify when household resources will be used to determine eligibility
388-412-0005	To clarify the amount of cash payment		388-470-0015	To clarify when a client's resource is considered unavailable
388-412-0015	To clarify how allotments are determined		388-472-0005	To clarify two client rights: the client's right to receive a receipt for an application and a pregnant woman's right to be seen within 5 days
388-416-0015	To clarify how long medical assistance determination lasts		388-478-0065	To clarify when an unborn child is counted as part of the household
388-416-0020	To clarify the 12 month certification period		388-478-0070	To clarify requirements for monthly reporting for the Medically Indigent program
388-418-0020	To clarify what how a change of circumstance is treated in the Temporary Assistance for Needy Families program		388-86-027	To clarify requirements for the Healthy Kids Program
388-438-0100	To clarify acceptable exemptions for charity care expenses			Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.
388-444-0005	To clarify the number of hours a client may be required to participate in Food Stamp Employment & Training			Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.
388-444-0060	To clarify that payment standards for workfare expenses are set by DSHS			Number of Sections Adopted on the Agency's Own Initiative: New 288, Amended 7, Repealed 391.
388-458-0005	To clarify when DSHS is required to notify the client before taking action			Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.
388-458-0010	To clarify when DSHS is required to notify the client before taking action			Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 288, Amended 7, Repealed 391.
388-462-0015	To clarify when a pregnant woman is eligible for medical assistance			Effective Date of Rule: September 1, 1998.

July 31, 1998
Edith M. Rice
for Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-18 issue of the Register.

WSR 98-16-048
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION

[Order 179—Filed July 31, 1998, 3:31 p.m.]

Date of Adoption: July 31, 1998.

Purpose: To enhance public safety by establishing a clear set of requirements and operating guidelines for escort vehicles.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-110.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 98-13-101 on June 17, 1998.

Changes Other than Editing from Proposed to Adopted Version: Several minor clarifications were incorporated such as: Correct referencing to flagperson requirements, including compliance date; expanded options for warning lights; mandatory use of pole changed to fifteen feet high; clarifying appropriate passenger criteria; and responsibility for equipment.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 31, 1998

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 31, Resolution No. 156, filed 8/20/82)

WAC 468-38-110 ((Type of escort cars.)) Escort vehicle requirements. ((1) Escort cars must be furnished by the permittee. They may be a passenger car or a two-axle truck.)

((2) Escort cars will be of such design as to afford the driver clear and unobstructed vision both front and rear. Escort cars will be in safe operational condition and properly licensed.)

((3) Escort car operators must be experienced in the operation of escort vehicles, and no unnecessary passengers shall be permitted.)

Pilot escort cars will travel at a distance of approximately 800 1,500 feet in front of and to the rear of the load. This distance shall be reduced in urban areas, at major intersections, and at structures less than 28 feet curb to curb width.

In hazardous conditions, the pilot car driver will act as a flagperson for traffic control and will signal by hand or by radio to the towing vehicle driver when he can proceed.

((4) The driver of the rear escort car will act as flagperson when hazardous conditions exist, either in advising the driver of the tow vehicle as to clearance in turning movements or of accumulations of overtaking traffic.)

As required, the rear escort car will travel far enough behind the lead to provide adequate warning for overtaking vehicles and safe space between the rear escort car and the trailing unit for passing vehicles. All escort cars shall carry a minimum of three approved emergency fuses and red flags.

Pilot car operators shall be properly licensed to operate the vehicle.

((5) When uniformed off-duty law enforcement officers act as escorts, using official police cars or motorcycles, the preceding requirements shall not be applicable.)) (1) When the escort vehicle is in front of the permitted vehicle, the operator shall:

((a) Warn oncoming traffic of the presence of the permitted vehicle by use of signs and lights as provided in subsections (4) and (8) of this section.)

((b) Notify the driver of the permitted vehicle, and driver(s) of any trailing escorts, by two-way radio, of all hazards; overhead clearances; obstructions; traffic congestion; pedestrians; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the permitted vehicle to take corrective action, as necessary.)

((c) To the extent necessary, locate safe places (if available) adjacent to the highway and notify the driver of the permitted vehicle, and driver(s) of trailing escorts, in ample time for the permitted vehicle and the escort vehicle(s) to clear the highway, allowing the traffic following to safely pass, or for any other reasons necessary to provide for the safety of the traveling public.)

((d) Be far enough in front of the permitted vehicle to signal oncoming motorists to stop in a timely manner, or as specified by local jurisdiction, before such motorists enter any narrow structures or other restrictions on the highway, to permit the safe passage of the permitted vehicle.)

(2) When the escort vehicle is behind the permitted vehicle, the operator shall:

((a) Warn traffic approaching from the rear of the presence of the permitted vehicle ahead, by use of signs and lights as provided in subsections (4) and (8) of this section.)

((b) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of flat tires or other problems with the permitted vehicle; objects coming loose from the permitted vehicle; other traffic approaching or passing the permitted vehicle; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic, in sufficient time for the driver of the permitted vehicle to take corrective action.)

((c) Notify the front escort driver and the driver of the permitted vehicle by two-way radio of traffic build-up and other delays to the normal flow and efficient movement of traffic caused by the movement of the permitted vehicle.)

(d) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of other vehicles attempting to pass the permitted vehicle or load.

(e) Be far enough behind the permitted vehicle to signal motorists following the permitted vehicle to slow or stop in a timely manner, or as specified by local jurisdiction, before narrow structures or other restrictions in the highway, to permit the safe passage of the permitted vehicle.

(3) The escort vehicle operator shall ensure that the escort vehicle is in safe and reliable operating condition.

(4) An escort vehicle shall, in addition to any other equipment required by traffic law, be equipped with a minimum of two flashing or rotating amber lights, positioned above the roof line, visible from a minimum of five hundred feet to traffic approaching from the front or rear of the escort. The light apparatus must not obstruct, or be obstructed by, the required OVERSIZE LOAD sign.

(5) The escort vehicle shall:

(a) Be either a single unit passenger car or a two-axle truck;

(b) Not exceed a maximum gross vehicle weight rating of fourteen thousand pounds;

(c) Be at least sixty inches wide; and

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW.

(6) The escort vehicle shall not carry any passengers, human or animal (excluding individuals in training status or necessary flag persons), or equipment or load in or on the escort vehicle which:

(a) Exceeds the height, length, or width of the escort vehicle, or overhangs the escort vehicle, or otherwise impairs its immediate recognition as a safety escort vehicle by the motoring public; or

(b) Obstructs the view of the flashing or rotating yellow lights, or the signs used by the escort vehicle; or

(c) Causes safety risks; or

(d) Otherwise impairs the performance by the operator or the escort vehicle of the duties required by these rules.

(7) The escort vehicle operator shall properly load and secure any item(s) or equipment or load carried by the escort vehicle to ensure compliance with the requirements of this section.

(8) An escort vehicle shall display "oversize load" signs, in clear readable condition, which shall be mounted above the roofline of the escort vehicle and be visible to approaching traffic from the front and the rear. All such signs shall be a minimum of five feet wide, ten inches high with one-inch wide brush stroke, black letters a minimum of eight inches high on yellow background, or shall be a maximum of seven feet wide, eighteen inches high, with a 1.41 inch brush stroke, black letters a minimum of ten inches high on yellow background.

(9) The escort vehicle(s) shall have its headlights activated at all times when escorting a permitted vehicle.

(10) The escort vehicle shall be equipped with a two-way radio capable of providing reliable two-way voice communication between the driver of the permitted vehicle and the driver(s) of the escort vehicle(s) when the permitted vehicle is in motion on a public highway.

(11) An escort vehicle shall carry the following items of equipment at all times when escorting a permitted vehicle:

(a) Standard eighteen inch STOP & SLOW paddle sign.

(b) Three bi-directional emergency reflective triangles.

(c) A minimum of one 5 pound B, C, fire extinguisher, or equivalent.

(d) A reflectorized high visibility orange or other color vest, shirt or jacket, as permitted by the *Manual on Uniform Traffic Control Devices*, and a yellow or other highly visible colored hard hat to be worn by the operator while directing traffic, in accordance with WAC 296-155-305, Signaling.

(e) A height measuring device which is nonconductive and nondestructive to overhead clearances, when required by the terms of the permit or regulations.

(f) First-aid supplies must be readily available as described in WAC 296-24-06145.

(g) A flashlight in working order with red nose cone.

(12) An escort vehicle is prohibited from escorting more than one permitted vehicle at the same time, unless expressly authorized by the department.

(13) A front escort vehicle shall use a height pole at all times when escorting a permitted vehicle exceeding fifteen feet in height, unless otherwise expressly authorized/directed by the department on the permit. The height pole shall not extend less than three inches nor more than six inches above the maximum height of the permitted vehicle being escorted. When the escort vehicle is not escorting a permitted vehicle, but is moving on the highway, the height pole shall be removed, tied down, or shortened to within legal limits, unless involved in the act of prerunning a route to determine height acceptance.

(14) When an escort vehicle is not escorting a permitted vehicle, or prerunning a route, but is moving on a public highway, the signs, described in subsection (8) of this section, shall either be removed, lowered to a position not readily visible, or covered, and the flashing yellow lights, described in subsection (4) of this section, shall not be operated.

(15) In the performance of the duties required by these rules, the operator of the escort vehicle may be required to advise the permitted vehicle to stop, allowing other traffic to proceed safely. The operator of the escort vehicle shall signal the permitted vehicle to stop, and the permitted vehicle shall stop, as far off the roadway as practicable to allow other traffic to pass in the following situations:

(a) When the permitted vehicle becomes disabled; or

(b) When the movement of the permitted vehicle on a particular section of public highway presents a safety risk or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the permitted vehicle and the roadway, volume of other traffic, visibility and limited sight distance, and mountainous terrain; or

(c) When driving conditions for the permitted vehicle are hazardous for any other reason, including weather.

(16) In the performance of the duties required by these rules, the escort vehicle operator may be required to direct other traffic to stop, slow or proceed in order to allow the permitted vehicle to continue moving safely, or to help the other traffic to navigate around a stopped permitted vehicle. When

directing traffic in these situations, the operator of the escort vehicle shall, effective January 1, 1999:

(a) Be certified, having a valid WSDOT certificate/card on person, as an escort vehicle operator;

(b) Comply with procedures described in Section 6 of the MUTCD, as may be amended by the department of transportation, and such other criteria as may be developed under WAC 296-155-305, Signaling.

(17) The operator of the permitted vehicle and the operator(s) of the escort vehicle(s) shall comply with the following procedures:

(a) Before trip:

(i) Discuss aspects of the move, including the permitted vehicle, the route, and specific responsibilities.

(ii) Review permit special conditions.

(iii) Review the permitted route.

(iv) Determine the proper position of the escort vehicle(s).

(v) Establish any necessary procedures.

(vi) Check mandatory equipment, each operator being responsible for their own vehicle.

(vii) Mount signs, adjust mirrors, turn on lights.

(viii) Check each two-way radio to ensure clear communication on a selected channel.

(ix) Assure special motor vehicle permit(s) is in the possession of the appropriate operator(s).

(x) Determine if additional flagpersons will be necessary and, if so, have them available.

(b) During the trip:

(i) Obey all traffic laws.

(ii) Do not follow or precede more closely than is reasonably prudent, considering the speed of the permitted vehicle, other traffic, and highway conditions.

(iii) Do not exceed 1/2 mile distance between permitted vehicle and the escort vehicle to maintain radio contact, except when necessary to safely travel a long narrow section of highway.

(c) Traffic lights:

(i) If the front escort vehicle goes through a traffic light but the permitted vehicle does not, the escort vehicle must pull over to the right side of the highway, where practicable, to wait for the permitted vehicle.

(ii) If the permitted vehicle goes through the traffic light but the escort vehicle does not, then the permitted vehicle must pull over to the right side of the highway, where practicable, to wait for the rear escort vehicle.

(18) When uniformed off-duty law enforcement officers act as escorts, using official police cars or motorcycles, the requirements of this section may be amended as necessary.

Purpose: To repeal Medical Assistance Administration rules that have been incorporated into the proposed rules filed as WSR 98-11-084 in order to comply with the Governor's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealed:

OLD WAC	NEW WAC
388-86-0015	388-529-0200
388-86-0080	388-529-0200
388-501-0105	Not necessary
388-501-0110	388-503-0505
388-501-0140	388-446-0001
388-501-0170	388-505-0540
388-501-0190	Obsolete
388-503-0305	388-503-0505
388-503-0320	388-519-0100
388-503-0350	388-505-0110, 388-529-0100
388-503-0370	388-505-0110, 388-519-0300, 388-438-0100
388-504-0405	388-406-0005, 388-406-0010
388-504-0410	388-406-0005
388-504-0420	388-452-0005
388-504-0430	388-472-0005
388-504-0440	388-472-0005
388-504-0450	388-472-0005
388-504-0460	388-490-0005
388-504-0470	388-406-0035
388-504-0480	388-406-0040 and 388-406-0045
388-504-0485	388-406-0060 and 388-406-0065
388-505-0501	388-503-0505
388-505-0505	Not necessary
388-505-0510	388-468-0010
388-505-0520	388-424-0005, 388-424-0010
388-505-0530	388-476-0005
388-505-0560	388-472-0005, 388-505-0540, 388-422-0005, 388-422-0010, 388-422-0020
388-505-0570	388-422-0020 (4)(c)
388-505-0580	388-470-0015, 388-470-0020, 388-470-0040, 388-488-0005, 388-450-0210
388-505-0590	388-450-0005, 388-450-0015, 388-450-0210, 388-450-0215
388-506-0610	388-408-0055, 388-450-0005, 388-470-0070
388-506-0630	388-450-0150, 388-408-0055
388-507-0710	388-478-0065, 388-478-0020, 388-478-0070
388-507-0720	388-478-0070
388-507-0730	388-470-0015, 388-408-0055
388-507-0740	388-505-0220
388-508-0805	388-478-0075

**WSR 98-16-050
PERMANENT RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 31, 1998, 3:55 p.m., effective September 1, 1998]

Date of Adoption: July 29, 1998.

OLD WAC	NEW WAC
388-508-0810	388-478-0075
388-508-0820	388-462-0015, 388-478-0065
388-508-0830	388-462-0015
388-508-0835	388-462-0015
388-508-0840	388-418-0025
388-509-0905	388-505-0210
388-509-0910	388-505-0210, 388-478-0075
388-509-0920	388-505-0210, 388-478-0075, 388-418-0025
388-509-0940	388-478-0075
388-509-0960	388-478-0075, 388-418-0025
388-509-0970	388-416-0025, 388-416-0015
388-510-1020	388-424-0005
388-510-1030	388-470-0060(6)
388-511-1110	388-478-0050, 388-478-0080
388-511-1115	388-478-0070, 388-478-0055
388-511-1140	388-450-0020, 388-450-0040
388-511-1150	388-470
388-511-1160	388-470-0040
388-511-1170	Not necessary
388-517-1710	388-517-0300
388-517-1715	388-478-0085(1), 388-517-0500(6)
388-517-1730	388-478-0085(2), 388-517-0300(4)
388-517-1750	388-517-0300(6), 388-478-0085
388-517-1770	388-517-0300(7), 388-478-0085(5)
388-518-1805	388-438-0100, 388-468, 388-424 and 388-476
388-518-1810	388-438-0100
388-518-1820	388-478-0070, 388-488-0005
388-518-1830	388-478-0070, and 388-519-0110
388-518-1840	388-519-0100, 388-478-0070, 388-519-0110
388-518-1850	388-478-0070, 388-438-0100(7)
388-519-1905	388-519-0110, 388-416-0025, 388-519-0120
388-519-1910	388-450-0020, 388-450-0110, 388-450-0150, 388-450-0210, 388-519-0110
388-519-1930	388-519-0110, 388-519-0100, 388-476-0070
388-519-1950	Not necessary
388-521-2105	388-416-0020, 388-416-0015
388-521-2106	388-416-0025
388-521-2110	388-416-0010
388-521-2120	388-416-0010
388-521-2130	388-416-0020
388-521-2140	388-416-0030
388-521-2150	388-416-0035(1)
388-521-2155	388-416-0035(2)

OLD WAC	NEW WAC
388-521-2160	388-416-0035(3)
388-521-2170	Not necessary
388-522-2205	388-418-0025 and 388-418-0030
388-522-2210	388-418-0025, 388-416-0010, 388-416-0025, 388-505-0220, 388-523-0100, 388-416-0015, 388-462-0015
388-522-2230	388-434-0005, 388-416-0015, 388-519-0100(2), 388-519-0110(1)
388-523-2305	388-523-0100
388-523-2320	388-523-0100
388-524-2405	388-474-0015
388-524-2420	388-416-0010(4)
388-525-2505	388-406-0050
388-525-2520	388-458-0010
388-525-2570	388-418-0030
388-529-2910	388-529-0100
388-529-2920	388-529-0100
388-529-2930	388-529-0100
388-529-2960	388-517-0100

PERMANENT

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

Adopted under notice filed as WSR 98-13-082 on June 16, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 94.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 94.

Effective Date of Rule: September 1, 1998.

July 29, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

REPEALER

The following chapters and sections of the Washington Administrative Code are repealed:

WAC 388-86-015 Blood

WAC 388-86-080 Oxygen service

WAC 388-501-0105 Applicability

WAC 388-501-0110	Purpose of the medical care program	WAC 388-511-1160	SSI-related resource exemptions
WAC 388-501-0140	Fraud	WAC 388-511-1170	SSI-state data exchange
WAC 388-501-0170	Third party resources	WAC 388-517-1710	Medicare cost-sharing programs.
WAC 388-501-0190	Maternity care distressed area	WAC 388-517-1715	Qualified Medicare beneficiary (QMB) program.
WAC 388-503-0305	Program priorities	WAC 388-517-1730	Special low-income Medicare beneficiaries (SLMB) program.
WAC 388-503-0320	Medically needy eligible persons		
WAC 388-503-0350	Medical care services—GAU/ADATSA	WAC 388-517-1750	Qualified disabled working individuals (QDWI) program.
WAC 388-503-0370	Medically indigent eligible persons	WAC 388-517-1770	Qualified individuals (QI) program.
Chapter 388-504 WAC	FILING A MEDICAL APPLICATION	Chapter 388-518 WAC	LIMITED CASUALTY PROGRAM—MEDICALLY INDIGENT (LCP-MI)
WAC 388-505-0501	Eligibility—General		
WAC 388-505-0505	Age		
WAC 388-505-0510	Residence	WAC 388-519-1905	Base period.
WAC 388-505-0520	Citizenship and alien status	WAC 388-519-1910	Allowable income deductions and exemptions.
WAC 388-505-0530	Social Security number		
WAC 388-505-0560	Cooperation in securing medical support	WAC 388-519-1930	Computing spenddown; allowable spenddown expenses.
WAC 388-505-0570	Good cause for noncooperation—Medical care support	WAC 388-519-1950	Institutional spenddown.
WAC 388-505-0580	Resources	Chapter 388-521 WAC	MEDICAL EFFECTIVE DATES
WAC 388-505-0590	Income	Chapter 388-522 WAC	MEDICAL ELIGIBILITY CHANGES
WAC 388-506-0610	AFDC-related medical programs		Medical extensions.
WAC 388-506-0630	SSI-related income deemинг	WAC 388-523-2305	Medicaid quarterly reporting.
Chapter 388-507 WAC	AFDC-RELATED MEDICAL ELIGIBILITY	Chapter 388-524 WAC	MEDICAL TERMINATIONS
Chapter 388-508 WAC	PREGNANT WOMEN MEDICAL RESPONSIBILITY	Chapter 388-525 WAC	MEDICAL NOTICES
Chapter 388-509 WAC	CHILDREN'S MEDICAL ELIGIBILITY	WAC 388-529-2910	Scope of care—Categorically needy
Chapter 388-510 WAC	ALIEN MEDICAL ELIGIBILITY	WAC 388-529-2920	Scope of care—Medically needy
WAC 388-511-1110	SSI-related resource standards	WAC 388-529-2930	Scope of care—GAU/ADATSA—Medical care services
WAC 388-511-1115	SSI-related income standards	WAC 388-529-2960	Scope of care—Qualified Medicare beneficiary (QMB), special low-income Medicare beneficiary (SLMB) and qualified disabled working individual (QDWI)
WAC 388-511-1140	SSI-related income exemptions		
WAC 388-511-1150	SSI-related resource availability		

WSR 98-16-052
PERMANENT RULES
DEPARTMENT OF ECOLOGY

[Order 98-12—Filed July 31, 1998, 4:23 p.m.]

Date of Adoption: July 31, 1998.

Purpose: To update agency addresses and clarify language of chapter 173-03 WAC, Public records.

Citation of Existing Rules Affected by this Order: Amending chapter 173-03 WAC.

Statutory Authority for Adoption: RCW 42.17.250.

Adopted under notice filed as WSR 98-11-099 on May 20, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 31, 1998

Nancy C. Stevenson
Acting Director

AMENDATORY SECTION (Amending Order 90-37, filed 10/23/90, effective 11/23/90)

WAC 173-03-010 ((Purpose,)) What is the purpose of this chapter? The purpose of this chapter is to implement the requirements of RCW 42.17.250 - 42.17.340 relating to public records.

AMENDATORY SECTION (Amending Order 90-37, filed 10/23/90, effective 11/23/90)

WAC 173-03-020 ((Definitions,)) How are specific terms defined in this chapter? (1) The terms "person," "public record," and "writing" shall have the meanings as stated in RCW 42.17.020.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department.

(4) "Public records officer" means the employee designated as such by the department.

(5) "Designee" means the employee of the department designated by the director or the public records officer to serve as the public records coordinator at the headquarters offices or at each of the ((satellite and)) regional offices in the absence of the officer.

AMENDATORY SECTION (Amending Order 92-37, filed 10/7/92, effective 11/7/92)

WAC 173-03-030 ((Description of organization,)) How is the department of ecology organized? (1) Headquarters office.

((Through September 1993, the headquarters office will continue to be located in Abbott Raphael Hall on the campus of St. Martin's College, Lacey, Washington. After September 1993,)) The headquarters office ((will be)) is located at 300 Desmond Drive ((East)), Lacey, Washington. The mailing address for the headquarters office ((and all satellite program offices, except for the environmental investigations and lab services program)) is:

Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

The mailing address for the nuclear waste management program's Hanford project is:

Nuclear Waste Management
1315 W. 4th Ave.
Kennewick, WA 99336

(b) The offices of the director, deputy director(s), program managers and ((assistant directors all)) other agency officials are located in the headquarters office.

(c) The titles ((and responsibilities of the seven assistant directors)) of the executive staff are as follows:

((i)) Assistant director for the office of water and shorelands — water quality, water resources, shorelands and coastal zone management, and water quality financial assistance programs.

((ii)) Assistant director for the office of central programs and enforcement — central programs, air program, and environmental investigations and lab services program.

((iii)) Assistant director for the office of waste management — solid and hazardous waste program, toxics cleanup program, nuclear and mixed waste program, and waste reduction, recycling and litter control program.

((iv)) Assistant director for the office of quality control, information management and comprehensive planning.

((v)) Assistant director for the office of legislative and intergovernmental affairs.

((vi)) Assistant director for the office of financial, personnel, and support services.

((vii)) Assistant director for the office of public information and education.

((2)) After September 1993, the satellite program offices will be located in the headquarters office. Until September 1993, the satellite program offices are located as follows:

((a)) Air program:
College Street Building
4550 3rd Avenue S.E.
Lacey, Washington

((b)) Budget, accounting, and support services program:
Sawyer Hall
St. Martin's College Campus
Lacey, Washington

- (e) Central programs:
Abbott Raphael Hall
St. Martin's College Campus
Lacey, Washington
- 2404 Chandler Ct., Suite 260 S.W.
Olympia, Washington
(Industrial Section)
- Tanglewilde Building
7240 Martin Way
Olympia, Washington
(Sediments/Environmental Review Section)
- (d) Environmental investigations and lab services program:
Airindustrial Building 8
7171 Cleanwater Lane #8
Tumwater, Washington
- Mailing address:
P.O. Box 47710
Olympia, WA 98504 7710
- (e) Toxics Cleanup Program
Woodland Square
4415 Woodview Drive S.E.
Lacey, Washington
- (f) Nuclear and mixed waste program:
99 South Sound Center
Lacey, Washington
- 7601 W. Clearwater, Suite 102
Kennewick, WA 99336
(Kennewick Hanford Project)
- (g) Shorelands and coastal zone management program:
Baran Hall
St. Martin's College Campus
Lacey, Washington
- (h) Solid and hazardous waste program:
Rewesix Building 4
4224 6th Avenue S.E.
Lacey, Washington
- (i) Waste reduction, recycling, and litter control program:
Eikenberry Building
4407 Woodview Drive S.E.
Lacey, Washington
- (j) Water quality financial assistance program:
Moduline Building
4500 3rd Avenue
Lacey, Washington
- (k) Water quality program:
Prudential Building
715 Woodview Drive S.E.
Lacey, Washington
- (l) Water resources program:
Baran Hall
St. Martin's College Campus
Lacey, Washington))
- Chief financial officer for financial services.
Administrative services manager for administrative services.
- Director for intergovernmental relations.
Director for employee services.
Director for communications and education.
Assistant administrator for spills prevention, preparedness and response.
- (2) The program offices located in the headquarters office are:
- (a) Air quality;
(b) Water resources;
(c) Water quality;
(d) Toxics cleanup;
(e) Nuclear waste;
(f) Solid waste and financial assistance;
(g) Hazardous waste and toxics reductions;
(h) Environmental investigations and laboratory services; and
- (i) Shorelands and environmental assistance.
- (3) Regional offices and their geographical jurisdictions are as follows:
- (a) Northwest regional office (Whatcom, Skagit, Snohomish, San Juan, Island, King, and Kitsap counties):
3190 - 160th Avenue S.E.
Bellevue, WA 98008-5452
- (b) Southwest regional office (Pierce, Thurston, Mason, Clallam, Jefferson, Grays Harbor, Pacific, Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties):
((7272 Cleanwater Lane
Tumwater, Washington))
300 Desmond Drive
Lacey, WA 98503
- Mailing address:
P.O. Box 47775
Olympia, Washington 98504-7775
- (c) Central regional office (Okanogan, Chelan, Douglas, Kittitas, Yakima, Benton, and Klickitat counties):
((106 South 6th Avenue
Yakima, WA 98902-3387
- 3601 W. Washington
Yakima, Washington 98903-1164
(Water Resources Program)))
15 West Yakima, Suite 200
Yakima, WA 98902-3401

(d) Eastern regional office (Ferry, Stevens, Pend Oreille, Grant, Lincoln, Spokane, Adams, Whitman, Franklin, Walla ((~~Walla~~)) Walla, Columbia, Garfield, and Asotin counties):

N. 4601 Monroe, Suite 100
Spokane, Washington 99205-1295

AMENDATORY SECTION (Amending Order 92-37, filed 10/7/92, effective 11/7/92)

WAC 173-03-040 ((Public records available)) How do I get access to the public records of the department of ecology? (1) All public records of the department are available for public inspection and copying ((pursuant to)) under these rules subject to subsections (2), (3), (4), and (5) of this section.

(2) Availability of public records is subject to the exemptions and prohibitions against disclosure contained in RCW 42.17.310, 42.17.130, 42.17.255, 42.17.260, and 90.52.020. In addition, individuals may ((seek)) request, and ecology may grant, confidentiality of documents from disclosure under RCW 43.21A.160 and 70.105.170.

(3) When a public record includes information ((the disclosure of)) which, if disclosed, would lead to an unreasonable invasion of personal privacy, and the department becomes aware of this fact, the department shall delete such information before making the record available.

(4) Public records requested may not be readily available for immediate inspection. If the requested records are not readily available, the department shall notify the requester when and where ((such)) those records will be available.

(5) Public records of the department are kept by the department or state archives until scheduled for destruction by the records retention schedule ((pursuant to)) in accordance with chapter 40.14 RCW. Public records ((which are)) subject to a request for disclosure when scheduled for destruction shall be retained by the department and ((shall)) may not be erased or destroyed until the request is resolved.

AMENDATORY SECTION (Amending Order 90-37, filed 10/23/90, effective 11/23/90)

WAC 173-03-050 ((Records index.)) What records are retained and how are they indexed? The records retention schedule established by the division of state archives of the office of the secretary of state serves as an index for the identification and location of the following records:

(1) All records issued before July 1, 1990, for which the department has maintained an index;

(2) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(1) and that contain an analysis or decision of substantial importance to the department in carrying out its duties;

(3) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the department in carrying out its duties; and

(4) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990.

The records retention schedule indexes records according to the originating program or section, and then the record series title. Each title is further identified by a statement of function or purpose, and the retention period. The records retention schedule is available to the public for inspection and copying. With the assistance of the public records officer or designee, any person can obtain access to public records of the department using the records retention schedule.

A separate index of policy statements as defined in RCW 34.05.010(4) entered after June 30, 1990, shall be maintained by the department's policy manual coordinator or designees.

AMENDATORY SECTION (Amending Order 92-37, filed 10/7/92, effective 11/7/92)

WAC 173-03-060 ((Requests for public records.)) How do I request a public record? (1) All requests for inspection or copying made in person at a department office shall be made on a form substantially as follows:

REQUEST FOR PUBLIC RECORDS

Date of Request Time of Request

Name

Address

Description of Records:

I understand that if a list of individuals is provided me by the Department of Ecology, it will neither be used to promote the election of an official ((or)) nor promote ((or)) nor oppose a ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes ((or)) nor give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260((or)) (9).

I understand that I will be charged the amount necessary to reimburse the department's cost for copying.

.....
Signature

Number of pages to be copied

Number of copies per page

Charge per copy \$

Special copy work charge \$

Staff time charge \$

Total charge \$

(2) ((All requests made in person may be made at a department)) You may request records in person at a department of ecology office between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

(3) ((A request for inspection or copying of public records may be made by mail in a letter containing)) If you make your request by mail, your request must contain the following information:

(a) The name and address of the person making the request and the organization the person represents;

(b) The time of day and calendar date on which the person wishes to inspect the public records;

(c) A description of the public records requested;

(d) A statement whether access to copying equipment is desired;

(e) A phone number where the person can be reached in case the public records officer or designate needs to contact the person for further description of the material or any other reason.

(f) A statement that the record will not be used for commercial purposes.

(4) The department must receive all requests ((by mail must be received by the department)) at least five business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection. The department will process all requests ((will be handled)) in a timely manner. However, large requests or requests for public records maintained off-site may require more than five business days to prepare. The department will respond to your request within five business days of receiving ((a public record request, the department will respond)) it by either:

(a) Providing the record;

(b) Acknowledging that the department has received the request and providing a reasonable estimate of the time the department will require to respond to the request; or

(c) Denying the public record request.

Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the department may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it.

(5) The department may in its discretion fill requests made by telephone or facsimile copy (fax).

AMENDATORY SECTION (Amending Order 92-37, filed 10/7/92, effective 11/7/92)

WAC 173-03-070 ((Fees,)) How much will it cost me to view a public record? ((No fee shall be charged)) The department does not charge a fee for the inspection of public records. The department will charge an amount necessary to reimburse its costs for providing copies of records. This

amount shall be ((determined)) reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs ((incident to such)) for copying and ((shall be)) is payable at the time copies are furnished. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.

AMENDATORY SECTION (Amending Order DE 77-35, filed 1/17/78)

WAC 173-03-080 ((Statement of reason for denial of public records request,)) What happens when the department denies a public records request? When the department refuses, in whole or part, a ((written)) request for inspection of any public record, it ((shall)) must include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order DE 77-35, filed 1/17/78)

WAC 173-03-090 ((Reviews of denial of public records request,)) What do I do if I object to the department's denial to review a public record? (1) Any person who objects to the refusal of a ((written)) request for a public record may petition for prompt review of ((such)) that decision by ((tendering)) submitting a written request for review. The written request shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the refusal.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director or ((his)) the director's delegate. The director or ((his)) delegate shall immediately consider the matter and either affirm or reverse ((such)) the refusal. The final decision shall be sent to the objecting person within two business days following receipt of the petition for review.

AMENDATORY SECTION (Amending Order 92-37, filed 10/7/92, effective 11/7/92)

WAC 173-03-100 ((Protection of public records,)) How does the department protect public records? In order to adequately protect the public records of the department, you must comply with the following guidelines ((shall be adhered to by any person inspecting such)) while inspecting public records:

(1) ((No)) You may not remove any public record((s shall be removed)) from the department's premises.

(2) ((Inspection of any public record shall be conducted in the presence of)) You must have a designated department employee present while you are inspecting a public record.

(3) ((No public records may be marked or defaced)) You may not mark or deface a public record in any manner during inspection.

(4) You may not dismantle public records which are maintained in a file or jacket, or in chronological or other filing order, or those records which, ((the loss or destruction of which)) if lost or destroyed, would constitute excessive interference with the department's essential functions((, may not be dismantled except for purposes of copying and then only by the public records officer or designee)).

(5) Access to file cabinets, shelves, vaults, or other storage areas is restricted to department personnel, unless other arrangements are made with the public records officer or designee.

((professional licensing services)) business and professions division, department of licensing:

Title of Fee	Fee
Certification	
Application	((<u>\$125.00</u>)) <u>\$130.00</u>
Renewal	((<u>100.00</u>)) <u>104.00</u>
Late renewal penalty	((<u>100.00</u>)) <u>104.00</u>
Verification	25.00
Duplicate	15.00
 ((Temporary certification)	
Application	<u>+25.00</u>
Verification	<u>25.00</u>
Duplicate	<u>+5.00</u>)

WSR 98-16-060

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 3, 1998, 4:28 p.m.]

Date of Adoption: July 23, 1998.

Purpose: To raise court reporter fees to defray cost of administering the program and assist in reducing the revenue deficit. Also to change the title from shorthand reporting fees to court reporter fees. Eliminate reference to temporary fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-14-200.

Statutory Authority for Adoption: RCW 18.145.050, 43.24.086, 43.135.055.

Adopted under notice filed as WSR 98-13-026 on June 8, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 31, 1998

Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending WSR 90-10-009, filed 4/20/90, effective 5/21/90)

WAC 308-14-200 ((Shorthand reporting)) Court reporter fees. The following fees shall be charged by the

WSR 98-16-061

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed August 3, 1998, 4:30 p.m.]

Date of Adoption: July 23, 1998.

Purpose: To simplify and clarify language, delete duplication of RCW requirements, update division address, coordinate expiration dates of individuals and businesses, and increase fees.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-11-010; and amending WAC 308-11-030, 308-11-035, 308-11-050, 308-11-120, and 308-11-130.

Statutory Authority for Adoption: RCW 18.11.060, 43.24.086, 43.135.055.

Adopted under notice filed as WSR 98-13-027 on June 8, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-11-050, the title is changed from surety bond or trust account required to surety bond or other security in lieu of bond. This change is made because the rule does not speak to trust accounts, only to surety bonds and other security in lieu of the bond. The content of the rule remains the same as filed on notice WSR 98-13-027.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

July 31, 1998

Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending Order PM 766, filed 11/9/88)

WAC 308-11-050 Surety bond or ((trust account)) other security in lieu of bond required. (1) As required by chapter 18.11 RCW, the amount of the surety bond or other security in lieu of the bond to be filed and maintained for an auctioneer license shall be five thousand dollars.

