

October 21, 1998

OLYMPIA, WASHINGTON

ISSUE 98-20



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

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

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of October 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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# WASHINGTON STATE REGISTER

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

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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].

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 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>
98 - 20	Sep 9, 1998	Sep 23, 1998	Oct 7, 1998	Oct 21, 1998	Nov 10, 1998	Dec 5, 1998
98 - 21	Sep 23, 1998	Oct 7, 1998	Oct 21, 1998	Nov 4, 1998	Nov 24, 1998	Dec 19, 1998
98 - 22	Oct 7, 1998	Oct 21, 1998	Nov 4, 1998	Nov 18, 1998	Dec 8, 1998	Jan 2, 1999
98 - 23	Oct 21, 1998	Nov 4, 1998	Nov 18, 1998	Dec 2, 1998	Dec 22, 1998	Jan 16, 1999
98 - 24	Nov 4, 1998	Nov 18, 1998	Dec 2, 1998	Dec 16, 1998	Jan 5, 1999	Jan 30, 1999
99 - 01	Nov 25, 1998	Dec 9, 1998	Dec 23, 1998	Jan 6, 1999	Jan 26, 1999	Feb 20, 1999
99 - 02	Dec 9, 1998	Dec 23, 1998	Jan 6, 1999	Jan 20, 1999	Feb 9, 1999	Mar 6, 1999
99 - 03	Dec 23, 1998	Jan 6, 1999	Jan 20, 1999	Feb 3, 1999	Feb 23, 1999	Mar 20, 1999
99 - 04	Jan 6, 1999	Jan 20, 1999	Feb 3, 1999	Feb 17, 1999	Mar 9, 1999	Apr 3, 1999
99 - 05	Jan 20, 1999	Feb 3, 1999	Feb 17, 1999	Mar 3, 1999	Mar 23, 1999	Apr 17, 1999
99 - 06	Feb 3, 1999	Feb 17, 1999	Mar 3, 1999	Mar 17, 1999	Apr 6, 1999	May 1, 1999
99 - 07	Feb 24, 1999	Mar 10, 1999	Mar 24, 1999	Apr 7, 1999	Apr 27, 1999	May 22, 1999
99 - 08	Mar 10, 1999	Mar 24, 1999	Apr 7, 1999	Apr 21, 1999	May 11, 1999	Jun 5, 1999

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

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

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

<sup>4</sup> A 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.

STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION  
(Required by 39 U.S.C. 3685)

The WASHINGTON STATE REGISTER (ISSN 0164-6389), is published twice each month by the Statute Law Committee, Office of the Code Reviser, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The filing date of this report was September 30, 1998. The 1998 annual subscription price is \$195 for 24 issues. The general business offices of the publisher are located in the Legislative Building, Olympia, Washington 98504-0552.

The editor is Kerry S. Radcliff, Code Reviser's Office, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. There is no managing editor.

The owner is the Statute Law Committee, State of Washington, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552.

There are no known bondholders, mortgagees, or other security holders.

The extent and nature of the circulation is as follows:

	Average no. copies each issue during preceding 12 months	Actual no. copies of single issue published nearest to filing date
Total no. copies printing	800	800
Paid circulation		
Sales through dealers & carriers, street vendors, & counter sales	72	76
Paid mail subscriptions	367	392
Total paid circulation	439	468
Free distribution by mail	42	41
Free distribution outside the mail	44	47
Total free distribution	86	88
Total distribution	525	556
Copies not distributed		
Office use, leftover, unaccounted, spoiled after printing	275	244
Returns from news agents	0	0
Total	800	800
Percent paid circulation	83.61%	84.17%

I certify that the statements made by me are correct and complete.

Kerry S. Radcliff  
Editor

## **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;

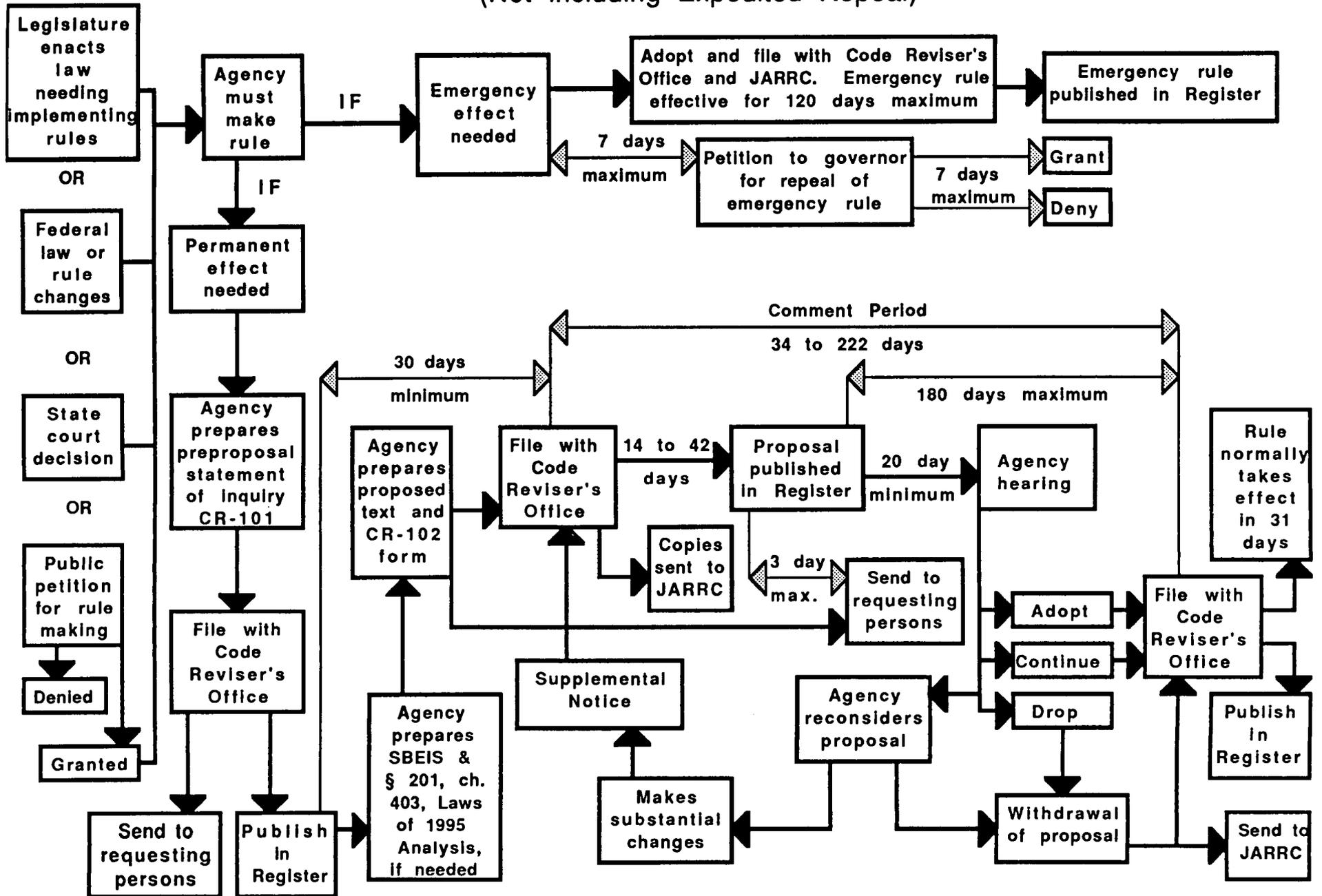
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 98-20-012****PREPROPOSAL STATEMENT OF INQUIRY  
LOTTERY COMMISSION**

[Filed September 25, 1998, 10:16 a.m.]

Subject of Possible Rule Making: Instant game rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending and adding new sections to chapters 315-10 and 315-11A WAC to establish game play rules and criteria for determining winners of upcoming scratch games.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 753-1947, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

September 23, 1998

Mary Jane Ferguson  
Rules Coordinator**WSR 98-20-014****PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed September 25, 1998, 11:06 a.m.]

Subject of Possible Rule Making: Chapter 180-08 WAC, Practice and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Every three years review administrative rules (Title 180 WAC), which have been adopted within the confines of the authority granted to the State Board of Education by statute and in accordance with the requirements of the Administrative Procedure Act.

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.

September 24, 1998

Larry Davis  
Executive Director**WSR 98-20-015****PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed September 25, 1998, 11:09 a.m.]

Subject of Possible Rule Making: WAC 180-16-195 Annual reporting and review process, 180-16-220 Supplemental program and basic education allocation entitlement requirements, and 180-16-240 Compliance with other program requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.250, 28A.150.260, and 28A.150.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To 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.

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.

September 23, 1998

Larry Davis  
Executive Director**WSR 98-20-016****PREPROPOSAL STATEMENT OF INQUIRY  
STATE BOARD OF EDUCATION**

[Filed September 25, 1998, 11:10 a.m.]

Subject of Possible Rule Making: Chapter 180-51 WAC, High school graduation requirements; and chapter 180-18 WAC, Waivers for restructuring purposes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.230.090, 28A.305.140, 28A.600.010, and 28A.630.945.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provide school districts and high schools a waiver option from credit based graduation requirements to support performance-based education.

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.

September 23, 1998

Larry Davis  
Executive Director

### WSR 98-20-032

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed September 29, 1998, 9:24 a.m.]

**Subject of Possible Rule Making:** Incorporation by reference of the 1999 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.140.030 (16), (17).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Will incorporate by reference the 1999 edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

**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 by contacting Cleotis Borner, Jr., Real Estate Appraiser Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 753-1062, fax (360) 586-0998.

September 29, 1998

Cleotis Borner, Jr.  
Program Manager

### WSR 98-20-035

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

(Economic Services Administration)

(Division of Child Support)

[Filed September 29, 1998, 4:03 p.m.]

**Subject of Possible Rule Making:** WAC 388-14-450 Debt adjustment notice.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 26.23.035(1), 34.05.220(1), 74.08.090, 74.320A.310 [74.20A.310].

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Division of Child Support (DCS) seeks to amend this rule to provide a debt adjustment notice and hearing to any custodial parent who receives

child support services from the DCS. The rule in its current version provides this notice and hearing only to payees under court orders, and DCS wishes to ensure that the notice and hearing is provided to payees under administrative orders as well. In addition, DCS will review and revise the rule according to the principles in the Governor's Executive Order 97-02.

**Process for Developing New Rule:** DCS is engaging in modified collaborative rule making. 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](http://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/dcs.htm](http://www.wa.gov/dshs/esarules/dcs.htm). 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](mailto:nkoptur@dshs.wa.gov).

September 28, 1998

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

### WSR 98-20-041

#### PREPROPOSAL STATEMENT OF INQUIRY WESTERN WASHINGTON UNIVERSITY

[Filed September 30, 1998, 9:45 a.m.]

**Subject of Possible Rule Making:** Bicycle traffic and parking regulations, chapter 516-13 WAC; and skateboards and in-line skate policy, chapter 516-15 WAC.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Changes in these rules are to provide for enforcement of these regulations as infractions within the university administrative structure rather than as criminal offenses in district court.

**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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Doughty, University Policy, Mailstop 9070, Western Washington University, Belling-

ham, Washington, 98225, phone (360) 650-3684, fax (360) 650-3676, TDD (360) 650-3123.

September 24, 1998  
Gloria A. McDonald  
Rules Coordinator

(360) 902-8595, fax (360) 586-5875, e-mail pamm@parks.wa.gov.

September 28, 1998  
Jim French  
Senior Policy Analyst

**WSR 98-20-055**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed October 1, 1998, 1:49 p.m.]

Subject of Possible Rule Making: Chapter 352-12 WAC, Moorage and use of marine facilities.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To review and make minor modifications, including grammar, clarity, and general clean-up of current language as part of the agency's annual WAC review.

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 by contacting Pamela A. McConkey, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8595, fax (360) 586-5875, e-mail pamm@parks.wa.gov.

September 28, 1998  
Jim French  
Senior Policy Analyst

**WSR 98-20-056**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed October 1, 1998, 1:51 p.m.]

Subject of Possible Rule Making: Chapter 352-20 WAC, Use of motor driven vehicles in state parks.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Possible change to this rule would expand the agency's ability to lease state park parking space to local businesses when appropriate and cost effective. General review will be conducted as part of the agency's annual WAC review to ensure grammar, clarity, and overall clean-up.

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 by contacting Pamela A. McConkey, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, phone

**WSR 98-20-064**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed October 2, 1998, 3:45 p.m.]

This is a request to withdraw WSR 95-06-073, which was filed March 1, 1995. The department is withdrawing the CR-101 for chapter 246-560 WAC because staff did not pursue rule making at that time. Recently the agency reexamined the need for amending this rule, and determined that the rule should be updated. In August, the agency notified interested parties and filed a new CR-101 as WSR 98-18-071.

Individuals requiring information regarding chapter 246-560 WAC should contact Kris Sparks or Lorraine Edwards at (360) 705-6770.

Kris Van Gorkom  
Deputy Secretary

**WSR 98-20-066**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed October 2, 1998, 3:48 p.m.]

Subject of Possible Rule Making: The Office of Managed Care and coordinated quality improvement program will review and revise the coordinated quality improvement program rules, chapter 246-50 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.510 Health care services coordinated quality improvement program.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are already in place for this program, but are unclear and do not appropriately apply to the health care settings that have the ability to apply for this voluntary program. Health care settings who can apply for this voluntary program are health care institutions and medical facilities, other than hospitals, that are licensed by the Department of Health, professional societies or organizations, health plans, and provider groups of ten or more providers. We intend to make the rules apply appropriately to these types of health care settings, as well as create language and requirements that are understandable.

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

Process for Developing New Rule: We will request input from all interested parties in drafting revisions through an initial mailing. Draft amendments will then be mailed requesting additional input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. If you wish to have information mailed to you, please contact Brook Lawson, Office of Managed Care and Coordinated Quality Improvement Program. P.O. Box 47850, Olympia, WA 98504-7850, phone (360) 664-2196, after October 16, 1998, (360) 236-4628, fax (360) 586-0398, after October 16, 1998, (360) 236-4626, e-mail bl10303@doh.wa.gov.

October 2, 1998  
K. Van Gorkom  
Deputy Secretary

Process for Developing New Rule: Food Safety Advisory Committee, Dairy Inspection Program Advisory Committee, and other stakeholder and focus group meetings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by calling, writing or faxing Mike Donovan, Compliance Program Manager, Food Safety Program, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1883, fax (360) 902-2087.

September 29, 1998  
Michael J. Donovan  
Food Safety Program Manager

**WSR 98-20-076**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed October 6, 1998, 9:11 a.m.]

Subject of Possible Rule Making: Food establishment inspection criteria, standards for licensing, and standards for determining compliance with food sanitation and safety laws.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020, and 69.10.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For more than twenty years, the food safety program has inspected food processing operations to determine their compliance with chapters 69.04 RCW (intrastate commerce in food, drugs and cosmetics), chapter 69.07 RCW (the Food Processing Act), GMPs (current good manufacturing practices in manufacturing, packing or holding human food) and other sections of Title 21 CFR (Code of Federal Regulations) - i.e. Acidified, low acid canned food and bottled water. In that time, the program has utilized the construction, sanitation, personnel practices and processing operation requirements of the GMPs and other sections of Title 21, and appropriate sections of chapter 69.04 RCW as criteria on which to measure compliance with these regulations. After the 1995 Regulatory Reform Act went into effect, the department's administrative regulations program and the assistant attorney generals assigned to the program advised us that the criteria and procedures by which we license facilities and take enforcement action on facilities needed to be put into rule. Chapter 34.05 RCW also requires that the agency not be arbitrary when taking enforcement action. Having the criteria in rule insures that we use a fair and equitable process when taking licensing facilities, taking enforcement action, assessing penalties, etc.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Food and Drug Administration and State Department of Health (DOH), Division of Drinking Water (DDW). FDA will be kept informed on the rules progress through partnership meetings and advisory committee meetings. Will coordinate with DOH, DDW through the noncommunity water system task force.

**WSR 98-20-086**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed October 6, 1998, 1:45 p.m.]

Subject of Possible Rule Making: WAC 458-16A-010 Nonprofit homes for the aging.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.36.041 and 84.36.865.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington Association of Homes for the Aging (WAHA) submitted a petition to the department to begin the rule-making process for WAC 458-16A-010. WAHA requests that the set-aside requirements in this rule be revised to allow nonprofit homes for the aging to retain their property tax exemption if they maintain their original set-aside requirements when refinancing existing tax-exempt indebtedness. The department agreed to commence this process because it believes when the existing rule was adopted in 1995, the participants failed to consider all the ramifications of a brand new facility financed with tax exempt bonds, which initially met the low-income set-aside requirements, needing to refinance because of interest rate changes or market growth. If such a facility is required to meet the higher set-aside requirements for low-income residents contained in the current rule, the facility may lose its capacity to serve low-income elders because it may lose its tax-exempt status or ability to refinance. The department drafted revisions to the rule to address WAHA's concerns and the unintended results of the current set-aside requirements contained in WAC 458-16A-010.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Kathy Beith, Property Tax Division, P.O. Box 47471, Olym-

pia, WA 98504-7471, phone (360) 753-1941, fax (360) 586-7602, e-mail kathyb@dor.wa.gov. Copies of the rule are also available upon request from Pat Baxter at (360) 664-3172.

Location and Date of Public Meeting: November 12, 1998, at 10 a.m., Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA 98502.

Assistance for Persons with Disabilities: Contact Arturo Haro by November 5, 1998, TDD 1-800-451-7985 or (360) 586-0721.

October 5, 1998

Claire Hesselholt

Rules Manager

Legislation and Policy Division

### WSR 98-20-091

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

[Filed October 7, 1998, 9:27 a.m.]

**Subject of Possible Rule Making:** The subject of the rule will be to define "best available science" (BAS) and to identify how to include best available science in the development of policies and development regulations to protect the functions and values of critical areas, pursuant to RCW 36.70A. - 172. The rule will also identify ways to provide special consideration for preserving or enhancing anadromous fisheries, pursuant to RCW 36.70A.172.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** The authority for adopting this rule is RCW 36.70A.050.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** By having a definition for "best available science" and criteria for its inclusion, local governments will be better able to demonstrate that their policies and development regulations protect critical areas. This would help local governments know ahead of time how to meet the law and reduce appeals to the hearings boards or courts. The rule will assist the Growth Management Hearings Boards and the courts in determining whether a local government has included BAS and given special consideration to conservation and protection measures to preserve or enhance anadromous fisheries as required in RCW 36.70A. - 172. This is especially important to salmon recovery.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** RCW 36.70A.172 requires local governments to include "best available science" in designating and protecting critical areas. The designation and protection of critical areas may involve matters regulated by the state Department of Fish and Wildlife (WDFW), the Department of Ecology (ecology), the Department of Natural Resources (DNR), the National Marine Fisheries Service (NMFS), the United States Fish and Wildlife Service (USFWS), and Tribal governments. The Department of Community, Trade and Economic Development has identified local (cities and counties), state (WDFW, ecology, DNR, Puget Sound Action Team, State Salmon Team, Interagency Science Advisory Team), federal

(NMFS) and tribal governments (Northwest Indian Fisheries Commission) with expertise and potential regulator authority in implementing the rule. The process we are considering involves the appointment of a BAS "technical team" of interested local governments, agencies, and tribes to develop recommendations to the Department of Community, Trade and Economic Development on the rule.