(2)((a)) The amount of the surety bond or other security in lieu of the bond to be filed and maintained for an auction company license shall be based upon the value of the gross sales during the previous calendar year according to the following scale:

		BOND/ SECURITY AMOUNT
	GROSS SALES	
\$ 0.00	to \$ 24,999.99	\$ 5,000.00
\$ 25,000.00	to \$ 49,999.99	\$ 10,000.00
\$ 50,000.00	to \$ 99,999.99	\$ 15,000.00
\$ 100,000.00	to \$ 499,999.99	\$ 20,000.00
\$ 500,000.00	& Above	\$ 25,000.00

((b)) (3) All ((licensed)) auction companies ((shall annually on June 30,)) upon application or with license renewal, shall submit a financial certification affidavit on forms provided by the department. ((The information reported will form the basis for the department's approval of the auction company's bond or other security amount each year. A company whose sales increases have placed it in a higher category in the above scale will be required to increase its surety bond or security amount accordingly, and file the increased bond or proof of security with the financial certification affidavit form. A company whose sales have decreased may adjust its bond or security amount in accordance with the scale. New license applicants will be provided with financial certification affidavit forms for estimating the sales for the calendar year.))

((d)) (4) Each licensee must maintain such a surety bond, or other security in lieu of a bond, in an active status at all times during the period of licensure.

((4)(a)) No bond filed shall be approved unless it expressly provides that it will be effective for one year following the effective date of its cancellation or termination, whether because of expiration, suspension, or revocation of the license, or otherwise, as to any covered act or acts and omission or omissions of the licensee occurring on, or prior to, the effective date of cancellation or termination.

((b)) No other security used in lieu of a bond shall satisfy the requirements of chapter 18.11 RCW, unless by the express terms of the security the security shall remain open and active for not less than one year following the effective date of its cancellation or termination, whether because of the expiration, suspension or revocation, or otherwise, as to any covered act or acts or omission or omissions of the licensee occurring on, or prior to, the effective date of cancellation or termination.

((c)) Subject to the requirement of (b) of this subsection, each surety bond or other security used in lieu of a bond shall be deemed terminated upon the expiration or revocation of the license in connection with which the bond was issued, or the other security in lieu of a bond was created. *Provided,*

AMENDATORY SECTION (Amending WSR 90-06-052, filed 3/2/90, effective 4/2/90)

WAC 308-11-030 Auctioneer fees. The following fees shall be charged by the ((professional licensing)) business and professions division of the department of licensing:

Title of Fee	Fee
Auctioneer:	
Initial application	((\$110.00)) <u>\$114.00</u>
Renewal	((+\$10.00)) <u>114.00</u>
Late renewal penalty	((+\$10.00)) <u>104.00</u>
Duplicate license	15.00
Certification	25.00
Auction company:	
Initial application	((-\$250.00)) <u>260.00</u>
Renewal	((-\$250.00)) <u>260.00</u>
Late renewal penalty	((-\$200.00)) <u>208.00</u>
Duplicate license	15.00

AMENDATORY SECTION (Amending Order PM 701, filed 12/23/87)

WAC 308-11-035 Renewal of registration. (1) An auctioneer license will be issued to an applicant, provided ((the)) all requirements are met for licensure ((are met, with an expiration date to be the licensee's next birth anniversary date)). An auctioneer license will expire one year from the date of issuance.

(2) An auction company license will be issued, provided all requirements are met for licensure((, which)). The auction company license will expire ((on June 30 of each year)) one year from the date of issuance.

(3) An application for a license renewal received after the date of expiration will require the payment of the penalty fee in addition to the renewal fee.

~~That for the purposes only of this section a license shall not be deemed expired, suspended, or revoked so long as the licensee may continue to act as an auctioneer pursuant to the provisions of chapter 34.04 RCW or any court order issued pursuant thereto.)~~

AMENDATORY SECTION (Amending Order PL 506, filed 1/11/85)

WAC 308-11-120 Inspection and audit. The following shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department:

(1) All records required to be maintained by an auctioneer by chapter 18.11 RCW, or ((these rules, together with any)) WAC 308-11-100:

(2) Other business or other types of records of the auctioneer or auction company which may be related to activity as an auctioneer or auction company or necessary to ((a full understanding of)) understand such records((, and)):

(3) Any auction mart or other premise used ((for the purpose of conducting)) to conduct an auction((, together with)):

(4) Any personal property which may be the subject of, or related to, an auction ((shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department, for the purposes of determining compliance or noncompliance with the provisions of chapter 18.11 RCW, and these rules)).

((If records requested by the department are not immediately available because they are)) (5) Records not physically present upon the premises at the time the demand is made((, they)) shall be procured and produced to the department ((as soon as possible, but in any event)) within twenty-four hours, ((by the licensee).

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in section (1) above, then any time) or within a time approved by the department;

(6) Records physically present upon the premises at the time demand is made shall be inspected or audited at any reasonable time which shall be between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

AMENDATORY SECTION (Amending WSR 92-13-045, filed 6/11/92, effective 7/12/92)

WAC 308-11-130 Suit or complaint notification. Every licensee shall, within thirty days after service or knowledge ((thereof)) of, notify the department of any suit or complaint served or filed in any court of competent jurisdiction, civil or criminal, in which the subject matter ((thereof,)) involves any auction or business activity of the defendant; and in which the subject matter thereof, involves any auction or business activity of the defendants therein named. The department address is Business and Professions Division.

Auctioneer Section, PO Box 9649, Olympia, Washington 98507-9649. Complaints against others may also be sent to the above address.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-11-010

Definitions.

WSR 98-16-081

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 5, 1998, 8:44 a.m.]

Date of Adoption: August 5, 1998.

Purpose: Adopt rule governing agricultural development or trade promotion and promotional hosting expenditures.

Citation of Existing Rules Affected by this Order: Amending chapter 16-557 WAC.

Statutory Authority for Adoption: RCW 15.04.200.

Other Authority: RCW 15.65.280, WAC 16-557-020.

Adopted under notice filed as WSR 98-12-017 on May 27, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 5, 1998

Jeanne Pickel, Chairperson
Washington Asparagus Commission

AMENDATORY SECTION (Amending WSR 91-09-003, filed 4/4/91, effective 5/5/91)

WAC 16-557-010 Definition of terms. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association, or corporation.

(5) "Affected producer" means any person who produces in the state of Washington asparagus in commercial quantities for fresh market, for processing, or for sale to processors.

(6) "Commercial quantity" means any asparagus produced for market in quantities of three tons (6,000 pounds) or more, in any calendar year.

(7) "Affected handler" means both affected handler fresh and affected handler processor.

(8) "Affected handler, fresh" means any person who acts as principal or agent or otherwise in selling, marketing, or distributing fresh asparagus not produced by him.

(9) "Affected handler, processor" means any person who acts as principal or agent or otherwise in processing, freezing asparagus, and selling, marketing, or distributing said processed or frozen asparagus, not produced by him.

(10) "Asparagus commodity board," hereinafter referred to as "board," means the commodity board formed under the provisions of WAC 16-557-020.

(11) "Asparagus" means and includes all kinds, varieties, and hybrids of "*officinalis*" Linn.

(12) "Marketing season" or "fiscal year" means the twelve-month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(13) "Producer-handler" means any person who acts both as a producer and as a handler with respect to asparagus. A producer-handler shall be deemed to be a producer with respect to the asparagus which he produces and a handler with respect to the asparagus which he handles, including those produced by himself.

(14) "Affected area" means the following counties in the state of Washington: Adams, Benton, Columbia, Franklin, Grant, Kittitas, Klickitat, Walla Walla, and Yakima.

(15) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(16) "Affected unit" means one pound net pay weight of asparagus.

(17) "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington grown asparagus.

(18) "Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

NEW SECTION

WAC 16-557-025 Rules for implementation of promotional hosting by the Washington asparagus commission. The laws of section 1, chapter 26, Laws of 1985 (RCW 15.04.200) provide that agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington asparagus commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules.

- (a) Commissioners;
- (b) Administrator;
- (c) Communications coordinator.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

- (a) Name and position (if appropriate) of each person hosted;
- (b) General purpose of the hosting;
- (c) Date of hosting;
- (d) Location of the hosting;
- (e) To whom payment was or will be made;
- (f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission, administrator, and/or treasurer are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of Washington grown asparagus:

- (a) An individual from private business, associations, commissions;
- (b) Foreign government officials;
- (c) Federal and state officials: *Provided*, That lodging, meals, and transportation will not be provided when such officials may obtain full reimbursement for these expenses from their government employer;
- (d) The general public, at meetings and gatherings open to the general public;
- (e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted, will cultivate trade relations and promote sales of Washington grown asparagus;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse is customary and expected.

WSR 98-16-087
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION

[Order 180—Filed August 5, 1998, 10:10 a.m.]

Date of Adoption: August 4, 1998.

Purpose: Expands the extra-legal limits to a sixteen foot box with twelve inch eaves, and discusses the process for permit approval for this increased size load.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-120.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 98-12-096 on June 3, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 4, 1998

Dennis Ingham

for Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending WSR 96-18-053, filed 8/30/96, effective 9/30/96)

WAC 468-38-120 ((~~Oversize manufactured home transport regulations~~)) Transport of extra-legal manufactured housing. ((1) The purpose of this section is to supplement the provisions of chapter 468-38 WAC as they relate to the movement of manufactured homes. Where conflicts with other sections of this chapter occur, the following rules apply:

(2) Definitions:

((a) "Manufactured home" means all trailers of the semi-trailer type with hitch ball coupler designed as structures for human habitation which may have been subsequently adapted to other uses, which are capable of being towed upon the public highways and are more than thirty-six feet in length and more than eight and one-half feet in width.

((b) "Modular homes and sectional buildings" means any factory built housing designed for human habitation which does not contain a permanent frame and must be mounted on a permanent foundation. Modular homes or sectional buildings with their own attached running gear which can be towed are considered to be manufactured homes for purposes of this regulation. Modular homes or sectional buildings

moved on legally registered trailers are subject to the provisions of chapter 46.44 RCW and the provisions of this chapter of the Washington Administrative Code regulating the movement of overlegal loads.

((e) Oversize permits may be issued to transporters, dealers or owners who shall assume full responsibility while operating under a permit. Operators of tow vehicles and others assisting in the transport must function as agents or employees of the permittee.

((d) A "unit" is a complete or irreducible part of an oversize manufactured home.

((3) Manufactured homes of semi trailer design whose width, including eaves, exceeds eight and one-half feet but whose box width does not exceed fourteen feet, and/or whose length exceeds fifty-three feet but does not exceed seventy-five feet including tongue, may be moved under the provisions of an oversize load permit issued by the department. *Provided*, That the permitted oversize limits, incorporating box width and eave location when traveling, are as follows:

((a) The box may not exceed fourteen feet in width.

((b) The box plus eave may not exceed fifteen feet in width.

((c) With any combination of box and eave width, up to fourteen feet, the eave(s) may be traveled on either or both sides.

((d) Any eave in addition to the permitted combination of fourteen foot box and eave(s) shall be traveled on the right side in the direction of traffic.

The procedure for measuring box width shall not include external appurtenances such as door knobs, window fasteners, drip cap at roof edge, clearance lights, load securing devices and closure materials. *Provided*, That such external appurtenances do not exceed two inches on any side.

((4) Oversize manufactured home permits may be issued as follows:

((a) Annual permits may be issued only to permittees who are qualified as dealers or manufacturers as provided in chapter 46.70 RCW or to transporters licensed as provided in chapter 46.76 RCW.

Annual permits shall apply only to transport of manufactured homes fourteen feet or less in height, above level ground, while being transported.

((b) Monthly permits may be issued to dealers, manufacturers, and transporters under the same conditions as annual permits except that fourteen foot height limitations may be waived.

((c) Single trip permits may be issued to dealers, transporters and owners for a specific combination of tow vehicle and mobile home to travel from a point of origin to a prescribed destination.

((5) The permittee must have insurance in effect while operating under the permit in the minimum amounts of one hundred thousand dollars—three hundred thousand dollars public liability and fifty thousand dollars property damage. Pilot car operators shall meet the insurance requirements of RCW 46.44.180.

((6) If an accident occurs while transporting a manufactured home under permit, the permittee shall immediately notify the nearest state patrol office if the damage is greater than two hundred fifty dollars to the manufactured home or

greater than one hundred dollars to other vehicles or structures. Permission to continue the movement must be obtained from the state patrol.

(7) Dealers selling twelve to fourteen foot wide manufactured homes must advise the prospective purchaser in writing that not all state highways are approved for the transport of twelve to fourteen foot wide manufactured homes.

(8) Permits issued in accordance with the Uniform Mobile and Modular Home Transportation Regulations of WASHTO will be subject to those regulations and will be honored by the state of Washington if issued by other states.

(9) Manufactured homes:

(a) Overall dimensions shall not exceed those stated in the permit except for minor protrusions not to exceed two inches, such as door and window hardware. Eaves will be included in the measurement of maximum width. All dimensions shall be reduced to the practical minimum. Manufactured homes having a single eave overhang along their length will be transported to allow for safe passing distances.

(b) The complete system of the manufactured home, including running gear assembly, shall comply with the rules and regulations adopted by the United States Department of Housing and Urban Development (24 CFR 280 (1976) and as thereafter amended). Tires shall comply with applicable Federal Motor Carrier Safety Regulations, Title 49, chapter 111. Those manufactured homes not certified as qualifying to the minimum H.U.D. specifications shall have brakes on at least two axles and on four wheels. Units of sixty feet or more in length shall have at least three full axles, except that twelve-foot wide homes manufactured prior to November 1, 1970, may be moved with a minimum of two axles. The brakes shall be under the control of the driver from the cab of the towing vehicle, and shall be adequate to control the manufactured home and its load. They shall be so designed and connected that they shall automatically apply in case of accidental breakaway from the towing vehicle. A wet cell or approved battery with a full charged rating of twelve volts will be installed in the manufactured home to actuate electric brakes in the event of a breakaway. The minimum track width between two wheels on the same axle shall be eight feet. Track width shall be measured from the outer edges of the road bearing tread of tires on a single axle. Tires shall have no signs of separation or excessive aging and shall be inflated to the maximum recommended tire pressure and have tread depth no less than 3/32nd inch in any part of tire contacting the road. Recapped or retreaded tires are not allowed. Minimum combined load rating of manufactured home tires must be in excess of their in transit load. Axles and wheels must be properly aligned to minimize wear and overheating of tires.

(c) The open side of half sections of manufactured homes shall be covered in such a way as to prevent billowing of the covering material.

(d) Furnishings or loose objects within the manufactured home shall be secured in positions to achieve proper weight and balance.

(10) Tow vehicles:

(a) Tow vehicles shall comply with the following minimum requirements:

Manufactured Home Width to be Towed	Drive Axle Gross					Rear Axle Rating
	Tire Width	Tire Rating	Curb Weight	(+) Weight		
Over 8 1/2' to 10'	7.00"	6-ply	(2)	6,000#	(2)	
Over 10' to 12'	8.00"	8-ply	35,000(3)	8,000#	15,000#	
Over 12' to 14'	8.25"	10-ply	35,000#	9,000#	15,000#	

(1) Includes fuel and accessories prior to hook up with manufactured home.

(2) Not required.

(3) May be waived for older vehicles.

(b) Conventional or cab forward configuration shall have a minimum wheelbase of one hundred twenty inches. Cab over engine tow vehicles shall have a minimum wheelbase of eighty nine inches. Tow vehicles shall have a minimum 4 speed transmission. Power shall be sufficient to meet the requirements listed.

(c) Electrical brake controls, wiring and connections to manufactured home brake systems will be capable of producing rated voltage and amperage at the manufactured home brake magnets in accordance with the manufactured home brake manufacturer's specifications.

(d) Signs and flags: In addition to the requirements of WAC 468-38-190, the OVERSIZE LOAD sign will be attached horizontally on the rear of the unit with the bottom edge between five and seven feet above the road surface. Sign material shall be impervious to moisture, clean and mounted with adequate supporting anchorage to provide legibility at all times.

(e) Lights: In addition to provisions of WAC 468-38-170, six inch diameter flashing amber lights with a minimum of thirty five candle power shall be mounted at the rear of the trailing unit, on a horizontal plane, at least ten feet above the roadway surface. They shall be operated with a flashing cycle of sixty to one hundred twenty times per minute during transit. Wiring and connections shall be in good working order.

(f) Travel speeds for manufactured homes shall be as set forth in WAC 468-38-340.

(g) Manufactured homes traveling in rural areas shall maintain adequate spacing of at least one half mile between any two manufactured home units. All units shall maintain a minimum distance of from four hundred to five hundred feet behind any truck, truck tractor or trailer which could impair the visibility of an overtaking vehicle.

(h) The manufactured home unit shall be operated in the right lane except when passing. On two lane highways, units shall not pass other vehicles except when required to pass a vehicle being operated at a speed so slow as to hinder the safe flow of traffic.

(i) A decal issued by the county treasurer shall be displayed on any manufactured or modular home being transported on public highways in this state. The decal is not required if one of the following conditions is met:

(i) When a manufactured home is to enter the state;

(ii) When a manufactured home is being moved from the manufacturer or distributor to a retail sales outlet;

(iii) When a manufactured home is being moved from the manufacturer or distributor to a purchaser's designated location; or

(iv) When a manufactured home is being moved between retail sales outlets.

(b) The county treasurer's decal shall be displayed on the rear of the manufactured home while in transport. It shall be issued at the same time as the tax certificate for manufactured home movement. If the tax certification is for a double wide manufactured home, two manufactured home movement decals shall be issued.

(c) The decal shall meet the following requirements:

(i) It shall be at least eight and one half inches square.

(ii) It shall be printed on Appleton Radiant Florescent Bristol (weight .010) or paper of comparable quality.

(iii) It shall be of fluorescent orange color.

(iv) It shall show the make, model and serial number of the manufactured home, the date issued, the name of the transporter, the transporter's WUTC permit number if required, the department of transportation special motor vehicle permit number, and the name of the county issuing the decal.

(v) It shall display in readily legible script the expiration date of the decal, which shall be not more than fifteen days after the date the decal is issued.

(d) Manufactured home movement decals may not be transferred.) (1) Purpose: To supplement the provisions of chapter 468-38 WAC as they relate to the transport of extra-legal manufactured housing on state highways. Where conflicts with other sections of this chapter occur, the following rules apply.

(2) Vehicle combination and size limits:

(a) **Combination of vehicles** - The combination shall be limited to two vehicles composed of the towing vehicle and the semi-trailer designed housing unit.

(b) **Length** - The length of the manufactured housing unit must not exceed seventy-five feet, including tongue.

(c) **Width** - The width of the manufactured housing unit **must not exceed a box (base) width of sixteen feet**. The unit may have an eave provided it does not extend beyond either side by:

(i) More than thirty inches for units with box width less than sixteen feet; or

(ii) More than sixteen inches for units with box width of sixteen feet, however, **the overall width shall not, under any circumstance, exceed eighteen feet**.

(d) **Width exemptions** - External features, such as door-knobs, window fasteners, eave cap, clearance lights, and load securing devices, that extend no more than two inches on each side of the unit, are exempt from the overall width measurement.

(e) **Height** - The height of the unit is limited to the actual overhead clearance of the route.

(3) **Permits for transport:** Permits to transport extra-legal manufactured housing units are issued as follows:

(a) **Annual/monthly** permits are issued only to dealers or manufacturers described in chapter 46.70 RCW or to licensed transporters described in chapter 46.76 RCW. Annual/monthly permits are restricted to units with a width less than, or equal to, a fourteen foot box plus twelve inch eave and/or a height of fifteen feet or less measured from level ground.

(b) **Single trip** permits are required for units with an overall width greater than fifteen feet or greater and/or height greater than fifteen feet measured from level ground. A single trip permit may also be issued for any unit of a lesser dimension. **Units with an overall width or height greater than sixteen feet must comply with WAC 468-38-405, superloads** prior to having a permit issued.

(c) Permits issued in accordance with the Uniform Mobile and Modular Home Transportation Regulations of WASHTO will be subject to those regulations and will be honored by the state of Washington if issued by other states.

(4) **Escort vehicles:** Escort vehicles must comply with WAC 468-38-100, except a front escort vehicle with height pole is not required until the overall height of the unit, measured from the road surface, exceeds fifteen feet. Vehicle or load width referenced in WAC 468-38-100 must be interpreted as overall width.

(5) Insurance:

(a) The transporter must have insurance in effect while operating under the permit in the minimum amounts of one hundred thousand/three hundred thousand dollars bodily injury and fifty thousand dollars property damage. Escort vehicle operators shall meet the insurance requirements of RCW 46.44.180.

(b) If an accident occurs while transporting a manufactured home under permit, the transporter must immediately notify the nearest state patrol office if the damage is greater than two hundred fifty dollars to the manufactured home or greater than one hundred dollars to other vehicles or structures. Permission to continue the movement must be obtained from the state patrol.

(6) **Axles, tires and brakes** for manufactured housing unit:

(a) **Units manufactured on or after June 15, 1976,** must conform to federal HUD rules Title 24, Chapter II, Sub-part J of Part 280, as in effect on September 1, 1979, and as thereafter amended.

(b) **Units manufactured prior to June 15, 1976, or not bearing the official HUD label, must comply as follows:**

width of unit at base	number of axles required	wheels w/ brakes
> 8' 6" but < 10'	2 or more	all wheels on 2 axles (towing unit w/min. 9,000 GVW ¹ , all wheels on 1 axle)
10' to 14' (under 60' long)	2 or more (3 or more if > 60' long)	all wheels on 2 axles (tires minimum 8:00 x 14.5, 10 ply)

¹ Gross vehicle weight rating which is assigned by the vehicle manufacturer.

(c) All units exceeding fourteen feet in width at the base must:

- (i) Have a minimum of four axles;**
- (ii) Have operating brakes on all wheels;**
- (iii) Not exceed the manufacturer's maximum weight rating on any tire as specified on the tire side wall;**
- (iv) Not exceed the manufacturer's rating for any wheel, axle, draw bar, hitch, or other suspension component; and**
- (v) Carry a minimum of two spare tires, inflated and ready for use.**

(d) Brakes must be designed and installed to activate if the unit accidentally breaks away from the towing vehicle.

(7) Towing vehicle requirements:

(a) Towing vehicles must be equipped with dual wheels on the drive axle; and

(b) If the unit exceeds fourteen feet in width, the towing vehicle must have a minimum GAWR² of thirty-two thousand (32,000) pounds.

2 Gross axle weight rating which is the sum of the axle ratings assigned by the axle manufacturer.

(c) Engine horsepower must be enough to maintain speeds of 45 MPH on the interstate and 35 MPH on other highways.

(8) Signs and lights:

(a) The oversize load sign must be mounted on the rear of the unit, on a horizontal plane, between five and seven feet above the road surface.

(b) In addition to any other lighting requirements by law or rule, two six-inch flashing amber lights, with a minimum of thirty-five candle power, a flashing cycle of sixty to one hundred twenty times per minute during transit, must be mounted at the rear of the trailing unit, on a horizontal plane, at least ten feet above the road surface, and above the roof line of the towing vehicle. The lights at both locations must be separated as far as practical.

(9) Travel requirements:

(a) Routes: Extra-legal units must comply with the route restrictions published by the department. All units with an overall width or height of sixteen feet or greater must be approved for travel by the department on a case-by-case basis, see also WAC 468-38-405, superloads. In addition, dealers selling extra-legal manufactured homes must advise the prospective purchaser in writing that not all state highways are approved for the transport of manufactured homes in excess of twelve feet wide.

(b) Speed in transit is governed by WAC 468-38-340.

(c) Open side covering: Units with an open side must be covered with a rigid material such as plywood or hardboard. In lieu of the rigid material, plastic covering can be used, provided a grillwork of lumber or similar material is applied to prevent tears and/or billowing of the plastic material.

(d) Rural travel must maintain adequate spacing between units in transit of at least one-half mile. When following a truck, truck-tractor or trailer units must maintain a space of four hundred to five hundred feet to avoid impairing the visibility of an overtaking vehicle.

(e) Travel in the right lane is required except when passing or avoiding an obstacle. On two-lane highways, units must not pass other vehicles except when required to pass a slow moving vehicle which is hindering the safe flow of traffic.

(10) Decals:

(a) A decal issued by the county treasurer must be displayed on any manufactured home being transported on public highways in this state (RCW 46.44.170), except:

- (i) When a unit is to enter the state;**
- (ii) When a unit is being moved from the manufacturer or distributor to a retail sales outlet;**
- (iii) When a unit is being moved from the manufacturer or distributor to a purchaser's designated location; or**
- (iv) When a unit is being moved between retail sales outlets.**

(b) The county treasurer's transport decal shall be displayed on the rear of the manufactured home while in transport. It shall be issued at the same time as the tax certificate for manufactured home movement. If the tax certification is for a double-wide (or more) manufactured home, there must be a transport decal issued for each unit.

(c) The decal must meet the following requirements:

- (i) Be at least eight and one-half inches square.**
- (ii) Be printed on Appleton Radiant Florescent Bristol (weight .010) or paper of comparable quality.**

(iii) Be fluorescent orange in color.

(iv) Show the make, model and serial number of the manufactured home, the date issued, the name of the transporter, the transporter's WUTC permit number if required, the department of transportation special motor vehicle permit number, and the name of the county issuing the decal.

(v) Clearly display the expiration date of the decal, which must not be more than fifteen days after the date issued.

(d) Decals must not be transferred.

WSR 98-16-088

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 181—Filed August 5, 1998, 10:13 a.m.]

Date of Adoption: August 4, 1998.

Purpose: To bring the WAC into compliance with governing RCW 46.37.400.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-160.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 98-14-044 on June 24, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 4, 1998

Dennis Ingham

for Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 68, filed 11/22/89, effective 12/23/89)

WAC 468-38-160 ((Side)) Rear-view mirrors for ((overwide)) overwidth loads. ((Side)) Rear-view mirrors shall be ((so)) mounted ((on vehicles hauling overwide loads that the driver can see the highway for a distance of two hundred feet directly to the rear of the driver's side of the vehicle)) in compliance with RCW 46.37.400. Escort vehicles may be used in lieu of ((this)) the distance requirement.

All escort vehicles must be equipped with outside rear-view mirrors on each side of the vehicle ((to provide vision to the rear to ensure that the movement is progressing safely)).

**WSR 98-16-105
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed August 5, 1998, 11:51 a.m.]

Date of Adoption: August 5, 1998.

Purpose: To repeal chapter 50-52 WAC. Chapter 50-52 WAC is based on chapter 31.30 RCW, which was repealed during the 1998 legislative session.

Citation of Existing Rules Affected by this Order: Repealing chapter 50-52 WAC.

Statutory Authority for Adoption: RCWs 43.320.010, 43.320.040, 30.04.030.

Adopted under preproposal statement of inquiry filed as WSR 98-13-096 on June 17, 1998.

Effective Date of Rule: Thirty-one days after filing.

August 5, 1998

G. R. Zachary
Assistant Director

**WSR 98-16-107
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed August 5, 1998, 12:00 p.m.]

Date of Adoption: August 5, 1998.

Purpose: To implement the business and occupation tax exemption provided by RCW 82.04.333 for small timber har-

vesters. This rule revision incorporates chapter 325, Laws of 1995, which removed the restriction that a small harvester could not fell, cut, or take more than five hundred thousand board feet of timber in any calendar quarter; and increased the maximum amount of timber that a small harvester could fell, cut, or take in a calendar year from one million board feet to two million board feet.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-259 Small timber harvesters—Business and occupation tax exemption.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 98-12-004 on May 21, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 4, 1998

Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending WSR 90-17-007, filed 8/3/90, effective 9/3/90)

WAC 458-20-259 Small timber harvesters—Business and occupation tax exemption. (1) ((**Exemption**)) **Introduction.** Harvesters of timber are generally subject to business and occupation (B&O) tax in the extracting classification. ((**After June 6, 1990, chapter 141, Laws of 1990**)) **RCW 82.04.333** provides a limited exemption from B&O tax for small harvesters of timber (as defined in RCW 84.33.073) whose value of product harvested, gross proceeds of log sales, or gross income of the timber harvesting business is less than \$100,000 per year.

(2) **Registration - return.**

(a) A person whose only business activity is as small harvester of timber and whose gross income in a calendar year from the harvesting of timber is less than \$100,000, is not required to register with the department for B&O tax purposes.

(b) A small harvester of timber is required to register with the department for B&O tax purposes in the month when the gross proceeds received during a calendar year from the timber harvested exceed((s)) the exempt amount.

(c) When the gross proceeds received during a calendar year from timber harvested by a small harvester exceed((s)) the exempt amount, a return shall be filed and shall include

all proceeds received during the calendar year to the time when the filing of a return is required. See(()) WAC 458-20-228 and WAC 458-20-22801 for penalties, interest and return filing periods.

(d) A harvester of timber must register with the forest tax division of the department for payment of timber excise tax.

(3) Definition - small harvester - RCW 84.33.073(1).

(a) "Small harvester" means every person who from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use;

(i) Prior to July 1, 1995, in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year((~~provided, that~~)); and

(ii) After June 30, 1995, as provided by chapter 325, Laws of 1995, in an amount not exceeding two million board feet in a calendar year.

(b) Whenever the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, so fells cuts, or takes timber for sale or for commercial or industrial use, not exceeding these amounts, the small harvester is the first person other than the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein, who acquires title to or a possessory interest in such timber.

(c) "Small harvester" does not include persons performing under contract the necessary labor or mechanical service for a harvester, and it does not include harvesters of Christmas trees.

(4) Examples(())). The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) A person not otherwise registered with the department for B&O tax purposes and who is a small harvester under RCW 84.33.073, harvests timber during the calendar year and receives \$60,000.

(i) No B&O tax is due and the person need not register with the department for B&O tax purposes.

(ii) However, the person must register with the department's forest tax division for payment of the timber excise tax.

(b) A person not otherwise registered with the department for B&O tax purposes and who is a small harvester under RCW 84.33.073, harvests timber during the calendar year. The small harvester has contracted with a logging company to provide the labor and mechanical services of the harvesting. The small harvester is to receive 60% and the logging company 40% of the log sale proceeds. The log purchaser pays \$150,000 for the logs paying \$90,000 to the person and \$60,000 to the logging company.

(i) For the small harvester, B&O tax is due on the entire \$150,000 paid for the logs. The small harvester is taxed upon the gross sales price of the logs without deduction for the

amount paid to the logging company. See: RCW 82.04.070 and WAC 458-20-135. The small harvester must register with the department for B&O tax purposes in the month when, for the calendar year, the proceeds from all timber harvested exceeds \$100,000.

(ii) The logging company is taxed on the \$60,000 it received under the appropriate business tax classification(s). The logging company is not a small harvester as defined in RCW 84.33.073 and the exemption of this section is not applicable to the logging company.

(iii) The small harvester must register with the department's forest tax division for payment of the timber excise tax.

(c) A person is primarily engaged in another business which is currently registered with the department for B&O tax purposes and has monthly receipts of \$250,000. The person is a small harvester under RCW 84.33.073 and receives \$10,000 from the sale of the timber harvested.

(i) B&O tax remains due on \$250,000 from the other business activities. The \$10,000 received from the sale of logs is exempt and is not reported on the person's combined excise tax return. The exemption applies to the activity of harvesting timber and receipts from the sale of logs are not combined with the receipts from other business activities to make the sale of logs taxable.

(ii) The person must register with the department's forest tax division for the payment of timber excise tax.

(d) A person is primarily engaged in another business which is currently registered with the department for B&O tax purposes and has monthly receipts of \$40,000. The person is a small timber harvester under RCW 84.33.073 and receives \$50,000 from the sale of the timber harvested.

(i) B&O tax remains due on \$40,000 from the other business activities. The \$50,000 received from the sale of logs is exempt and is not reported on the persons combined excise tax return. The exemption applies to the activity of harvesting timber only and receipts from the sale of logs are not combined with the receipts of other business activities to make the other activity exempt.

(ii) The person must register with the department's forest tax division for the payment of timber excise tax.

(e) A person not currently registered with the department for B&O tax purposes and who is a small harvester under RCW 84.33.073, harvests timber in June and again in August receiving \$50,000 in June and \$75,000 in August from the sale of the logs harvested.

(i) B&O tax is due on the entire \$125,000 received from the sale of logs. The small harvester must register with the department in August when the receipts from the timber harvesting business exceed the \$100,000 exemption amount. A tax return is to be filed in the appropriate period as provided in WAC 458-20-22801.

(ii) The person must register with the department's forest tax division for the payment of timber excise tax.

WSR 98-16-005
EMERGENCY RULES
STATE BOARD OF EDUCATION
[Filed July 23, 1998, 1:29 p.m.]

Date of Adoption: July 23, 1998.

Purpose: Allow the release of funds for school construction projects to be increased.

Citation of Existing Rules Affected by this Order: Amending WAC 180-27-056 Funding during the period of a priority approval process order by state board of education.

Statutory Authority for Adoption: RCW 28A.525.020.

Under 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: WAC 180-27-056(2) limits the release of state assistance for K-12 school construction to estimated revenue plus fund balance. The legislature directed the State Board of Education to calculate the release amount based on cash balance which provides additional funding for school projects in FY99. Financial harm will occur to school districts if this rule is not amended immediately.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

July 23, 1998
Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 92-16-058, filed 8/3/92)

WAC 180-27-056 Funding during the period of a priority approval process order by state board of education. During the period of a priority approval process imposed by order of the state board of education school construction projects shall receive final approval pursuant to WAC 180-29-107 as follows:

(1) On or after July 1 following the state board of education order for the implementation of a priority approval process the superintendent of public instruction shall rank all projects for which final approval has been requested pursuant to WAC 180-29-107 as per the applicable priority list in WAC 180-27-058 or 180-27-500. Only school construction

projects with state board of education approval under WAC 180-25-045 and secured local capital funds by December 31 of the previous state fiscal year and eligible for final approval pursuant to WAC 180-29-107 by June 30 of the previous state fiscal year shall be placed on that priority list: *Provided*, That for the state fiscal year beginning July 1, 1992, the December 31, 1991, cutoff date is extended to March 27, 1992.

(2) ~~Based on a ceiling of one and one half times the amount of the estimated revenue available for the state fiscal year plus fund balance for the state fiscal year minus outstanding encumbrances for the state fiscal year or as close thereto as is reasonably practical, Each fiscal year the superintendent of public instruction shall give final approval pursuant to WAC 180-29-107 during the state fiscal year to school construction projects on the priority list pursuant to WAC 180-29-107 based on the level and conditions of legislative appropriations. For the purpose of this subsection the term "estimated revenue available for the state fiscal year" shall mean the estimated revenue from the common school construction fund for the current state fiscal year and the subsequent state fiscal year, the result of which is divided by two.~~

(3) In the event the state board of education does not rescind the order for the implementation of a priority approval process by the close of the state fiscal year, school construction projects remaining on the priority list without final approval and, therefore, without secured funding status pursuant to WAC 180-29-107 shall be combined with new school construction projects that have secured local capital funds by December 31 of the state fiscal year and that are eligible, pursuant to WAC 180-29-107, for final approval by the close of the state fiscal year, and a new priority list shall be established on or after July 1 of the next state fiscal year and such remaining and new school construction projects shall be eligible for final approval pursuant to the provisions of subsections (1) and (2) of this section.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 98-16-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-136—Filed July 24, 1998, 10:46 a.m., effective July 25, 1998, 12:01 a.m.]

Date of Adoption: July 24, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500I; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 allowable catch in Catch Record Card Area 2 has already been taken. The allowable catch in Catch Record Card Area 3 and that portion of Catch Record Card Area 4 west of the Bonilla line is projected to be taken by July 25, 1998. This action is in concert with action to be taken by the National Marine Fisheries Service. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 25, 1998, 12:01 a.m.