**Process for Developing New Rule:** The Department of Community, Trade and Economic Development will solicit the direct participation of the stakeholders listed above to develop recommendations for the rule. Once these recommendations are received and collated, the Department of Community, Trade and Economic Development will reach out to a larger audience and encourage responses and suggestions to help frame the rule. The Department of Community, Trade and Economic Development published an article about this topic in its July 1998 newsletter to encourage the public to share their thoughts about this topic. We anticipate this process should take between three and six months.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Community, Trade and Economic Development will work with cities and counties throughout the rule adoption process. The Department of Community, Trade and Economic Development will identify a time schedule for adoption of the rule which will identify opportunities for the public to ask questions and provide information and comments about the definition and inclusion of best available science under RCW 36.70A.172. For more information contact Chris Parsons, Department of Community, Trade and Economic Development, (360) 664-8809.

October 7, 1998

Tim Douglas

Director

### WSR 98-20-095

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed October 7, 1998, 10:34 a.m.]

**Subject of Possible Rule Making:** To amend the existing gypsy moth quarantine rule to address new gypsy moth infestation(s) on Vancouver Island and other location(s) in British Columbia.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 17.24.041.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Gypsy moth in a nonnative insect which, if established would have extremely severe environmental and economic consequences to Washington state. Multi-year insect trapping data from British Columbia indicates a burgeoning gypsy moth infestation which hasn't been effectively controlled. Unless regulatory action is taken, the probability of repeated introductions into Washington state is very high.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agen-**

cies: 1. United States Department of Agriculture, Animal Plant Health Inspection Service.

2. Neighboring states' departments of agriculture.

Direct consultation with both entities is on-going.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule change with affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Linda Polzin, Pest Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2070, fax (360) 902-2094; or Mary Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094.

October 7, 1998

Mary A. Martin Toohey  
Assistant Director

**WSR 98-20-096**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed October 7, 1998, 10:53 a.m.]

Subject of Possible Rule Making: Chapter 388-290 WAC and related sections, and any needed new rules or repeals.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The WAC will be rewritten to meet the mandates of Executive Order 97-02 and the secretary's executive order. In addition, rules will be added and/or changed to improve the integrity of the working connections child care program.

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 will continue to assure inclusion of all interested parties in the rule-making process, including child care advocates, child care providers and other state agencies. A subcommittee of the Child Care Coordinating Committee has served as the primary rule-making advisory body on subsidized child care.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Debbie Miller, Program Manager, Department of Social and Health Services, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98504,

phone (360) 413-3101, fax (360) 413-3494, e-mail milledd@dshs.wa.gov.

October 7, 1998

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 98-20-099**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
INFORMATION SERVICES**

[Filed October 7, 1998, 10:59 a.m.]

Subject of Possible Rule Making: Chapter 143-06 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 42.17 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update public records practice and procedures, correct description of composition of Information Services Board in WAC 143-06-030 to reflect statute.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bradley J. Hillis, Assistant Manager, Contracts and Legal Affairs, Department of Information Services, 1110 Jefferson Building, P.O. Box 42445, Olympia, WA 98504-2445, phone (360) 902-3436, fax (360) 586-5885, e-mail bradh@dis.wa.gov.

October 7, 1998

Bradley J. Hillis  
Assistant Manager  
Contracts, ASD

**WSR 98-20-103**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed October 7, 1998, 11:14 a.m.]

Subject of Possible Rule Making: WAC 458-20-131 Merchandising games, games of chance and concessionaires.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-20-131 provides important tax-reporting information to persons operating games of chance, such as pull-tabs and punchboards, card games, and raffles. The department intends to update the language in the rule, provide the information in a more user-friendly manner, and remove references to some activities that are no longer permissible under the laws of this state. The department is also reviewing the basis for differences between the current tax reporting requirements for games of

chance in which merchandise is offered as prizes (often called merchandising games), and those games offering cash prizes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Revenue has the exclusive responsibility for administering the B&O, sales, and use taxes for persons engaged in these business activities. The Washington State Gambling Commission does have regulatory authority for some of these activities, and will be kept informed of and asked to comment on any proposed changes to WAC 458-20-131.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Margaret Partlow, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 753-6769, fax (360) 664-0693.

Location and Date of Public Meeting: Evergreen Plaza Building, 2nd Floor Compliance Conference Room, 711 Capitol Way South, Olympia, WA, on November 3, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Arturo Haro by October 27, 1998, TDD 1-800-451-7985, or (360) 586-0721.

October 7, 1998  
Claire Hesselholt  
Rules Manager

## WSR 98-20-105

### PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Commission Docket No. TR-981101—Filed October 7, 1998, 11:23 a.m.]

Subject of Possible Rule Making: To review sanitation and clearance issues as they affect the workplace and to comply with Executive Order 97-02. Chapter 480-60 WAC, Railroad companies—Clearance and chapter 480-66 WAC, Railroad companies—Sanitation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 81.44.010, 81.44.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules already exist in chapters 480-60 and 480-66 WAC. Their purpose is to provide objective standards for a safe and healthy work environment for persons who work on or around railroad cars. This inquiry is needed to review the regulations in light of changed conditions. They also must be reviewed for compliance with the standards set forth in Governor's Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agen-

cies: Washington State Department of Labor and Industries and the federal OSHA also regulate this subject generally. Although they do not regulate railroads, consistency across industries is appropriate. Staff will review regulations issued by those agencies, and will solicit input from railroad management and labor. The Federal Railroad Administration (FRA) can regulate in this area. Staff will coordinate directly with FRA personnel to ensure consistency and legality in light of any federal requirements. Staff will also review standards in other states in FRA Region 8 to try to develop standards which are relatively uniform throughout the region.

Process for Developing New Rule: Agency study; and the commission will call for written comments, and may provide the opportunity for additional written comments. The commission will schedule an informal workshop with interested persons in a manner designed 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, 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 CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. TR-981101, not later than **October 30, 1998**. All commenters 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 commenter's name and type of software used. The commission may offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation. Interested persons may also attend and participate in the workshop described below and in any other workshop that may be scheduled. The commission will provide written notice of any additional preproposal workshops to all commenters and to any other persons specifically asking to receive notice in this rule-making proceeding.

**NOTICE OF WORKSHOP:** A workshop will be held on **November 9, 1998**, beginning at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA. The commission's teleconference bridge line will be available for this workshop. A limited number of teleconference ports are available and will be assigned one to an organization, first-come first-served. Persons wishing to attend via the teleconference bridge line must contact Mary Sprouffske at (360) 664-1147 no later than 3:00 p.m., November 5, 1998. Ques-

tions may be addressed to Mike Rowswell at (360) 664-1265  
or e-mail at [mrowswell@wutc.wa.gov](mailto:mrowswell@wutc.wa.gov).

October 7, 1998  
Terrence Stapleton  
for Carole J. Washburn  
Secretary

**WSR 98-20-065**  
**EXPEDITED REPEAL**  
**DEPARTMENT OF HEALTH**  
 (Board of Optometry)  
 [Filed October 2, 1998, 3:47 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-851-270 Retention of minimum contact lens records, 246-851-340 Transmittal of patient information and records, and 246-851-360 Required identification on pre-prescriptions.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, make the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Judy Haenke, Department of Health, P.O. Box 47870, 1300 S.E. Quince Street, Olympia, WA 98504-7870.

Reason the Expedited Repeal of the Rule is Appropriate: In 1994, the legislature enacted chapter 18.195 RCW, Consumer Access to Vision Care Act. RCW 18.195.050(2), provides that rules adopted by the secretary pursuant to chapter 18.195 RCW shall supersede rules that conflict with this chapter. Rules to implement chapter 18.195 RCW were adopted under chapter 246-852 WAC.

WAC 246-852-040 Retention of patient contact lens records is the same as or exceeds the requirements in WAC 246-851-270. Therefore, WAC 246-851-270 should be repealed because it is redundant or may conflict with rules adopted under chapter 246-852 WAC.

WAC 246-852-030 Transmittal of patient information and records is the same as or exceeds the requirements of WAC 246-851-340. Chapter 70.02 RCW also sets forth the process for a patient's access to medical records and health care information. The requirements in WAC 246-852-030 and chapter 70.02 RCW are the same and exceed the requirements in WAC 246-851-340, therefore WAC 246-851-340 should be repealed because it is redundant or may conflict with rules adopted under chapter 246-852 WAC.

WAC 246-852-020 Prescription for corrective lenses is the same as or exceeds the requirements in WAC 246-851-360, therefore WAC 246-851-360 should be repealed because it is redundant or may conflict with rules adopted under chapter 246-852 WAC.

September 18, 1998  
 Judy Haenke  
 Program Manager

EXPEDITED REPEAL



**WSR 98-19-033**  
**PROPOSED RULES**  
**NORTHWEST AIR**  
**POLLUTION AUTHORITY**  
 [Filed September 10, 1998, 3:40 p.m.]

**Original Notice.**

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

Title of Rule: Northwest Air Pollution Authority Regulation (NWAPA).

Purpose: To repeal, add, and amend sections of the NWAPA Regulation to provide more clarity for users, to modify fee structures for new source review, registration, and asbestos, and to make the registration and new source review programs more consistent with the Department of Ecology.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: Amendatory Sections: 104.1 and 2 Update adoption by reference of current state and federal laws and rules.

- 133.1 Adjust civil penalty to account for inflation.
- 200 Add definitions for clarity.
- 480.3 Change emission performance standards for certified wood stoves.
- 480.6 Change threshold for ambient concentration of fine particles as to when to issue a curtailment period.
- 504 Change the amounts of fees collected for agricultural burning when using mobile field burning equipment.
- 580.3 Streamline and coordinate NWAPA requirement for petroleum liquid storage tanks. New language brings rule in line with federal New Source Performance Standards and Maximum Achievable Control Technology.
- 580.6 Lowers throughput threshold from 360,000 gallons per year to 200,000 gallons per year for Stage I requirements at gasoline stations.

**New Sections:**

- 300 Complete rewrite of new source review program for clarity and consistency with other local and state new source review programs.
- 301 Rewrites rules for issuance of a "Notice of Construction" approval order.
- 302 Notice of Completion requirements are clarified.
- 303 Identifies penalties for establishing an air contaminant source without a "Notice of Construction Order of Approval."
- 320 Complete rewrite of registration program for clarity and consistency with other state and local registration programs.
- 321 Establishes source exemptions from the registration program.
- 322 Rewrite air operating permit rule. Retains current fee calculation method.
- 324 Establishes new registration fees and new source review fees.

- 570 Rewrite asbestos programs rules and requirements for clarity and consistency with other local asbestos programs.

**Repealed Sections:**

- 300 Notice of Construction When Required.
- 301 Information Required for Notice of Construction.
- 302 Issuance of Approval or Order.
- 303 Notice of Completion-Notice of Violation.
- 320 Registration Required.
- 321 General Requirements for Registration.
- 322 Exemptions from Registration.
- 323 Classes of Registration.
- 324 Fees.
- 325 Transfer.
- 326 Operating Permits.
- 570 Asbestos Control Standards.
- 580.9 High Vapor Pressure Volatile Organic Compound Storage in External Floating Roof Tanks.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: James Randles, 1600 South Second Street, Mount Vernon, WA 98273-5202, (360) 428-1617 ext. 208.

Name of Proponent: Northwest Air Pollution Authority, governmental.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: NWAPA Hearing Room, 1600 South Second Street, Mount Vernon, WA 98273-5202, on November 12, 1998, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Cosby by October 28, 1998, (360) 428-1617 ext. 200.

Submit Written Comments to: James Randles, 1600 South Second Street, Mount Vernon, WA 98273, fax (360) 428-1620, by November 11, 1998.

Date of Intended Adoption: November 12, 1998.

September 9, 1998

James B. Randles

Assistant Control Officer

**AMENDATORY SECTION**

**SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES**

- 104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation the Authority is hereby adopted by reference and made part of the Regulation of the Authority as of May 14, 1998. Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedures Act (RCW 34.04) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, WAC 173-401, WAC-405, WAC 173-410, WAC 173-415,

**PROPOSED**

WAC-420, WAC-421, WAC-422, WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC-435, WAC-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, WAC 173-480, WAC 173-481, WAC 173-490, WAC 173-491, WAC-492, WAC-495, and WAC 173-802.

104.2 All provisions of the following federal rules are hereby adopted by reference and made part of the Regulation of the Authority as of May 14, 1998: 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Ca, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, I, J, K, L, M, N, O, P, Q, R, T, V, W, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, CC, DD, EE, GG, II, JJ, KK, LL, OO, PP, QQ, RR, VV, and JJJ.

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 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 RCW, chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Air Pollution Authority shall be liable for a civil penalty in an amount of not more than twelve thousand dollars (\$12,000) ~~eleven thousand two hundred twenty five dollars (\$11,225)~~ per day per violation. Each violation shall be a separate and distinct offense, and in the 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 shall be liable for a civil penalty of not more than twelve thousand dollars (\$12,000) ~~eleven thousand two hundred twenty five dollars (\$11,225)~~ for each day of continued noncompliance.

AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

SIGNIFICANT - means, in reference to a net emission increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than any of the following rates:

<u>POLLUTANT</u>	<u>TONS/YR</u>
<u>Carbon monoxide</u>	<u>100</u>
<u>Nitrogen oxides</u>	<u>40</u>
<u>Sulfur dioxide</u>	<u>40</u>
<u>Particulate matter (PM)</u>	<u>25</u>
<u>Fine particulate matter (PM-10)</u>	<u>15</u>
<u>Volatile organic compounds (VOC's)</u>	<u>40</u>
<u>Lead</u>	<u>0.6</u>
<u>Fluorides</u>	<u>3</u>
<u>Sulfuric acid mist</u>	<u>7</u>
<u>Hydrogen sulfide (H2S)</u>	<u>10</u>
<u>Total reduced sulfur (including H2S)</u>	<u>10</u>
<u>Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)</u>	<u>0.0000035</u>
<u>Municipal waste combustor metals (measured as PM)</u>	<u>15</u>
<u>Municipal waste combustor acid gases (measured as SO2 and hydrogen chloride)</u>	<u>40</u>

ODOR SOURCE - Any source that incurs two verified odor nuisance complaints within a twelve month time period. Odor nuisance complaints are verified by a NWAPA repre-

sentative according to the criteria of the NWAPA Regulation Sections 530.1 and 535.3.

PROPOSED

COMMERCIAL COMPOSTING FACILITY - a facility that is operated for the purpose of selling or off-site distribution of compost produced via the controlled biological degradation of organic material.

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998

REPEALER

SECTION 300 - NOTICE OF CONSTRUCTION WHEN REQUIRED

NEW SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1 It shall be unlawful for any person to cause or allow the construction, installation, establishment, or modification of an air contaminant source or emission unit, except those sources that are excluded in Section 300.2, unless a "Notice of Construction and Application for Approval" has been filed with and approved by the Authority.

300.2 Except when part of a new major source or major modification in a nonattainment area, the following air contaminant sources do not need to submit a "Notice of Construction and Application for Approval" approved by the Authority prior to construction, installation, establishment, or modification:

- a) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.
- b) Fuel burning equipment that has a maximum input rate of:
  - 1) less than 0.5 million Btu per hour (0.15 million joules per second) burning waste-derived fuel; or
  - 2) less than 10 million Btu per hour (3 million joules per second) burning natural gas, propane, or butane; or
  - 3) less than 1 million Btu per hour (0.3 million joules per second) burning any other fuel.
- c) Insecticide, pesticide, or fertilizer spray equipment.

- d) Internal combustion engines less than the size thresholds of the proposed or final United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79), or the promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines).
- e) Laboratory equipment used exclusively for chemical or physical analyses.
- f) Laundry dryers without control equipment.
- g) Dryers or ovens used solely to accelerate evaporation.
- h) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather, or ceramics which does not release air contaminants to the ambient air.
- i) Storage tanks:
  - 1) that do not store substances capable of emitting air contaminants; or
  - 2) that store volatile organic liquids having at true vapor pressure less than 1.5 psia; or
  - 3) with a rated capacity equal to or less than 6,000 gallons storing volatile organic liquids; or
  - 4) with a rated capacity equal to or less than 20,000 gallons storing petroleum liquids.
- j) Sanitary or storm drainage systems.
- k) Welding, brazing, or soldering equipment.
- l) Asphalt roofing and laying equipment (not including manufacturing or storage).
- m) Restaurants and other retail food-preparing establishments.
- n) Gasoline stations without Stage II vapor recovery.
- o) Cold solvent cleaners using a solvent with a true vapor pressure less than or equal to 4.2 kPa (0.6 psia).
- p) Retail printing operations (not including web presses).
- q) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings, or similar structures.
- r) Sources or emission units not listed above that have the potential to emit (uncontrolled) less than the following air pollutants:

PROPOSED

POLLUTANT		THRESHOLD LEVEL (tons per year)
(a)	Total Suspended Particulates	1.25
(b)	PM <sub>10</sub>	0.75
(c)	Sulfur Oxides	2.0
(d)	Nitrogen Oxides	2.0
(e)	Volatile Organic Compounds, total	2.0
(f)	Carbon Monoxide	5.0
(g)	Lead	0.005
(h)	Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)	1.0

PROPOSED

- s) Sources of hazardous air pollutants listed as exempt from new source review in Chapter 173-460-040 WAC.
  - t) Any source that has been determined through review by the Control Officer not to warrant a "Notice of Construction and Application for Approval", due to the minimal amount and nature of air contaminants produced, the type of air pollution control device, and potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property. The owner or operator shall submit to the Control Officer, the information necessary to make this determination. The Control Officer shall notify the owner or operator in writing whether a "Notice of Construction and Application for Approval" is required for the source.
- 300.3 Each "Notice of Construction and Application for Approval" shall be submitted on forms provided by the Authority and shall be accompanied by a set of plans that fully describes the proposed source, the means for prevention or control of the emissions of air contaminants, the appropriate fee as required by Section 324.2, and any additional information required by the Board or Control Officer to demonstrate that the proposed source will meet the requirements of Section 301.
- 300.4 A "Notice of Construction and Application for Approval" is incomplete until the Authority has received a fee as shown in Section 324.2.
- 300.5 Within 30 days of receipt of a "Notice of Construction and Application for Approval", the Authority shall notify the applicant in writing if any additional information is necessary to complete the application.
- 300.6 The Authority shall provide public notice prior to approval or denial of a Notice of Construction if a new or modified source will result in a significant emissions increase. The public notice shall provide for a thirty-day period to receive written comments. No final decision will be made on any "Notice of Construction and Application for Approval" until the comment period has ended and all comments have been considered.
- 300.7 The applicant, any interested governmental entity, any group, or any person may request a public hearing within the 30-day public notice period published as provided above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Authority may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the Authority deems reasonable. The Authority shall provide at least 30 days prior notice of any hearing.
- 300.8 Control technology determinations issued pursuant to Title 40 Code of Federal Regulations part 63 subpart B shall be administered in accordance with procedures specified therein.
- 300.9 Any source which currently has an "Order of Approval to Operate" for equipment that meets the

exemption criteria listed in Section 300.2 may petition the Authority for rescission of the "Order of Approval".

300.10 A completed State Environmental Policy Act Guidelines "Environmental Checklist" shall be submitted on forms provided by the Authority in accordance with Chapter 197-10-365 WAC and Section 312 of this regulation, as part of the required "Notice of Construction and Application for Approval".