July 24, 1998

Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-56-25500J Halibut—Areas and seasons. Notwithstanding the provisions of WAC 220-56-255, effective 12:01 a.m. July 25, 1998, until further notice it is unlawful to fish for halibut in Catch Record Card Areas 2, 3 and that portion of Catch Record Card Area 4 west of the Bonilla-Tatoosh line.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 24, 1998:

WAC 220-56-25500I Halibut—Areas and seasons. (98-126)

WSR 98-16-009

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 98-137—Filed July 24, 1998, 10:48 a.m.]

Date of Adoption: July 23, 1998.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-47-301 [220-47-307], 220-47-311, and 220-47-401.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to reduce impacts on weak Puget Sound stocks of chinook, as agreed at the Pacific Fishery Management Council/North of Falcon process. Rules are necessary to reduce impacts on weak Canadian stocks of coho, and to further reduce impacts on commingled coho originating in the Strait of Juan de Fuca region, consistent with the United States/Canada salmon agreement and direction from the Washington Fish and Wildlife Commission. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 23, 1998

Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-47-30700A Closed areas - Puget Sound salmon Notwithstanding the provisions of WAC 220-47-307, it is unlawful at any time to take, fish for or possess salmon taken for commercial purposes with any type of gear from the following portion of Puget Sound Salmon Management and Catch Reporting Area 7, except that closures listed in this section shall not apply to reef net fishing areas listed in RCW 75.12.140:

(1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point thence west to a point intercepting a line projected from the northernmost point of Jones Island thence 90 degrees true to Orcas Island

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker northerly to Biz Point, those waters easterly of a line projected from Biz Point on Fidalgo Island to the Williamson Rock light, thence to the Dennis Shoal light, thence to the light on the westernmost point of Burrows Island, thence to the southwesternmost point of Fidalgo Head, those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the shore of Burrows Island and, those waters within 1,500 feet of the shore of Fidalgo Island from Fidalgo Head northerly to Shannon Point.

(7) Those waters within 1,500 feet of Lopez Island from Point Colville northerly to Lopez Pass and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land northerly to Fauntleroy Point.

(8) Those waters within 1,500 feet of the shore of James Island.

NEW SECTION

WAC 220-47-31100A Purse seine open periods. Notwithstanding the provisions of WAC 220-47-311, it is unlawful to retain chinook or coho salmon taken by purse seine gear in Puget Sound Commercial Salmon Management and Catch Reporting Areas 7 and 7A.

NEW SECTION

WAC 220-47-40100A Reef net open periods. Notwithstanding the provisions of WAC 220-47-401, it is unlawful to retain chinook or coho salmon taken by reef net gear in Puget Sound Commercial Salmon Management and Catch Reporting Areas 7 and 7A.

WSR 98-16-020 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 98-138—Filed July 27, 1998, 4:00 p.m., effective July 28, 1998, 6:00 a.m.]

Date of Adoption: July 27, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07100G; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in all districts and areas listed. The non-Indian share of sea cucumbers in Sea Cucumber District 2 (Strait) is expected to be taken in one and one-half days. The non-Indian share of sea cucumbers in Areas 24A, 24D, 26A, 26B, 27A and 27C are expected to be taken in two days. San Juan Channel and southwestern Haro Strait are closed consistent with state/tribal agreement. Titlow Beach Marine Preserve and Sund Rock Marine Preserve are closed to preserve the character of the marine preserves. Tatoosh Island closure is consistent with tribal agreements. Eagle Harbor and Sinclair Inlet are closed for health-related reasons.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 28, 1998, 6:00 a.m.

July 27, 1998

Ron Swatfigure

for Bern Shanks

Director

NEW SECTION

WAC 220-52-07100H Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective 6:00 a.m. July 28, 1998 until further notice, it is unlawful for non-treaty sea cucumber harvesters to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 (Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B), on Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 2 (Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, and 29), on Tuesday, July 28,

1998 from 6:00 a.m. to 12:00 noon, except for closures as provided for in this section.

(3) Sea Cucumber harvest using shellfish diver gear is allowed in Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, 27A, 27B, and 27C on Tuesday, July 28, 1998 from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(4) The following areas are closed to the harvest of sea cucumbers at all times:

(a) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(b) Those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, and south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(c) Titlow Beach Marine Preserve - All waters due west from the southern end of the Tacoma Outboard Association building near the boat launch ramp to the outer harbor line, then south following the outer harbor line to a line due west from the old ferry landing dock at the 6th Ave. extension then following the line to the high water line then to the point of origin.

(d) Tatoosh Island - Those waters within one-quarter mile of Tatoosh Island.

(e) Sund Rock Marine Preserve - Waters within 100 yards of the salmon net pens near Sund Rock in Hood Canal.

(f) Edmonds Underwater Park - Those tidelands and waters bounded by the mean high tide line then along the projected line of Main St. west to the outer harbor line, then 250 feet north following the outer harbor line, then back to shore, then to the point of origin.

(g) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island.

(h) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. July 28, 1998:

WAC 220-52-07100G Sea cucumbers (98-135)

WSR 98-16-026

EMERGENCY RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed July 28, 1998, 3:43 p.m.]

Date of Adoption: July 28, 1998.

Purpose: To expand eligibility under the working connections child care (WCCC) program. At this time, non-TANF WCCC consumers are eligible for child care subsidies for employment only. The new rule allows subsidies to be paid for time-limited education and training programs as well.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-290-055.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.0903.

Other Authority: Public Law 104-193 Sections 407 and 605.

Under 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 amendment to WAC 388-290-055 is essential to assist employed clients with WCCC. This amendment will support low-income families in improving their basic education and job skills, as well as increasing their chances for wage progression and job retention. In addition, it helps the preservation of public safety and welfare by allowing low-income families to access and afford quality child care for children who may otherwise be left home alone.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 28, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-055 Payment for subsidized child care. (1) The department pays for child care for:

(a) A consumer's hours of participation in an approved WorkFirst activity and/or hours of employment;

(b) Transportation time between the place of employment or approved WorkFirst activity and the location of child care, if needed;

(c) Self-employment under WAC 388-290-070;

(d) Education and training programs limited to adult basic education (ABE), English as a second language (ESL), high-school/GED, and vocational education and job skills training under WAC 388-310 for:

(i) Non-TANF consumers for up to thirty-six months;

(ii) TANF consumers for up to twelve months while on TANF, and up to twenty-four months after exiting TANF;

(iii) Consumers under (d)(i) and (ii) of this subsection, must also be working twenty hours or more per week and not have a prior approved JOBS plan.

(e) Education and training programs for TANF consumers who:

(i) Have prior approved JOBS plans; and

(ii) Are working at least twenty hours per week.

(f) A consumer's hours of participation in a labor exchange or job retention activity if:

(i) The consumer is a TANF recipient working twenty hours or more. Child care may be authorized as needed;

(ii) The consumer is a former TANF recipient working twenty hours or more and earning below one hundred seventy-five percent FPL. Child care may be authorized for up to two years following termination from the grant.

(2) Consumers under subsection (1)(d) through (f) of this section, must be making satisfactory progress in their education or training programs.

(3) The department may authorize child care payments for up to two weeks for a TANF consumer waiting to enter an approved WorkFirst activity.

((3))) (4) The department may authorize child care payments for up to four weeks for a consumer who experiences a gap in employment, or approved WorkFirst activity, if all the following conditions are met:

(a) The gap is for reasons out of the consumer's control;

(b) Employment, or the approved WorkFirst activity, will resume within that period or the consumer is looking for alternate employment; and

(c) The consumer received subsidized child care immediately before the gap in employment, or approved WorkFirst activity((,-and

(d) Child care arrangements would otherwise be lost)).

((4))) (5) The department pays initial and ongoing annual registration/equipment fees only if the fees are:

(a) Required of all parents whose (child(ren) are in care with that provider; and

(b) Needed to maintain a child care arrangement.

((5))) (6) The department may pay ongoing activity fees to the child care provider if the conditions in subsection ((4))) (5)(a) and (b) of this section are met.

((6))) (7) The department may establish a protective payee due to mismanagement of funds for consumers who fail to pay the in-home/relative child care provider, when:

(a) The department issued a child care warrant to the correct address and twelve or more working days have passed since the issuance date; and

(b) The consumer has not reported the warrant lost, stolen, or destroyed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 98-16-028

EMERGENCY RULES

**BOARD OF
PILOTAGE COMMISSIONERS**

[Filed July 29, 1998, 8:23 a.m.]

Date of Adoption: July 28, 1998.

Purpose: To continue in effect the current Grays Harbor pilotage district tariff.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district.

Statutory Authority for Adoption: RCW 88.16.035.

Under 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: Current rates for the Grays Harbor pilotage district expire on July 31, 1998. It is necessary to continue the current rates beyond this date until a permanent rule is adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

July 28, 1998

Peggy Larson

Administrator

AMENDATORY SECTION (Amending WSR 97-15-120, filed 7/23/97, effective 8/1/97)

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours on 8-1-97 through 2400 hours ((7-31-98)) 11-25-98.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$60.80 per meter (or \$18.50 per foot) and the tonnage charge shall be \$0.1939 per net registered ton. The minimum net registered tonnage charge is \$678.39. The charge for an extra vessel (in case of tow) is \$387.67.

Boarding fee:

Per each boarding/deboarding from a boat	\$ 292.49
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Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage	\$ 486.30
Delays per hour	\$ 115.96
Cancellation charge (pilot only)	\$ 193.82
Cancellation charge (pilot boat only)	\$ 581.48

Travel allowance:

Boarding or deboarding a vessel off Grays Harbor entrance	\$ 90.00
Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$678.41 for each day or fraction thereof, and the travel expense incurred	\$ 678.41

Bridge transit:

Charge for each bridge transited	\$ 212.88
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Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

WSR 98-16-036

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed July 30, 1998, 1:32 p.m.]

Date of Adoption: July 29, 1998.

Purpose: These amendments change income levels to reflect the new federal poverty level. These changes will increase the number of children and pregnant women who are eligible for medical assistance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-508-0805, 388-509-0920, and 388-509-0960.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, and poverty guidelines updated each year under authority of Section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 USC 9902(2)).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The rules are implemented to comply with federal requirements and to maintain federal funding of these programs. The public hearing on these rules is scheduled for August 25, 1998. The existing emergency adoption will expire July 31, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Effective Date of Rule: Immediately.

July 29, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-508-0805 Pregnant woman—Income standards. ((1) The department shall find)) This chapter describes the income standards used to determine the eligibility of a pregnant woman for a medical program. A pregnant woman is eligible for categorically needy Medicaid ((as categorically needy)) when the ((pregnant woman meets the income requirements of this section.

(2) The department shall ensure total family income will)) countable family income does not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the ((current)) FPL is:

Family Size	Monthly Income
((a)) (1) One	\$((1,217)) <u>1,242</u>
((b)) (2) Two	\$((1,636)) <u>1,673</u>
((e)) (3) Three	\$((2,056)) <u>2,105</u>
((d)) (4) Four	\$((2,475)) <u>2,537</u>
((e)) (5) Five	\$((2,894)) <u>2,968</u>
((f)) (6) Six	\$((3,314)) <u>3,400</u>
((g)) (7) Seven	\$((3,733)) <u>3,832</u>
((h)) (8) Eight	\$((4,152)) <u>4,263</u>
((i)) (9) Nine	\$((4,572)) <u>4,695</u>
((j)) (10) Ten	\$((4,991)) <u>5,127</u>

((k)) (11) For ((family)) assistance units with more than ten members, add \$((420)) 432 to the monthly income for each additional member.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0920 Children's health program. This section describes the children's health program for children who are ineligible for Medicaid. (1) ((The department shall consider)) A child ((seventeen years of)) under age ((or younger,)) eighteen is eligible for state-funded medical services, with the same coverage as categorically needy, when((a)) the child is not eligible for a federally-funded Medicaid program((; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

- (a) Following AFDC methodology; and
- (b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

- (a) Citizenship;
- (b) Social Security number; or
- (c) Resources limits.

(4) The department shall find that) and meets the income standards described in subsection (4).

(2) Citizenship, Social Security number, and resource standards are not eligibility factors for the children's health program.

(3) Countable family income is determined using TANF methodology and the medical income rules as described under WAC 388-506-0610.

(4) The countable income in the child's assistance unit may not exceed one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	\$((658)) <u>671</u>
(b) Two	\$((885)) <u>905</u>
(c) Three	\$((1,114)) <u>1,138</u>
(d) Four	\$((1,338)) <u>1,371</u>
(e) Five	\$((1,565)) <u>1,605</u>
(f) Six	\$((1,794)) <u>1,838</u>
(g) Seven	\$((2,018)) <u>2,071</u>
(h) Eight	\$((2,245)) <u>2,305</u>
(i) Nine	\$((2,471)) <u>2,538</u>
(j) Ten	\$((2,698)) <u>2,771</u>

(k) For ((family)) assistance units with more than ten members, add \$((227)) 234 to the monthly income for each additional member.

(5) ((For a child determined eligible under this section, the department shall not consider)) A change in family income during the certification period does not affect eligibility for a child determined eligible under this section.

AMENDATORY SECTION (Amending WSR 97-16-008, filed 7/24/97, effective 7/24/97)

WAC 388-509-0960 Children's income standards. This section describes income standards used to determine a child's Medicaid eligibility. (1) ((The department shall determine)) A child meeting the eligibility requirements under WAC 388-509-0910 is eligible as categorically needy when the ((total family)) countable income in the child's assistance unit does not exceed two hundred percent of the federal poverty level (FPL). ((The department shall find that)) Two hundred percent of the ((current)) FPL equals:

Family Size	Monthly Income
(a) One	\$((1,315)) <u>1,342</u>
(b) Two	\$((1,769)) <u>1,809</u>
(c) Three	\$((2,222)) <u>2,275</u>
(d) Four	\$((2,675)) <u>2,742</u>
(e) Five	\$((3,129)) <u>3,209</u>
(f) Six	\$((3,582)) <u>3,675</u>
(g) Seven	\$((4,035)) <u>4,142</u>
(h) Eight	\$((4,489)) <u>4,609</u>
(i) Nine	\$((4,942)) <u>5,075</u>
(j) Ten	\$((5,395)) <u>5,542</u>

(k) For ((family)) assistance units with more than ten members, add \$((454)) 467 to the monthly income for each additional member.

(2) ((For a child determined eligible under WAC 388-509-0910, the department shall not consider)) A change in ((family)) the assistance unit's income during the certification period does not affect eligibility for a child determined eligible under WAC 388-509-0910.

WSR 98-16-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-139—Filed July 30, 1998, 3:02 p.m., effective August 3, 1998, 12:01 a.m.]

Date of Adoption: July 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-19000Q; and amending WAC 220-56-190.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 regulation implements federal recommendations from the north of Falcon process of the Pacific Fisheries Management Council. They are interim until permanent rules take effect. They provide for harvest of salmon while protecting weak and mixed stocks. They have been agreed upon by all parties in *United States v. Washington*.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 3, 1998, 12:01 a.m.

July 30, 1998

Larry Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-56-19000Q Coastal salmon—Seasons and limits. Notwithstanding the provisions of WAC 220-56-190, effective 12:01 a.m. August 3, 1998 until further notice it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 1 through 4 except as provided for in this section: (1) Area 1 - Special daily limit of two salmon not more than one of which may be a chinook salmon, except release wild coho salmon. Special cumulative limit of four salmon in any Sunday through the following Thursday period - Sunday through Thursdays only, August 3 through September 24, 1998 except closed in the Columbia

River Mouth Control Zone 1 as defined in WAC 220-56-195. (2) Area 2 - Special daily limit of two salmon not more than one of which may be a chinook salmon. Special cumulative limit of four salmon in any Sunday through the following Thursday period - Sunday through Thursdays only, August 3 through September 24, 1998 except closed 0-3 miles offshore.

(3) Area 3 - Special daily limit of two salmon - August 3 through September 24, 1998.

(4) Area 4

(a) Waters west of the Bonilla-Tatoosh line - Closed until further notice.

(b) Waters east of the Bonilla-Tatoosh line - Special daily limit of two salmon, except release chinook salmon - August 3 through September 24, 1998.

(5) Size limits - Chinook salmon minimum size 24 inches in length. Coho salmon minimum size 16 inches in length.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 24, 1998:

WAC 220-56-19000Q

Coastal salmon—Seasons and limits.

WSR 98-16-040
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)

[Filed July 30, 1998, 3:51 p.m.]

Date of Adoption: July 30, 1998.

Purpose: To rescind an emergency amendment to WAC 388-290-055, filed as WSR 98-16-026 on July 28, 1998. It is necessary to rescind WSR 98-16-026 immediately. This emergency filing contains a typo that could give misleading information to the public about obtaining subsidized child-care while participating in the WorkFirst program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-290-055.

Statutory Authority for Adoption: RCW 74.04.050 and 74.13.0903.

Other Authority: Public Law 104-193, sections 407 and 605.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: It is necessary to rescind WSR 98-16-026 immediately. This emergency filing contains a typo that could give misleading information to the public

about obtaining subsidized childcare while participating in the WorkFirst program.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

July 30, 1998

Edith M. Rice

for Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 98-16-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-140—Filed July 30, 1998, 4:17 p.m., effective July 31, 1998, 5:00 p.m.]

Date of Adoption: July 30, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07100H.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 1998 non-Indian shares of sea cucumbers in sea cucumber districts will have been taken.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 31, 1998, 5:00 p.m.

July 30, 1998

Bruce A. Crawford
Assistant Director
for Bern Shanks
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:00 p.m. July 31, 1998:

WAC 220-52-07100H Sea cucumbers. (98-138)

WSR 98-16-042

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 98-141—Filed July 31, 1998, 9:52 a.m., effective August 1, 1998, 12:01 a.m.]

Date of Adoption: July 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900S; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These lakes are being considered for rehabilitation in September. A public meeting was held on July 1, 1998, in Moses Lake concerning these rehabilitations. Attendees indicated support for the rehabilitations of these lakes and no opposition was noted. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 1, 1998, 12:01 a.m.
 July 30, 1998
 Larry Peck
 for Bern Shanks
 Director

NEW SECTION**WAC 232-28-61900S Exceptions to state-wide rules.**
 Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. August 1, through September 30, 1998, it is lawful to fish for game fish in waters of Wardens Lake (Grant County). Daily limit: None. Minimum size: None.

(2) Effective 12:01 a.m. August 1, through September 30, 1998, it is lawful to fish for game fish in waters of Wardens Lake South (Grant County). Daily limit: None. Minimum size: None.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 30, 1998:

WAC 232-28-61900S Exceptions to state-wide rules.

WSR 98-16-077
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 98-142—Filed August 4, 1998, 4:55 p.m., effective August 4, 1998, 5:00 p.m.]

Date of Adoption: August 3, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000B; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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: (1) Harvestable numbers of sturgeon remain on the commercial allocation. The season provides the commercial industry access to a portion of their sturgeon allocation during a time frame when salmon and steelhead are not present in large numbers, and to provide maximum economic benefits. This season is consistent with the precepts of the Olympia Accord agreement between the states of Washington and Oregon concerning Columbia River sturgeon allocation, and is consistent with actions of the Columbia River Compact hearing on July 30, 1998.

(2) Harvestable numbers of salmon from net pen releases are available for the select area fisheries at Tongue Point and

Blind Slough. These select areas are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River, and the purpose of the study is to provide fisheries. Rule is consistent with actions of the Columbia River Compact hearing of July 30, 1998. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 4, 1998, 5:00 p.m.

August 3, 1998

Larry W. Peck
 for Bern Shanks
 Director

NEW SECTION**WAC 220-33-01000B Columbia River seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

(1) OPEN AREA

SMCRA 1A, 1B and 1C upstream to the Longview Bridge.

(a) FISHING PERIODS

5 P.M. August 4 through 5 A.M. August 5, 1998

(b) GEAR

It is unlawful to fish for salmon and sturgeon with gill net gear that:

a) is less than 9 inch minimum mesh or greater than 9 3/4 inch maximum mesh

b) has lead or weight on the leadline that exceeds two pounds in any one fathom, with measurement taken along the corkline of the net.

(c) OTHER

White sturgeon less than 48 inches or greater than 60 inches, or green sturgeon less than 48 inches or greater than 66 inches may not be retained for commercial purposes and shall be returned immediately to the water.

It is unlawful to gaff sturgeon.

It is unlawful to sell unprocessed eggs from lower Columbia River sturgeon.

(d) SANCTUARIES

Standard river mouth sanctuaries as described in WAC 220-33-005.

(2) OPEN AREA: BLIND SLOUGH SELECT AREA

Open waters extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent Oregon and Washington waters extend downstream of the railroad bridge. Oregon waters extend upstream of the railroad bridge.

(a) FISHING PERIODS

7 P.M. Mondays to 7 A.M. Tuesdays
7 P.M. Tuesdays to 7 A.M. Wednesdays
September 8 through September 23, 1998

6 P.M. Sundays to 8 A.M. Mondays

6 P.M. Mondays to 8 A.M. Tuesdays

6 P.M. Tuesdays to 8 A.M. Wednesdays

September 27 through October 21, 1998

(b) GEAR

Nets restricted to 50 fathoms in length with no weight restriction on leadline.

8 inch maximum mesh size.

(c) OTHER

Unlawful to transport or possess fish outside of the fishing area when the mainstem is closed unless by licensed buyer. An exception to this rule would allow transportation out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

(3) OPEN AREA: TONGUE POINT SELECT AREA

Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the south-west end of Lois Island due westerly to a marker on the opposite bank. All open water are under concurrent jurisdiction.

(a) FISHING PERIODS

7 P.M. Wednesdays to 7 A.M. Thursdays
7 P.M. Thursdays to 7 A.M. Fridays
September 10 through September 25, 1998

6 P.M. Wednesdays to 8 A.M. Thursdays

6 P.M. Thursdays to 8 A.M. Fridays

September 30 through October 23, 1998

(b) GEAR

Nets restricted to a maximum length of 250 fathoms and weight restriction on leadline not to exceed 2 pounds per fathom. However, fishers participating in the Tongue Point Select Area fishery may have gill nets stored on board their boats with leadline in excess of 2 pounds per fathom. 8 inch maximum mesh size.

(c) OTHER

Unlawful to transport or possess fish outside of the fishing area when the mainstem is closed unless by licensed buyer. An exception to this rule would allow transportation out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:01 a.m. October 23, 1998:

WAC 220-33-01000B

Columbia River seasons
below Bonneville.

WSR 98-16-083

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 98-143—Filed August 5, 1998, 9:40 a.m.]

Date of Adoption: August 3, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-19100B and 220-56-19100C; and amending WAC 220-56-191.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules allow for the implementation previously agreed fishing season until the permanent rules take effect on August 15, 1998.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 3, 1998

Larry W. Peck
for Bern Shanks
Director

NEW SECTION

WAC 220-56-19100D Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 220-56-191, Effective immediately until further notice it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 5 through 13 except as provided for in this section:

(1) The minimum size limit for chinook salmon is 22-inches unless otherwise provided. There is no minimum size limit for other salmon species.

(2) Effective immediately until further notice, while angling from the following fishing piers, special daily limit of 2 salmon, no more than one may be chinook:

(a) Edmonds Public Fishing Pier (in Catch Record Card Area 9)

(b) Elliott Bay Public Fishing Pier at Terminal 86 (in Seattle in Catch Record Card Area 10).

(c) Seacrest Pier (in Seattle in Catch Record Card Area 10).

(d) Hood Canal Bridge Fishing Pontoon below the bridge (the boundary line between Catch record Card Areas 9 and 12)

(3) Effective immediately through August 10, 1998, it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 5 and 6

(4) Catch Record Card 5 and 6 - open effective August 11, 1998 until further notice - Special daily limit of 2 salmon, release all chinook and chum salmon; the following areas are closed:

(a) waters within 3/4 mile of the mainland shore are closed to salmon angling.

(b) Waters within 3/4 mile of Whidbey Island shore are closed to salmon agling.

(5) Catch Record Card Area 7 - open effective immediately until further notice - Special daily limit of 2 salmon, release all chinook salmon; the following waters are closed to salmon angling: Waters within 1500 ft. of Fidalgo Island from the Initiative 77 marker northeast of Northwest Island to Biz Pt., and waters of Burrows Bay inside a line from Biz Pt. To Williamson Rocks Buoy to the Dennis Shoal Buoy, to a point 1500 ft. west of the Burrows Island Light, then northeast to Fidalgo Head; and waters within 1500 ft. of Fidalgo Island from Fidalgo Head to Shannon Pt.; waters within 1500 ft. of Lopez Island bounded by a line running from Pt. Colville due south 1500 ft. then northerly along the Island, across Lopez Pass, and then northerly along Decatur Island within 1500 ft. of shore to Fauntleroy Pt., including waters within 1500 ft. of James Island.

(6) Effective 12:01 a.m. August 16, 1998 through August 29, 1998:

(a) It is unlawful to fish for or possess salmon taken for personal use in that portion of Catch Record Card Area 7 identified as the East San Juan Islands, as described in WAC 220-56-199.

(i) Notwithstanding the provisions of subsection (a) Bellingham Bay remains open to salmon angling with a daily limit of 4 salmon of which one may be chinook.

(b) All coho must be released in that portion of Catch Record Card Area 7 lying northerly and westerly of the East San Juan Islands as described in WAC 220-56-199.

(7) Catch Record Card Area 8-2 - open effective immediately until further notice - Special daily limit of 2 salmon, release all chinook salmon.

(8) Catch Record Card Area 9 - open effective immediately until further notice - Special daily limit of 2 salmon, release all chinook and chum salmon.

(9) Catch Record Card Area 10 - open effective immediately until further notice - Special daily limit of 2 salmon, release all chinook salmon; the following areas are closed:

(a) Shilshole Bay east of a line from Meadow Point to West Point is closed.

(b) Elliott Bay east of a line from 4-Mile Rock to Alki Point is closed.

(10) Catch Record Card Area 11 - open effective immediately until further notice - Special daily limit of 2 salmon, not more than 1 of which may be chinook.

(11) Catch Record Card Area 12 - open effective immediately until further notice - Special daily limit of 4 salmon, release all chinook and chum salmon; waters of the Hood-sport Hatchery Zone are managed separately as provided for in WAC 220-56-124.

(12) Catch Record Card Area 13 - open effective immediately until further notice - Special daily limit of 2 salmon, not more than 1 of which may be chinook.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-19100B

Puget Sound salmon—Salt-water season and daily limits. (98-74)

WAC 220-56-19100C

Puget Sound salmon—Salt-water seasons and daily limits (98-125)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 29, 1998:

WAC 220-56-19100D

Puget Sound salmon—Salt-water season and daily limits (98-143)

**WSR 98-16-093
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 5, 1998, 10:28 a.m.]**

Date of Adoption: August 4, 1998.

Purpose: To expand eligibility under the working connections child care (WCCC) program. At this time, non-TANF WCCC consumers are eligible for child care subsidies for *employment only*. The new rule allows subsidies to be paid for time-limited education and training programs as well.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-290-055.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.0903.

Other Authority: Public Law 104-193, Sections 407 and 605.

Under 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 amendment to WAC 388-290-055 is essential to assist employed clients with WCCC. This amendment will support low-income families in improving their basic education and job skills, as well as increasing their chances for wage progression and job retention. In addition, it helps the preservation of public safety and welfare by allowing low-income families to access and afford quality child care for children who may otherwise be left home alone.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 4, 1998

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-20-130, filed 10/1/97, effective 11/1/97)

WAC 388-290-055 Payment for subsidized child care. (1) The department pays for child care for:

(a) A consumer's hours of participation in an approved WorkFirst activity and/or hours of employment;

(b) Transportation time between the place of employment or approved WorkFirst activity and the location of child care, if needed;

(c) Self-employment under WAC 388-290-070;

(d) Education and training programs limited to adult basic education (ABE), English as a second language (ESL), high-school/GED, and vocational education and job skills training under WAC 388-310 for:

(i) Non-TANF consumers for up to thirty-six months;

(ii) TANF consumers for up to twelve months while on TANF, and up to twenty-four months after exiting TANF;

(iii) Consumers under (d)(i) and (ii) of this subsection, must also be working twenty hours or more per week and not have a prior approved JOBS plan.

(e) Education and training programs for TANF consumers who:

(i) Have prior approved JOBS plans; and

(ii) Are working at least twenty hours per week.

(f) A consumer's hours of participation in an employment retention activity if:

(i) The consumer is a TANF recipient working twenty hours or more per week. Child care may be authorized as needed;

(ii) The consumer is a former TANF recipient working twenty hours or more each week. Child care may be authorized for up to one year following the consumer's exit from TANF.

(g) A consumer's hours of participation in a labor exchange activity if:

(i) The consumer is a TANF recipient working twenty hours or more each week. Child care may be authorized as needed;

(ii) The consumer is a former TANF recipient working twenty hours or more each week and earning below one hundred seventy-five percent of the FPL. Child care may be authorized for up to two years following the consumer's exit from TANF.

(2) Consumers under subsection (1)(d) and (e) of this section, must be making satisfactory progress in their education or training programs.

(3) The department may authorize child care payments for up to two weeks for a TANF consumer waiting to enter an approved WorkFirst activity.

((4)) (4) The department may authorize child care payments for up to four weeks for a consumer who experiences a gap in employment, or approved WorkFirst activity, if all the following conditions are met:

(a) The gap is for reasons out of the consumer's control;

(b) Employment, or the approved WorkFirst activity, will resume within that period or the consumer is looking for alternate employment; and

(c) The consumer received subsidized child care immediately before the gap in employment, or approved WorkFirst activity((; and

((5)) (d) Child-care arrangements would otherwise be lost).

((6)) (5) The department pays initial and ongoing annual registration/equipment fees only if the fees are:

(a) Required of all parents whose (child(ren) are in care with that provider; and

(b) Needed to maintain a child care arrangement.

((7)) (6) The department may pay ongoing activity fees to the child care provider if the conditions in subsection ((4)) (5)(a) and (b) of this section are met.

((8)) (7) The department may establish a protective payee due to mismanagement of funds for consumers who fail to pay the in-home/relative child care provider, when:

(a) The department issued a child care warrant to the correct address and twelve or more working days have passed since the issuance date; and

(b) The consumer has not reported the warrant lost, stolen, or destroyed.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.



WSR 98-16-003
RULES COORDINATOR
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed July 22, 1998, 2:08 p.m.]

I have appointed Cathie Halpin, CTED's special assistant to the director, as my designated rules coordinator. She has authority to represent the agency for all circumstances relating to the legislative rule-making process. This appointment is effective July 13, 1998, and supercedes all previous appointments.

Cathie can be reached by dialing (360) 586-1874, facsimile (360) 586-3582, or e-mail cathieh@cted.wa.gov.

Tim Douglas
Director

Remove underlined dates from calendar

HARBORVIEW MEDICAL CENTER—BOARD OF TRUSTEES MEETING SCHEDULE 1998
 (All Board Standing Committee meetings held in Room 1C-30, Harborview Medical Center)

BOARD COMMITTEES	TIME	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC
Public Affairs (1st Tuesday)	12:30 PM	6	3	3	7	5	2	7	4	1	6	3	1
Joint Conference (3rd Monday)	12:30 PM	*26	*23	16	20	18	15	20	17	21	19	16	—
Health Care Services & Planning (3rd Tuesday)	11:00 AM	20	17	17	21	19	16	21	18	15	20	17	15
Facilities, Building and Equipment (2nd Friday)	11:30 AM	9	13	13	10	8	12	10	14	11	9	13	11
Finance (Tuesday before Board Meeting)	7:30 AM	20	24	24	21	26	23	21	25	22	20	—	*1
Board Educational Session (DR-C) (4th Thursday)	Noon	22	26	26	23	28	25	23	27	24	22	—	*3
Board Meeting (4th Thursday)	1:00 PM	22	26	26	23	28	25	23	27	24	22	—	*3
Executive Committee (3rd Tuesday)	1:00 PM	*13	17	17	*14	19	16	*14	18	15	*13	*24	—
MEDICAL CENTER COMMITTEES Community Mental Health (2MH-16/17) (3rd Thursday)	5:30 PM	15	19	19	16	21	18	16	20	17	15	19	17

MISC.

Quality Assurance (2nd Monday)	1:00PM	12	9	9	13	11	8	13	10	14	12	9	14
*rescheduled dates because of legal holidays or required for committee business													

New dates

HARBORVIEW MEDICAL CENTER—REVISED BOARD OF TRUSTEES MEETING SCHEDULE 1998
(All Board Standing Committee meetings held in Room 1EH-115, Harborview Medical Center)

BOARD COMMITTEES	TIME	AUG	SEPT	OCT	NOV	DEC
*Joint Conference (week before Board Meeting)	7:30 AM	13	10	13	24	—
*Executive Committee (week before Board Meeting)	8:30 AM	13	10	13**	24	—
Health Care (3rd Tuesday)	11:00 AM	18	15	20	17	15
Strategic Planning (2nd Friday)	11:30 AM	14	11	9	13	11
Finance (Tuesday before Board Meeting)	7:30 AM	25	22	20	—	*1
Board Educational Session (DR-C) (4th Thursday)	Noon	27	24	22	—	*3
Board Meeting (4th Thursday)	1:00 PM	27	24	22	—	*3
MEDICAL CENTER COMMITTEES	5:30 PM	20	17	15	19	17
Community Mental Health (2MH-16/17) (3rd Thursday)						
Quality Assurance (2nd Monday)	1:00 PM	10	14	12	9	14

*rescheduled dates because of legal holidays or required for committee business

**The standing meeting day is Tuesday except for October 13, which is Thursday

WSR 98-16-013
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD
[Memorandum—July 23, 1998]

MEETING NOTICE: October 29, 1998
County Road Administration Board
2404 Chandler Court S.W., Suite 240
Olympia, WA 98504-0913
1:00 PM to 5:00 PM

PUBLIC HEARING: October 29, 1998
County Road Administration Board
2404 Chandler Court S.W., Suite 240
Olympia, WA 98504-0913
3:00 PM

MEETING NOTICE: October 30, 1998
County Road Administration Board
2404 Chandler Court S.W., Suite 240
Olympia, WA 98504-0913
9:00 AM to Noon

* 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.

If you have questions, please contact (360) 753-5989.

WSR 98-16-017
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
[Memorandum—July 24, 1998]

NOTICE OF MEETING LOCATION CHANGE

The Public Works Board Meeting scheduled for September 22, 1998, will begin at 8:30 a.m. in the Oak Room at the DoubleTree Hotel in Kelso, Washington.

The meeting will include an inspection of projects funded by the public works trust fund in Cowlitz County, the City of Kelso, the Town of Kalama, the City of Longview, and the City of Woodland.

WSR 98-16-021
AGENDA
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed July 28, 1998, 9:22 a.m.]

Shown below is the Department of Social and Health Services' Semi-Annual Rule-Making Agenda, by administration, for July 1, 1998, through December 31, 1998.

There may be more rule-making activity, not on the agenda, as a result of the reviews being done in accordance with the Governor's Executive Order 97-01.