PASSED: November 12, 1998

REPEALER

SECTION 301 - INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL, PUBLIC NOTICE, PUBLIC HEARING

NEW SECTION

SECTION 301 - ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION

- 301.1 Within 60 days of receipt of a complete "Notice of Construction and Application for Approval", or as promptly as possible after the close of the public comment period if subject to the public notice requirements of Section 300 of this Regulation, the Board or Control Officer shall issue an Order of Approval or an Order to Prevent Construction. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required by Section 322 of this Regulation provided that any such application shall be processed in accordance with the operating permit program procedures and deadlines.
- 301.2 An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with all applicable emission standards and regulations.
- 301.3 No Order of Approval shall be issued unless the "Notice of Construction and Application for Approval" demonstrates to the Board or Control Officer that:
  - a) the operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;
  - b) the source will meet the requirements of all applicable emission standards;
  - c) best available control technology is employed for the installation of new sources and emission units and the modification of existing sources and emission units; and
  - d) reasonably available control technology is employed for the replacement of existing control equipment.
  - e) the source complies with all applicable federally mandated air pollution control programs.

301.4 No Order of Approval shall be issued for a new or modified source of hazardous air contaminants unless the "Notice of Construction and Application for Approval" demonstrates to the Board or Control Officer that:

- a) the increased hazardous air pollutant emissions from the source are sufficiently low to protect human health and safety from carcinogenic and/or other toxic effects pursuant to Chapter 173-460-070 WAC; or
- b) the emissions from the source will not cause air pollution that exceeds the criteria identified in Chapter 173-460-090 WAC or Chapter 173-460-100 WAC and receives approval from the Department of Ecology.

301.5 An Order of Approval to Construct shall expire if the owner or operator has failed to commence construction of the source within 12 months of the date of its issuance or if construction is discontinued for a period of more than 12 months. The Control Officer may extend the time limit if it is determined that the project still employs BACT.

301.6 An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of this Regulation that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The Control Officer shall consider the petition, and shall, within 30 days, give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.

301.7 It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

PASSED: November 12, 1998

REPEALER

SECTION 302 - ISSUANCE OF APPROVAL OR ORDER

NEW SECTION

SECTION 302 - NOTICE OF COMPLETION

Within 30 days of completion of the installation or modification of an air contaminant source subject to the provisions of Section 300 of this Regulation, the owner, operator or applicant shall file a Notice of Completion in writing with the Authority. Each Notice of Completion shall specify the date upon which operation of the source has commenced or will commence.

PASSED: November 12, 1998

REPEALER

SECTION 303 - NOTICE OF COMPLETION - NOTICE OF VIOLATION

NEW SECTION

SECTION 303 - WORK DONE WITHOUT AN APPROVAL

Where work for which a "Notice of Construction and Application for Approval" is required is commenced or performed prior to making application and receiving approval, the Control Officer may conduct an investigation as part of the Notice of Construction review. In such a case, an investigation fee, in addition to the fees of Section 324.2, shall be assessed in an amount equal to 3 times the fees of Section 324.2. Payment of the fees does not relieve any person from the requirement to comply with any air regulation nor from any penalties for failure to comply.

PASSED: November 12, 1998

REPEALER

SECTION 320 - REGISTRATION REQUIRED

NEW SECTION

SECTION 320 - REGISTRATION PROGRAM

320.1 Program Authority, Applicability and Purpose. As authorized by RCW 70.94.151, the Board, by this Regulation, classifies air contaminant sources which may cause or contribute to air pollution. This classification is made according to levels and types of emissions and other characteristics that cause or contribute to air pollution. The Board requires both registration and reporting for these classes of air contaminant sources. The classifications are made for the entire area of jurisdiction of the Authority and are made with special reference to effects on health, economic and social factors, and physical effects on property. Information collected through the registration program is used to evaluate the effectiveness of air pollution control strategies and to verify source compliance with applicable air pollution requirements.

320.2 Registration and Reporting. Any person operating or responsible for the operation of an air contaminant source for which registration and reporting are required, shall register the source with the Authority. The owner or operator shall make reports to the Authority containing information as may be required by the Authority concerning location, size, and height of contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

PROPOSED

- 320.3 Annual Registration Fees. The Board requires that a fee accompany registration and has determined the amount of this fee for each class of air contaminant source to be as shown in Section 324.1. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:
- a) initial registration and annual or other periodic reports from the source owner or operator providing the information directly related to air pollution registration;
  - b) on-site inspections necessary to verify compliance with registration requirements;
  - c) data storage and retrieval systems necessary for support of the registration program;
  - d) emission inventory reports and emission reduction credits computed from information provided by sources pursuant to the requirements of the registration program;
  - e) staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to the requirements of the registration program;
  - f) clerical and other office support provided in direct furtherance of the registration program; and
  - g) administrative support provided in directly carrying out the registration program.
- 320.4 Any registered source which ceases to operate any air contaminant source for one (1) year or more or said source leaves the jurisdiction of the Authority and does not pay the annual registration fees, the source shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the Authority.
- 320.5 Registration Required
- 320.5.1 Source classification list. The following source categories shall register with the Authority:
- a) abrasive blasting operations;
  - b) aerosol can-filling facilities;
  - c) agricultural chemical facilities engaged in the manufacturing of liquid or dry fertilizers or pesticides;
  - d) agricultural drying and dehydrating operations;
  - e) alumina processing;
  - f) ammonium sulfate manufacturing plants;
  - g) any source category subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), Subpart BB (Kraft Pulp Mills), or Subpart AAA (Standards of Performance for New Residential Wood Heaters);
  - h) any source category subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP's) under 40 CFR Part 61, other than Subpart M (National Emission Standard for Asbestos), or a Maximum Achievable Control Technology (MACT) standard established under Section 112 of the Federal Clean Air Act (FCAA);
  - i) 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 FCAA;
  - j) any source that has equipment or control equipment, with an approved Notice of Construction from the NWAPA;
  - k) any source, stationary source or emission unit with significant emissions;
  - l) any source or emission unit from which emissions exceed the threshold levels for toxic air pollutants as specified in Chapter 173-401-531 WAC;
  - m) asphalt and asphalt products production facilities, not including asphalt laying equipment;
  - n) automobile and light-duty truck surface coating operations;
  - o) baker's yeast manufacturing;
  - p) brick and clay manufacturing plants, including tiles and ceramics;
  - q) casting facilities and foundries, ferrous and nonferrous;
  - r) cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growth season;
  - s) chemical manufacturing plants;
  - t) coal preparation plants;
  - u) coffee roasting facilities;
  - v) composting operations, including commercial, industrial and municipal, but exempting residential and agricultural composting activities;
  - w) concrete product manufacturers and ready mix and premix concrete plants;
  - x) crematoria or animal carcass incinerators;
  - y) dry cleaning plants;
  - z) ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;
  - aa) explosives production;
  - bb) flexible polyurethane foam production;
  - cc) flexible vinyl and urethane coating and printing operations;
  - dd) gasoline stations (>200,000 gallons per year) and bulk gasoline plants (>200,000 gallons per year);
  - ee) gelcoat, polyester, resin, or vinylester coating manufacturing operations at commercial or industrial facilities;
  - ff) glass manufacturing plants;
  - gg) grain, seed, animal feed, legume, and flour processing operations and handling facilities;
  - hh) graphic art systems;
  - ii) hay cubers and pelletizers;
  - jj) hazardous waste treatment and disposal facilities;
  - kk) hospitals, specialty and general medical surgical;
  - ll) ink manufacturers;
  - mm) insulation fiber manufacturers;
  - nn) lead-acid battery manufacturing plants;
  - oo) lime manufacturing plants;
  - pp) materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial

- housekeeping vacuuming systems that exhaust to the atmosphere;
- qq) meat packing plants;
  - rr) metal plating and anodizing operations;
  - ss) metallic and nonmetallic mineral processing plants, including rock crushing plants, and sand and gravel operations;
  - tt) mills: such as lumber, plywood, shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
  - uu) mills: wood products (cabinet works, casket works, furniture, wood byproducts);
  - vv) mineral wool production;
  - ww) mineralogical processing plants;
  - xx) municipal waste combustors;
  - yy) natural gas transmission and distribution (SIC 4953);
  - zz) nitric acid plants;
  - aaa) odor sources;
  - bbb) other metallurgical processing plants;
  - ccc) paper manufacturers;
  - ddd) petroleum refineries;
  - eee) pharmaceuticals production;
  - fff) plastics and fiberglass product fabrication facilities;
  - ggg) pneumatic materials conveying operations and industrial housekeeping vacuuming systems that exhaust more than 1000 acfm to the atmosphere;
  - hhh) portland cement plants;
  - iii) primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;
  - jjj) refuse systems including: incinerators, dumps and landfills (active and inactive, including covers, gas collection systems or flares);
  - kkk) rendering plants;
  - lll) salvage operations (scrap metal, junk);
  - mmm) semiconductor manufacturing;
  - nnn) shipbuilding and ship repair (surface coating);
  - ooo) soil and groundwater remediation projects;
  - ppp) soil vapor extraction (active), thermal soil desorption, or groundwater air stripping remediation projects;
  - qqq) sulfuric acid plants;
  - rrr) surface coating manufacturers;
  - sss) surface coating operations including: metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates, excluding surface coating by use of aqueous solution or suspension;
  - ttt) synthetic fiber production facilities;
  - uuu) tire recapping facilities;
  - vvv) utilities (combination of electrical and gas, and other utility services (SIC 4931, 4932, 4939);
  - www) vegetable oil production;
  - xxx) wastewater treatment plants;
  - yyy) wood treatment; and
  - zzz) 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.

- 320.5.2 Equipment classification list. The owner or operator of the following equipment shall register with the Authority:
- a) all natural gas only fired boilers above 10 million Btu per hour input;
  - b) chemical concentration evaporators;
  - c) degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;
  - d) flares utilized to combust any gaseous material;
  - e) fuel burning equipment with a heat input of more than one million Btu per hour, except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;
  - f) ovens, burn-out or heat-treat;
  - g) stationary internal combustion engines and turbines rated at five hundred horsepower or more;
  - h) storage tanks, reservoirs, or containers:
    - 1) with a rated capacity greater than 6,000 gallons storing volatile organic liquids, other than petroleum liquids, having a true vapor pressure equal to or greater than 1.5 psia.
    - 2) With a rated capacity greater than 40,000 gallons storing petroleum liquids having a true vapor pressure equal to or greater than 1.5 psia.
  - i) vapor collection systems within commercial or industrial facilities;
  - j) waste oil burners above 0.5 million Btu heat output; and
  - k) woodwaste incinerators.

PASSED: November 12, 1998

#### REPEALER

SECTION 321 - GENERAL REQUIREMENTS FOR REGISTRATION

#### NEW SECTION

SECTION 321 - EXEMPTIONS FROM REGISTRATION

Exclusion from registration does not absolve the owner, lessee, or his registered agent from all other requirements of the Regulation of this Authority. Exemption from registration does not apply to any control facility or device required to be installed in order to meet the emission and/or ambient standards of this Regulation.

The following sources of air pollution are exempt from registration:

- 321.1 Motor vehicles.
- 321.2 Non-road engines (as defined in Section 216 of the FCAA).
- 321.3 Non-road vehicles (as defined in Section 216 of the FCAA).

321.4 Sources that require an air operating permit per Chapter 173-401 WAC.

The Control Officer may exempt sources with an annual potential to emit (uncontrolled) under the thresholds identified in Sections 321.5 and 321.6.

321.5 Criteria air pollutants:

- a) 5 tons per year of carbon monoxide (CO);
- b) 2 tons per year of nitrogen oxides (NO<sub>x</sub>);
- c) 2 tons per year of sulfur dioxide (SO<sub>2</sub>);
- d) 1.25 tons per year of particulate matter (PM);
- e) 0.75 tons per year of fine particulate matter (PM<sub>10</sub>);
- f) 2 tons per year of volatile organic compounds (VOC's);
- g) 0.005 tons per year of lead.

321.6 Hazardous air pollutants as specified in Chapter 173-401-531 WAC.

PASSED: November 12, 1998

### REPEALER

#### SECTION 322 - EXEMPTIONS FROM REGISTRATION

### NEW SECTION

#### SECTION 322 - AIR OPERATING PERMIT PROGRAM (AOP)

322.1 Purpose. The purpose of this section is to provide for a comprehensive operating permit program consistent with the requirements of Title V of the Federal Clean Air Act (FCAA) Amendments of 1990 and its implementing regulation 40 CFR Part 70, and RCW 70.94.161 and its implementing regulation Chapter 173-401 of the Washington Administrative Code (WAC).

322.2 Applicability. The provisions of this section shall apply to all sources within the NWAPA jurisdiction excluding those regulated by the Washington State Department of Ecology Industrial Section subject to the requirements of Section 7661(a) of the FCAA or Chapter 173-401-300 WAC.

322.3 Compliance. It shall be unlawful for any person to cause or allow the operation of any source subject to the requirements of Chapter 173-401 WAC without complying with the provisions of Chapter 173-401 WAC and any permit issued under its authority.

322.4 Air Operating Permit Fees.

- a) The Authority shall levy annual operating permit program fees as set forth in this section to cover the cost of administering its operating permit program.
- b) Commencing with the effective date of the operating permit program, the Authority shall assess and collect annual air operating permit fees in its jurisdiction for any source specified in Section 7661(a) of Title V of the FCAA or Chapter 173-401-300 WAC (excluding sources regulated by the Washington State Department of Ecology Industrial Section). The total fees required by the NWAPA to administer the program shall be determined by a workload anal-

ysis conducted by the staff and approved annually by a resolution by the Board of Directors. Allocation of the fees to individual affected sources shall be based on the following:

- 1) Twenty percent (20%) of the total fees shall be allocated equally among all affected sources.
- 2) Eighty percent (80%) of the total fees shall be allocated based on actual emissions of regulated pollutants identified in the most recent annual emission inventory or potential emissions if actual data are unavailable. A regulated pollutant for fee calculation shall include:
  - Nitrogen oxides (NO<sub>x</sub>);
  - Volatile organic compounds (VOC's);
  - Particulate matter with an aerodynamic particle diameter less than or equal to 10μ (PM<sub>10</sub>);
  - Sulfur dioxide (SO<sub>2</sub>);
  - Lead; and
 Any pollutant subject to the requirements under Section 112(b) of the FCAA not included in any of the above categories.
- c) Upon assessment by the Authority, fees are due and payable and shall be deemed delinquent if not fully paid within 90 days. Any source that fails to pay a fee imposed under this section within 90 days of the due date shall be assessed a late penalty in the amount of 50 percent of the fee. This late penalty shall be in addition to the fee assessed under this section.
- d) The Authority shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology to cover the Department of Ecology's program development and oversight costs attributable to subject sources within the NWAPA jurisdiction. Fees for the Department of Ecology shall be allocated to affected sources in the same manner specified in this section.
- e) An affected source subject to the operating permit program that is required to pay an annual operating permit program fee shall not be required to pay a registration fee as specified in Section 324.

PASSED: November 12, 1998

### REPEALER

#### SECTION 323 - CLASSES OF REGISTRATION

### REPEALER

#### SECTION 324 - FEES

### NEW SECTION

#### SECTION 324 - FEES

324.1 Annual Registration Fees

- a) The Authority shall levy fees as set forth in Section 324.1(b) below for services provided in administer-

ing the registration program. Fees received under the registration program shall not exceed the cost of administering the program.

b) Fees

REGISTERED SOURCES	1999	2000	2001	2002	2003
Wastewater treatment plants w/sludge incinerators	\$500	\$515	\$535	\$555	\$575
Portable asphalt and soil desorption plants	\$300	\$310	\$320	\$330	\$340
Permanent asphalt and soil desorption units	\$600	\$620	\$640	\$660	\$680
Odor source	\$600	\$620	\$640	\$660	\$680
Petroleum coke handling facility	\$1,200	\$1,240	\$1,280	\$1,320	\$1,360
Perchloroethylene Dry cleaners	\$150	\$155	\$160	\$165	\$170
Gasoline stations and Bulk plants	\$150	\$155	\$160	\$165	\$170
Chrome plating	\$150	\$155	\$160	\$165	\$170
Volatile organic compound storage tanks					
< 40,000 gallons	\$200	\$210	\$220	\$230	\$240
> or= 40,000 gallons	\$500	\$515	\$535	\$555	\$575
Other sources as determined by the Control Officer	\$150	\$155	\$160	\$165	\$170
FOR SOURCES NOT LISTED ABOVE: TOTAL CRITERIA AND TOXIC AIR POLLUTANTS POTENTIAL TO EMIT					
> or= Thresholds, < 10 tons per year	\$150	\$155	\$160	\$165	\$170
> or= 10 tons per year, < 25 tons per year	\$750	\$775	\$800	\$825	\$850
> or= 25 tons per year, < 50 tons per year	\$1,500	\$1,545	\$1,595	\$1,645	\$1,695
> or= 50 tons per year	\$2,500	\$2,575	\$2,655	\$2,735	\$2,820
ADDITIONAL FEES					
Source test review	\$300	\$310	\$320	\$330	\$340
Operation of a Continuous Emission or Opacity Monitor (per unit)	\$300	\$310	\$320	\$330	\$340
Source subjects to NSPS or NESHAP (per subpart) except dry cleaners & chrome platers	\$500	\$515	\$535	\$555	\$575
Synthetic minor designation	\$500	\$515	\$535	\$555	\$575

324.2 New Source Review Fees

a) Fees

	1999	2000	2001	2002	2003
Filing fee	\$100	\$105	\$110	\$115	\$120
NSR FEES IN ADDITION TO THE FILING FEE:					
General (not classified below) for each piece of equipment or control equipment	\$500	\$515	\$535	\$555	\$575
<u>Fuel Burning Equipment</u>					
> or= 0.5 MM Btu/hr, but < 10 MM Btu/hr	\$250	\$260	\$270	\$280	\$290
> or= 10 MM Btu/hr, but < 100 MM Btu/hr	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
> or= 100 MM Btu/hr	\$10,000	\$10,300	\$10,610	\$10,930	\$11,260
Minor Notice of Construction change	\$250	\$260	\$270	\$280	\$290
Asphalt plant	\$750	\$775	\$800	\$825	\$850
Coffee roaster	\$250	\$260	\$270	\$280	\$290
Dry cleaner and Chrome plater	\$150	\$155	\$160	\$165	\$170
Gasoline stations and Bulk plants	\$300	\$310	\$320	\$330	\$340
<u>Refuse burning equipment</u>					
< 6 tons per day	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
> or= 6 tons per day, but < 12 tons per day	\$3,000	\$3,090	\$3,185	\$3,285	\$3,385
> or= 12 tons per day, but < 250 tons per day	\$20,000	\$20,600	\$21,220	\$21,860	\$22,520

PROPOSED

> or= 250 tons per day	\$40,000	\$41,200	\$42,440	\$43,715	\$45,030
Paint spray booth	\$150	\$155	\$160	\$165	\$170
<u>Volatile Organic Compounds storage tanks</u>	\$300	\$310	\$320	\$330	\$340
< 40,000 gallons					
> or= 40,000 gallons	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
Soil thermal desorption unit	\$750	\$775	\$800	\$825	\$850
Relocation of portable plant to new address	\$300	\$310	\$320	\$330	\$340
ADDITIONAL FEES					
Synthetic minor determination (WAC 173-400-091)	\$750	\$775	\$800	\$825	\$850
SEPA threshold determination (NWAPA lead agency)	\$250	\$260	\$270	\$280	\$290
Air toxics review	\$400	\$415	\$430	\$445	\$460
Major source, major modification, PSD thresholds	\$2,000	\$2,060	\$2,125	\$2,190	\$2,260
Emission units subject to NSPS or NESHAP's (except dry cleaners & chrome platers)	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
Public notice (plus publication fee)	\$200	\$210	\$220	\$230	\$240
Public hearing (plus publication fee)	\$500	\$515	\$535	\$555	\$575
NOC applicability determination	\$200	\$210	\$220	\$230	\$240
Each CEM or alternate monitoring device installed	\$500	\$515	\$535	\$555	\$575
Each source test required in NOC	\$500	\$515	\$535	\$555	\$575
Bubble application	\$1,000	\$1,030	\$1,065	\$1,100	\$1,135
Netting analysis	\$500	\$515	\$535	\$555	\$575

- 324.3 Variance Fee. \$1,000.00
- 324.4 Issuance of Emission Reduction Credits. \$500.00
- 324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

PASSED: November 12, 1998

REPEALER

SECTION 326 - OPERATING PERMITS

AMENDATORY SECTION

SECTION 480.33 - EMISSION PERFORMANCE STANDARDS

- 480.33 Emission Standards for Solid Fuel Burning Devices defined as an "affected facility" in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters". Stack emissions of certified models shall not exceed:
  - ~~480.331~~ 4.1 grams particulate per hour for catalytic solid fuel burning devices; and
  - 7.5 grams particulate per hour for non-catalytic solid fuel burning devices effective July 1, 1990 to December 31, 1994.
  - 480.332 2.5 grams particulate per hour for catalytic solid fuel burning devices; and

4.5 grams particulate per hour for non-catalytic solid fuel burning devices; effective January 1, 1995.  
 Solid fuel burning devices with a 35-to-1 or greater air to fuel ratio are exempt from certification.