AGING AND ADULT SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of Rule
388-15- 145, 194, 203, 548, 552, 560, 690**, 695, 700, 705, 710	Amend to conform to regulatory improvement guidelines.
388-15- 196, 198, 202, 207, 209, 214, 215, 219, 222, 600**, 610**, 620, 630, 830, 880, 890	Amend to implement programmatic changes and conform to regulatory improvement guidelines.
388-15- 200, 204, 216**, 551, 553, 554, 555**, 562, 563, 566, 568, 715	Repeal or consolidate with existing WAC.
388-17- 010, 020, 100, 120, 160, 180, 500, 510	Amend to conform to regulatory improvement guidelines. Possibly repeal sections that are not necessary.
388-76	Possible amendments to clarify certain sections of the AFH chapter.
388-96- 110, 119, 122, 202, 213, 218, 505, 525, 530, 532, 535, 536, 538, 540, 542, 580, 585, 702, 704, 708, 709, 710, 713, 723, 724, 725, 726, 728, 729, 738, 739, 740, 741, 742, 744, 746, 747, 757, 776, 901, 904, 905	Review of this chapter continues. The nursing facility payment system is being developed or amended to implement changes to chapter 74.46 RCW as amended by E2SHB 2935 (chapter 322, Laws of 1998).
388-96- 023, 029, 032, 101, 104, 110, 113, 128, 134, 201, 207, 210, 220, 221, 224, 226, 228, 229, 503, 507, 508, 509, 513, 521, 523, 529, 531, 543, 555, 557, 569, 572, 573, 716, 717, 719, 722, 727, 735, 737, 745, 752, 754, 761, 763, 764, 765, 768, 769, 774, 778, 801, 804, 807, 810, 813, 816	These fifty seven sections will be repealed October 1, 1998.
246-316-990	Increasing boarding home licensing fee and the rate to cover the increased cost.
Unknown	Establish home and community rates in rule (per HB 1908, the department is to establish, in rule, payment rates for home and community services).
388-97	Continue review of nursing home chapter as part of AASA/RCS regulatory review plan - mandated by the Governor's Executive Order.
388-97-245 through 280**	These sections, originally scheduled to be completed by December 31, 1997, are being further reviewed along with the entire chapter.

MISC.

388-110-105 through 280** will not be done at this time	With the transfer of boarding homes to DSHS by E2SSB 6544, chapter 272, Laws of 1998, the contract rules for boarding homes, originally scheduled to be opened October 1997, have not been opened. They will be incorporated with the review of the boarding home regulations (chapter 246-316 WAC) beginning July 1, 1999.
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****Indicates subsequent change from "4-year Plan"**

CHILDREN'S ADMINISTRATION

WAC Chapter or Section Number	Purpose of Rule
388-15-130	Social Services for Families, Children, and Adults - Child Protective Services - Authority
388-15-131	CPS Special Requirements for Indian Children
388-15-132	CPS Acceptance of Reports - Eligibility
388-15-134	CPS Notification
388-15	CPS - New Section - Rule to review and amend findings of abuse and neglect if appropriate.
388-15-150	Child Foster Care
388-15-160	Adoption Services
388-15-170	General and Seasonal Day Care Services
388-15-177	Subsidized Child Care Payment - New section to establish maximum child care subsidy rates.
388-15-220	Homemaker Services
388-15-570	Family Reconciliation Services
388-24-2070	AFDC Foster Care - Summary of Eligibility Conditions
388-24-2100	AFDC Foster Care - Assistance Unit
388-24-2150	AFDC Foster Care - Requirements
388-24-2200	AFDC Foster Care - Standards and Requirements
388-24-2250	AFDC Foster Care - Income and Nonexempt Resources
388-24-2350	AFDC Foster Care - Medical Care
388-24-2430	AFDC Foster Care - Nonprofit Agency Placement
388-70-010	CWS - Foster Care Legal Basis
388-70-012	CWS - Foster Care Definitions
388-70-013	CWS - Authorization for Foster Care Placement
388-70-022	CWS - Payment of Foster Care
388-70-024	CWS - Payment of Foster Care - Effective Date
388-70-031	CWS - Foster Parent Liability Fund
388-70-032	CWS - Foster Parent Liability Fund - Period of Coverage
388-70-033	CWS - Foster Parent Liability Fund - Persons Eligible for Coverage
388-70-034	CWS - Foster Parent Liability Fund - Limits of Coverage
388-70-035	CWS - Foster Parent Liability Fund - Exclusions
388-70-036	CWS - Foster Parent Liability Fund - Subrogation
388-70-037	CWS - Foster Parent Liability Fund - Investigation of Claims
388-70-041	CWS - Payment Standards - Foster Family Care
388-70-042	CWS - Payment Standards - Regular Foster Family Care
388-70-044	CWS - Payment Standards - Receiving Home Care - Standards for Using
388-70-048	CWS - Payment Standard - Specialized Rate Foster Family Care - Child with Special Needs
388-70-049	CWS - New Section - Payment Standards - Payments Above the Specialized Rate in Foster Family Care - Child with Exceptional Needs

WAC Chapter or Section Number	Purpose of Rule
388-70-051	CWS - Education Related Foster Care
388-79-054	CWS - Temporary Absence of Child from Foster Care
388-70-058	CWS - Reimbursement for Damage or Loss Caused by Child in Foster Family Care
388-70-062	CWS - Payment for Foster Care to Family Receiving Public Assistance
388-70-066	CWS - Foster Care Out-of-State - Authorization - Payment
388-70-068	CWS - Earnings of Foster Child
388-70-069	CWS - Resources and Unearned Income - Foster Child
388-70-075	CWS - Parents' Obligation to Support Child in Foster Care
388-70-078	CWS - Standards for Parental Participation in Foster Care - Minimum Scale Recommended to Court
388-70-080	CWS - Referral to Child in Foster Care to Office of Support Enforcement
388-70-082	CWS - Parents' Foster Care Payments to be Remitted to Department
388-70-084	CWS - Assignment of Child Support Judgment and Limited Power of Attorney
388-70-091	CWS - Foster Care Planning for Indian Children - Definitions
388-70-092	CWS - Foster Care for Indian Children - Tribal Sovereignty
388-70-093	CWS - Foster Care for Indian Children - Services
388-70-095	CWS - Foster Care for Indian Children - Serious Injury, Death, Abandonment, Child Abuse, Neglect, Incarceration
388-70-170	CWS - Foster Care, Adoption, and Services to Unmarried Parents - Veterans' Benefits
388-70-410	CWS - Adoption Services for Children - Legal Basis - Purpose
388-70-420	CWS - Definitions
388-70-430	CWS - Eligibility for Adoption Service
388-70-440	CWS - Adoption Service for Children
388-70-450	CWS - Adoption Planning for Indian Children by Department Staff
388-70-460	CWS - Adoption Services for Families
388-70-470	CWS - Interstate Procedures
388-70-480	CWS - Record Confidentiality
388-70-510	CWS - Adoption Support - Legal Basis - Purpose
388-70-520	CWS - Adoption Support for Children - Definitions
388-70-530	CWS - Adoption Support for Children - Eligible Child
388-70-540	CWS - Adoption Support for Children - Application
388-70-550	CWS - Adoption Support for Children - Types and Amounts of Payments
388-70-560	CWS - Adoption Support for Children - Criteria Governing Amounts of Payments
388-70-570	CWS - Adoption Support for Children - Agreement for Adoption Support
388-70-580	CWS - Adoption Support - Review of Support Payment
388-70-590	CWS - Adoption Support - Appeal from Secretary's Decision - Hearing
388-70-595	CWS - Adoption Support - Reimbursement for Nonrecurring Adoption Finalization Costs
388-70-600	CWS - Local Indian Child Welfare Advisory Committee - Purpose
388-70-610	CWS - Local Indian Child Welfare Advisory Committee - Membership
388-70-615	CWS - Local Indian Child Welfare Advisory Committee - Subcommittees
388-70-620	CWS - Local Indian Child Welfare Advisory Committee - Functions
388-70-630	CWS - Local Indian Child Welfare Advisory Committee - Meetings
388-70-640	CWS - Local Indian Child Welfare Advisory Committee - Confidentiality

MISC.

WAC Chapter or Section Number	Purpose of Rule
388-70-700	CWS - Juvenile Records
388-73	Child Care Agencies - Minimum Licensing and Certification Requirements for residential programs - New section for common use of residential group homes for juvenile offenders under the jurisdiction of JRA and CA.
388-150-010	Minimum Licensing Requirements for Child Day Care Centers - Definitions
388-150-180	Minimum Licensing Requirements for Child Day Care Centers - Staff Pattern and Qualifications
388-150-200	Minimum Licensing Requirements for Child Day Care Centers - Staff Development and Training
388-150-470	Minimum Licensing Requirements for Child Day Care Centers - Personnel Policies and Records
388-151	School Age Child Care Center Minimum Licensing Requirements
388-155	Family Child Day Care Homes - Minimum Licensing Requirements
388-330-010	Background Inquiries - Purpose and Authority
388-330-020	Background Inquiries - Scope
388-330-030	Background Inquiries - Application of Inquiry Findings
388-330-035	Background Inquiries - Appeal of Disqualification
388-330-040	Background Inquiries - Inquiry Form to be Submitted - Time Requirements
388-330-050	Background Inquiries - Release of Information
388-330-060	Background Inquiries - Sanctions for Noncompliance

ECONOMIC SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of Rule
388-11-0205 (Child Support)	To remedy conflict in law over methods of assessing child support.
388-31 (Washington Telephone Assistance Program)	To provide updated information and to bring into conformity with regulatory reform criteria.
388-275 (Supplemental Security Income)	To clarify rules and to bring into conformity with regulatory reform criteria.
388-280 (U.S. Repatriates Program and related rules)	To clarify rules and to bring into conformity with regulatory reform criteria.
388-235 (General Assistance Unemployable and related rules)	To clarify rules and to bring into conformity with regulatory reform criteria.
388-265 (Payment of Grants and related rules)	To clarify rules and to bring into conformity with regulatory reform criteria.
388-290 (Subsidized Child Care)	To clarify currently existing rules.
388-14-0045 (Child Support—Notice on release of address)	To conform to change in law.
388-14 (Child Support—"Most Wanted" list for Internet)	To establish listing criteria for absent parents who owe significant back child support.

HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of Rule
WAC 275-25	Simplify language per Executive Order 97-02
WAC 275-26	Simplify language per Executive Order 97-02
WAC 275-27	Simplify language per Executive Order 97-02
WAC 275-31	Simplify language per Executive Order 97-02
WAC 275-38	Simplify language per Executive Order 97-02
WAC 275-41	Simplify language per Executive Order 97-02

WAC Chapter or Section Number	Purpose of Rule
WAC 275-59 (new section)	Defines hospital records and reports made available to criminal justice agencies, mental health facilities, or correctional institutions
WAC 275-54 (various sections)	Adopting rule revisions as per SSB 6208 (chapter 71.34 RCW)
WAC 275-55 (various sections)	Adopting rule revisions as per SSB 6208 (chapter 71.34 RCW)
440-26	Addition of "clean card program" to Drug Free Workplace Program WAC
WAC 490-500	Repeal entire chapter
WAC 490-550	Write new chapter on vocational rehabilitation services

JUVENILE REHABILITATION ADMINISTRATION

WAC Chapter or Section Number	Purpose of Rule
Chapter 275-30 WAC, Juvenile Parole Revocation	Rule-making process is in progress to make amendments based on statutory changes and Executive Order criteria.
Chapter 275-46 WAC, Security Classification	To adopt additional statutory requirements and make amendments consistent with the Executive Orders.
Chapter 275-37 WAC, Division of Juvenile Rehabilitation Rules, Practices, and Procedures	To adopt additional statutory requirements and make amendments consistent with the Executive Orders.

MEDICAL ASSISTANCE ADMINISTRATION

WAC Chapter or Section	Purpose of Rule
388-86-045 and 388-87-065	Regulatory and program review of Home Health Services.
388-86-086	Regulatory review of Ambulance Services.
388-86-112	Adds hospital certification requirements for Physical Medicine and Rehabilitation Services.
388-517	Adds another program for Medicare-eligible clients.
388-531	Regulatory and program review of Physician Services.
388-535	Regulatory review of Dental-Related Services.
388-538	Regulatory review of Managed Care.
388-546	Regulatory review of Transportation Services.
388-550	Adds new certification requirement for Hospitals; regulatory review.
New WAC	Adding new rule to support billing instructions for Infusion, Parenteral, and Enteral Services.

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 98-16-027**AGENDA****INSURANCE COMMISSIONER'S OFFICE**

[Filed July 28, 1998, 4:32 p.m.]

Semi-Annual Rules Agenda
July, 1998

In accordance with RCW 34.05.314, Insurance Commissioner Deborah Senn states that the following rules are currently scheduled for consideration during the period of July 31, 1998, to December 31, 1998:

- R 97-8 Standards for chemical dependency: Chapter 284-53 WAC, this chapter is being reviewed under the commissioner's regulatory improvement program.
- R 98-2 Cost of capital for property and casualty rate filings, reorganization of rules to increase the effectiveness and to simplify the compliance and enforcement processes.
- R 98-4 Updating the regulatory scheme of chapter 284-24 WAC, reorganization of rules to increase the effectiveness and to simplify the compliance and enforcement processes.
- R 98-6 Pharmacy benefits standards, evaluate current regulatory scheme to determine if the subject would be better served by an alternative method of regulation.

- R 98-7 Mental health, consider simplifying mental health benefit descriptions by establishing definitions for terms commonly used to describe these benefits.
- R 98-12 Requirements for rate filings: Chapter 284-60 WAC and provisions of chapter 284-54 WAC, new rules are needed to provide consistent up-to-date guidelines for the filing of rate schedules and to specify the standard to be used to determine when benefits are unreasonable in relation to the proposed premium.
- R 98-13 Insurance policies: Chapter 284-20 WAC, update and clarify the sections of this chapter.
- R 98-14 Medicare supplement: Chapter 284-66 WAC, this chapter is being reviewed under the commissioner's regulatory improvement program. Provisions were nominated as regulatory schemes or rules that may need to be altered. An area that will be addressed is amending the chapter to reflect the passage of the Balanced Budget Act of 1997.
- R 98-15 Long-term care: Chapter 284-54 WAC, this chapter is being reviewed under the commissioner's regulatory improvement program. Provisions were nominated as regulatory schemes or rules that may need to be altered.
- R 98-16 Disability insurance: Chapter 284-50 WAC, this chapter is being reviewed under the commissioner's regulatory improvement program. Provisions were nominated as regulatory schemes or rules that may need to be altered.
- R 98-17 Managed care: Chapter 284-43 WAC, current rules governing health care carriers may need revision and/or new rules development to create a consistent and fair standards for grievance procedures in health plans. Some provisions of chapter 284-43 WAC may need correction as a consequence of changes in federal laws. The health care community relating to contracts between providers and health plans that require resolution has raised new problems.

For more information regarding the proposed rules and where they are in the rule-making process, check our website at: <http://www.wa.gov/ins> or contact Kacy Brandedberry, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail Kacyb@oic.wa.gov.

Questions regarding this agenda can be directed to Jon Hedegard, Rules Coordinator, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail JonH@oic.wa.gov.

WSR 98-16-032
AGENDA
EMPLOYMENT SECURITY
DEPARTMENT

[Filed July 30, 1998, 10:40 a.m.]

The Employment Security Department Rule-Making Agenda for July 1998, is submitted for filing in accordance with E2SHB 1032, section 206.

Rule-Making Agenda - July 1998

Subject: Filing Continued Claims by Telephone.
Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-005, 192-12-012, 192-12-141, 192-18-012, 192-23-800, 192-23-810, and 192-23-900. New sections in chapters 192-110 and 192-140 WAC.

Description of Intended Rule-Making Activity: The department has been piloting an interactive voice response system to allow unemployment insurance claimants to file weekly benefit claims by telephone. The amendments clarify agency procedures relative to claims that are filed by telephone. They also clarify how vacation pay will be treated, and the methods for notifying claimants of reductions for unavailability.

Expected Public Participation: Initially proposed as a pilot study, the department eventually used the agency study process. The findings of the study will be shared with interested parties prior to the permanent amendment of the rules.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - October 1995
 Proposed Rule-Making (CR-102) - September 1998
 Public Hearings - November 1998
 Order Rule Adoption (CR-103) - December 1998
 Effective Date - January 1999

Subject: Filing Initial Claims by Telephone.
Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-005, 192-12-130, 192-12-141, 192-12-150, 192-12-182, 192-23-002, 192-23-013, 192-23-018, 192-23-019, 192-24-001, and 192-24-020.

Description of Intended Rule-Making Activity: The department has been authorized by the legislature to accept initial unemployment benefit claims via telephone. The department will review all current regulations which require claimants to provide information in person or in writing and make changes necessary to facilitate telephone claims filings.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - September 1998
 Proposed Rule-Making (CR-102) - December 1998
 Public Hearings - January 1999
 Order Rule Adoption (CR-103) - January 1999
 Effective Date - February 1999

Subject: School Employees.
Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-16-051, 192-16-052, 192-16-057. New sections in chapter 192-210 WAC.

Description of Intended Rule-Making Activity: Amend rules defining terms for school employees, and clarifying "reasonable assurance" and "academic year" to conform to new legislation.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - March 1998
 Proposed Rule-Making (CR-102) - October 1998
 Public Hearings - November 1998
 Order Rule Adoption (CR-103) - December 1998
 Effective Date - January 1999

Subject: Unemployment Benefits for Pregnant and Disabled Claimants.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-170 WAC.

Description of Intended Rule-Making Activity: Adopt rules requiring the department to provide a directive to claimants who leave work due to pregnancy; treat disability resulting from pregnancy the same as other medical disabilities when determining eligibility for unemployment benefits; consider whether an employer offered reasonable accommodation before deeming a claimant unavailable for work; and not deem a pregnant claimant unavailable for work solely because of a voluntary leave of absence.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - May 1997
 Proposed Rule-Making (CR-102) - September 1998
 Public Hearings - October 1998
 Order Rule Adoption (CR-103) - November 1998
 Effective Date - December 1998

Subject: Predecessor/Successor Relationships and Reporting Requirements.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: WAC 192-12-072.

Description of Intended Rule-Making Activity: Amend WAC 192-12-072 to state that the transfer of employees to an employee leasing company is not a predecessor/successor relationship for UI contribution purposes. Add a section specifying the number of days a partial successor has in which to notify the department of the percentage transferred, and the consequences to the employer for failure to do so.

Expected Public Participation: Input will be solicited from interested parties during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - July 1997
 Proposed Rule-Making (CR-102) - August 1998
 Public Hearings - September 1998
 Order Rule Adoption (CR-103) - October 1998
 Effective Date - November 1998

Subject: Timber Retraining Benefits.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-32 WAC.

Description of Intended Rule-Making Activity: Adopt sections defining a base year employer as an interested party to a decision that an individual is eligible for timber retraining benefits.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - December 1997
 Proposed Rule-Making (CR-102) - September 1998
 Public Hearings - October 1998
 Order Rule Adoption (CR-103) - November 1998
 Effective Date - December 1998

Subject: Registration for Work.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapters 192-170 and 192-180 WAC.

Description of Intended Rule-Making Activity: New legislation requires unemployment benefits recipients to register for work in an electronic labor exchange that supports direct employer access. Rules will clarify registration requirements, exemptions, penalties for failure to register, the scope of employer access, and the information provided in the electronic labor exchange.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - June 1998
 Proposed Rule-Making (CR-102) - October 1998
 Public Hearings - November 1998
 Order Rule Adoption (CR-103) - January 1999
 Effective Date - February 1999

Subject: Shared Work.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: Chapter 192-36 WAC.

Description of Intended Rule-Making Activity: Review rules in accordance with Executive Order on Regulatory Improvement (97-02) and amend or repeal as necessary. Amend rules related to the shared work plan approval criteria; define certain terms contained in the statute; and clarify the employees eligible for participation in an approved plan.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:

Preproposal Notice of Intent (CR-101) - September 1998
 Proposed Rule-Making (CR-102) - December 1998
 Public Hearings - January 1999
 Order Rule Adoption (CR-103) - February 1999
 Effective Date - March 1999

Subject: Temporary Services/Employee Leasing Companies.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections.

Description of Intended Rule-Making Activity: Adopt rules for individuals who work or worked for a temporary services or employee leasing agency. These will include policies related to job separations, availability requirements, and suitable work.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - September 1998
 Proposed Rule-Making (CR-102) - January 1999
 Public Hearings - February 1999
 Order Rule Adoption (CR-103) - March 1999
 Effective Date - April 1999

Subject: Job Search Monitoring Program.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New sections in chapter 192-180 WAC.

Description of Intended Rule-Making Activity: By July 1999, new legislation requires the department to implement a job search monitoring program. Rules will be needed to establish the requirements for the program.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - September 1998
 Proposed Rule-Making (CR-102) - March 1999
 Public Hearings - May 1999
 Order Rule Adoption (CR-103) - June 1999
 Effective Date - July 1999

Subject: UBI Account Number Records.

Division or Office Initiating Rule-Making Activity: Unemployment Insurance Division.

WAC Sections Affected: New section.

Description of Intended Rule-Making Activity: Adopt a rule establishing monetary penalties for businesses who contract with an individual or business for electrical or building construction work, and fail to obtain and retain that individual's or business's unified business identifier (UBI) account number. Authority for this penalty is contained in RCW 50.12.070.

Expected Public Participation: Input from interested parties will be solicited during the preproposal comment period. In addition, the rule will be coordinated with the Departments of Labor and Industries, and Revenue. The legislature has directed these agencies to establish similar monetary penalties.

Tentative Schedule of Rule-Making Activity:
 Preproposal Notice of Intent (CR-101) - September 1998
 Proposed Rule-Making (CR-102) - December 1998
 Public Hearings - January 1999
 Order Rule Adoption (CR-103) - February 1999
 Effective Date - March 1999

Barney Hilliard
Contracts and Regulations
Administrator

WSR 98-16-043

NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—July 29, 1998]

A regular meeting of Washington State Convention and Trade Center board of directors will be held on Wednesday, August 5, 1998, 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 694-5000.

WSR 98-16-045

AGENDA

DEPARTMENT OF AGRICULTURE

[Filed July 31, 1998, 2:20 p.m.]

Washington State Department of Agriculture Semi-Annual Rules Agenda

Chapter	Subject/Contact Person	Approximate CR-101 Filing Date	Approximate Adoption Date
New Rules	Turf Grass Seed Marketing Order Contact: Walter Swenson Phone: (360) 902-1928	June 1998	November 1998
New Rules	Nursery plant stock labeling Contact: Tom Wessels, Program Manager Phone: (360) 902-1984	May 1998	October 1998

Chapter	Subject/Contact Person	Approximate CR-101 Filing Date	Approximate Adoption Date
New Rules	Define "freedom from infestation" and relevant nursery program operations Contact: Tom Wessels, Program Manager Phone: (360) 902-1984	February 1998	July 1998
New Rules	Weights/Measures - Hop Bales and Tare Weights Contact: Jerry Buendel, Program Manager Phone: (360) 902-1856	August 1998	January 1999
New Rules	Requirements for Water used in Food Processing Contact: Mike Donovan, Program Manager Phone: (360) 902-1883	May 1998	November 1998
WAC 16-101X	Penalties - Degrades for dairy producers and processors Contact: Claudia Coles, Compliance Phone: (360) 902-1883	August 1998	December 1998
WAC 16-102	Butterfat testing of milk Contact: Verne Hedlund, Program Manager Phone: (360) 902-1860	January 1998	August 1998
WAC 16-154	Organic crop production standards - fees Contact: Miles McEvoy, Program Manager Phone: (360) 902-1924	July 1998	December 1998
WAC 16-160	Registration of Material for Organic Food Production Contact: Miles McEvoy, Program Manager Phone: (360) 902-1924	July 1998	December 1998
WAC 16-167	Intrastate commerce in foods - Food Processing Establishment - Inspection Criteria Contact: Mike Donovan, Program Manager Phone: (360) 902-1883	June 1988 [1998]	December 1988 [1998]
WAC 16-20, WAC 16-21, WAC 16-22, and WAC 16-23	Custom slaughter plants, slaughterers, handling of carcasses, custom meat handling establishments and custom meat facilities Contact: Verne Hedlund, Program Manager Phone: (360) 902-1860	July 1998	December 1998
WAC 16-200	Rules relating to the product registration of commercial fertilizers and standards for determining metals levels in fertilizers. Contact: Ted Maxwell, Program Manager Pesticide Management Division (360) 902-2026	June 1998	September 1998
WAC 16-200	Rules relating to commercial feeds and the adoption of the latest Association of American Feed Control Officials definitions, and FDA regulations. Contact: Ali Kashani, Feed and Fertilizer Program (360) 902-2028	June 1998	August 1998
WAC 16-201	Secondary containment of bulk storage fertilizers Contact: Cliff Weed, Program Manager Phone: (360) 902-2036	August 1998	January 1999
WAC 16-223	Incorporate federal changes Worker Protection Standards Contact: Ann Wick, Program Manager (360) 902-2051	Dependent on EPA action	Dependent on EPA action
WAC 16-228	General rules relating to pesticide use Contact: Cliff Weed, Program Manager Phone: (360) 902-2036	August 1998	January 1999

MISC.

Chapter	Subject/Contact Person	Approximate CR-101 Filing Date	Approximate Adoption Date
WAC 16-228	Pesticide Penalty Matrix Contact: Cliff Weed, Program Manager Phone: (360) 902-2036	August 1998	January 1999
WAC 16-470	Japanese beetle quarantine Contact: Mary Toohey, Assistant Director Phone: (360) 902-1907	March 1998	August 1998
WAC 16-471	Chrysanthemum White Rust Quarantine Contact: Tom Wessels, Program Manager Phone: (360) 902-1984	March 1998	August 1998
WAC 16-488	Blueberry quarantine Contact: Mary Toohey, Assistant Director Phone: (360) 902-1907	June 1998	November 1998
WAC 16-497	Hop disease quarantine Contact: Tom Wessels, Program Manager Phone: (360) 902-1984	December 1997	April 1998
WAC 16-54	Animal Importation Requirements Contact: Dr. Robert Mead, State Veterinarian Phone: (360) 902-1881	April 1998	September 1998
WAC 16-561	Marketing Standards for Red Raspberries - Marketing Orders Contact: Walter Swenson, Programs Administrator Phone: (360) 902-1928	June 1998	November 1998
WAC 16-565	Marketing Standards for Red Raspberries - Duties of the Board Contact: Walter Swenson, Programs Administrator Phone: (360) 902-1928	June 1998	December 1998
WAC 16-602	Apiaries Contact: Mary Toohey, Assistant Director (360) 902-1907	May 1998	September 1998
WAC 16-604	Public livestock markets Contact: Julie Sandberg, Assistant Director Phone: (360) 902-1851	July 1998	September 1998
WAC 16-605A	Certified feed lots — Audit fees Contact: Julie Sandberg, Assistant Director Phone: (360) 902-1851	July 1998	September 1998
WAC 16-608	Special Livestock Sales Contact: Julie Sandberg, Assistant Director Phone: (360) 902-1851	July 1998	September 1998
WAC 16-620	Livestock Identification Program Contact: Julie Sandberg, Assistant Director Phone: (360) 902-1851	July 1998	September 1998
WAC 16-662	Weights/Measures - Adoption of National Handbooks Contact: Jerry Buendel, Program Manager Phone: (360) 902-1856	December 1998	April 1998
WAC 16-657	Weights/Measures—Motor Fuel Sign Requirements Contact: Jerry Buendel, Program Manager Phone: (360) 902-1856	January 1998	July 1998
WAC 16-675	Metrology Lab Fees Contact: Jerry Buendel, Program Manager Phone: (360) 902-1856	January 1998	July 1998

Chapter	Subject/Contact Person	Approximate CR-101 Filing Date	Approximate Adoption Date
WAC 16-752	State noxious weed list and schedule of monetary penalties Contact: Mary Toohey, Assistant Director (360) 902-1907	February 1998	July 1998
WAC 16-752	Purple loosestrife quarantine Contact: Mary Toohey, Assistant Director (360) 902-1907	February 1998	July 1998
WAC 16-752, WAC 16-300	Noxious weed seed and plant quarantine Contact: Mary Toohey, Assistant Director (360) 902-1907	February 1998	July 1998
WAC 16-84	RB-51 Vaccine - Brucellosis in Cattle Contact: Dr. Robert Mead, State Veterinarian Phone: (360) 902-1881	March 1998	February 1999
WAC 16-86	Brucellosis, Tuberculosis and Scrapie in Sheep and Goats - relating to vaccination of female cattle older than 12 months with RB-51. Contact: Dr. Robert Mead, State Veterinarian Phone: (360) 902-1881	March 1998	December 1998
WAC 16-89	Regulating Scrapie in goats and sheep Contact: Dr. Robert Mead, State Veterinarian Phone: (360) 902-1881	March 1998	February 1999
WAC 16-96	Production Record Brands on Cattle Contact: Julie Sandberg, Assistant Director Phone (360) 902-1851	July 1998	September 1998

For more information contact: Dannie McQueen, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1809.

William E. Brookreson
Assistant Director

August 13, 1998* Edmonds Community College Board of Trustees and College Leadership Study Session: Icicle Inn conference facilities, 505 Highway 2, Leavenworth, WA, 10:00 a.m.

Purpose: Discussion of WAC issues and EdCC Accomplishments, Goals and Strategies.

August 14, 1998* Edmonds Community College Board of Trustees and College Leadership Study Session: Icicle Inn conference facilities, 505 Highway 2, Leavenworth, WA, 8:00 a.m.

Purpose: Discussion of WACTC issues and EdCC Accomplishments, Goal and Strategies.

Please note: The regular meeting of the EdCC board of trustees for August 20, 1998, has been canceled.

*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 98-16-051
AGENDA
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 31, 1998, 4:16 p.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-17 issue of the Register.

WSR 98-16-056
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—July 29, 1998]

EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES
NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

WSR 98-16-057

**NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES**
 [Memorandum—July 31, 1998]

Notice of Time Change

The Seattle Community College District board of trustees regular meetings will now begin at 5:00 p.m. for the remainder of the calendar year: September 8, 1998, October 6, 1998, November 3, 1998, and December 1, 1998.

WSR 98-16-059

**NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYEES BENEFITS BOARD**

[Memorandum—August 3, 1998]

Public Employees Benefits Board
 Tyee Hotel, Skokomish Room, Tumwater
11:30 a.m. - Executive Session
1:00 p.m. - Regular Meeting
 August 5, 1998

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

WSR 98-16-064**AGENDA****DEPARTMENT OF HEALTH**

[Filed August 3, 1998, 4:52 p.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 98-17 issue of the Register.

WSR 98-16-067

**DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed August 4, 1998, 10:16 a.m.]

The Department of Labor and Industries submitted a CR-103 adoption to WAC 296-155-330 on June 15, 1998, WSR 9873-067 [98-13-067]. This included a new section, WAC 296-155-329, that would precede the existing WAC 296-155-330 section. The new section was erroneously processed as WAC 296-155-229, causing it to be placed in the wrong part of the standard.

Please change WAC 296-155-229 to WAC 296-155-329 for readability and ease of use by employers.

For further information, please contact Tracy Spencer, standards manager, at (360) 902-5530.

Michael Silverstein, M.D.

Assistant Director

WSR 98-16-070

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—August 4, 1998]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, August 20, 1998, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

WSR 98-16-076**AGENDA****DEPARTMENT OF ECOLOGY**

[Filed August 4, 1998, 4:23 p.m.]