Amended: April 14, 1993, November 12, 1998

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 480.611 CURTAILMENT

- 480.611 Whenever the Authority has declared the first stage of impaired air quality for the geographical area unless the solid fuel burning device is one of the following:
  - A. A pellet stove that is either certified or exempted from certification by the EPA under ~~WAC 173-433-150~~ Chapter 173-433-150 WAC; or
  - B. A wood stove certified under ~~WAC 173-433-100~~ Chapter 173-433-100 WAC, RCW 70.94.457 or Title 40 Part 60 Subpart AAA of the Code of Federal Regulations; or
  - C. A written exemption has been issued for the device under Section 480.8 of this Regulation.  
 A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are measured at an ambient level of ~~sixty seventy five~~ sixty seven micrograms per cubic meter of air by a method which has been determined, by Ecology or the

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Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

Amended: April 14, 1993, November 12, 1998

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### SECTION 504 - AGRICULTURAL BURNING

504.52 The fee shall be the greater of:

504.521 A minimum fee of twenty-five dollars per year per farm which shall be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund, and the remaining twelve dollars and fifty cents will be kept by the Authority to cover the costs of administering and enforcing this regulation; or

504.522 A variable fee based on the acreage or equivalent of agricultural burning, as well as the means of burning, which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and one dollar and twenty-five cents per acre for local permit program administration: If the agricultural burn is to be accomplished by using a propane or natural gas fired mobile field burning unit, then the local permit program administration fee shall be sixty cents per acre.

504.53 The Authority shall act on a complete permit application within seven days from the date such complete application is filed.

PASSED: February 14, 1973

AMENDED: By Adoption of WAC 18-16 January 24, 1972, August 9, 1978, June 7, 1990, May 9, 1996, May 14, 1998, November 12, 1998

## REPEALER

### SECTION 570 - ASBESTOS CONTROL STANDARDS

## NEW SECTION

### SECTION 570 - ASBESTOS CONTROL STANDARDS

570.1 The Board of Directors of the Northwest Air Pollution Authority recognize that asbestos is a serious health hazard. Any asbestos fibers released into the air can be inhaled and can cause lung cancer, pleural mesothelioma, peritoneal mesothelioma or asbestosis. The Board has, therefore, determined that any asbestos emitted to the ambient air is air pollution. Because of the seriousness of the health hazard, the Board of Directors has adopted this regulation to control asbestos emissions from asbestos removal projects in order to protect the public health. In addition, the Board has adopted these regulations to

coordinate with the EPA asbestos NESHAP, the OSHA asbestos regulation, the Washington Department of Labor and Industries asbestos regulations, the Washington Department of Ecology Dangerous Waste regulation, and the solid waste regulations of Island, Skagit and Whatcom Counties.

### 570.2 DEFINITIONS

- a) AHERA BUILDING INSPECTOR means a person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan; Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E, I.B.3) and whose certification is current.
- b) AHERA PROJECT DESIGNER means a person who has successfully completed the training requirements for an abatement project designer established by EPA regulations (40 CFR 763.90(g)) and whose certification is current.
- c) ASBESTOS means the asbestiform varieties of actinolite, amosite (cumingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.
- d) ASBESTOS-CONTAINING MATERIAL means any material containing more than one percent (1%) asbestos as determined using the method specified in EPA regulations Appendix A, Subpart F, 40 CFR Part 763, Section I, Polarized Light Microscopy.
- e) ASBESTOS-CONTAINING WASTE MATERIAL means any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.
- f) ASBESTOS PROJECT means any activity involving the abatement, renovation, demolition, removal, salvage, clean up, or disposal of asbestos-containing material, or any other action that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.
- g) ASBESTOS SURVEY means a written report describing an inspection using the procedures contained in EPA regulations (40 CFR 763.86), or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, renovated, removed, or demolished (including materials on the outside of structures) contain asbestos.
- h) COMPETENT PERSON means a person who is capable of identifying asbestos hazards and select-

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ing the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate them, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

- i) **COMPONENT** means any equipment, pipe, structural member, or other item covered or coated with, or manufactured from, asbestos-containing material.
- j) **DEMOLITION** means wrecking, razing, leveling, dismantling, or burning of a structure, making the structure permanently uninhabitable or unusable.
- k) **FRIABLE ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Such materials include, but are not limited to, thermal system insulation, surfacing material, and cement asbestos products.
- l) **LEAK-TIGHT CONTAINER** means a dust-tight and liquid-tight container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.
- m) **NONFRIABLE ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal.
- n) **OWNER-OCCUPIED, SINGLE-FAMILY RESIDENCE** means any non-multiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is currently used by one family who owns the property as their domicile. This term includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include rental property or multiple-family units, nor does this term include any mixed-use building, structure, or installation that contains a residential unit.
- o) **PERSON** means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.
- p) **RENOVATION** means altering a facility or a component in any way, except demolition.
- q) **SURFACING MATERIAL** means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fireproofing materials on structural members, or other materials on surfaces for decorative purposes.

r) **SUSPECT ASBESTOS-CONTAINING MATERIAL** means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and siding.

s) **THERMAL SYSTEM INSULATION** means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

570.3 ASBESTOS SURVEY REQUIREMENTS

a) Requirements for Renovations

It shall be unlawful for any person to cause or allow a renovation unless the property owner or the owner's agent determines whether there are suspect asbestos-containing materials in the work area and obtains an asbestos survey of any suspect asbestos-containing materials by an AHERA building inspector. An AHERA building inspector is not required for asbestos surveys associated with the renovation of an owner-occupied, single-family residence.

- 1) If there are no suspect materials in the work area, this determination shall either be posted at the work site or communicated in writing to all contractors involved in the renovation.
- 2) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.
- 3) Except for renovations of an owner-occupied, single-family residence, only an AHERA building inspector may determine that a suspect material does not contain asbestos.
- 4) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

b) Requirements for Demolitions

It shall be unlawful for any person to cause or allow any demolition unless the property owner or the owner's agent obtains an asbestos survey by an AHERA building inspector of the structure to be demolished.

- 1) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.
- 2) Only an AHERA building inspector may determine that a suspect material does not contain asbestos.
- 3) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

570.4 NOTIFICATION REQUIREMENTS

a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the Authority on approved forms, in accordance

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- with the advance notification period requirements contained in 570.4(d) of this Regulation.
- 1) The duration of an asbestos project shall be commensurate with the amount of work involved.
  - 2) Notification is not required for asbestos projects involving less than 10 linear feet or 48 square feet (per structure, per calendar year) of any asbestos-containing material.
  - 3) Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by Section 570.
  - 4) Notification is required for all demolitions involving public or commercial structures or multi-family residences with 5 or more units, even if no asbestos-containing material is present. All other demolition requirements remain in effect.
  - 5) The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority.
  - 6) A copy of the notification, all amendments to the notification, the asbestos survey, and any Order of Approval for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.
  - 7) Notification for multiple asbestos projects or demolitions may be filed by a property owner on one form if all the following criteria are met:
    - A) The work will be performed continuously by the same contractor; and
    - B) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the Authority's work schedule fax program and will continue to participate in the program throughout the duration of the project.
  - 8) Annual Notification
 

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

    - A) The annual notification shall be filed with the Authority before commencing work on any asbestos project included in an annual notification;
    - B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section is less than 260 linear feet on pipes or less than 160 square feet on other components; and
    - C) The property owner submits quarterly written reports to the Control Officer on Authority-
- approved forms within 15 days after the end of each calendar quarter.
- b) Amendments
    - 1) Mandatory Amendments
 

An amendment shall be submitted to the Control Officer for the following changes in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority:

      - A) Increases in the project type or job size category that increase the fee or change the advance notification period;
      - B) Changes in the type of asbestos-containing material that will be removed; or
      - C) Changes in the start date, completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the Authority work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.
    - 2) Optional Amendments
      - A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority.
      - B) Contractors and property owners participating in the Authority work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to the Control Officer for the removal of additional asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of 570.4(a), including notification periods and fees, shall apply.
  - c) Emergencies
 

The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that an asbestos project or demolition must be conducted immediately because of any of the following:

    - 1) There was a sudden, unexpected event that resulted in a public health or safety hazard;
    - 2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;
    - 3) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or
    - 4) The project must proceed to avoid imposing an unreasonable burden.
  - d) Notification Period and Fees

Project	Size or Type	Notification Period	Fee
Owner-Occupied, Single Family Residence (asbestos project and/or demolition)	All	Prior Notice	\$25
All Other Demolitions with no asbestos project	All	10 days	\$0
Asbestos Project*	10-259 linear ft. 48-159 square feet.	3 days	\$150
Asbestos Project	260-999 linear ft. 160-4,999 sq. ft.	10 days	\$300
Asbestos Project	> 1,000 linear ft. > 5,000 sq. ft.	10 days	\$500
Emergency	570.4 (c)	Prior Notice	Add'l fee equal to project fee
Amendment	570.4 (b)	Prior Notice	\$25
Alternate Means of Compliance (demolitions or friable asbestos-containing materials)	570.7 (a) or (c)	10 days	Add'l fee equal to project fee
Alternate Means of Compliance (non-friable asbestos-containing materials)	570.7 (b)	10 days	Add'l fee equal to project fee
Annual	570.4 (a)(8)	Prior Notice	\$500

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\* Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

**570.5 ASBESTOS REMOVAL REQUIREMENTS PRIOR TO RENOVATION OR DEMOLITION**

- a) **Removal of Asbestos Prior to Renovation or Demolition**  
 Except as provided in 570.7(c) of this Regulation, it shall be unlawful for any person to cause or allow any demolition or renovation that may disturb asbestos-containing material or damage a structure so as to preclude access to asbestos-containing material for future removal, without first removing all asbestos-containing material in accordance with the requirements of this regulation. Asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.
- b) **Exception for Hazardous Conditions**  
 Asbestos-containing material need not be removed prior to a demolition, if the property owner demonstrates to the Control Officer that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health.