DEPARTMENT OF ECOLOGY**Semi-Annual Rule Agenda**

July 31, 1998 - January 31, 1999

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
AIR QUALITY					
173-400 7/98	General Regulation for Air Pollution	Dan Johnson (360) 407-6872	Sept. 1998	Feb. 1999	Update dry cleaner alternative to MACT correct references, incorporate new federal requirements

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
173-400 7/98	General Regulation for Air Pollution	Dan Johnson (360) 407-6872	Jan. 1999	June 1999	Update NESHAP and NSPS delegations; revise definition of VOCs, clarify -205 applicability and curtailments
173-400 7/98	General Regulation for Air Pollution	Elena Guilfoil (360) 407-6855	Sept. 1998	Feb. 1999	PSD changes for complete delegation or program approval; consider revisions to state BART requirements; clarify "basic review fees" in -116
173-400 7/98	General Regulation for Air Pollution	Elena Guilfoil (360) 407-6855	Oct. 1998	March 1999	Clarify SIP related applicability provisions of -110, NSR
173-400 7/98	General Regulation for Air Pollution	Melissa McEachron (360) 407-6860	Dec. 1998	Dec. 1999	Streamline registration program
173-NEW 7/98	Fee Rule	Dan Johnson (360) 407-6872, Roger Dovel (360) 407-6847	Oct. 1998	June 2000	Omnibus fee rule -consolidate fee provisions in one place; add inflation adjuster where appropriate
173-406 1/98	Acid Rain Regulation	Tom Todd (360) 407-7528, SWAPCA	Sept. 1998	Feb. 1999	Revisions to conform to EPA requirements
173-415 and 173-481 7/96	Primary Aluminum Plants, Ambient Fluoride Standard	Carol Piening (360) 407-6858, Eric Oie (360) 407-6915	<i>Underway</i> May 1998	July 1999	Determine if MACT equates to RACT; address fluoride monitoring requirement
173-420 7/96	Conformity of Transportation Activities to Air Quality Implementation Plan	Paul Carr (360) 407-6863	Oct. 1998	April 1999	Revision to conform to EPA requirements
173-425 7/97	Open Burning	Bruce Smith (360) 407-6889	<i>Underway</i> October 1997	Dec. 1998	Incorporate statutory changes; streamline program
173-433 7/97	Solid Fuel Burning Devices	Marcia Geidel (360) 407-6857	Sept. 1998	Feb. 1999	Incorporate lower curtailment trigger; clarify definitions so rule does not apply to HFBs
173-434 7/96 173-400 7/96 173-405 7/97 173-410 7/97	Emissions Standards for Solid Waste Incinerator. General Regulation for Air Pollution Sources, Kraft Pulping Mills, Sulfite Pulping Mills	Peter Lyon (360) 407-7530, Tom Todd (360) 407-7528	Aug. 1998	July 1999	Hog Fuel Boiler RACT; define terms related to wood derived fuels; reorganize state incinerator rule

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
173-405 7/97 173-410 7/97	Kraft Pulp Mills, Sulfite Pulp Mills	Peter Lyon (360) 407-7530	Aug. 1998	Mar. 1999	Revise rules as appropriate to incorporate EPA's Pulp and Paper MACT requirements; address NCG treatment criteria in -040(4)
173-434 7/96	Emission Standards for Solid Waste Incinerator	Kitty Gillespie (360) 407-6862	Sept. 1998	Jan. 1999	Municipal waste combustors-adopt plan to conform to EPA requirements for existing sources
173-460 1/98	Controls for New Sources of Toxic Air Pollution	Steve Cross (360) 407-6875	Aug. 1998	May 1999	Incorporate de minimus levels; Tier 2 light; consolidate NSR processes from 173-400 and 173-460
EILS					
173-50 1/98	Accreditation of Environmental Laboratories	Perry Brake (360) 895-4649	September 1998	May 1999	Amend regulation for allowable fee increases and conformity in standards. Accreditation program.
SHORELANDS AND ENVIRON. ASSISTANCE					
173-25 NEW 7/97	Shoreline Management Act-Streams and Rivers, Lakes, Wetlands Constituting Shorelines of the State (SMA)	Don Bales 407-6528	<i>Underway</i> October 1995	February 1999	To replace 173-18, 173-20, 173-22
173-26 NEW Parts 3 and 4 1/98	Shoreline Master Program Guidelines	Peter Skowlund 407-6522	<i>Underway</i> October 1995	December 1998	Shoreline Management Act/Growth Management Act integration
173-204 7/95	Sediment Management Standards (Human Health Sediment Criteria)	Brett Betts 407-6914	July 1998	June 1999	Triennial rule review per federal/state requirement. Components: Human health criteria and freshwater standards. Rule revisions required by ESHB 1724.
197-11 7/97	SEPA Rules	Neil Aaland 407-7045	<i>Underway</i> January 1997	April 1999	Revise categorical exemptions allowed under the State Environmental Policy Act fed.
197-11 7/97	SEPA Rules	Neil Aaland 407-7045	<i>Underway</i> December 1995	June 1999	Finish revising environmental checklist (in response to ESHB 1724 and other changes)
173-806 7/97	Model Ordinance	Neil Aaland 407-7045	<i>Underway</i> February 1996	August 1998	Revise optional model ordinance used by cities and counties to reflect recent changes in SEPA rules

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
SOLID WASTE AND FINANCIAL ASSISTANCE					
173-304 7/97	Minimum Functional Standards for Solid Waste Handling	Mike Hibbler (509) 456-3270	September 1998	June 2000	To update rule to allow appropriate management of solid waste based upon current systems, generation rates, and standards. E.O. regulatory improvement
173-304 1/98	Minimum Functional Standards for Solid Waste Handling	Scott Carlson (360) 407-6067	September 1998	June 1999	Review the rule against the biosolids rule (173-308) and eliminate inconsistencies between the rules
173-321 7/97	Public Participation Grants	Trish Akana 407-7230	<i>Underway</i> May 1997	January 1999	Implement \$60,000 grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)
173-322 7/97	Remedial Action Grants	Trish Akana 407-7230	<i>Underway</i> May 1997	January 1999	Implement brownfields grant program. Recommendation from the MTCA Policy Advisory Committee (see 173-340)
TOXIC CLEANUP					
173-340 7/97	Model Toxic Control Act Cleanup Regulation (MTCA)	Trish Akana 407-7230	<i>Underway</i> May 1997	January 1999	Site specific assessment, petroleum cleanup method, ecological based cleanup standards, remedy selections, cleanup action laws, area-wide contamination and brownfields, public participation in cleanup, and quality assurance. To implement recommendations from the MTCA Policy Advisory Committee
WATER QUALITY					
173-98 1/98	Uses and Limitations of the Water Pollution Control Revolving Fund	Brian Howard 407-6510	<i>Underway</i> June 1998	October 1998	Amend rule to improve our flexibility in providing effective and efficient financial assistance to public entities

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
173-201A 7/98	Surface Water Quality Standards for the State of Washington	Mark Hicks (360) 407-6477 or mhic461@ecy.wa.gov	November 1998	November 1999	A. Develop regulatory language to guide the implementation of a water quality antidegradation policy. This would focus on protecting water quality standards, implementing technology-based pollution control requirements, and ensuring degradation that is allowed is in the overriding public interest. It would also include provisions to set aside waters constituting an outstanding national resource from all degradation. B. Ecology would also be looking at revising the way beneficial uses are assigned for protection to waterbodies under the water quality standards. The change would provide a more direct linkage between the beneficial uses that occur in waterbodies to those listed for protection in those waters in the water quality standards regulation.
173-202 1/98	Washington Forest Practice Rules and regulations to Protect Water Quality SUPPLEMENTAL	Doug Rushton 407-6180	<i>Underway</i> February 1998	December 1998	Protection of aquatic resources while TFW negotiates concepts to be included in "forestry module" and rule.
173-230 7/98	Wastewater Operator Certification	Myra Barker 407-6449	August 1998	May 1999	Amend rule to implement advisory committee recommendations to streamline the process and to be able to use current exams-POTWs/Operators
WATER RESOURCES					
173-NEW 1/98	Water Rights Transfers by Conservancy Districts	Peggy Clifford 407-7262	July 1998	July 1999	To establish criteria for establishment of conservancy districts, training of district commissioners, and transfer procedures and criteria

WAC Chapter	Chapter Title	Agency Contact	CR-101 Filing Date	Approximate Adoption Date	Scope of Changes
173-517 NEW 7/97	Quilcene Water Resource Program rules	Cynthia Nelson 407-0276	<i>Underway</i> July 1995	September 1999	Recommendations of the Dungeness-Quilcene Regional Water Resources Plan and the Chelan Agreement
173-518 NEW 7/95	Dungeness Water Resource Program rules -WRIA 18	Cynthia Nelson 407-0276	<i>Underway</i> July 1995	January 1999	Water Resources Management Program for the Sequim-Dungeness watershed. Instream flows, water conservation
173-548 7/94	Water Resource Program for Methow Basin - WRIA 48	John Monahan (509) 457-7112	<i>Underway</i> June 1995	December 1998	To implement pilot regional plan, including establishment of a water bank. Establish guidelines and procedures for the management and preservation of surface and ground water in the Methow River Basin. Recommendations by local water planning committee and ground water advisory committee



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:

-C = Continuance of previous proposal
 -E = Emergency action
 -P = Proposed action
 -S = Supplemental notice
 -W = Withdrawal of proposed action
 -XA = Expedited adoption
 -XR = Expedited repeal

No suffix means permanent action.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
1-21-010	AMD-XA	98-09-083	16-154	PREP	98-16-016	16-212-082	AMD-P	98-07-106
1-21-010	AMD	98-14-048	16-160	PREP	98-16-015	16-212-082	AMD	98-12-058
1-21-020	AMD-XA	98-09-083	16-167-010	AMD-XA	98-04-076	16-228-155	PREP	98-07-003
1-21-020	AMD	98-14-048	16-167-010	AMD	98-09-048	16-228-155	AMD-P	98-10-069
4-25	AMD-C	98-05-020	16-167-020	AMD-XA	98-04-076	16-228-155	AMD	98-15-026
4-25	AMD-C	98-07-025	16-167-020	AMD	98-09-048	16-316-474	PREP	98-06-093
4-25-410	AMD	98-12-020	16-167-030	AMD-XA	98-04-076	16-316-474	AMD-P	98-09-101
4-25-520	AMD	98-12-021	16-167-030	AMD	98-09-048	16-316-474	AMD	98-12-032
4-25-540	AMD	98-12-022	16-167-040	AMD-XA	98-04-076	16-316-525	PREP	98-06-093
4-25-550	AMD	98-12-023	16-167-040	AMD	98-09-048	16-316-525	AMD-P	98-09-101
4-25-551	AMD	98-12-047	16-167-050	AMD-XA	98-04-076	16-316-525	AMD	98-12-032
4-25-620	AMD	98-12-048	16-167-050	AMD	98-09-048	16-319-041	PREP	98-06-094
4-25-622	AMD	98-12-049	16-167-060	AMD-XA	98-04-076	16-319-041	AMD-P	98-09-100
4-25-625	REP	98-12-056	16-167-060	AMD	98-09-048	16-319-041	AMD	98-12-031
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4-25-627	REP	98-12-056	16-168-020	AMD	98-03-089	16-325-005	NEW	98-09-071
4-25-631	AMD	98-12-050	16-168-030	AMD	98-03-089	16-325-010	NEW-XA	98-05-106
4-25-810	AMD	98-12-051	16-168-040	AMD	98-03-089	16-325-010	NEW	98-09-071
16-08-151	AMD-XA	98-04-082	16-168-050	AMD	98-03-089	16-325-015	NEW-XA	98-05-106
16-08-151	AMD	98-09-085	16-168-060	AMD	98-03-089	16-325-015	NEW	98-09-071
16-20	PREP	98-15-067	16-168-070	AMD	98-03-089	16-325-020	NEW-XA	98-05-106
16-21	PREP	98-15-067	16-168-075	NEW	98-03-089	16-325-020	NEW	98-09-071
16-22	PREP	98-15-067	16-168-080	AMD	98-03-089	16-325-025	NEW-XA	98-05-106
16-23	PREP	98-15-067	16-168-090	AMD	98-03-089	16-325-025	NEW	98-09-071
16-32-009	PREP	98-05-104	16-168-100	AMD	98-03-089	16-333-200	REP-XR	98-07-108
16-32-009	REP-P	98-09-104	16-200	PREP	98-12-039	16-333-200	REP	98-13-033
16-32-009	REP	98-14-036	16-200-695	AMD-E	98-12-018	16-333-205	REP-XR	98-07-108
16-32-011	AMD-P	98-09-104	16-200-695	AMD-E	98-13-013	16-333-205	REP	98-13-033
16-32-011	AMD	98-14-036	16-200-705	AMD-E	98-12-018	16-333-210	REP-XR	98-07-108
16-46-010	REP-XR	98-08-080	16-200-705	AMD-E	98-13-013	16-333-210	REP	98-13-033
16-46-010	REP	98-13-118	16-200-7061	NEW-E	98-12-018	16-333-215	REP-XR	98-07-108
16-86	PREP	98-08-022	16-200-7061	NEW-E	98-13-013	16-333-215	REP	98-13-033
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16-334-040	NEW	98-11-048	16-532-010	AMD	98-13-122	16-607-145	NEW-P	98-15-157
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16-471-040	REP-W	98-13-127	16-607-070	NEW-P	98-15-157	25-18-080	REP	98-05-027
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51-34-7800	REP	98-02-053	51-40-1102	NEW	98-02-054	51-44-002	NEW	98-02-053
51-34-7802	REP	98-02-053	51-40-1103	NEW	98-02-054	51-44-003	NEW	98-02-053
51-34-7900	REP	98-02-053	51-40-1104	NEW	98-02-054	51-44-007	NEW	98-02-053
51-34-7902	REP	98-02-053	51-40-1105	NEW	98-02-054	51-44-007	PREP	98-13-051
51-34-7904	REP	98-02-053	51-40-1106	NEW	98-02-054	51-44-007	AMD-P	98-15-151
51-34-8000	REP	98-02-053	51-40-1107	NEW	98-02-054	51-44-008	NEW	98-02-053
51-34-8001	REP	98-02-053	51-40-1108	NEW	98-02-054	51-44-0103	NEW	98-02-053
51-34-8003	REP	98-02-053	51-40-1109	NEW	98-02-054	51-44-0200	NEW	98-02-053
51-34-9100	REP	98-02-053	51-40-1110	NEW	98-02-054	51-44-0900	NEW	98-02-053
51-34-9101	REP	98-02-053	51-40-1111	NEW	98-02-054	51-44-1003	NEW	98-02-053
51-34-9102	REP	98-02-053	51-40-1112	NEW	98-02-054	51-44-1007	NEW	98-02-053
51-34-9103	REP	98-02-053	51-40-1113	NEW	98-02-054	51-44-10210	NEW	98-02-053
51-34-9104	REP	98-02-053	51-40-1114	NEW	98-02-054	51-44-1109	NEW	98-02-053
51-34-9105	REP	98-02-053	51-40-1191	NEW	98-02-054	51-44-2500	NEW	98-02-053
51-34-9106	REP	98-02-053	51-40-1192	NEW	98-02-054	51-44-5200	NEW	98-02-053
51-34-9107	REP	98-02-053	51-40-1193	NEW	98-02-054	51-44-6100	NEW	98-02-053
51-34-9108	REP	98-02-053	51-40-1194	NEW	98-02-054	51-44-6300	NEW	98-02-053
51-35-001	REP	98-02-053	51-40-1195	NEW	98-02-054	51-44-7404	NEW	98-02-053
51-35-002	REP	98-02-053	51-40-1196	NEW	98-02-054	51-44-7802	NEW	98-02-053
51-35-003	REP	98-02-053	51-40-1203	NEW	98-02-054	51-44-7900	NEW	98-02-053
51-35-007	REP	98-02-053	51-40-1506	NEW-W	98-05-065	51-44-8000	NEW	98-02-053
51-35-008	REP	98-02-053	51-40-1616	NEW	98-02-054	51-45-001	NEW	98-02-053
51-35-52000	REP	98-02-053	51-40-1702	NEW	98-02-054	51-45-002	NEW	98-02-053
51-35-52400	REP	98-02-053	51-40-1909	NEW	98-02-054	51-45-003	NEW	98-02-053
51-35-52440	REP	98-02-053	51-40-23110	NEW	98-02-054	51-45-007	NEW	98-02-053
51-35-52441	REP	98-02-053	51-40-23110	REP-P	98-16-065	51-45-008	NEW	98-02-053
51-35-52442	REP	98-02-053	51-40-2406	NEW	98-02-054	51-45-80400	NEW	98-02-053
51-35-52500	REP	98-02-053	51-40-2900	NEW	98-02-054	51-46-001	NEW	98-02-055
51-35-52510	REP	98-02-053	51-40-2929	NEW	98-02-054	51-46-002	NEW	98-02-055
51-35-52520	REP	98-02-053	51-40-3004	NEW	98-02-054	51-46-003	NEW	98-02-055
51-35-52530	REP	98-02-053	51-40-3102	NEW	98-02-054	51-46-007	NEW	98-02-055
51-35-52540	REP	98-02-053	51-40-31200	NEW	98-02-054	51-46-007	PREP	98-13-051
51-35-52550	REP	98-02-053	51-40-3404	NEW	98-02-054	51-46-007	AMD-P	98-15-151
51-35-52560	REP	98-02-053	51-40-93115	NEW	98-02-054	51-46-008	NEW	98-02-055
51-35-52570	REP	98-02-053	51-40-93116	NEW	98-02-054	51-46-0100	NEW	98-02-055
51-35-52580	REP	98-02-053	51-40-93117	NEW	98-02-054	51-46-0101	NEW	98-02-055
51-35-52590	REP	98-02-053	51-40-93118	NEW	98-02-054	51-46-0102	NEW	98-02-055
51-35-52600	REP	98-02-053	51-40-93119	NEW	98-02-054	51-46-0103	NEW	98-02-055
51-40	PREP	98-14-125	51-40-93120	NEW	98-02-054	51-46-0200	NEW	98-02-055
51-40-001	NEW	98-02-054	51-42-001	NEW	98-02-056	51-46-0205	NEW	98-02-055
51-40-002	NEW	98-02-054	51-42-002	NEW	98-02-056	51-46-0215	NEW	98-02-055
51-40-003	NEW	98-02-054	51-42-003	NEW	98-02-056	51-46-0218	NEW	98-02-055
51-40-004	NEW	98-02-054	51-42-004	NEW	98-02-056	51-46-0300	NEW	98-02-055
51-40-005	NEW	98-02-054	51-42-005	NEW	98-02-056	51-46-0301	NEW	98-02-055
51-40-007	NEW	98-02-054	51-42-007	NEW	98-02-056	51-46-0310	NEW	98-02-055
51-40-007	PREP	98-13-051	51-42-007	PREP	98-13-051	51-46-0311	NEW	98-02-055
51-40-007	AMD-P	98-15-151	51-42-007	AMD-P	98-15-151	51-46-0313	NEW	98-02-055
51-40-008	NEW	98-02-054	51-42-008	NEW	98-02-056	51-46-0314	NEW	98-02-055
51-40-009	NEW	98-02-054	51-42-0200	NEW	98-02-056	51-46-0316	NEW	98-02-055
51-40-0200	NEW	98-02-054	51-42-0223	NEW	98-02-056	51-46-0392	NEW	98-02-055
51-40-0302	NEW	98-02-054	51-42-0303	NEW	98-02-056	51-46-0400	NEW	98-02-055
51-40-0303	NEW	98-02-054	51-42-0504	NEW	98-02-056	51-46-0402	NEW	98-02-055
51-40-0304	NEW	98-02-054	51-42-0600	NEW	98-02-056	51-46-0412	NEW	98-02-055
51-40-0305	NEW	98-02-054	51-42-0601	NEW	98-02-056	51-46-0413	NEW	98-02-055
51-40-0307	NEW	98-02-054	51-42-0605	NEW	98-02-056	51-46-0500	NEW	98-02-055
51-40-0308	NEW	98-02-054	51-42-0901	NEW	98-02-056	51-46-0501	NEW	98-02-055
51-40-0310	NEW	98-02-054	51-42-1000	NEW	98-02-056	51-46-0502	NEW	98-02-055
51-40-0311	NEW	98-02-054	51-42-1002	NEW	98-02-056	51-46-0505	NEW	98-02-055
51-40-0313	NEW	98-02-054	51-42-1004	NEW	98-02-056	51-46-0507	NEW	98-02-055
51-40-0403	NEW	98-02-054	51-42-1005	NEW	98-02-056	51-46-0509	NEW	98-02-055
51-40-0405	NEW	98-02-054	51-42-1100	NEW	98-02-056	51-46-0512	NEW	98-02-055
51-40-0510	NEW	98-02-054	51-42-1101	NEW	98-02-056	51-46-0513	NEW	98-02-055
51-40-0804	NEW	98-02-054	51-42-1102	NEW	98-02-056	51-46-0514	NEW	98-02-055
51-40-0902	NEW	98-02-054	51-42-1103	NEW	98-02-056	51-46-0515	NEW	98-02-055
51-40-0904	NEW	98-02-054	51-42-1104	NEW	98-02-056	51-46-0516	NEW	98-02-055
51-40-1000	NEW	98-02-054	51-42-1105	NEW	98-02-056	51-46-0517	NEW	98-02-055
51-40-1002	NEW	98-02-054	51-42-1106	NEW	98-02-056	51-46-0518	NEW	98-02-055
51-40-1003	NEW	98-02-054	51-42-1107	NEW	98-02-056	51-46-0519	NEW	98-02-055
51-40-1004	NEW	98-02-054	51-42-1108	NEW	98-02-056	51-46-0520	NEW	98-02-055
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51-46-0524	NEW	98-02-055	82-28-130	REP-XR	98-14-065	131-08-008	AMD-P	98-10-074
51-46-0525	NEW	98-02-055	82-28-135	REP-XR	98-14-065	131-08-008	AMD	98-15-002
51-46-0600	NEW	98-02-055	82-28-140	REP-XR	98-14-065	131-12	AMD-C	98-07-059
51-46-0603	NEW	98-02-055	82-28-150	REP-XR	98-14-065	131-12-020	AMD-P	98-06-069
51-46-0604	NEW	98-02-055	82-28-160	REP-XR	98-14-065	131-12-020	AMD	98-15-011
51-46-0608	NEW	98-02-055	82-28-170	REP-XR	98-14-065	131-12-030	AMD-P	98-06-069
51-46-0609	NEW	98-02-055	82-28-180	REP-XR	98-14-065	131-12-030	AMD	98-15-011
51-46-0610	NEW	98-02-055	82-28-190	REP-XR	98-14-065	131-12-040	AMD-P	98-06-069
51-46-0700	NEW	98-02-055	82-28-200	REP-XR	98-14-065	131-12-040	AMD	98-15-011
51-46-0701	NEW	98-02-055	82-28-210	REP-XR	98-14-065	131-12-041	AMD-P	98-06-069
51-46-0704	NEW	98-02-055	82-28-220	REP-XR	98-14-065	131-12-041	AMD	98-15-011
51-46-0710	NEW	98-02-055	82-28-230	REP-XR	98-14-065	131-16	AMD-C	98-08-028
51-46-0713	NEW	98-02-055	82-36-010	REP-XR	98-14-016	131-16-010	AMD-P	98-06-075
51-46-0793	NEW	98-02-055	82-36-020	REP-XR	98-14-016	131-16-010	AMD-E	98-09-044
51-46-0800	NEW	98-02-055	82-36-030	REP-XR	98-14-016	131-16-010	AMD	98-14-033
51-46-0810	NEW	98-02-055	82-36-033	REP-XR	98-14-016	131-16-011	AMD-P	98-06-075
51-46-0814	NEW	98-02-055	82-36-035	REP-XR	98-14-016	131-16-011	AMD-E	98-09-044
51-46-0815	NEW	98-02-055	82-36-040	REP-XR	98-14-016	131-16-011	AMD	98-14-033
51-46-0900	NEW	98-02-055	82-36-050	REP-XR	98-14-016	131-16-015	REP-P	98-06-075
51-46-0903	NEW	98-02-055	82-36-060	REP-XR	98-14-016	131-16-021	AMD-P	98-06-075
51-46-1000	NEW	98-02-055	82-36-070	REP-XR	98-14-016	131-16-021	AMD-E	98-09-044
51-46-1003	NEW	98-02-055	82-36-080	REP-XR	98-14-016	131-16-021	AMD	98-14-033
51-46-1012	NEW	98-02-055	82-36-090	REP-XR	98-14-016	131-16-031	AMD-P	98-06-075
51-46-1300	NEW	98-02-055	82-36-120	REP-XR	98-14-016	131-16-031	AMD-E	98-09-044
51-46-1301	NEW	98-02-055	82-36-130	REP-XR	98-14-016	131-16-031	AMD	98-14-033
51-46-1302	NEW	98-02-055	82-36-140	REP-XR	98-14-016	131-16-040	REP-P	98-06-075
51-46-1303	NEW	98-02-055	82-36-150	REP-XR	98-14-016	131-16-045	AMD-P	98-06-075
51-46-1304	NEW	98-02-055	82-40-010	REP-XR	98-14-017	131-16-045	AMD-E	98-09-044
51-46-1305	NEW	98-02-055	82-40-020	REP-XR	98-14-017	131-16-045	AMD	98-14-033
51-46-1400	NEW	98-02-055	82-40-030	REP-XR	98-14-017	131-16-050	AMD-P	98-06-075
51-46-1401	NEW	98-02-055	82-40-040	REP-XR	98-14-017	131-16-050	AMD-E	98-09-044
51-46-1491	NEW	98-02-055	82-40-050	REP-XR	98-14-017	131-16-050	AMD	98-14-033
51-46-97120	NEW	98-02-055	82-40-060	REP-XR	98-14-017	131-16-055	AMD-P	98-06-075
51-46-97121	NEW	98-02-055	82-40-070	REP-XR	98-14-017	131-16-055	AMD-E	98-09-044
51-46-97122	NEW	98-02-055	82-44-010	REP-XR	98-14-015	131-16-055	AMD	98-14-033
51-46-97123	NEW	98-02-055	82-44-020	REP-XR	98-14-015	131-16-056	AMD-P	98-06-075
51-46-97124	NEW	98-02-055	82-44-030	REP-XR	98-14-015	131-16-056	AMD-E	98-09-044
51-46-97125	NEW	98-02-055	82-44-040	REP-XR	98-14-015	131-16-056	AMD	98-14-033
51-46-97126	NEW	98-02-055	82-44-050	REP-XR	98-14-015	131-16-060	REP-P	98-06-075
51-46-97127	NEW	98-02-055	82-44-060	REP-XR	98-14-015	131-16-061	AMD-P	98-06-075
51-46-97128	NEW	98-02-055	82-44-070	REP-XR	98-14-015	131-16-061	AMD-E	98-09-044
51-46-97129	NEW	98-02-055	82-44-080	REP-XR	98-14-015	131-16-061	AMD	98-14-033
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51-47-002	NEW	98-02-055	82-50-021	AMD-P	98-09-084	131-16-065	REP-P	98-06-075
51-47-003	NEW	98-02-055	82-50-021	AMD	98-14-079	131-16-066	REP-P	98-06-075
51-47-007	NEW	98-02-055	98-70-010	PREP	98-11-039	131-16-080	AMD-P	98-10-113
51-47-008	NEW	98-02-055	98-70-010	AMD-P	98-15-100	131-16-210	REP-P	98-10-113
82-24-010	REP-XR	98-14-066	118-40-010	AMD	98-07-028	131-16-220	REP-P	98-10-113
82-24-020	REP-XR	98-14-066	118-40-020	AMD	98-07-028	131-16-400	AMD-P	98-10-113
82-24-030	REP-XR	98-14-066	118-40-030	AMD	98-07-028	131-16-450	AMD-P	98-10-046
82-24-040	REP-XR	98-14-066	118-40-040	AMD	98-07-028	131-16-450	AMD	98-15-007
82-24-050	REP-XR	98-14-066	118-40-050	AMD	98-07-028	131-24	AMD-C	98-07-059
82-24-060	REP-XR	98-14-066	118-40-060	AMD	98-07-028	131-24-010	AMD-P	98-06-073
82-24-070	REP-XR	98-14-066	118-40-070	AMD	98-07-028	131-24-010	AMD	98-15-010
82-24-080	REP-XR	98-14-066	118-40-080	AMD	98-07-028	131-24-020	AMD-P	98-06-073
82-24-090	REP-XR	98-14-066	118-40-090	REP	98-07-028	131-24-020	AMD	98-15-010
82-24-100	REP-XR	98-14-066	118-40-100	REP	98-07-028	131-24-030	AMD-P	98-06-073
82-24-110	REP-XR	98-14-066	118-40-150	AMD	98-07-028	131-24-030	AMD	98-15-010
82-24-120	REP-XR	98-14-066	118-40-160	AMD	98-07-028	131-24-040	REP-P	98-06-073
82-24-130	REP-XR	98-14-066	118-40-170	AMD	98-07-028	131-24-040	REP	98-15-010
82-28-010	REP-XR	98-14-065	118-40-180	AMD	98-07-028	131-28	AMD-C	98-07-059
82-28-020	REP-XR	98-14-065	118-40-190	REP	98-07-028	131-28-005	NEW-P	98-06-072
82-28-030	REP-XR	98-14-065	118-40-300	AMD	98-07-028	131-28-015	AMD-P	98-10-047
82-28-040	REP-XR	98-14-065	118-40-400	AMD	98-07-028	131-28-025	AMD-P	98-06-072
82-28-050	REP-XR	98-14-065	130-10	PREP	98-15-120	131-28-02501	AMD-P	98-06-072
82-28-060	REP-XR	98-14-065	131-08	AMD-C	98-07-059	131-28-02501	AMD-P	98-10-047
82-28-06001	REP-XR	98-14-065	131-08-005	AMD-P	98-06-071	131-28-026	AMD-P	98-06-072
82-28-070	REP-XR	98-14-065	131-08-005	AMD-P	98-10-074	131-28-027	AMD-P	98-06-072
82-28-080	REP-XR	98-14-065	131-08-005	AMD	98-15-002	131-28-045	AMD-P	98-06-072
82-28-090	REP-XR	98-14-065	131-08-007	AMD-P	98-06-071	131-28-080	REP-P	98-06-072
82-28-100	REP-XR	98-14-065	131-08-007	AMD-P	98-10-074	131-28-085	REP-P	98-06-072
82-28-110	REP-XR	98-14-065	131-08-007	AMD	98-15-002	131-28-090	REP-P	98-06-072

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131-32-020	AMD-P	98-10-044	131-47-025	AMD-P	98-10-043	132B-120-190	AMD	98-09-012
131-32-030	AMD-P	98-10-112	131-47-025	AMD	98-15-003	132B-120-200	AMD-P	98-05-049
131-32-035	AMD-P	98-10-112	131-47-045	AMD-P	98-10-043	132B-120-210	AMD	98-09-012
131-36	AMD-P	98-06-074	131-47-045	AMD	98-15-003	132B-120-210	NEW-P	98-05-049
131-36	AMD-C	98-07-059	131-47-050	AMD-P	98-10-043	132B-120-210	NEW	98-09-012
131-36	AMD	98-15-012	131-47-050	AMD	98-15-003	132B-120-220	NEW-P	98-05-049
131-36-010	AMD-P	98-06-074	131-47-055	AMD-P	98-10-043	132B-120-220	NEW	98-09-012
131-36-010	AMD	98-15-012	131-47-055	AMD	98-15-003	132E-16	PREP	98-11-098
131-36-050	AMD-P	98-06-074	131-47-090	AMD-P	98-10-043	132E-16-001	AMD-P	98-14-109
131-36-050	AMD	98-15-012	131-47-090	AMD	98-15-003	132E-16-003	NEW-P	98-14-109
131-36-055	NEW-P	98-06-074	131-47-095	AMD-P	98-10-043	132E-16-005	AMD-P	98-14-109
131-36-055	NEW	98-15-012	131-47-095	AMD	98-15-003	132E-16-008	NEW-P	98-14-109
131-36-100	AMD-P	98-06-074	131-47-110	AMD-P	98-10-043	132E-16-010	AMD-P	98-14-109
131-36-100	AMD	98-15-012	131-47-110	AMD	98-15-003	132E-16-011	NEW-P	98-14-109
131-36-150	AMD-P	98-06-074	131-47-115	REP-P	98-10-043	132E-16-012	NEW-P	98-14-109
131-36-150	AMD	98-15-012	131-47-115	REP	98-15-003	132E-16-013	NEW-P	98-14-109
131-36-200	AMD-P	98-06-074	131-47-120	REP-P	98-10-043	132E-16-014	NEW-P	98-14-109
131-36-200	AMD	98-15-012	131-47-120	REP	98-15-003	132E-16-015	NEW-P	98-14-109
131-36-250	AMD-P	98-06-074	131-47-125	AMD-P	98-10-043	132E-16-020	AMD-P	98-14-109
131-36-250	AMD	98-15-012	131-47-125	AMD	98-15-003	132E-16-030	AMD-P	98-14-109
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131-36-300	AMD	98-15-012	131-47-130	AMD	98-15-003	132E-16-050	REP-P	98-14-109
131-40-010	AMD-P	98-10-114	131-47-135	AMD-P	98-10-043	132E-16-060	REP-P	98-14-109
131-40-010	AMD	98-15-006	131-47-135	AMD	98-15-003	132E-16-070	AMD-P	98-14-109
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131-46-029	REP-P	98-06-070	131-48-010	AMD	98-15-008	132E-16-130	AMD-P	98-14-109
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131-46-030	REP	98-15-009	131-48-060	AMD-P	98-10-045	132E-16-160	REP-P	98-14-109
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180-30-040	REP-P	98-14-148	180-30-730	REP-P	98-14-148	180-59-045	REP	98-05-007
180-30-050	REP-P	98-14-148	180-30-735	REP-P	98-14-148	180-59-047	REP	98-05-007
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196-12-030	AMD	98-12-052	212-17-190	REP-E	98-13-039	220-20-015	AMD	98-15-031
196-12-045	NEW-P	98-08-105	212-17-195	REP-XR	98-07-019	220-20-020	AMD-P	98-09-089
196-12-045	NEW	98-12-052	212-17-195	REP	98-13-038	220-20-020	AMD	98-15-031
196-12-050	AMD-P	98-08-105	212-17-195	REP-E	98-13-039	220-20-025	AMD-P	98-09-089
196-12-050	AMD	98-12-052	212-17-200	REP-XR	98-07-019	220-22-410	AMD	98-05-043
196-12-060	REP-P	98-08-105	212-17-200	REP	98-13-038	220-24-02000E	NEW-E	98-10-031
196-12-060	REP	98-12-052	212-17-200	REP-E	98-13-039	220-24-02000E	REP-E	98-11-020
196-12-085	REP-P	98-08-105	212-17-205	REP-XR	98-07-019	220-24-02000F	NEW-E	98-11-020
196-12-085	REP	98-12-052	212-17-205	REP	98-13-038	220-24-02000F	REP-E	98-12-076
196-24-030	REP-P	98-08-105	212-17-205	REP-E	98-13-039	220-24-02000G	NEW-E	98-11-085
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196-24-040	REP-P	98-08-105	212-17-210	REP	98-13-038	220-32-05100D	NEW-E	98-04-056
196-24-040	REP	98-12-052	212-17-210	REP-E	98-13-039	220-32-05100D	REP-E	98-04-056
196-24-050	REP-P	98-08-105	212-17-215	REP-XR	98-07-019	220-32-05100D	REP-E	98-04-068
196-24-050	REP	98-12-052	212-17-215	REP	98-13-038	220-32-05100E	NEW-E	98-04-068
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196-24-105	AMD	98-12-052	212-17-21503	NEW	98-04-007	220-32-05100E	REP-E	98-07-057
196-25-001	NEW-P	98-08-106	212-17-21505	NEW	98-04-007	220-32-05500M	NEW-E	98-09-022
196-25-001	NEW	98-12-053	212-17-21507	NEW	98-04-007	220-32-05500M	REP-E	98-09-022
196-25-002	NEW-P	98-08-106	212-17-21509	NEW	98-04-007	220-32-05500M	REP-E	98-13-006
196-25-002	NEW	98-12-053	212-17-21511	NEW	98-04-007	220-32-05500N	NEW-E	98-11-041
196-25-005	NEW-P	98-08-106	212-17-21513	NEW	98-04-007	220-32-05500N	REP-E	98-11-041
196-25-005	NEW	98-12-053	212-17-21515	NEW	98-04-007	220-32-05500P	NEW-E	98-13-006
196-25-010	NEW-P	98-08-106	212-17-21517	NEW	98-04-007	220-32-05500P	REP-E	98-13-006
196-25-010	NEW	98-12-053	212-17-21519	NEW	98-04-007	220-32-05500P	REP-E	98-14-037
196-25-020	NEW-P	98-08-106	220-12-010	AMD	98-06-031	220-32-05500Q	NEW-E	98-14-037
196-25-020	NEW	98-12-053	220-12-020	AMD	98-06-031	220-32-05700X	NEW-E	98-04-006
196-25-030	NEW-P	98-08-106	220-16-002	NEW-P	98-11-086	220-32-05700X	REP-E	98-04-006
196-25-030	NEW	98-12-053	220-16-002	NEW	98-15-081	220-32-05700Y	NEW-E	98-08-027
196-25-040	NEW-P	98-08-106	220-16-005	NEW-P	98-11-086	220-32-05700Y	REP-E	98-14-063
196-25-040	NEW	98-12-053	220-16-005	NEW	98-15-081	220-33-01000A	NEW-E	98-12-061
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196-26-020	AMD	98-12-046	220-16-475	NEW	98-06-031	220-33-01000B	REP-E	98-16-077
196-26-030	AMD-P	98-09-051	220-16-480	NEW-P	98-09-089	220-33-01000Z	NEW-E	98-08-046
196-26-030	AMD	98-12-046	220-16-480	NEW-W	98-11-049	220-33-01000Z	REP-E	98-08-046
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204-10-020	AMD-P	98-15-083	220-16-490	NEW	98-15-031	220-33-03000L	REP-E	98-08-046
204-10-070	AMD	98-04-053	220-16-500	NEW-W	98-11-049	220-33-04000E	REP-E	98-04-067
204-10-090	AMD	98-04-053	220-16-510	NEW-W	98-11-049	220-33-04000F	NEW-E	98-04-067
204-10-100	REP	98-04-053	220-16-520	NEW-W	98-11-049	220-33-06000A	NEW-E	98-14-019
204-10-110	REP	98-04-053	220-16-530	NEW-W	98-11-049	220-36-021	AMD-P	98-11-086
204-10-130	REP	98-04-053	220-16-540	NEW-W	98-11-049	220-36-021	AMD	98-15-081
204-10-140	REP	98-04-053	220-16-550	NEW	98-06-031	220-36-023	AMD-P	98-11-086
204-10-150	REP	98-04-053	220-16-550	AMD-P	98-11-086	220-36-023	AMD	98-15-081
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204-24-050	AMD-P	98-15-056	220-16-560	NEW-W	98-11-049	220-40-021	AMD	98-15-081
204-46-010	PREP	98-14-049	220-16-570	NEW-W	98-11-049	220-40-027	AMD-P	98-11-086
204-46-020	PREP	98-14-049	220-16-580	NEW-W	98-11-049	220-40-027	AMD	98-15-081
204-46-030	PREP	98-14-049	220-16-590	NEW	98-06-031	220-44-030	AMD	98-05-043
204-72-030	AMD	98-04-054	220-16-600	NEW-W	98-11-049	220-44-050	AMD	98-05-043
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204-90-030	AMD	98-04-052	220-16-620	NEW-W	98-11-049	220-44-050	AMD	98-15-033
204-90-040	AMD	98-04-052	220-16-630	NEW-W	98-11-049	220-44-050000L	REP-E	98-10-059
204-90-070	AMD	98-04-052	220-16-640	NEW-W	98-11-049	220-44-050000M	NEW-E	98-10-059
204-90-120	AMD	98-04-052	220-16-650	NEW-W	98-11-049	220-44-050000M	REP-E	98-14-094
204-90-140	AMD	98-04-052	220-16-660	NEW-W	98-11-049	220-44-050000N	NEW-E	98-14-094
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208-440	PREP	98-13-084	220-16-690	NEW-W	98-11-049	220-47-304	AMD	98-15-081
208-444	PREP	98-13-084	220-16-700	NEW	98-06-031	220-47-307	AMD-P	98-11-086
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208-444-020	AMD	98-10-072	220-16-720	NEW	98-06-031	220-47-30700A	NEW-E	98-16-009
208-444-030	AMD	98-10-072	220-20-010	AMD	98-06-031	220-47-311	AMD-P	98-11-086
208-444-040	AMD	98-10-072	220-20-010	AMD-P	98-09-089	220-47-311	AMD	98-15-081
208-444-050	AMD	98-10-072	220-20-010	AMD-P	98-11-086	220-47-31100A	NEW-E	98-16-009
208-464	PREP	98-13-084	220-20-010	AMD	98-15-031	220-47-326	REP-P	98-11-086
208-472	PREP	98-13-084	220-20-010	AMD	98-15-081	220-47-326	REP	98-15-081
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220-47-427	AMD	98-15-081	220-56-115	AMD	98-06-031	220-56-33000H	NEW-E	98-15-001
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220-47-428	AMD	98-15-081	220-56-124	AMD	98-15-081	220-56-33000I	NEW-E	98-15-060
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220-48-013	AMD	98-05-043	220-56-126	AMD	98-15-081	220-56-35000R	NEW-E	98-03-070
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220-48-01500F	NEW-E	98-14-093	220-56-180	AMD	98-06-031	220-56-35000U	NEW-E	98-15-091
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220-48-032	AMD	98-05-043	220-56-190	AMD	98-15-081	220-56-36000T	REP-E	98-05-034
220-48-042	AMD	98-05-043	220-56-1900Q	NEW-E	98-16-039	220-56-36000U	NEW-E	98-09-028
220-48-052	AMD	98-05-043	220-56-1900Q	REP-E	98-16-039	220-56-36000U	REP-E	98-09-028
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220-52-04600B	NEW-E	98-07-054	220-56-25500H	REP-E	98-15-047	220-57-16000L	NEW-E	98-09-005
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220-52-07300X	NEW-E	98-03-001	220-56-32500S	NEW-E	98-11-087	220-57-270	AMD	98-15-081
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246-310-132	AMD-XA	98-05-057	246-562-090	NEW-P	98-15-154	246-815-020	AMD	98-05-060
246-310-132	AMD	98-10-053	246-562-100	NEW-P	98-15-154	246-815-040	REP	98-05-060
246-310-150	AMD-XA	98-05-057	246-562-110	NEW-P	98-15-154	246-815-060	REP-XR	98-07-087
246-310-150	AMD	98-10-053	246-562-120	NEW-P	98-15-154	246-815-060	REP	98-14-123
246-310-160	AMD-XA	98-05-057	246-562-130	NEW-P	98-15-154	246-815-070	REP-XR	98-07-087
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246-310-180	AMD	98-10-053	246-802-025	AMD	98-05-060	246-815-090	REP	98-14-123
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246-310-396	AMD	98-10-053	246-808-106	REP	98-05-060	246-815-990	AMD	98-05-060
246-310-397	AMD-XA	98-12-067	246-808-150	AMD	98-05-060	246-817-110	AMD	98-05-060
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246-310-560	AMD	98-10-053	246-808-160	REP	98-05-060	246-817-201	REP	98-05-060
246-310-610	AMD-XA	98-05-057	246-808-165	AMD	98-05-060	246-817-210	AMD	98-05-060
246-310-610	AMD	98-10-053	246-808-180	AMD	98-05-060	246-817-990	AMD	98-05-060
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246-312	AMD	98-14-056	246-808-185	REP	98-05-060	246-822-120	AMD	98-05-060
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246-312-035	NEW	98-14-056	246-810-080	AMD	98-05-060	246-824-074	NEW	98-05-060
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246-828-295	AMD	98-05-060	246-843-320	REP	98-05-060	246-918-009	REP	98-09-118
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246-828-300	AMD	98-05-060	246-843-990	AMD	98-05-060	246-918-081	NEW	98-05-060
246-828-320	AMD	98-06-079	246-845-100	REP	98-05-060	246-918-085	REP	98-05-060
246-828-330	AMD	98-06-079	246-845-990	AMD	98-05-060	246-918-160	REP	98-09-119
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246-828-510	AMD	98-05-060	246-847-068	AMD	98-05-060	246-919-305	REP	98-05-060
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246-828-560	REP	98-05-060	246-847-990	AMD	98-05-060	246-919-420	REP	98-05-060
246-828-990	AMD	98-05-060	246-849-110	AMD	98-05-060	246-919-430	AMD	98-05-060
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246-834-070	PREP	98-11-064	246-851-430	AMD	98-05-060	246-922-290	AMD	98-05-060
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246-834-260	AMD	98-05-060	246-853-045	AMD	98-05-060	246-922-990	AMD	98-05-060
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246-834-500	REP	98-05-060	246-853-080	AMD	98-05-060	246-924-110	AMD	98-05-060
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246-836-410	AMD	98-05-060	246-853-275	REP	98-05-060	246-924-490	REP	98-05-060
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246-840-010	AMD-W	98-09-040	246-855-100	AMD	98-05-060	246-926-200	AMD	98-05-060
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246-840-080	AMD	98-05-060	246-861-120	REP	98-05-060	246-928	PREP	98-08-114
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246-840-100	REP	98-05-060	246-863-050	REP	98-05-060	246-928-190	AMD	98-05-060
246-840-110	REP	98-05-060	246-863-070	AMD	98-05-060	246-928-990	AMD	98-05-060
246-840-111	NEW	98-05-060	246-863-080	AMD	98-05-060	246-930-020	AMD	98-05-060
246-840-115	REP	98-05-060	246-863-090	AMD	98-05-060	246-930-400	REP	98-05-060
246-840-120	AMD	98-05-060	246-863-120	AMD	98-05-060	246-930-410	AMD	98-05-060
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246-933-305	AMD	98-05-060	250-10-120	REP	98-08-006	251-01-410	AMD-P	98-15-036
246-933-420	AMD	98-05-060	250-10-130	REP	98-08-006	251-04-030	AMD-P	98-15-036
246-933-430	REP	98-05-060	250-10-140	REP	98-08-006	251-04-040	AMD-P	98-15-036
246-933-470	REP	98-05-060	250-10-150	REP	98-08-006	251-04-050	AMD-P	98-15-036
246-933-480	AMD	98-05-060	250-10-160	REP	98-08-006	251-04-060	AMD-P	98-15-036
246-933-990	AMD	98-05-060	250-10-170	REP	98-08-006	251-04-070	AMD-P	98-15-036
246-935-130	AMD	98-05-060	250-12-010	REP	98-08-008	251-04-150	REP-P	98-15-036
246-935-990	AMD	98-05-060	250-12-020	REP	98-08-008	251-04-160	AMD-P	98-15-036
246-937-050	AMD	98-05-060	250-12-030	REP	98-08-008	251-04-170	NEW-C	98-06-014
246-937-080	AMD	98-05-060	250-12-040	REP	98-08-008	251-04-170	NEW	98-08-024
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246-976-475	REP	98-04-038	250-12-070	REP	98-08-008	251-05-030	AMD-P	98-15-036
246-976-480	REP	98-04-038	250-16-001	REP	98-08-007	251-05-040	AMD-P	98-15-036
246-976-485	NEW	98-04-038	250-16-010	REP	98-08-007	251-05-050	AMD-P	98-16-053
246-976-490	NEW	98-04-038	250-16-020	REP	98-08-007	251-05-060	AMD-P	98-15-036
246-976-500	AMD	98-04-038	250-16-030	REP	98-08-007	251-05-070	AMD-P	98-15-036
246-976-510	AMD	98-04-038	250-16-040	REP	98-08-007	251-06-020	AMD-P	98-15-036
246-976-520	AMD	98-04-038	250-16-050	REP	98-08-007	251-06-070	AMD-P	98-15-036
246-976-550	AMD	98-04-038	250-16-060	REP	98-08-007	251-06-090	AMD-P	98-15-036
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246-976-600	AMD	98-04-038	250-55-020	REP	98-08-009	251-08-051	AMD-P	98-15-036
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246-976-610	AMD-XA	98-14-121	250-55-040	REP	98-08-009	251-08-100	AMD-P	98-15-036
246-976-615	NEW	98-04-038	250-55-050	REP	98-08-009	251-08-160	AMD-P	98-15-036
246-976-620	NEW	98-04-038	250-55-060	REP	98-08-009	251-10-030	AMD	98-03-051
246-976-640	AMD	98-04-038	250-55-070	REP	98-08-009	251-10-030	AMD-P	98-15-036
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246-976-720	AMD	98-04-038	250-55-120	REP	98-08-009	251-11-120	AMD-P	98-15-036
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246-976-770	AMD-XA	98-14-121	250-55-180	REP	98-08-009	251-12-085	REP-P	98-15-036
246-976-780	AMD	98-04-038	250-55-190	REP	98-08-009	251-12-096	REP-P	98-15-036
246-976-780	AMD-XA	98-14-121	250-55-200	REP	98-08-009	251-12-097	REP-P	98-15-036
246-976-790	AMD	98-04-038	250-55-210	REP	98-08-009	251-12-099	AMD-P	98-15-036
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246-976-881	NEW	98-04-038	250-73-015	AMD-E	98-14-007	251-14-060	AMD-P	98-15-036
246-976-885	AMD	98-04-038	250-73-020	AMD-E	98-14-007	251-14-070	AMD-P	98-15-036
246-976-890	AMD	98-04-038	250-73-025	AMD-E	98-14-007	251-14-082	AMD-P	98-15-036
246-976-935	NEW	98-05-035	250-73-030	REP-E	98-14-007	251-14-085	AMD-P	98-15-036
250-10-010	REP	98-08-006	250-73-035	AMD-E	98-14-007	251-14-087	AMD-P	98-15-036
250-10-020	REP	98-08-006	250-73-040	AMD-E	98-14-007	251-14-130	AMD-P	98-15-036
250-10-022	REP	98-08-006	250-73-045	AMD-E	98-14-007	251-17-120	AMD-P	98-15-036
250-10-026	REP	98-08-006	251-01-018	NEW-P	98-15-036	251-18-180	AMD-P	98-16-053
250-10-028	REP	98-08-006	251-01-030	AMD-P	98-15-036	251-19-060	AMD-P	98-15-036
250-10-030	REP	98-08-006	251-01-045	AMD-P	98-15-036	251-19-100	AMD-C	98-06-015
250-10-040	REP	98-08-006	251-01-065	AMD-P	98-16-053	251-19-100	AMD	98-08-026
250-10-050	REP	98-08-006	251-01-110	AMD-P	98-15-036	251-19-105	AMD-C	98-06-013
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251-19-122	AMD-P	98-15-036	260-32-360	REP	98-07-070	284-10-070	REP	98-04-005
251-19-140	AMD-P	98-15-036	260-44	PREP	98-16-102	284-10-090	REP	98-04-005
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251-19-154	NEW	98-13-058	263-12-010	PREP	98-15-135	284-17-135	REP	98-06-022
251-19-157	AMD-P	98-15-036	263-12-015	PREP	98-15-136	284-17-220	AMD-XA	98-07-104
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251-22-060	AMD-P	98-15-036	263-12-175	PREP	98-15-133	284-17-300	REP	98-09-041
251-22-127	NEW-P	98-10-121	263-12-180	PREP	98-15-133	284-17-570	REP-XA	98-07-065
251-22-127	NEW-E	98-13-056	275-25	PREP	98-09-092	284-17-570	REP	98-11-088
251-22-127	NEW	98-13-057	275-26	PREP	98-09-092	284-19-010	AMD-XA	98-08-097
251-22-165	AMD-P	98-15-036	275-27	PREP	98-09-092	284-19-010	AMD	98-13-095
251-23-010	AMD-P	98-15-036	275-27-020	PREP	98-10-040	284-19-020	AMD-XA	98-08-097
251-23-020	AMD-P	98-15-036	275-27-020	AMD-E	98-13-041	284-19-020	AMD	98-13-095
251-23-030	AMD-P	98-15-036	275-27-020	AMD-P	98-16-091	284-19-030	REP-XA	98-08-097
251-24-010	AMD-P	98-15-036	275-27-023	AMD-E	98-13-041	284-19-030	REP	98-13-095
251-24-030	AMD-P	98-15-036	275-27-023	AMD-P	98-16-091	284-19-040	AMD-XA	98-08-097
251-24-040	AMD-P	98-15-036	275-27-030	PREP	98-09-094	284-19-040	AMD	98-13-095
251-24-040	REP-P	98-16-053	275-27-040	AMD-E	98-13-041	284-19-050	AMD-XA	98-08-097
251-25-050	AMD-P	98-15-036	275-27-040	AMD-P	98-16-091	284-19-050	AMD	98-13-095
255-01-010	NEW-P	98-04-060	275-27-050	AMD-E	98-13-041	284-19-060	AMD-XA	98-08-097
255-01-010	NEW	98-07-071	275-27-050	AMD-P	98-16-091	284-19-060	AMD	98-13-095
255-01-020	NEW-P	98-04-060	275-27-180	PREP	98-10-040	284-19-070	AMD-XA	98-08-097
255-01-020	NEW	98-07-071	275-27-182	PREP	98-10-040	284-19-070	AMD	98-13-095
255-01-030	NEW-P	98-04-060	275-27-185	PREP	98-10-040	284-19-080	AMD-XA	98-08-097
255-01-030	NEW	98-07-071	275-27-190	PREP	98-10-040	284-19-080	AMD	98-13-095
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255-01-070	NEW-P	98-04-060	275-27-230	AMD-P	98-16-091	284-19-120	AMD-XA	98-08-097
255-01-070	NEW	98-07-071	275-27-810	PREP	98-09-094	284-19-120	AMD	98-13-095
255-01-080	NEW-P	98-04-060	275-27-820	PREP	98-09-094	284-19-130	AMD-XA	98-08-097
255-01-080	NEW	98-07-071	275-31	PREP	98-09-092	284-19-130	AMD	98-13-095
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255-01-120	NEW-P	98-04-060	275-46-010	PREP	98-10-125	284-19-170	AMD-XA	98-08-097
255-01-120	NEW	98-07-071	275-46-010	AMD-P	98-14-061	284-19-170	AMD	98-13-095
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255-01-140	NEW-P	98-04-060	275-46-020	AMD-P	98-14-061	284-20-006	AMD-XA	98-13-093
255-01-140	NEW	98-07-071	275-46-030	AMD-P	98-14-061	284-20-020	AMD-XA	98-13-093
255-02-010	NEW-P	98-04-059	275-46-040	AMD-P	98-14-061	284-20-030	AMD-XA	98-13-093
255-02-010	NEW	98-11-005	275-46-050	AMD-P	98-14-061	284-20-040	AMD-XA	98-13-093
255-02-020	NEW-P	98-04-059	275-46-060	PREP	98-10-125	284-20-050	AMD-XA	98-13-093
255-02-020	NEW	98-11-005	275-46-060	AMD-P	98-14-061	284-20-070	REP-XA	98-13-093
255-02-030	NEW-P	98-04-059	275-46-065	NEW-P	98-14-061	284-20-100	AMD-XA	98-13-093
255-02-030	NEW	98-11-005	275-46-070	PREP	98-10-125	284-20-200	AMD-XA	98-13-093
255-02-040	NEW-P	98-04-059	275-46-070	AMD-P	98-14-061	284-23	AMD-C	98-02-062
255-02-040	NEW	98-11-005	275-46-080	NEW-P	98-14-061	284-23	AMD-C	98-03-076
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255-02-060	NEW	98-11-005	284-01-050	NEW	98-04-063	284-23-130	REP-XA	98-07-065
255-02-070	NEW-P	98-04-059	284-05-040	AMD-XA	98-07-105	284-23-130	REP	98-11-088
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255-02-080	NEW-P	98-04-059	284-05-060	AMD-XA	98-07-105	284-23-200	AMD	98-11-003
255-02-080	NEW	98-11-005	284-05-060	AMD	98-11-089	284-23-210	AMD-P	98-04-083
255-02-090	NEW-P	98-04-059	284-05-070	REP-XA	98-07-105	284-23-210	AMD	98-11-003
255-02-090	NEW	98-11-005	284-05-070	REP	98-11-089	284-23-220	AMD-P	98-04-083
255-02-100	NEW-P	98-04-059	284-10	REP-C	98-03-004	284-23-220	AMD	98-11-003
255-02-100	NEW	98-11-005	284-10-010	REP	98-04-005	284-23-230	AMD-P	98-04-083
255-02-110	NEW-P	98-04-059	284-10-015	REP	98-04-005	284-23-230	AMD	98-11-003
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284-23-250	AMD-P	98-04-083	284-43-630	NEW-W	98-10-082	286-04-060	AMD-P	98-04-079
284-23-250	AMD	98-11-003	284-43-640	NEW-W	98-10-082	286-04-060	AMD	98-08-014
284-23-260	REP-P	98-04-083	284-43-650	NEW-W	98-10-082	286-06-065	AMD-P	97-04-079
284-23-260	REP	98-11-003	284-43-700	NEW	98-04-005	286-06-065	AMD	98-08-014
284-23-270	REP-P	98-04-083	284-43-710	NEW	98-04-005	286-13-030	AMD-P	98-04-079
284-23-270	REP	98-11-003	284-43-720	NEW	98-04-005	286-13-030	AMD	98-08-014
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284-23-380	REP	98-11-088	284-43-800	NEW	98-04-005	286-13-040	AMD	98-08-014
284-23-610	AMD	98-05-026	284-43-900	NEW	98-04-011	286-13-045	AMD-P	98-04-079
284-23-620	AMD	98-05-026	284-43-905	NEW	98-04-011	286-13-045	AMD	98-08-014
284-23-640	AMD	98-05-026	284-43-910	NEW	98-04-011	286-13-070	AMD-P	98-04-079
284-23-645	NEW	98-05-026	284-43-915	NEW	98-04-011	286-13-070	AMD	98-08-014
284-23-650	AMD	98-05-026	284-43-920	NEW	98-04-011	286-13-085	AMD-P	98-04-079
284-23-660	AMD	98-05-026	284-43-925	NEW	98-04-011	286-13-085	AMD	98-08-014
284-23-690	AMD	98-05-026	284-43-930	NEW	98-04-011	286-13-100	AMD-P	98-04-079
284-23-710	AMD	98-05-026	284-43-930	AMD-XA	98-07-105	286-13-100	AMD	98-08-014
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284-24-005	NEW-P	98-13-092	284-43-940	NEW	98-04-011	286-26-110	AMD-P	98-04-079
284-24-015	AMD-P	98-13-092	284-43-945	NEW	98-04-011	286-26-110	AMD	98-08-014
284-24-060	AMD-P	98-13-092	284-43-950	NEW	98-04-011	286-27-040	AMD-P	98-04-079
284-24-062	NEW-P	98-13-092	284-43-955	NEW	98-04-011	286-27-040	AMD	98-08-014
284-24-065	PREP	98-04-081	284-44	REP-C	98-02-063	286-27-055	AMD-P	98-04-079
284-24-065	AMD-P	98-13-092	284-44	REP-C	98-03-004	286-27-055	AMD	98-08-014
284-24-070	AMD-P	98-13-092	284-44-100	REP	98-04-011	286-27-065	AMD-P	98-04-079
284-24-080	AMD-P	98-13-092	284-44-110	REP	98-04-011	286-27-065	AMD	98-08-014
284-24-100	AMD-P	98-13-092	284-44-120	REP	98-04-011	286-27-075	AMD-P	98-04-079
284-24-110	NEW-P	98-13-092	284-44-130	REP	98-04-011	286-27-075	AMD	98-08-014
284-28-001	REP-XA	98-07-065	284-44-140	REP	98-04-011	286-30-050	NEW-P	98-04-079
284-28-001	REP	98-11-088	284-44-150	REP	98-04-011	286-30-050	NEW	98-08-014
284-36A-010	AMD-XA	98-04-085	284-44-160	REP	98-04-011	286-35-060	AMD-P	98-04-079
284-36A-010	AMD	98-09-016	284-44-190	REP	98-04-011	286-35-060	AMD	98-08-014
284-36A-020	AMD-XA	98-04-085	284-44-200	REP	98-04-011	288-04-010	NEW-P	98-14-060
284-36A-020	AMD	98-09-016	284-44-210	REP	98-04-011	288-04-020	NEW-P	98-14-060
284-36A-025	AMD-XA	98-04-085	284-44-220	REP	98-04-011	288-04-030	NEW-P	98-14-060
284-36A-025	AMD	98-09-016	284-44-240	REP	98-04-005	288-04-040	NEW-P	98-14-060
284-36A-030	REP-XA	98-04-085	284-44-360	REP-XA	98-07-065	288-04-050	NEW-P	98-14-060
284-36A-030	REP	98-09-016	284-44-360	REP	98-11-088	288-04-060	NEW-P	98-14-060
284-36A-040	NEW-XA	98-04-085	284-44-410	REP	98-04-005	288-06-010	NEW-P	98-14-059
284-36A-040	NEW	98-09-016	284-46	REP-C	98-03-004	288-06-020	NEW-P	98-14-059
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284-36A-045	NEW	98-09-016	284-46-575	REP	98-04-005	288-06-040	NEW-P	98-14-059
284-36A-050	NEW-XA	98-04-085	284-50	PREP	98-13-091	288-06-050	NEW-P	98-14-059
284-36A-050	NEW	98-09-016	284-50-435	REP-XA	98-07-065	288-06-060	NEW-P	98-14-059
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284-43	AMD-C	98-03-004	284-58-020	AMD-XA	98-08-098	292-130-030	NEW-P	98-16-006
284-43	AMD	98-04-005	284-58-020	AMD	98-13-094	292-130-040	NEW-P	98-16-006
284-43	PREP	98-13-090	284-58-040	REP-XA	98-04-084	292-130-050	NEW-P	98-16-006
284-43-040	REP	98-04-005	284-58-040	REP	98-09-041	292-130-060	NEW-P	98-16-006
284-43-100	REP	98-04-005	284-58-050	REP-XA	98-04-084	292-130-070	NEW-P	98-16-006
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284-43-210	NEW	98-04-005	284-58-250	AMD	98-13-094	292-130-120	NEW-P	98-16-006
284-43-220	NEW	98-04-005	284-58-260	AMD-XA	98-08-098	292-130-130	NEW-P	98-16-006
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284-43-320	NEW	98-04-005	284-58-280	REP-XA	98-08-098	296-04-005	REP-W	98-12-074
284-43-330	NEW	98-04-005	284-58-280	REP	98-13-094	296-04-010	REP-W	98-12-074
284-43-340	NEW	98-04-005	284-60	PREP	98-13-087	296-04-015	REP-W	98-12-074
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296-17-72202	NEW-P	98-12-079	296-24	PREP	98-08-104	296-44-035	REP	98-07-009
296-17-723	AMD-P	98-12-079	296-24	PREP	98-11-075	296-44-03505	REP	98-07-009
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296-17-727	AMD-P	98-12-079	296-24-06105	NEW	98-06-061	296-44-04109	REP	98-07-009
296-17-729	AMD-P	98-12-079	296-24-06110	NEW	98-06-061	296-44-04125	REP	98-07-009
296-17-730	AMD-P	98-12-079	296-24-06115	NEW	98-06-061	296-44-04129	REP	98-07-009
296-17-73105	AMD-P	98-12-079	296-24-06120	NEW	98-06-061	296-44-04135	REP	98-07-009
296-17-73106	AMD-P	98-12-079	296-24-06125	NEW	98-06-061	296-44-051	REP	98-07-009
296-17-73107	AMD-P	98-12-079	296-24-06130	NEW	98-06-061	296-44-05105	REP	98-07-009
296-17-73108	AMD-P	98-12-079	296-24-06135	NEW	98-06-061	296-44-05109	REP	98-07-009
296-17-73111	AMD-P	98-12-079	296-24-06140	NEW	98-06-061	296-44-05115	REP	98-07-009
296-17-735	AMD-P	98-12-079	296-24-06145	NEW	98-06-061	296-44-05119	REP	98-07-009
296-17-736	AMD-P	98-12-079	296-24-06150	NEW	98-06-061	296-44-05125	REP	98-07-009
296-17-737	AMD-P	98-12-079	296-24-06155	NEW	98-06-061	296-44-05129	REP	98-07-009
296-17-738	AMD-P	98-12-079	296-24-06160	NEW	98-06-061	296-44-05131	REP	98-07-009
296-17-739	AMD-P	98-12-079	296-24-065	REP	98-06-061	296-44-05135	REP	98-07-009
296-17-740	AMD-P	98-12-079	296-24-067	REP	98-06-061	296-44-05141	REP	98-07-009
296-17-741	AMD-P	98-12-079	296-24-070	REP	98-06-061	296-44-065	REP	98-07-009
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296-17-743	AMD-P	98-12-079	296-24-12503	AMD-P	98-16-100	296-44-06511	REP	98-07-009
296-17-744	AMD-P	98-12-079	296-24-12504	NEW-P	98-16-100	296-44-06517	REP	98-07-009
296-17-745	AMD-P	98-12-079	296-24-12505	AMD-P	98-16-100	296-44-074	REP	98-07-009
296-17-746	AMD-P	98-12-079	296-24-12507	AMD-P	98-16-100	296-44-07405	REP	98-07-009
296-17-747	AMD-P	98-12-079	296-24-12509	AMD-P	98-16-100	296-44-07411	REP	98-07-009
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296-17-752	AMD-P	98-12-079	296-24-12519	AMD-P	98-16-100	296-44-07439	REP	98-07-009
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296-17-75303	NEW-P	98-12-079	296-24-205	AMD	98-10-073	296-44-08611	REP	98-07-009
296-17-754	AMD-P	98-12-079	296-24-20501	AMD	98-10-073	296-44-08619	REP	98-07-009
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296-17-758	AMD-P	98-12-079	296-24-20509	AMD	98-10-073	296-44-09819	REP	98-07-009
296-17-759	AMD-P	98-12-079	296-24-20511	AMD	98-10-073	296-44-09826	REP	98-07-009
296-17-760	AMD-P	98-12-079	296-24-20513	AMD	98-10-073	296-44-110	REP	98-07-009
296-17-761	AMD-P	98-12-079	296-24-20515	AMD	98-10-073	296-44-11005	REP	98-07-009
296-17-762	AMD-P	98-12-079	296-24-20517	AMD	98-10-073	296-44-11021	REP	98-07-009
296-17-76201	AMD-P	98-12-079	296-24-20519	AMD	98-10-073	296-44-11029	REP	98-07-009
296-17-76202	AMD-P	98-12-079	296-24-20521	AMD	98-10-073	296-44-11035	REP	98-07-009
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296-17-76204	AMD-P	98-12-079	296-24-20525	AMD	98-10-073	296-44-125	REP	98-07-009
296-17-76205	AMD-P	98-12-079	296-24-20527	AMD	98-10-073	296-44-12505	REP	98-07-009
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296-17-76210	AMD-P	98-12-079	296-30-050	REP-XR	98-08-100	296-44-13421	REP	98-07-009
296-17-76211	AMD-P	98-12-079	296-30-050	REP	98-14-076	296-44-13431	REP	98-07-009
296-17-76212	AMD-P	98-12-079	296-31-069	PREP	98-14-141	296-44-170	REP	98-07-009
296-17-763	AMD-P	98-12-079	296-44-005	REP	98-07-009	296-44-17005	REP	98-07-009
296-17-764	AMD-P	98-12-079	296-44-010	REP	98-07-009	296-44-17017	REP	98-07-009
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296-20-03004	REP-XR	98-08-101	296-44-02315	REP	98-07-009	296-44-19405	REP	98-07-009
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296-45-66009	REP	98-07-009	296-86-050	REP	98-12-043	296-124-020	REP	98-14-042
296-45-66011	REP	98-07-009	296-86-060	REP-P	98-07-094	296-124-021	REP-XR	98-07-093
296-45-67543	AMD-W	98-07-008	296-86-060	REP	98-12-043	296-124-021	REP	98-14-042
296-45-680	REP	98-07-009	296-86-070	REP-P	98-07-094	296-124-022	REP-XR	98-07-093
296-45-690	REP	98-07-009	296-86-070	REP	98-12-043	296-124-022	REP	98-14-042
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296-46-100	NEW	98-12-042	296-86A-010	NEW	98-12-043	296-150C-0020	AMD	98-14-078
296-46-140	AMD-P	98-07-097	296-86A-020	NEW-P	98-07-094	296-150C-0310	AMD-P	98-07-095
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296-46-155	NEW-P	98-07-097	296-86A-025	NEW-P	98-07-094	296-150C-0320	AMD-P	98-07-095
296-46-155	NEW	98-12-042	296-86A-025	NEW	98-12-043	296-150C-0320	AMD	98-14-078
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296-46-21052	AMD	98-12-042	296-86A-028	NEW	98-12-043	296-150C-0410	AMD	98-14-078
296-46-225	AMD-P	98-07-097	296-86A-030	NEW-P	98-07-094	296-150C-0460	AMD-P	98-07-095
296-46-225	AMD	98-12-042	296-86A-030	NEW	98-12-043	296-150C-0460	AMD	98-14-078
296-46-23028	AMD-P	98-07-097	296-86A-040	NEW-P	98-07-094	296-150C-0500	AMD-P	98-07-095
296-46-23028	AMD	98-12-042	296-86A-040	NEW	98-12-043	296-150C-0500	AMD	98-14-078
296-46-30001	AMD-P	98-07-097	296-86A-060	NEW-P	98-07-094	296-150C-0560	AMD-P	98-07-095
296-46-30001	AMD	98-12-042	296-86A-060	NEW	98-12-043	296-150C-0560	AMD	98-14-078
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296-46-50002	NEW-P	98-07-097	296-86A-073	NEW-P	98-07-094	296-150C-0960	AMD-P	98-07-095
296-46-50002	NEW	98-12-042	296-86A-073	NEW	98-12-043	296-150C-0960	AMD	98-14-078
296-46-770	AMD-P	98-07-097	296-86A-074	NEW-P	98-07-094	296-150C-0980	REP-P	98-07-095
296-46-770	AMD	98-12-042	296-86A-074	NEW	98-12-043	296-150C-0980	REP	98-14-078
296-46-910	AMD-P	98-07-097	296-86A-075	NEW-P	98-07-094	296-150C-1080	AMD-P	98-07-095
296-46-910	AMD	98-12-042	296-86A-075	NEW	98-12-043	296-150C-1080	AMD	98-14-078
296-46-915	AMD-P	98-07-097	296-86A-080	NEW-P	98-07-094	296-150C-1170	AMD-P	98-07-095
296-46-915	AMD	98-12-042	296-86A-080	NEW	98-12-043	296-150C-1170	AMD	98-14-078
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296-56	PREP	98-12-080	296-104-010	AMD-P	98-16-079	296-150C-1720	AMD-P	98-07-095
296-62	PREP	98-08-104	296-104-017	NEW-P	98-16-079	296-150C-1720	AMD	98-14-078
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296-62-07477	AMD	98-10-029	296-104-200	AMD-P	98-16-079	296-150C-1740	AMD	98-14-078
296-62-07515	AMD-P	98-05-061	296-104-265	AMD-P	98-16-079	296-150C-1750	NEW-P	98-07-095
296-62-07515	AMD-E	98-10-028	296-104-307	NEW-P	98-16-079	296-150C-1750	NEW	98-14-078
296-62-07515	AMD	98-10-029	296-104-310	AMD-P	98-16-079	296-150C-1751	NEW-P	98-07-095
296-65	PREP	98-08-104	296-104-405	AMD-P	98-16-079	296-150C-1751	NEW	98-14-078
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296-150F-0210	AMD-P	98-07-095	296-155-48523	REP	98-05-046	296-307-18010	NEW-P	98-16-100
296-150F-0210	AMD	98-14-078	296-155-48525	REP	98-05-046	296-307-18015	NEW-P	98-16-100
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296-150M-0020	AMD-P	98-07-095	296-155-488	NEW	98-05-046	296-307-18515	AMD-P	98-16-100
296-150M-0020	AMD	98-14-078	296-155-489	NEW	98-05-046	296-307-190	AMD-P	98-16-100
296-150M-0306	NEW-P	98-07-095	296-155-490	NEW	98-05-046	296-307-19006	AMD-P	98-16-100
296-150M-0306	NEW	98-14-078	296-155-493	NEW	98-05-046	296-307-19009	AMD-P	98-16-100
296-150M-0307	NEW-P	98-07-095	296-155-494	NEW	98-05-046	296-307-19012	AMD-P	98-16-100
296-150M-0307	NEW	98-14-078	296-155-496	NEW	98-05-046	296-307-20505	AMD-P	98-16-100
296-150M-0310	AMD-P	98-07-095	296-155-497	NEW	98-05-046	296-307-22012	AMD-P	98-16-100
296-150M-0310	AMD	98-14-078	296-155-498	NEW	98-05-046	296-307-22509	AMD-P	98-16-100
296-150M-0331	NEW-P	98-07-095	296-155-528	NEW	98-05-046	296-307-230	AMD-P	98-16-100
296-150M-0331	NEW	98-14-078	296-155-605	AMD	98-05-046	296-307-232	AMD-P	98-16-100
296-150M-0400	AMD-P	98-07-095	296-155-615	AMD	98-05-046	296-307-24003	AMD-P	98-16-100
296-150M-0400	AMD	98-14-078	296-155-683	AMD	98-05-046	296-307-25012	AMD-P	98-16-100
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296-150M-0640	AMD-P	98-07-095	296-301-020	AMD	98-10-073	296-307-28006	AMD-P	98-16-100
296-150M-0640	AMD	98-14-078	296-305	PREP	98-11-075	296-307-28008	REP-P	98-16-100
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296-150M-0700	REP	98-14-078	296-307-006	AMD-P	98-16-100	296-307-28016	AMD-P	98-16-100
296-150M-0710	REP-P	98-07-095	296-307-009	AMD-P	98-16-100	296-307-28018	AMD-P	98-16-100
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296-150P-3000	AMD	98-12-041	296-307-076	AMD-P	98-16-100	296-307-28052	AMD-P	98-16-100
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296-307-41041	AMD-P	98-16-100	296-400A-027	NEW	98-13-126	296-401A-150	NEW	98-12-042
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296-307-42501	AMD-P	98-16-100	296-400A-045	AMD	98-13-126	296-401A-230	NEW	98-12-042
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296-307-44007	AMD-P	98-16-100	296-401-020	REP	98-12-042	296-401A-420	NEW	98-12-042
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296-307-45023	AMD-P	98-16-100	296-401-075	REP	98-12-042	296-401A-510	NEW	98-12-042
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296-401A-630	NEW	98-12-042	308-56A-025	PREP	98-14-080	308-93-071	AMD	98-16-030
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388-49-355	REP	98-16-044	388-49-570	REP	98-16-044	388-76-60000	NEW	98-12-054
388-49-360	AMD-W	98-06-076	388-49-580	REP-P	98-04-039	388-76-60010	NEW	98-12-054
388-49-360	REP-P	98-11-084	388-49-580	REP-E	98-04-040	388-76-60020	NEW	98-12-054
388-49-360	REP	98-16-044	388-49-580	AMD	98-10-025	388-76-60030	NEW	98-12-054
388-49-362	REP-P	98-11-084	388-49-580	REP-P	98-11-084	388-76-60040	NEW	98-12-054
388-49-362	REP	98-16-044	388-49-580	REP	98-16-044	388-76-60050	NEW	98-12-054
388-49-364	REP-P	98-11-084	388-49-590	REP-P	98-11-084	388-76-60060	NEW	98-12-054
388-49-364	REP	98-16-044	388-49-590	REP	98-16-044	388-76-60070	NEW	98-12-054
388-49-366	REP-P	98-11-084	388-49-600	REP-P	98-11-084	388-76-605	AMD-S	98-02-077
388-49-366	REP	98-16-044	388-49-600	REP	98-16-044	388-76-605	AMD	98-11-095
388-49-368	REP-P	98-11-084	388-49-610	REP-P	98-11-084	388-76-610	AMD-S	98-04-032
388-49-368	REP	98-16-044	388-49-610	REP	98-16-044	388-76-610	AMD-W	98-08-091
388-49-369	REP-P	98-11-084	388-49-620	REP-P	98-11-084	388-76-610	AMD	98-12-054
388-49-369	REP	98-16-044	388-49-620	REP	98-16-044	388-76-61000	NEW	98-12-054
388-49-370	REP-P	98-11-084	388-49-630	REP-P	98-11-084	388-76-61010	NEW	98-12-054
388-49-370	REP	98-16-044	388-49-630	REP	98-16-044	388-76-61020	NEW	98-12-054
388-49-380	AMD-W	98-06-076	388-49-640	REP-P	98-11-084	388-76-61030	NEW	98-12-054
388-49-380	REP-P	98-11-084	388-49-640	REP	98-16-044	388-76-61040	NEW	98-12-054
388-49-380	REP	98-16-044	388-49-650	REP-P	98-11-084	388-76-61050	NEW	98-12-054
388-49-385	AMD-W	98-06-076	388-49-650	REP	98-16-044	388-76-61060	NEW	98-12-054
388-49-385	REP-P	98-11-084	388-49-660	REP-P	98-11-084	388-76-61070	NEW	98-12-054
388-49-385	REP	98-16-044	388-49-660	REP	98-16-044	388-76-61080	NEW	98-12-054
388-49-390	REP-P	98-11-084	388-49-670	REP-P	98-11-084	388-76-615	AMD-S	98-04-032
388-49-390	REP	98-16-044	388-49-670	REP	98-16-044	388-76-615	AMD	98-12-054
388-49-400	REP-P	98-11-084	388-49-680	REP-P	98-11-084	388-76-61500	NEW	98-12-054
388-49-400	REP	98-16-044	388-49-680	REP	98-16-044	388-76-61510	NEW	98-12-054
388-49-410	REP-P	98-11-084	388-49-690	REP-P	98-11-084	388-76-61520	NEW	98-12-054
388-49-410	REP	98-16-044	388-49-690	REP	98-16-044	388-76-61530	NEW	98-12-054
388-49-420	REP-P	98-11-084	388-49-700	REP-P	98-11-084	388-76-61540	NEW	98-12-054
388-49-420	REP	98-16-044	388-49-700	REP	98-16-044	388-76-61550	NEW	98-12-054
388-49-430	REP-P	98-11-084	388-55-006	REP-P	98-11-084	388-76-61560	NEW	98-12-054
388-49-430	REP	98-16-044	388-55-006	REP	98-16-044	388-76-61570	NEW	98-12-054
388-49-440	REP-P	98-11-084	388-55-008	REP-P	98-11-084	388-76-620	AMD-S	98-02-077
388-49-440	REP	98-16-044	388-55-008	REP	98-16-044	388-76-620	AMD	98-11-095
388-49-450	REP-P	98-11-084	388-55-010	REP-P	98-11-084	388-76-635	AMD-S	98-02-077
388-49-450	REP	98-16-044	388-55-010	REP	98-16-044	388-76-635	AMD	98-11-095
388-49-460	REP-P	98-11-084	388-55-020	REP-P	98-11-084	388-76-640	AMD-W	98-08-091
388-49-460	REP	98-16-044	388-55-020	REP	98-16-044	388-76-655	AMD-S	98-02-077
388-49-470	REP-P	98-11-084	388-55-030	REP-P	98-11-084	388-76-655	AMD	98-11-095
388-49-470	REP	98-16-044	388-55-030	REP	98-16-044	388-76-660	AMD-S	98-02-077
388-49-480	REP-P	98-11-084	388-55-040	REP-P	98-11-084	388-76-660	AMD	98-11-095
388-49-480	REP	98-16-044	388-55-040	REP	98-16-044	388-76-665	AMD-S	98-02-077
388-49-485	REP-P	98-11-084	388-55-060	REP-P	98-11-084	388-76-665	AMD	98-11-095
388-49-485	REP	98-16-044	388-55-060	REP	98-16-044	388-76-670	AMD-S	98-02-077
388-49-490	REP-P	98-11-084	388-61-001	AMD	98-07-040	388-76-670	AMD	98-11-095
388-49-490	REP	98-16-044	388-73	PREP	98-08-084	388-76-675	AMD-S	98-02-077
388-49-500	REP-P	98-11-084	388-76-540	AMD-S	98-02-077	388-76-675	AMD	98-11-095
388-49-500	REP	98-16-044	388-76-540	AMD	98-11-095	388-76-680	AMD-S	98-02-077
388-49-505	REP-P	98-11-084	388-76-550	AMD-S	98-02-077	388-76-685	AMD-S	98-02-077
388-49-505	REP	98-16-044	388-76-550	AMD	98-11-095	388-76-685	AMD-S	98-02-077
388-49-510	AMD	98-03-049	388-76-560	AMD-S	98-02-077	388-76-685	AMD	98-11-095
388-49-510	REP-P	98-11-084	388-76-560	AMD	98-11-095	388-76-690	AMD-S	98-02-077
388-49-510	REP	98-16-044	388-76-561	NEW-S	98-04-032	388-76-690	AMD	98-11-095
388-49-515	REP-P	98-11-084	388-76-570	AMD-S	98-02-077	388-76-695	AMD-S	98-02-077
388-49-515	REP	98-16-044	388-76-570	AMD	98-11-095	388-76-695	AMD	98-11-095
388-49-520	REP-P	98-11-084	388-76-590	AMD-S	98-04-032	388-76-705	AMD-S	98-02-077
388-49-520	REP	98-16-044	388-76-590	AMD-W	98-08-091	388-76-705	AMD	98-11-095
388-49-535	REP-P	98-11-084	388-76-590	AMD	98-12-054	388-76-765	AMD-W	98-08-091
388-49-535	REP	98-16-044	388-76-59000	NEW	98-12-054	388-79	NEW-C	98-05-053
388-49-550	AMD-P	98-04-039	388-76-59010	NEW	98-12-054	388-79-010	NEW-P	98-03-085
388-49-550	AMD-E	98-04-040	388-76-59020	NEW	98-12-054	388-79-010	NEW	98-10-055
388-49-550	AMD	98-10-025	388-76-59050	NEW	98-12-054	388-79-020	NEW-P	98-03-085
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388-79-030	NEW	98-10-055	388-96-571	REP-P	98-15-141	388-200-1150	REP-P	98-11-084
388-79-040	NEW-P	98-03-085	388-96-573	REP-P	98-15-141	388-200-1150	REP	98-16-044
388-79-040	NEW	98-10-055	388-96-580	AMD-P	98-15-141	388-210-1000	REP-P	98-11-084
388-86	PREP	98-10-106	388-96-585	AMD-P	98-15-141	388-210-1000	REP	98-16-044
388-86-005	AMD-P	98-15-140	388-96-704	AMD-P	98-15-141	388-210-1010	REP-P	98-11-084
388-86-015	REP-P	98-13-082	388-96-708	AMD-P	98-15-141	388-210-1010	REP	98-16-044
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388-86-024	PREP	98-15-112	388-96-710	AMD-P	98-15-141	388-210-1020	REP	98-16-044
388-86-027	AMD-P	98-11-084	388-96-713	AMD-P	98-15-141	388-210-1050	REP-P	98-11-084
388-86-027	AMD	98-16-044	388-96-716	REP-P	98-15-141	388-210-1050	REP	98-16-044
388-86-045	PREP	98-13-086	388-96-717	REP-P	98-15-141	388-210-1100	REP-P	98-11-084
388-86-080	REP-P	98-13-082	388-96-718	NEW-E	98-11-094	388-210-1100	REP	98-16-044
388-86-080	REP	98-16-050	388-96-718	NEW-P	98-15-103	388-210-1200	REP-P	98-11-084
388-86-095	REP-P	98-13-082	388-96-719	REP-P	98-15-141	388-210-1200	REP	98-16-044
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388-87	PREP	98-10-106	388-96-723	NEW-P	98-15-141	388-210-1220	REP	98-16-044
388-87	PREP	98-13-086	388-96-724	NEW-P	98-15-141	388-210-1230	REP-P	98-11-084
388-96	PREP	98-03-077	388-96-725	NEW-P	98-15-141	388-210-1230	REP	98-16-044
388-96	PREP	98-06-066	388-96-726	NEW-P	98-15-141	388-210-1250	REP-P	98-11-084
388-96	AMD-P	98-15-141	388-96-727	REP-P	98-15-141	388-210-1250	REP	98-16-044
388-96-010	AMD-P	98-15-141	388-96-728	NEW-P	98-15-141	388-210-1300	REP-P	98-11-084
388-96-020	AMD-P	98-15-141	388-96-729	NEW-P	98-15-141	388-210-1300	REP	98-16-044
388-96-023	REP-P	98-15-141	388-96-735	REP-P	98-15-141	388-210-1310	REP-P	98-11-084
388-96-026	AMD-P	98-15-141	388-96-737	REP-P	98-15-141	388-210-1310	REP	98-16-044
388-96-029	REP-P	98-15-141	388-96-738	NEW-P	98-15-141	388-210-1320	REP-P	98-11-084
388-96-032	REP-P	98-15-141	388-96-739	NEW-P	98-15-141	388-210-1320	REP	98-16-044
388-96-101	REP-P	98-15-141	388-96-740	NEW-P	98-15-141	388-210-1330	REP-P	98-11-084
388-96-104	REP-P	98-15-141	388-96-741	NEW-P	98-15-141	388-210-1330	REP	98-16-044
388-96-108	AMD-P	98-15-141	388-96-742	NEW-P	98-15-141	388-210-1340	REP-P	98-11-084
388-96-110	REP-P	98-15-141	388-96-744	NEW-P	98-15-141	388-210-1340	REP	98-16-044
388-96-113	REP-P	98-15-141	388-96-745	REP-P	98-15-141	388-210-1350	REP-P	98-11-084
388-96-119	AMD-P	98-15-141	388-96-746	NEW-P	98-15-141	388-210-1350	REP	98-16-044
388-96-122	AMD-P	98-15-141	388-96-747	NEW-P	98-15-141	388-210-1400	REP-P	98-11-084
388-96-128	REP-P	98-15-141	388-96-752	REP-P	98-15-141	388-210-1400	REP	98-16-044
388-96-131	REP-P	98-15-141	388-96-754	REP-P	98-15-141	388-210-1410	REP-P	98-11-084
388-96-134	REP-P	98-15-141	388-96-757	AMD-P	98-15-141	388-210-1410	REP	98-16-044
388-96-202	NEW-P	98-15-141	388-96-760	AMD-P	98-15-141	388-210-1420	REP-P	98-11-084
388-96-204	REP-P	98-15-141	388-96-761	REP-P	98-15-141	388-210-1420	REP	98-16-044
388-96-207	REP-P	98-15-141	388-96-763	REP-P	98-15-141	388-212-1000	REP-P	98-11-084
388-96-210	REP-P	98-15-141	388-96-764	REP-P	98-15-141	388-212-1000	REP	98-16-044
388-96-213	REP-P	98-15-141	388-96-765	REP-P	98-15-141	388-212-1050	REP-P	98-11-084
388-96-218	NEW-P	98-15-141	388-96-768	REP-P	98-15-141	388-212-1050	REP	98-16-044
388-96-220	REP-P	98-15-141	388-96-769	REP-P	98-15-141	388-212-1100	REP-P	98-11-084
388-96-221	REP-P	98-15-141	388-96-774	REP-P	98-15-141	388-212-1100	REP	98-16-044
388-96-224	REP-P	98-15-141	388-96-776	AMD-P	98-15-141	388-212-1140	REP-P	98-11-084
388-96-226	REP-P	98-15-141	388-96-778	REP-P	98-15-141	388-212-1140	REP	98-16-044
388-96-228	REP-P	98-15-141	388-96-801	REP-P	98-15-141	388-212-1150	REP-P	98-11-084
388-96-229	REP-P	98-15-141	388-96-804	REP-P	98-15-141	388-212-1150	REP	98-16-044
388-96-501	REP-P	98-15-141	388-96-807	REP-P	98-15-141	388-212-1200	REP-P	98-11-084
388-96-502	AMD-P	98-15-141	388-96-810	REP-P	98-15-141	388-212-1200	REP	98-16-044
388-96-503	REP-P	98-15-141	388-96-813	REP-P	98-15-141	388-212-1250	REP-P	98-11-084
388-96-505	AMD-P	98-15-141	388-96-816	REP-P	98-15-141	388-212-1250	REP	98-16-044
388-96-507	REP-P	98-15-141	388-96-901	AMD-P	98-15-141	388-215-1000	REP-P	98-11-084
388-96-508	REP-P	98-15-141	388-96-904	AMD-P	98-15-141	388-215-1000	REP	98-16-044
388-96-509	REP-P	98-15-141	388-96-905	NEW-P	98-15-141	388-215-1010	REP-P	98-11-084
388-96-513	REP-P	98-15-141	388-97	PREP	98-06-089	388-215-1010	REP	98-16-044
388-96-521	REP-P	98-15-141	388-97-235	AMD-W	98-13-077	388-215-1025	REP-P	98-11-084
388-96-523	REP-P	98-15-141	388-150-180	PREP	98-02-057	388-215-1025	REP	98-16-044
388-96-525	AMD-P	98-15-141	388-150-190	PREP	98-02-057	388-215-1050	REP-P	98-11-084
388-96-529	REP-P	98-15-141	388-150-200	PREP	98-02-057	388-215-1050	REP	98-16-044
388-96-530	NEW-P	98-15-141	388-150-470	PREP	98-02-057	388-215-1060	REP-P	98-11-084
388-96-531	REP-P	98-15-141	388-151	PREP	98-10-104	388-215-1060	REP	98-16-044
388-96-532	NEW-P	98-15-141	388-151-180	PREP	98-02-057	388-215-1070	REP-P	98-11-084
388-96-533	REP-P	98-15-141	388-151-190	PREP	98-02-057	388-215-1070	REP	98-16-044
388-96-535	AMD-P	98-15-141	388-151-200	PREP	98-02-057	388-215-1080	REP-P	98-11-084
388-96-536	NEW-P	98-15-141	388-151-470	PREP	98-02-057	388-215-1080	REP	98-16-044
388-96-540	NEW-P	98-15-141	388-155-180	PREP	98-02-057	388-215-1100	REP-P	98-11-084
388-96-542	NEW-P	98-15-141	388-155-190	PREP	98-02-057	388-215-1100	REP	98-16-044
388-96-543	REP-P	98-15-141	388-155-200	PREP	98-02-057	388-215-1110	REP-P	98-11-084
388-96-555	REP-P	98-15-141	388-155-470	PREP	98-02-057	388-215-1110	REP	98-16-044
388-96-557	REP-P	98-15-141	388-160	PREP	98-08-084	388-215-1115	REP-P	98-11-084
388-96-567	REP-P	98-15-141	388-200-1100	REP-P	98-11-084	388-215-1115	REP	98-16-044

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388-218-1605	REP-P	98-11-084	388-219-3500	REP	98-16-044	388-233-0090	REP	98-16-044
388-218-1605	REP	98-16-044	388-220-0001	REP-P	98-11-084	388-233-0100	REP-P	98-11-084
388-218-1610	REP-P	98-11-084	388-220-0001	REP	98-16-044	388-233-0100	REP	98-16-044
388-218-1610	REP	98-16-044	388-220-0030	REP-P	98-11-084	388-235	PREP	98-07-038
388-218-1620	REP-P	98-11-084	388-220-0030	REP	98-16-044	388-235-0010	REP-P	98-11-084
388-218-1620	REP	98-16-044	388-220-0050	NEW	98-08-036	388-235-0010	REP	98-16-044
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388-218-1630	REP	98-16-044	388-220-0050	REP	98-16-044	388-235-0020	REP	98-16-044
388-218-1640	REP-P	98-11-084	388-225-0010	REP-P	98-11-084	388-235-0030	REP-P	98-11-084
388-218-1640	REP	98-16-044	388-225-0010	REP	98-16-044	388-235-0030	AMD-E	98-14-086
388-218-1650	REP-P	98-11-084	388-225-0020	REP-P	98-11-084	388-235-0030	REP	98-16-044
388-218-1650	REP	98-16-044	388-225-0020	REP	98-16-044	388-235-0040	REP-P	98-11-084
388-218-1660	REP-P	98-11-084	388-225-0050	REP-P	98-11-084	388-235-0040	REP	98-16-044
388-218-1660	REP	98-16-044	388-225-0050	REP	98-16-044	388-235-0050	REP-P	98-11-084
388-218-1670	REP-P	98-11-084	388-225-0060	REP-P	98-11-084	388-235-0050	REP	98-16-044
388-218-1670	REP	98-16-044	388-225-0060	REP	98-16-044	388-235-0060	REP-P	98-11-084
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388-218-1680	REP	98-16-044	388-225-0070	REP	98-16-044	388-235-0070	REP-P	98-11-084
388-218-1690	REP-P	98-11-084	388-225-0080	REP-P	98-11-084	388-235-0070	REP	98-16-044
388-218-1690	REP	98-16-044	388-225-0080	REP	98-16-044	388-235-0080	REP-P	98-11-084
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388-218-1695	REP	98-16-044	388-225-0090	REP	98-16-044	388-235-0090	REP-P	98-11-084
388-218-1700	REP-P	98-03-084	388-225-0100	REP-P	98-11-084	388-235-0090	REP	98-16-044
388-218-1700	REP	98-06-056	388-225-0100	REP	98-16-044	388-235-0100	REP-P	98-11-084
388-218-1710	REP-P	98-11-084	388-225-0120	REP-P	98-11-084	388-235-0100	REP	98-16-044
388-218-1710	REP	98-16-044	388-225-0120	REP	98-16-044	388-235-0110	REP-P	98-11-084
388-218-1720	REP-P	98-11-084	388-225-0150	REP-P	98-11-084	388-235-0110	REP	98-16-044
388-218-1720	REP	98-16-044	388-225-0150	REP	98-16-044	388-235-2000	REP-P	98-11-084
388-218-1735	REP-P	98-11-084	388-225-0160	REP-P	98-11-084	388-235-2000	REP	98-16-044
388-218-1735	REP	98-16-044	388-225-0160	REP	98-16-044	388-235-3000	REP-P	98-11-084
388-218-1740	REP-P	98-11-084	388-225-0170	REP-P	98-11-084	388-235-3000	REP	98-16-044
388-218-1740	REP	98-16-044	388-225-0170	REP	98-16-044	388-235-4000	REP-P	98-11-084
388-218-1800	REP-P	98-03-084	388-225-0180	REP-P	98-11-084	388-235-4000	REP	98-16-044
388-218-1800	REP	98-06-056	388-225-0180	REP	98-16-044	388-245-1000	REP-P	98-11-084
388-218-1810	REP-P	98-11-084	388-225-0190	REP-P	98-11-084	388-245-1000	REP	98-16-044
388-218-1810	REP	98-16-044	388-225-0190	REP	98-16-044	388-245-1150	AMD	98-04-015
388-218-1820	REP-P	98-11-084	388-230-0010	REP-P	98-11-084	388-245-1150	REP-P	98-11-084
388-218-1820	REP	98-16-044	388-230-0010	REP	98-16-044	388-245-1150	REP	98-16-044
388-218-1830	REP-P	98-11-084	388-230-0030	REP-P	98-11-084	388-245-1160	REP-P	98-11-084
388-218-1830	REP	98-16-044	388-230-0030	REP	98-16-044	388-245-1160	REP	98-16-044
388-218-1900	REP-P	98-11-084	388-230-0050	REP-P	98-11-084	388-245-1170	REP-P	98-11-084
388-218-1900	REP	98-16-044	388-230-0050	REP	98-16-044	388-245-1170	REP	98-16-044
388-218-1910	REP-P	98-11-084	388-230-0060	REP-P	98-11-084	388-245-1210	REP-P	98-11-084
388-218-1910	REP	98-16-044	388-230-0060	AMD-E	98-14-086	388-245-1210	REP	98-16-044
388-218-1920	REP-P	98-11-084	388-230-0060	REP	98-16-044	388-245-1300	REP-P	98-11-084
388-218-1920	REP	98-16-044	388-230-0080	REP-P	98-11-084	388-245-1300	REP	98-16-044
388-218-1930	REP-P	98-11-084	388-230-0080	REP	98-16-044	388-245-1310	REP-P	98-11-084
388-218-1930	REP	98-16-044	388-230-0090	REP-P	98-11-084	388-245-1310	REP	98-16-044
388-218-1940	REP-P	98-03-084	388-230-0090	REP	98-16-044	388-245-1315	REP-P	98-11-084
388-218-1940	REP	98-06-056	388-230-0110	REP-P	98-11-084	388-245-1315	REP	98-16-044
388-219-0100	REP-P	98-11-084	388-230-0110	REP	98-16-044	388-245-1320	REP-P	98-11-084
388-219-0100	REP	98-16-044	388-230-0120	REP-P	98-11-084	388-245-1320	REP	98-16-044
388-219-0200	REP-P	98-11-084	388-230-0120	REP	98-16-044	388-245-1350	REP-P	98-11-084
388-219-0200	REP	98-16-044	388-230-0140	REP-P	98-11-084	388-245-1350	REP	98-16-044
388-219-1000	REP-P	98-11-084	388-230-0140	REP	98-16-044	388-245-1400	REP-P	98-11-084
388-219-1000	REP	98-16-044	388-233-0010	REP-P	98-11-084	388-245-1400	REP	98-16-044
388-219-1100	REP-P	98-11-084	388-233-0010	REP	98-16-044	388-245-1410	REP-P	98-11-084
388-219-1100	REP	98-16-044	388-233-0020	REP-P	98-11-084	388-245-1410	REP	98-16-044
388-219-1500	REP-P	98-11-084	388-233-0020	REP	98-16-044	388-245-1500	REP-P	98-11-084
388-219-1500	REP	98-16-044	388-233-0030	REP-P	98-11-084	388-245-1500	REP	98-16-044
388-219-1600	REP-P	98-11-084	388-233-0030	REP	98-16-044	388-245-1510	AMD	98-04-016
388-219-1600	REP	98-16-044	388-233-0035	NEW-E	98-14-086	388-245-1510	REP-P	98-11-084
388-219-1700	REP-P	98-11-084	388-233-0040	REP-P	98-11-084	388-245-1510	REP	98-16-044
388-219-1700	REP	98-16-044	388-233-0040	REP	98-16-044	388-245-1520	REP-P	98-11-084
388-219-2000	REP-P	98-11-084	388-233-0050	REP-P	98-11-084	388-245-1520	REP	98-16-044
388-219-2000	REP	98-16-044	388-233-0050	REP	98-16-044	388-245-1600	REP-P	98-11-084
388-219-2500	REP-P	98-11-084	388-233-0060	REP-P	98-11-084	388-245-1600	REP	98-16-044
388-219-2500	REP	98-16-044	388-233-0060	REP	98-16-044	388-245-1610	REP-P	98-11-084
388-219-2600	REP-P	98-11-084	388-233-0070	REP-P	98-11-084	388-245-1610	REP	98-16-044
388-219-2600	REP	98-16-044	388-233-0070	REP	98-16-044	388-245-1700	REP-P	98-11-084
388-219-3000	REP-P	98-11-084	388-233-0080	REP-P	98-11-084	388-245-1700	REP	98-16-044
388-219-3000	REP	98-16-044	388-233-0080	REP	98-16-044	388-245-1710	REP-P	98-11-084

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-245-1710	REP	98-16-044	388-265-1300	AMD-P	98-11-074	388-290-025	AMD-P	98-03-083
388-245-1715	REP-P	98-11-084	388-265-1375	NEW-P	98-11-074	388-290-025	AMD	98-08-021
388-245-1715	REP	98-16-044	388-265-1400	REP-P	98-11-074	388-290-035	AMD-P	98-03-083
388-245-1720	REP-P	98-11-084	388-265-1450	AMD-P	98-11-074	388-290-035	AMD	98-08-021
388-245-1720	REP	98-16-044	388-265-1500	AMD-P	98-11-074	388-290-050	AMD-P	98-03-083
388-245-1730	REP-P	98-11-084	388-265-1500	AMD-W	98-16-038	388-290-050	AMD	98-08-021
388-245-1730	REP	98-16-044	388-265-1550	REP-P	98-11-074	388-290-055	PREP	98-08-075
388-245-1740	REP-P	98-11-084	388-265-1550	REP-P	98-11-084	388-290-055	AMD-E	98-16-026
388-245-1740	REP	98-16-044	388-265-1550	REP-W	98-16-038	388-290-055	RESCIND	98-16-040
388-245-2010	REP-P	98-11-084	388-265-1550	REP	98-16-044	388-290-055	AMD-E	98-16-093
388-245-2010	REP	98-16-044	388-265-1600	AMD-P	98-11-074	388-290-090	AMD-P	98-03-083
388-245-2020	REP-P	98-11-084	388-265-1700	REP-P	98-11-074	388-290-090	AMD	98-08-021
388-245-2020	REP	98-16-044	388-265-1700	REP-P	98-11-084	388-290-090	PREP	98-08-075
388-245-2030	REP-P	98-11-084	388-265-1700	REP	98-16-044	388-310-0400	AMD-P	98-15-139
388-245-2030	REP	98-16-044	388-265-1800	REP-P	98-11-084	388-310-0500	AMD-P	98-15-139
388-245-2040	REP-P	98-11-084	388-265-1800	REP	98-16-044	388-310-1000	AMD-P	98-15-139
388-245-2040	REP	98-16-044	388-265-1850	REP-P	98-11-084	388-310-1050	NEW-P	98-15-139
388-245-2050	REP-P	98-11-084	388-265-1850	REP	98-16-044	388-310-1300	NEW-S	98-03-080
388-245-2050	REP	98-16-044	388-265-1900	REP-P	98-11-084	388-310-1300	NEW-S	98-07-042
388-250-1010	REP-P	98-11-084	388-265-1900	REP	98-16-044	388-310-1300	NEW	98-10-054
388-250-1010	REP	98-16-044	388-265-1950	REP-P	98-11-084	388-310-1600	AMD-P	98-15-139
388-250-1050	REP-P	98-11-084	388-265-1950	REP	98-16-044	388-320-340	REP-P	98-08-076
388-250-1050	REP	98-16-044	388-265-2000	REP-P	98-11-084	388-320-340	REP	98-11-034
388-250-1100	REP-P	98-11-084	388-265-2000	REP	98-16-044	388-400-0005	NEW-P	98-11-084
388-250-1100	REP	98-16-044	388-270-1005	REP-P	98-11-084	388-400-0005	NEW	98-16-044
388-250-1150	REP-P	98-11-084	388-270-1005	REP	98-16-044	388-400-0010	NEW-P	98-11-084
388-250-1150	REP	98-16-044	388-270-1010	REP-P	98-11-084	388-400-0010	NEW	98-16-044
388-250-1200	REP-P	98-11-084	388-270-1010	REP	98-16-044	388-400-0015	NEW-P	98-11-084
388-250-1200	REP	98-16-044	388-270-1025	REP-P	98-11-084	388-400-0015	NEW	98-16-044
388-250-1225	REP-P	98-11-084	388-270-1025	REP	98-16-044	388-400-0020	NEW-P	98-11-084
388-250-1225	REP	98-16-044	388-270-1075	REP-P	98-11-084	388-400-0020	NEW	98-16-044
388-250-1250	AMD	98-08-037	388-270-1075	REP	98-16-044	388-400-0025	NEW-P	98-11-084
388-250-1250	REP-P	98-11-084	388-270-1100	REP-P	98-11-084	388-400-0025	NEW	98-16-044
388-250-1250	REP	98-16-044	388-270-1100	REP	98-16-044	388-400-0030	NEW-P	98-11-084
388-250-1300	REP-P	98-11-084	388-270-1110	REP-P	98-11-084	388-400-0030	NEW	98-16-044
388-250-1300	REP	98-16-044	388-270-1110	REP	98-16-044	388-400-0035	NEW-P	98-11-084
388-250-1310	REP-P	98-11-084	388-270-1125	REP-P	98-11-084	388-400-0035	NEW	98-16-044
388-250-1310	REP	98-16-044	388-270-1125	REP	98-16-044	388-400-0040	NEW-P	98-11-084
388-250-1350	REP-P	98-11-084	388-270-1150	REP-P	98-11-084	388-400-0040	NEW	98-16-044
388-250-1350	REP	98-16-044	388-270-1150	REP	98-16-044	388-400-0045	NEW-P	98-13-080
388-250-1400	REP-P	98-11-084	388-270-1200	REP-P	98-11-084	388-400-0045	NEW	98-16-044
388-250-1400	REP	98-16-044	388-270-1200	REP	98-16-044	388-404-0005	NEW-P	98-11-084
388-250-1450	REP-P	98-11-084	388-270-1250	REP-P	98-11-084	388-404-0005	NEW	98-16-044
388-250-1450	REP	98-16-044	388-270-1250	REP	98-16-044	388-404-0010	NEW-P	98-11-084
388-250-1500	REP-P	98-11-084	388-270-1300	REP-P	98-11-084	388-404-0010	NEW	98-16-044
388-250-1500	REP	98-16-044	388-270-1300	REP	98-16-044	388-404-0015	NEW-P	98-11-084
388-250-1550	REP-P	98-11-084	388-270-1400	REP-P	98-11-084	388-404-0015	NEW	98-16-044
388-250-1550	REP	98-16-044	388-270-1400	REP	98-16-044	388-406-0005	NEW-P	98-11-084
388-250-1600	REP-P	98-11-084	388-270-1500	REP-P	98-11-084	388-406-0005	NEW	98-16-044
388-250-1600	REP	98-16-044	388-270-1500	REP	98-16-044	388-406-0010	NEW-P	98-11-084
388-250-1650	REP-P	98-11-084	388-270-1550	REP-P	98-11-084	388-406-0010	NEW	98-16-044
388-250-1650	REP	98-16-044	388-270-1550	REP	98-16-044	388-406-0015	NEW-P	98-11-084
388-250-1700	AMD	98-06-057	388-270-1600	REP-P	98-11-084	388-406-0015	NEW	98-16-044
388-250-1700	REP-P	98-11-084	388-270-1600	REP	98-16-044	388-406-0020	NEW-P	98-11-084
388-250-1700	REP	98-16-044	388-275	PREP	98-07-036	388-406-0020	NEW	98-16-044
388-250-1750	REP-P	98-11-084	388-275-0020	REP-P	98-11-084	388-406-0025	NEW-P	98-11-084
388-250-1750	REP	98-16-044	388-275-0020	REP	98-16-044	388-406-0025	NEW	98-16-044
388-255-1350	REP-P	98-11-084	388-275-0030	REP-P	98-11-084	388-406-0030	NEW-P	98-11-084
388-255-1350	REP	98-16-044	388-275-0030	REP	98-16-044	388-406-0030	NEW	98-16-044
388-255-1400	REP-P	98-11-084	388-275-0050	REP-P	98-11-084	388-406-0035	NEW-P	98-11-084
388-255-1400	REP	98-16-044	388-275-0050	REP	98-16-044	388-406-0035	NEW	98-16-044
388-265	PREP	98-07-099	388-275-0060	REP-P	98-11-084	388-406-0040	NEW-P	98-11-084
388-265-1010	REP-P	98-11-084	388-275-0060	REP	98-16-044	388-406-0040	NEW	98-16-044
388-265-1010	REP	98-16-044	388-275-0070	REP-P	98-11-084	388-406-0045	NEW-P	98-11-084
388-265-1050	REP-P	98-11-084	388-275-0070	REP	98-16-044	388-406-0045	NEW	98-16-044
388-265-1050	REP	98-16-044	388-275-0090	REP-P	98-11-084	388-406-0050	NEW-P	98-11-084
388-265-1100	REP-P	98-11-084	388-275-0090	REP	98-16-044	388-406-0050	NEW	98-16-044
388-265-1100	REP	98-16-044	388-280	PREP	98-07-037	388-406-0055	NEW-P	98-11-084
388-265-1150	AMD-P	98-11-074	388-290	PREP	98-08-075	388-406-0055	NEW	98-16-044
388-265-1155	NEW-P	98-11-074	388-290-010	AMD-P	98-03-083	388-406-0060	NEW-P	98-11-084
388-265-1200	AMD-P	98-11-074	388-290-010	AMD	98-08-021	388-406-0060	NEW	98-16-044
388-265-1250	AMD-P	98-11-074	388-290-020	AMD-P	98-03-083	388-406-0065	NEW-P	98-11-084
388-265-1275	AMD-P	98-11-074	388-290-020	AMD	98-08-021	388-406-0065	NEW	98-16-044

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388-408-0005	NEW-P	98-11-084	388-418-0005	NEW-P	98-11-084	388-436-0045	NEW	98-16-044
388-408-0005	NEW	98-16-044	388-418-0005	NEW	98-16-044	388-436-0050	NEW-P	98-11-084
388-408-0010	NEW-P	98-11-084	388-418-0010	NEW-P	98-11-084	388-436-0050	NEW-W	98-13-054
388-408-0010	NEW	98-16-044	388-418-0010	NEW	98-16-044	388-436-0050	NEW-P	98-13-080
388-408-0015	NEW-P	98-11-084	388-418-0015	NEW-P	98-11-084	388-436-0050	NEW	98-16-044
388-408-0015	NEW	98-16-044	388-418-0015	NEW	98-16-044	388-437-0001	NEW-P	98-11-084
388-408-0020	NEW-P	98-11-084	388-418-0020	NEW-P	98-11-084	388-437-0001	NEW	98-16-044
388-408-0020	NEW	98-16-044	388-418-0020	NEW	98-16-044	388-438-0100	NEW-P	98-11-084
388-408-0025	NEW-P	98-11-084	388-418-0025	NEW-P	98-11-084	388-438-0100	NEW	98-16-044
388-408-0025	NEW	98-16-044	388-418-0025	NEW	98-16-044	388-438-0110	NEW-P	98-11-084
388-408-0030	NEW-P	98-11-084	388-418-0030	NEW-P	98-11-084	388-438-0110	NEW	98-16-044
388-408-0030	NEW	98-16-044	388-418-0030	NEW	98-16-044	388-440-0001	NEW-P	98-11-084
388-408-0035	NEW-P	98-11-084	388-420-010	NEW-P	98-11-084	388-440-0001	NEW	98-16-044
388-408-0035	NEW	98-16-044	388-420-010	NEW	98-16-044	388-440-0005	NEW-P	98-11-084
388-408-0040	NEW-P	98-11-084	388-422-0005	NEW-P	98-11-084	388-440-0005	NEW	98-16-044
388-408-0040	NEW	98-16-044	388-422-0005	NEW	98-16-044	388-442-0010	NEW-P	98-11-084
388-408-0045	NEW-P	98-11-084	388-422-0010	NEW-P	98-11-084	388-442-0010	NEW	98-16-044
388-408-0045	NEW	98-16-044	388-422-0010	NEW	98-16-044	388-444-0005	NEW-P	98-11-084
388-408-0050	NEW-P	98-11-084	388-422-0020	NEW-P	98-11-084	388-444-0005	NEW	98-16-044
388-408-0050	NEW	98-16-044	388-422-0020	NEW	98-16-044	388-444-0010	NEW-P	98-11-084
388-408-0055	NEW-P	98-11-084	388-422-0030	NEW-P	98-11-084	388-444-0010	NEW	98-16-044
388-408-0055	NEW	98-16-044	388-422-0030	NEW	98-16-044	388-444-0015	NEW-P	98-11-084
388-410-0001	NEW-P	98-11-084	388-424-0005	NEW-P	98-11-084	388-444-0015	NEW	98-16-044
388-410-0001	NEW	98-16-044	388-424-0005	NEW	98-16-044	388-444-0020	NEW-P	98-11-084
388-410-0005	NEW-P	98-11-084	388-424-0010	NEW-P	98-11-084	388-444-0020	NEW	98-16-044
388-410-0005	NEW	98-16-044	388-424-0010	NEW	98-16-044	388-444-0025	NEW	98-16-044
388-410-0010	NEW-P	98-11-084	388-424-0015	NEW-P	98-11-084	388-444-0030	NEW-P	98-11-084
388-410-0010	NEW	98-16-044	388-424-0015	NEW	98-16-044	388-444-0030	NEW	98-16-044
388-410-0015	NEW-P	98-11-084	388-424-0020	NEW-P	98-11-084	388-444-0035	NEW-P	98-11-084
388-410-0015	NEW	98-16-044	388-424-0020	NEW	98-16-044	388-444-0035	NEW	98-16-044
388-410-0020	NEW-P	98-11-084	388-424-0025	NEW-P	98-11-084	388-444-0040	NEW-P	98-11-084
388-410-0020	NEW	98-16-044	388-424-0025	NEW	98-16-044	388-444-0040	NEW	98-16-044
388-410-0025	NEW-P	98-11-084	388-426-0005	NEW-P	98-11-084	388-444-0045	NEW-P	98-11-084
388-410-0025	NEW	98-16-044	388-426-0005	NEW	98-16-044	388-444-0045	NEW	98-16-044
388-410-0030	NEW-P	98-11-084	388-428-0005	NEW-P	98-11-084	388-444-0050	NEW-P	98-11-084
388-410-0030	NEW	98-16-044	388-428-0005	NEW-W	98-15-113	388-444-0050	NEW	98-16-044
388-410-0035	NEW-P	98-11-084	388-428-0010	NEW-P	98-11-084	388-444-0055	NEW-P	98-11-084
388-410-0035	NEW	98-16-044	388-428-0010	NEW	98-16-044	388-444-0055	NEW	98-16-044
388-410-0040	NEW-P	98-11-084	388-430-0001	NEW-P	98-11-084	388-444-0060	NEW-P	98-11-084
388-410-0040	NEW	98-16-044	388-430-0001	NEW	98-16-044	388-444-0060	NEW	98-16-044
388-412	PREP	98-16-089	388-430-0005	NEW-P	98-11-084	388-444-0065	NEW-P	98-11-084
388-412-0005	NEW-P	98-11-084	388-430-0005	NEW	98-16-044	388-444-0065	NEW	98-16-044
388-412-0005	NEW	98-16-044	388-430-0010	NEW-P	98-11-084	388-444-0070	NEW-P	98-11-084
388-412-0010	NEW-P	98-11-084	388-430-0010	NEW	98-16-044	388-444-0070	NEW	98-16-044
388-412-0010	NEW	98-16-044	388-430-0015	NEW-P	98-11-084	388-444-0075	NEW-P	98-11-084
388-412-0015	NEW-P	98-11-084	388-430-0015	NEW	98-16-044	388-444-0075	NEW	98-16-044
388-412-0015	NEW	98-16-044	388-430-0020	NEW-P	98-11-084	388-444-0080	NEW-P	98-11-084
388-412-0020	NEW-P	98-11-084	388-430-0020	NEW	98-16-044	388-446-0001	NEW-P	98-11-084
388-412-0020	NEW	98-16-044	388-430-0025	NEW-P	98-11-084	388-446-0001	NEW	98-16-044
388-412-0025	NEW-P	98-11-084	388-430-0025	NEW	98-16-044	388-446-0005	NEW-P	98-11-084
388-412-0025	NEW	98-16-044	388-434-0005	NEW-P	98-11-084	388-446-0005	NEW	98-16-044
388-412-0030	NEW-P	98-11-084	388-434-0005	NEW	98-16-044	388-446-0010	NEW-P	98-11-084
388-412-0030	NEW	98-16-044	388-434-0010	NEW-P	98-11-084	388-446-0010	NEW	98-16-044
388-412-0035	NEW-P	98-11-084	388-434-0010	NEW	98-16-044	388-446-0015	NEW-P	98-11-084
388-412-0035	NEW	98-16-044	388-436-0001	NEW-P	98-11-084	388-446-0015	NEW	98-16-044
388-412-0040	NEW-P	98-11-084	388-436-0001	NEW	98-16-044	388-446-0020	NEW-P	98-11-084
388-412-0040	NEW	98-16-044	388-436-0005	NEW-P	98-11-084	388-446-0020	NEW	98-16-044
388-412-0040	NEW	98-16-044	388-436-0005	NEW	98-16-044	388-448-0001	NEW-P	98-11-084
388-414-0001	NEW-P	98-11-084	388-436-0010	NEW-P	98-11-084	388-448-0001	NEW	98-16-044
388-416-0005	NEW-P	98-11-084	388-436-0010	NEW	98-16-044	388-448-0005	NEW-P	98-11-084
388-416-0005	NEW	98-16-044	388-436-0015	NEW-P	98-11-084	388-448-0005	NEW	98-16-044
388-416-0010	NEW-P	98-11-084	388-436-0015	NEW	98-16-044	388-450-0005	NEW-P	98-11-084
388-416-0010	NEW	98-16-044	388-436-0020	NEW-P	98-11-084	388-450-0005	NEW	98-16-044
388-416-0015	NEW-P	98-11-084	388-436-0020	NEW	98-16-044	388-450-0010	NEW-P	98-11-084
388-416-0015	NEW	98-16-044	388-436-0025	NEW-P	98-11-084	388-450-0010	NEW	98-16-044
388-416-0020	NEW-P	98-11-084	388-436-0030	NEW-P	98-16-044	388-450-0015	NEW-P	98-11-084
388-416-0020	NEW	98-16-044	388-436-0030	NEW	98-16-044	388-450-0015	NEW	98-16-044
388-416-0025	NEW-P	98-11-084	388-436-0030	NEW	98-16-044	388-450-0020	NEW-P	98-11-084
388-416-0025	NEW	98-16-044	388-436-0035	NEW-P	98-11-084	388-450-0020	NEW	98-16-044
388-416-0030	NEW-P	98-11-084	388-436-0035	NEW	98-16-044	388-450-0025	NEW-P	98-11-084
388-416-0030	NEW	98-16-044	388-436-0040	NEW-P	98-11-084	388-450-0025	NEW	98-16-044
388-416-0035	NEW-P	98-11-084	388-436-0040	NEW	98-16-044	388-450-0030	NEW-P	98-11-084
388-416-0035	NEW	98-16-044	388-436-0045	NEW-P	98-11-084	388-450-0030	NEW	98-16-044

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-478-0075	NEW	98-16-044	388-504-0460	REP	98-16-050	388-508-0840	REP-P	98-13-082
388-478-0080	NEW-P	98-11-084	388-504-0470	REP-P	98-13-082	388-508-0840	REP	98-16-050
388-478-0080	NEW	98-16-044	388-504-0470	REP	98-16-050	388-509	PREP	98-10-106
388-478-0085	NEW-P	98-11-084	388-504-0480	REP-P	98-13-082	388-509-0905	REP-P	98-13-082
388-478-0085	NEW	98-16-044	388-504-0480	REP	98-16-050	388-509-0905	REP	98-16-050
388-480-0001	NEW-P	98-11-084	388-504-0485	REP-P	98-13-082	388-509-0910	REP-P	98-13-082
388-480-0001	NEW	98-16-044	388-504-0485	REP	98-16-050	388-509-0910	REP	98-16-050
388-482-0005	NEW-P	98-11-084	388-505	PREP	98-10-106	388-509-0920	PREP	98-07-039
388-482-0005	NEW	98-16-044	388-505-0110	NEW-P	98-11-084	388-509-0920	AMD-E	98-08-085
388-484-0005	NEW-P	98-11-084	388-505-0110	NEW	98-16-044	388-509-0920	REP-P	98-13-082
388-484-0005	NEW	98-16-044	388-505-0210	NEW-P	98-11-084	388-509-0920	AMD-P	98-15-053
388-486-0005	NEW-P	98-11-084	388-505-0210	NEW	98-16-044	388-509-0920	AMD-E	98-16-036
388-486-0005	NEW	98-16-044	388-505-0220	NEW-P	98-11-084	388-509-0920	REP	98-16-050
388-486-0010	NEW-P	98-11-084	388-505-0220	NEW	98-16-044	388-509-0940	REP-P	98-13-082
388-486-0010	NEW	98-16-044	388-505-0501	REP-P	98-13-082	388-509-0940	REP	98-16-050
388-488-0005	NEW-P	98-11-084	388-505-0501	REP	98-16-050	388-509-0960	PREP	98-07-039
388-488-0005	NEW	98-16-044	388-505-0505	REP-P	98-13-082	388-509-0960	AMD-E	98-08-085
388-488-0010	NEW-P	98-11-084	388-505-0505	REP	98-16-050	388-509-0960	REP-P	98-13-082
388-488-0010	NEW	98-16-044	388-505-0510	REP-P	98-13-082	388-509-0960	AMD-P	98-15-053
388-490-0005	NEW-P	98-11-084	388-505-0510	REP	98-16-050	388-509-0960	AMD-E	98-16-036
388-490-0005	NEW	98-16-044	388-505-0520	AMD-P	98-08-081	388-509-0960	REP	98-16-050
388-500	PREP	98-10-106	388-505-0520	AMD-E	98-08-088	388-509-0970	REP-P	98-13-082
388-500-0005	AMD-P	98-08-081	388-505-0520	REP-P	98-13-082	388-509-0970	REP	98-16-050
388-500-0005	AMD-E	98-08-088	388-505-0520	AMD	98-15-066	388-510	PREP	98-10-106
388-500-0005	AMD	98-15-066	388-505-0520	REP	98-16-050	388-510-1005	NEW-P	98-08-081
388-501	PREP	98-10-106	388-505-0530	REP-P	98-13-082	388-510-1005	NEW-E	98-08-088
388-501-0105	REP-P	98-13-082	388-505-0530	REP	98-16-050	388-510-1005	NEW	98-15-066
388-501-0105	REP	98-16-050	388-505-0540	AMD-P	98-11-084	388-510-1020	AMD-P	98-08-081
388-501-0110	REP-P	98-13-082	388-505-0540	AMD	98-16-044	388-510-1020	AMD-E	98-08-088
388-501-0110	REP	98-16-050	388-505-0560	REP-P	98-13-082	388-510-1020	REP-P	98-13-082
388-501-0135	AMD-P	98-11-084	388-505-0560	REP	98-16-050	388-510-1020	AMD	98-15-066
388-501-0135	AMD	98-16-044	388-505-0570	REP-P	98-13-082	388-510-1020	REP	98-16-050
388-501-0140	REP-P	98-13-082	388-505-0570	REP	98-16-050	388-510-1030	REP-P	98-13-082
388-501-0140	REP	98-16-050	388-505-0580	REP-P	98-13-082	388-510-1030	REP	98-16-050
388-501-0150	REP-P	98-13-082	388-505-0580	REP	98-16-050	388-511	PREP	98-10-106
388-501-0170	REP-P	98-13-082	388-505-0590	REP-P	98-13-082	388-511-1105	AMD-P	98-15-140
388-501-0170	REP	98-16-050	388-505-0590	REP	98-16-050	388-511-1110	REP-P	98-13-082
388-501-0190	REP-P	98-13-082	388-506	PREP	98-10-106	388-511-1110	REP	98-16-050
388-501-0190	REP	98-16-050	388-506-0610	REP-P	98-13-082	388-511-1115	REP-P	98-13-082
388-503	PREP	98-10-106	388-506-0610	REP	98-16-050	388-511-1115	REP	98-16-050
388-503-0305	REP-P	98-13-082	388-506-0620	AMD-P	98-15-140	388-511-1140	REP-P	98-13-082
388-503-0305	REP	98-16-050	388-506-0630	REP-P	98-13-082	388-511-1140	REP	98-16-050
388-503-0310	AMD-P	98-08-081	388-506-0630	REP	98-16-050	388-511-1150	REP-P	98-13-082
388-503-0310	AMD-E	98-08-088	388-507	PREP	98-10-106	388-511-1150	REP	98-16-050
388-503-0310	AMD	98-15-066	388-507-0710	AMD-P	98-08-082	388-511-1160	AMD	98-04-031
388-503-0320	REP-P	98-13-082	388-507-0710	AMD-E	98-08-087	388-511-1160	REP-P	98-13-082
388-503-0320	REP	98-16-050	388-507-0710	AMD	98-11-033	388-511-1160	REP	98-16-050
388-503-0350	REP-P	98-13-082	388-507-0710	REP-P	98-13-082	388-511-1170	REP-P	98-13-082
388-503-0350	REP	98-16-050	388-507-0710	REP	98-16-050	388-511-1170	REP	98-16-050
388-503-0370	REP-P	98-13-082	388-507-0720	REP-P	98-13-082	388-512	PREP	98-10-106
388-503-0370	REP	98-16-050	388-507-0720	REP	98-16-050	388-512-1275	AMD	98-04-004
388-503-0505	NEW-P	98-11-084	388-507-0730	REP-P	98-13-082	388-512-1280	REP	98-04-004
388-503-0505	NEW	98-16-044	388-507-0730	REP	98-16-050	388-513	PREP	98-10-106
388-503-0510	NEW-P	98-11-084	388-507-0740	AMD-P	98-08-081	388-513-1315	AMD	98-04-003
388-503-0510	NEW	98-16-044	388-507-0740	AMD-E	98-08-088	388-513-1340	PREP	98-05-052
388-503-0515	NEW-P	98-11-084	388-507-0740	REP-P	98-13-082	388-513-1345	PREP	98-05-052
388-503-0515	NEW	98-16-044	388-507-0740	AMD	98-15-066	388-513-1350	AMD-P	98-08-082
388-503-0520	NEW-P	98-11-084	388-507-0740	REP	98-16-050	388-513-1350	AMD-E	98-08-087
388-503-0520	NEW-W	98-16-037	388-508	PREP	98-10-106	388-513-1350	AMD	98-11-033
388-504	PREP	98-10-106	388-508-0805	PREP	98-07-039	388-513-1380	AMD-P	98-03-085
388-504-0405	REP-P	98-13-082	388-508-0805	AMD-E	98-08-085	388-513-1380	AMD-C	98-05-053
388-504-0405	REP	98-16-050	388-508-0805	REP-P	98-13-082	388-513-1380	AMD	98-08-077
388-504-0410	REP-P	98-13-082	388-508-0805	AMD-P	98-15-053	388-513-1380	AMD-E	98-14-126
388-504-0410	REP	98-16-050	388-508-0805	AMD-E	98-16-036	388-515	PREP	98-10-106
388-504-0420	REP-P	98-13-082	388-508-0805	REP	98-16-050	388-515-1505	PREP	98-05-051
388-504-0420	REP	98-16-050	388-508-0810	REP-P	98-13-082	388-517	PREP	98-04-066
388-504-0430	REP-P	98-13-082	388-508-0810	REP	98-16-050	388-517	PREP	98-10-106
388-504-0430	REP	98-16-050	388-508-0820	REP-P	98-13-082	388-517-0300	NEW-P	98-11-084
388-504-0440	REP-P	98-13-082	388-508-0820	REP	98-16-050	388-517-0300	NEW	98-16-044
388-504-0440	REP	98-16-050	388-508-0830	REP-P	98-13-082	388-517-1710	AMD-P	98-08-083
388-504-0450	REP-P	98-13-082	388-508-0830	REP	98-16-050	388-517-1710	AMD-E	98-08-086
388-504-0450	REP	98-16-050	388-508-0835	REP-P	98-13-082	388-517-1710	AMD	98-11-073
388-504-0460	REP-P	98-13-082	388-508-0835	REP	98-16-050	388-517-1710	REP-P	98-13-082

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388-517-1715	AMD-P	98-08-083	388-521-2155	REP	98-16-050	388-555-1000	NEW-P	98-07-050
388-517-1715	AMD-E	98-08-086	388-521-2160	AMD-P	98-08-083	388-555-1000	NEW-E	98-07-052
388-517-1715	AMD	98-11-073	388-521-2160	AMD-E	98-08-086	388-555-1000	NEW-S	98-10-107
388-517-1715	REP-P	98-13-082	388-521-2160	AMD	98-11-073	388-555-1000	NEW	98-15-054
388-517-1715	REP	98-16-050	388-521-2160	REP-P	98-13-082	388-555-1050	NEW-P	98-07-050
388-517-1720	REP-P	98-08-083	388-521-2160	REP	98-16-050	388-555-1050	NEW-E	98-07-052
388-517-1720	REP-E	98-08-086	388-521-2170	REP-P	98-13-082	388-555-1050	NEW-S	98-10-107
388-517-1720	REP	98-11-073	388-521-2170	REP	98-16-050	388-555-1050	NEW	98-15-054
388-517-1730	AMD-P	98-08-083	388-522	PREP	98-10-106	388-555-1100	NEW-P	98-07-050
388-517-1730	AMD-E	98-08-086	388-522-2205	REP-P	98-13-082	388-555-1100	NEW-E	98-07-052
388-517-1730	AMD	98-11-073	388-522-2205	REP	98-16-050	388-555-1100	NEW-S	98-10-107
388-517-1730	REP-P	98-13-082	388-522-2210	REP-P	98-13-082	388-555-1100	NEW	98-15-054
388-517-1730	REP	98-16-050	388-522-2210	REP	98-16-050	388-555-1150	NEW-P	98-07-050
388-517-1740	REP-P	98-08-083	388-522-2230	REP-P	98-13-082	388-555-1150	NEW-E	98-07-052
388-517-1740	REP-E	98-08-086	388-522-2230	REP	98-16-050	388-555-1150	NEW-S	98-10-107
388-517-1740	REP	98-11-073	388-523	PREP	98-10-106	388-555-1150	NEW	98-15-054
388-517-1750	AMD-P	98-08-083	388-523-0100	NEW-P	98-11-084	388-555-1200	NEW-P	98-07-050
388-517-1750	AMD-E	98-08-086	388-523-0100	NEW	98-16-044	388-555-1200	NEW-E	98-07-052
388-517-1750	AMD	98-11-073	388-523-2305	PREP	98-03-079	388-555-1200	NEW-S	98-10-107
388-517-1750	REP-P	98-13-082	388-523-2305	AMD-P	98-08-081	388-555-1200	NEW	98-15-054
388-517-1750	REP	98-16-050	388-523-2305	AMD-E	98-08-088	388-555-1250	NEW-P	98-07-050
388-517-1760	REP-P	98-08-083	388-523-2305	REP-P	98-13-082	388-555-1250	NEW-E	98-07-052
388-517-1760	REP-E	98-08-086	388-523-2305	AMD	98-15-066	388-555-1250	NEW-S	98-10-107
388-517-1760	REP	98-11-073	388-523-2305	REP	98-16-050	388-555-1250	NEW	98-15-054
388-517-1770	NEW-P	98-08-083	388-523-2320	REP-P	98-13-082	388-555-1300	NEW-P	98-07-050
388-517-1770	NEW-E	98-08-086	388-523-2320	REP	98-16-050	388-555-1300	NEW-E	98-07-052
388-517-1770	NEW	98-11-073	388-524	PREP	98-10-106	388-555-1300	NEW-S	98-10-107
388-517-1770	REP-P	98-13-082	388-524-2405	REP-P	98-13-082	388-555-1300	NEW	98-15-054
388-517-1770	REP	98-16-050	388-524-2405	REP	98-16-050	388-555-1350	NEW-P	98-07-050
388-518	PREP	98-10-106	388-524-2420	REP-P	98-13-082	388-555-1350	NEW-E	98-07-052
388-518-1805	REP-P	98-13-082	388-524-2420	REP	98-16-050	388-555-1350	NEW-S	98-10-107
388-518-1805	REP	98-16-050	388-525	PREP	98-10-106	388-555-1350	NEW	98-15-054
388-518-1810	REP-P	98-13-082	388-525-2505	REP-P	98-13-082	388-555-1400	NEW-P	98-07-050
388-518-1810	REP	98-16-050	388-525-2505	REP	98-16-050	388-555-1400	NEW-E	98-07-052
388-518-1820	REP-P	98-13-082	388-525-2520	REP-P	98-13-082	388-555-1400	NEW-S	98-10-107
388-518-1820	REP	98-16-050	388-525-2520	REP	98-16-050	388-555-1400	NEW	98-15-054
388-518-1830	REP-P	98-13-082	388-525-2570	REP-P	98-13-082	388-555-1450	NEW-S	98-10-107
388-518-1830	REP	98-16-050	388-525-2570	REP	98-16-050	388-555-1450	NEW	98-15-054
388-518-1840	REP-P	98-13-082	388-526	PREP	98-10-106	390-05-400	AMD-P	98-05-107
388-518-1840	REP	98-16-050	388-527	PREP	98-10-106	390-05-400	AMD	98-08-069
388-518-1850	REP-P	98-13-082	388-528	PREP	98-10-106	390-13-100	PREP	98-06-051
388-518-1850	REP	98-16-050	388-529	PREP	98-10-106	390-13-100	AMD-P	98-09-021
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388-519-0100	NEW-P	98-11-084	388-529-0100	NEW	98-16-044	390-16-200	PREP	98-06-052
388-519-0100	NEW	98-16-044	388-529-0200	NEW-P	98-11-084	390-16-200	REP-P	98-09-020
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388-519-0110	NEW	98-16-044	388-529-2910	REP-P	98-13-082	390-16-207	PREP	98-06-053
388-519-0120	NEW-P	98-11-084	388-529-2910	REP	98-16-050	390-16-207	AMD-P	98-09-019
388-519-0120	NEW	98-16-044	388-529-2920	REP-P	98-13-082	390-16-207	AMD	98-12-034
388-519-1905	REP-P	98-13-082	388-529-2920	REP	98-16-050	390-17-205	PREP	98-06-054
388-519-1905	REP	98-16-050	388-529-2930	REP-P	98-13-082	390-17-205	REP-P	98-09-018
388-519-1910	REP-P	98-13-082	388-529-2930	REP	98-16-050	390-17-205	REP	98-12-035
388-519-1910	REP	98-16-050	388-529-2960	AMD	98-04-004	390-17-400	PREP	98-03-072
388-519-1930	REP-P	98-13-082	388-529-2960	REP-P	98-13-082	390-17-405	PREP	98-06-055
388-519-1930	REP	98-16-050	388-529-2960	REP	98-16-050	390-17-405	AMD-P	98-09-017
388-519-1950	REP-P	98-13-082	388-530-1600	AMD-P	98-05-054	390-17-405	AMD	98-12-037
388-519-1950	REP	98-16-050	388-530-1600	AMD	98-14-005	391-08	PREP	98-04-049
388-521	PREP	98-10-106	388-535	PREP	98-08-074	391-08-001	AMD-P	98-10-101
388-521-2105	REP-P	98-13-082	388-538	PREP	98-10-106	391-08-001	AMD	98-14-112
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388-521-2106	REP-P	98-13-082	388-538-060	AMD	98-16-044	391-08-100	AMD	98-14-112
388-521-2106	REP	98-16-050	388-538-080	AMD-P	98-11-084	391-08-120	AMD-P	98-10-101
388-521-2110	REP-P	98-13-082	388-538-080	AMD	98-16-044	391-08-120	AMD	98-14-112
388-521-2110	REP	98-16-050	388-538-095	AMD-P	98-11-084	391-08-180	AMD-P	98-10-101
388-521-2120	REP-P	98-13-082	388-538-095	AMD	98-16-044	391-08-180	AMD	98-14-112
388-521-2120	REP	98-16-050	388-538-130	AMD-P	98-11-084	391-08-230	AMD-P	98-10-101
388-521-2130	REP-P	98-13-082	388-538-130	AMD	98-16-044	391-08-230	AMD	98-14-112
388-521-2130	REP	98-16-050	388-540-005	AMD-P	98-02-059	391-08-300	AMD-P	98-10-101
388-521-2140	REP-P	98-13-082	388-540-005	AMD	98-06-025	391-08-300	AMD	98-14-112
388-521-2140	REP	98-16-050	388-540-030	AMD-P	98-02-059	391-08-310	AMD-P	98-10-101
388-521-2150	REP-P	98-13-082	388-540-030	AMD	98-06-025	391-08-310	AMD	98-14-112
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391-08-520	NEW	98-14-112	391-45-290	AMD	98-14-112	392-126-004	AMD-P	98-16-055
391-08-630	AMD-P	98-10-101	391-45-310	AMD-P	98-10-101	392-126-006	AMD-P	98-16-055
391-08-630	AMD	98-14-112	391-45-310	AMD	98-14-112	392-126-010	REP-P	98-16-055
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391-08-810	AMD	98-14-112	391-45-370	REP	98-14-112	392-126-085	AMD-P	98-16-055
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391-25-050	AMD-P	98-10-101	391-45-390	AMD	98-14-112	392-126-090	AMD-P	98-16-055
391-25-050	AMD	98-14-112	391-45-430	AMD-P	98-10-101	392-126-092	NEW-P	98-16-055
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391-25-210	AMD	98-14-112	391-95-070	AMD-P	98-10-101	392-139-120	REP	98-08-096
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391-25-220	AMD	98-14-112	391-95-090	AMD-P	98-10-101	392-139-122	REP	98-08-096
391-25-230	AMD-P	98-10-101	391-95-090	AMD	98-14-112	392-139-126	REP-P	98-05-040
391-25-230	AMD	98-14-112	391-95-150	AMD-P	98-10-101	392-139-126	REP	98-08-096
391-25-250	AMD-P	98-10-101	391-95-150	AMD	98-14-112	392-139-128	REP-P	98-05-040
391-25-250	AMD	98-14-112	391-95-230	AMD-P	98-10-101	392-139-128	REP	98-08-096
391-25-270	AMD-P	98-10-101	391-95-230	AMD	98-14-112	392-139-129	REP-P	98-05-040
391-25-270	AMD	98-14-112	391-95-250	AMD-P	98-10-101	392-139-129	REP	98-08-096
391-25-350	AMD-P	98-10-101	391-95-250	AMD	98-14-112	392-139-130	REP-P	98-05-040
391-25-350	AMD	98-14-112	391-95-260	AMD-P	98-10-101	392-139-130	REP	98-08-096
391-25-370	AMD-P	98-10-101	391-95-260	AMD	98-14-112	392-139-132	REP-P	98-05-040
391-25-370	AMD	98-14-112	391-95-270	AMD-P	98-10-101	392-139-132	REP	98-08-096
391-25-390	AMD-P	98-10-101	391-95-270	AMD	98-14-112	392-139-134	REP-P	98-05-040
391-25-390	AMD	98-14-112	391-95-280	REP-P	98-10-101	392-139-134	REP	98-08-096
391-25-391	AMD-P	98-10-101	391-95-280	REP	98-14-112	392-139-150	REP-P	98-05-040
391-25-391	AMD	98-14-112	391-95-290	AMD-P	98-10-101	392-139-150	REP	98-08-096
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391-25-450	AMD	98-14-112	392-115-015	AMD	98-05-008	392-139-154	REP	98-08-096
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391-25-630	AMD	98-14-112	392-115-050	AMD	98-05-008	392-139-158	REP	98-08-096
391-25-650	AMD-P	98-10-101	392-115-055	AMD	98-05-008	392-139-160	REP-P	98-05-040
391-25-650	AMD	98-14-112	392-115-060	AMD	98-05-008	392-139-160	REP	98-08-096
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391-25-660	NEW	98-14-112	392-115-085	AMD	98-05-008	392-139-162	REP	98-08-096
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391-25-670	AMD	98-14-112	392-115-110	AMD	98-05-008	392-139-164	REP	98-08-096
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391-35-190	AMD-P	98-10-101	392-115-155	AMD	98-05-008	392-139-172	REP	98-08-096
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391-35-210	AMD	98-14-112	392-121-138	AMD-P	98-03-066	392-139-176	REP-P	98-05-040
391-35-230	REP-P	98-10-101	392-121-138	AMD	98-07-060	392-139-176	REP	98-08-096
391-35-230	REP	98-14-112	392-121-182	AMD-W	98-04-070	392-139-178	REP-P	98-05-040
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391-35-250	AMD	98-14-112	392-121-552	NEW-P	98-16-106	392-139-180	REP-P	98-05-040
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391-45-030	AMD	98-14-112	392-121-558	NEW-P	98-16-106	392-139-182	REP	98-08-096
391-45-110	AMD-P	98-10-101	392-121-560	NEW-P	98-16-106	392-139-184	REP-P	98-05-040
391-45-110	AMD	98-14-112	392-121-562	NEW-P	98-16-106	392-139-184	REP	98-08-096
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391-45-190	AMD	98-14-112	392-121-566	NEW-P	98-16-106	392-139-186	REP	98-08-096
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392-139-611	REP	98-08-096	392-140-714	NEW-P	98-03-067	392-141-148	AMD-P	98-14-011
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392-139-620	AMD	98-08-096	392-140-716	NEW-P	98-03-067	392-170-035	AMD	98-12-002
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392-139-621	REP	98-08-096	392-140-720	NEW-P	98-03-067	392-170-037	NEW	98-12-002
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392-139-626	REP-P	98-05-040	392-140-723	NEW	98-07-061	392-170-090	AMD	98-12-002
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392-139-660	AMD	98-08-096	392-140-725	NEW-P	98-03-067	399-10-010	AMD-P	98-07-033
392-139-661	NEW-P	98-05-040	392-140-725	NEW	98-07-061	399-10-030	AMD-P	98-07-033
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392-139-670	AMD-P	98-05-040	392-140-726	NEW	98-07-061	399-20-070	AMD-P	98-07-033
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392-139-680	REP	98-08-096	392-140-730	NEW-P	98-03-067	399-30-045	AMD-P	98-07-033
392-139-681	REP-P	98-05-040	392-140-730	NEW	98-07-061	399-30-060	AMD-P	98-07-033
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392-139-691	REP-P	98-05-040	392-140-733	NEW	98-07-061	415-108-443	NEW	98-09-059
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434-08-060	DECOD	98-08-010	434-69-030	DECOD	98-08-010	434-208-090	RECOD	98-08-010
434-08-070	DECOD	98-08-010	434-69-040	DECOD	98-08-010	434-230-030	AMD	98-03-033
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434-08-090	DECOD	98-08-010	434-69-060	DECOD	98-08-010	434-230-160	AMD	98-03-033
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434-26-005	DECOD	98-08-010	434-69-080	DECOD	98-08-010	434-236-170	AMD	98-03-033
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434-26-020	DECOD	98-08-010	434-80-030	DECOD	98-08-010	434-240-235	NEW	98-03-033
434-26-025	DECOD	98-08-010	434-80-040	DECOD	98-08-010	434-240-320	NEW	98-03-033
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434-26-045	DECOD	98-08-010	434-81-010	DECOD	98-08-010	434-257-020	RECOD	98-08-010
434-26-050	DECOD	98-08-010	434-81-020	DECOD	98-08-010	434-257-030	RECOD	98-08-010
434-26-055	DECOD	98-08-010	434-81-030	DECOD	98-08-010	434-257-040	RECOD	98-08-010
434-26-060	DECOD	98-08-010	434-81-040	DECOD	98-08-010	434-257-050	RECOD	98-08-010
434-26-065	DECOD	98-08-010	434-81-050	DECOD	98-08-010	434-257-070	RECOD	98-08-010
434-26-900	DECOD	98-08-010	434-81-060	DECOD	98-08-010	434-257-080	RECOD	98-08-010
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434-32-010	DECOD	98-08-010	434-81-090	DECOD	98-08-010	434-257-120	RECOD	98-08-010
434-57-010	DECOD	98-08-010	434-81-100	DECOD	98-08-010	434-257-130	RECOD	98-08-010
434-57-020	DECOD	98-08-010	434-91-010	DECOD	98-08-010	434-257-150	RECOD	98-08-010
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434-57-040	DECOD	98-08-010	434-91-030	DECOD	98-08-010	434-260-020	RECOD	98-08-010
434-57-050	DECOD	98-08-010	434-91-040	DECOD	98-08-010	434-260-030	RECOD	98-08-010
434-57-070	DECOD	98-08-010	434-91-050	DECOD	98-08-010	434-260-040	RECOD	98-08-010
434-57-080	DECOD	98-08-010	434-91-060	DECOD	98-08-010	434-260-050	RECOD	98-08-010
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434-57-120	DECOD	98-08-010	434-91-090	DECOD	98-08-010	434-260-080	RECOD	98-08-010
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434-60-040	DECOD	98-08-010	434-91-150	DECOD	98-08-010	434-260-140	RECOD	98-08-010
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434-60-100	DECOD	98-08-010	434-120-305	AMD-P	98-13-098	434-260-200	RECOD	98-08-010
434-60-110	DECOD	98-08-010	434-120-310	AMD-P	98-13-098	434-260-210	RECOD	98-08-010
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434-291-020	RECOD	98-08-010	434-840-010	AMD-P	98-14-006	434-840-360	AMD-W	98-14-009
434-291-030	RECOD	98-08-010	434-840-010	AMD-W	98-14-009	440-26-010	PREP	98-09-093
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434-291-130	RECOD	98-08-010	434-840-050	REP-P	98-13-111	456-09-325	AMD-XA	98-16-046
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434-326-015	RECOD	98-08-010	434-840-100	AMD-P	98-14-006	458-16-110	AMD-P	98-14-084
434-326-020	RECOD	98-08-010	434-840-100	AMD-W	98-14-009	458-16-111	PREP	98-07-016
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434-326-035	RECOD	98-08-010	434-840-110	AMD-W	98-14-009	458-16-165	AMD-P	98-14-084
434-326-040	RECOD	98-08-010	434-840-120	REP-P	98-13-111	458-16-300	PREP	98-07-016
434-326-045	RECOD	98-08-010	434-840-120	REP-P	98-14-006	458-16-300	AMD-P	98-14-084
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434-369-060	RECOD	98-08-010	434-840-220	AMD-W	98-14-009	458-20-228	PREP	98-15-127
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434-381-030	RECOD	98-08-010	434-840-310	AMD-W	98-14-009	460-10A-060	REP-P	98-14-074
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434-381-050	RECOD	98-08-010	434-840-320	AMD-P	98-14-006	460-10A-160	AMD-P	98-14-074
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