The property owner must submit the written determination of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material.

**570.6 PROCEDURES FOR ASBESTOS PROJECTS**

- a) **Training Requirements**  
 It shall be unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety and Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction) and whose certification is current. This certification requirement does not apply to asbestos projects conducted as part of a renovation in an owner-occupied, single-family residence performed by the resident owner of the dwelling.
- b) **Asbestos Removal Work Practices**  
 Except as provided in 570.7(c) of this Regulation, it shall be unlawful for any person to cause or allow the removal of asbestos-containing material unless all the following requirements are met:
  - 1) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only.
  - 2) If a negative pressure enclosure is employed it shall be equipped with transparent viewing ports, if feasible, and shall be maintained in good working order.

- 3) Absorbent, asbestos-containing materials, such as surfacing material and thermal system insulation, shall be saturated with a liquid wetting agent prior to removal. Any unsaturated, absorbent, asbestos-containing materials exposed during removal shall be immediately saturated with a liquid wetting agent.
  - 4) Nonabsorbent, asbestos-containing materials, such as cement asbestos board or vinyl asbestos tile, shall be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent, asbestos-containing materials exposed during removal shall be immediately coated with a liquid wetting agent.
  - 5) Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material are exempt from the requirements of 570.6 (b)(3) and 570.6 (b)(4) if all access to the asbestos-containing material is welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.
  - 6) Except for surfacing materials being removed inside a negative pressure enclosure, asbestos-containing materials that are being removed, have been removed, or may have fallen off components during an asbestos project shall be carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise damaged.
  - 7) All asbestos-containing waste material shall be sealed in leak-tight containers as soon as possible after removal but no later than the end of each work shift.
  - 8) All absorbent, asbestos-containing waste material shall be kept saturated with a liquid wetting agent until sealed in leak-tight containers while saturated with a liquid wetting agent. All nonabsorbent, asbestos-containing waste material shall be kept coated with a liquid wetting agent until sealed in leak-tight containers while coated with a liquid wetting agent.
  - 9) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.
  - 10) Immediately after sealing, each leak-tight container shall be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be readable without opening the container.
  - 11) Leak-tight containers shall not be dropped, thrown, slid, or otherwise damaged.
  - 12) The asbestos-containing waste material shall be stored in a controlled area until transported to an approved waste disposal site.
- c) **Method of Removal for Nonfriable Asbestos-Containing Roofing Material**  
The following asbestos removal method shall be employed for asbestos-containing roofing material that has been determined to be nonfriable by a Competent Person or an AHERA Project Designer:
- 1) The nonfriable asbestos-containing roofing material shall be removed using methods such as spud bar and knife. Removal methods such as sawing or grinding shall not be employed;
  - 2) Dust control methods shall be used as necessary to assure no fugitive dust is generated from the removal of nonfriable asbestos-containing roofing material;
  - 3) Nonfriable asbestos-containing roofing material shall be carefully lowered to the ground to prevent fugitive dust;
  - 4) After being lowered to the ground, the nonfriable asbestos-containing roofing material shall be immediately transferred to a disposal container; and
  - 5) Each disposal container shall have a sign identifying the material as nonfriable asbestos-containing roofing material.
- 570.7 **ALTERNATE MEANS OF COMPLIANCE**
- a) **Friable Asbestos-Containing Material Removal Alternative**  
An alternate asbestos removal method may be employed for friable asbestos-containing material if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in Section 570.6(b) of this Regulation in controlling asbestos emissions. The property owner or the owner's agent shall document through air monitoring at the exhaust from the controlled area that the asbestos fiber concentrations outside the controlled area do not exceed 0.01 fibers/cc, 8 hour average. The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by 570.6(b), and may revoke the Order of Approval for cause.
- b) **Nonfriable Asbestos-Containing Material Removal Alternative**  
An alternate asbestos removal method may be employed for nonfriable asbestos-containing material if a Competent Person or AHERA Project Designer has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in 570.6(b) of this Regulation in controlling asbestos emissions. The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by 570.6(b), and may revoke the Order of Approval for cause.

c) Leaving Nonfriable Asbestos-Containing Material in Place During Demolition

Nonfriable asbestos-containing material may be left in place during a demolition, if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the asbestos-containing material will remain nonfriable during all demolition activities and the subsequent disposal of the debris.

The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the asbestos-containing material remains nonfriable, and may revoke the Order of Approval for cause.

570.8 DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

- a) Except as provided in 570.8(c) of this Regulation, it shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless it is deposited within 10 days of removal at a waste disposal site authorized to accept such waste.
- b) Waste Tracking Requirements  
It shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless the following requirements are met:
- 1) Maintain waste shipment records, beginning prior to transport, using a form that includes the following information:
    - A) The name, address, and telephone number of the waste generator;
    - B) The approximate quantity in cubic meters or cubic yards;
    - C) The name and telephone number of the disposal site operator;
    - D) The name and physical site location of the disposal site;
    - E) The date transported;
    - F) The name, address, and telephone number of the transporter; and
    - G) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition to transport by highway according to applicable international and government regulations.
  - 2) Provide a copy of the waste shipment record to the disposal site at the same time the asbestos-containing waste material is delivered.
  - 3) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 35 calendar days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the disposal site to determine the status of the waste shipment.

4) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter, report in writing to the Control Officer. Include in the report, a copy of the waste shipment record and a cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

5) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

c) Temporary Storage Site

A person may establish a facility for the purpose of collecting and temporarily storing asbestos-containing waste material if the facility is approved by the Control Officer and all the following conditions are met:

- 1) Accumulated asbestos-containing waste material shall be kept in a controlled storage area posted with asbestos warning signs and accessible only to authorized persons;
- 2) All asbestos-containing waste material shall be stored in leak-tight containers and the leak-tight containers shall be maintained in good condition;
- 3) The storage area must be locked except during transfer of asbestos-containing waste material; and
- 4) Storage, transportation, disposal, and return of the waste shipment record to the waste generator shall not exceed 90 days.
- d) Disposal of Asbestos Cement Pipe  
Asbestos cement pipe used on public right-of-ways, public easements, or other places receiving the prior written approval of the Control Officer may be buried in place if the pipe is covered with at least 3 feet or more of non-asbestos fill material. All asbestos cement pipe fragments that are 1 linear foot or less and other asbestos-containing waste material shall be disposed of at a waste disposal site authorized to accept such waste.

PASSED: November 12, 1998

AMENDATORY SECTION

- 580.3 High Vapor Pressure Volatile Organic Compound Storage Tanks
- 580.31 This section shall apply to all tanks except as noted in Section 580.35 and 580.36 of this section which store volatile organic compounds with a true vapor pressure as stored greater than 10.5 kilopascals (kPa) 1.5 pounds per square inch (psia), but less than 77.7 kPa (11.1 psia) at actual monthly average storage temperatures and have a capacity greater than one hundred fifty thousand liters (40,000 gallons).
- 580.32 It shall be unlawful for any person to cause or allow storage of volatile organic compounds as specified in Section 580.31 unless each storage tank or container:

- 580.321 Meets the equipment specifications, ~~and maintenance, monitoring, recordkeeping and reporting~~ requirements of the Federal Standards of Performance for New Stationary Sources - Storage Vessels for Petroleum Liquids (40 CFR 60, subpart Kb); ~~or,~~
- ~~580.322 Is retrofitted with a floating roof or internal floating cover using a metallic seal or a nonmetallic resilient seal at least meeting the equipment specifications of the Federal standards referred to in 580.321 of this subsection, or its equivalent; or~~
- ~~580.323 Is fitted with a floating roof or internal floating cover meeting the manufacturer's equipment specifications in effect when it was installed.~~
- 580.33 All seals used with equipment subject to this section are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears or other openings.
- 580.34 All openings not related to safety are to be sealed with suitable closures.
- 580.35 Tanks used for the storage of gasoline in bulk gasoline plants and equipped with vapor balance systems as required in 580.52 shall be exempt from the requirements of this section.
- 580.36 All tanks storing volatile organic compounds with a true vapor pressure greater than 77.7 kPa (11.1 psia) shall be equipped with a vapor recovery system.

PASSED: December 13, 1989 Amended: May 14, 1998, November 12, 1998

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION

##### SECTION 580.6 - Gasoline Stations

- 580.61 Section 580.62 shall apply to:
- 580.611 All gasoline stations with a total annual gasoline throughput greater than seven hundred and fifty-seven thousand liters (200,000 gallons) ~~one million three hundred sixty-four thousand liters (360,000 gallons)~~ and
- 580.612 All gasoline stations installed or reconstructed after January 1, 1990 with a nominal total gasoline storage capacity greater than thirty-eight thousand liters (10,000).
- 580.62 It shall be unlawful for any person to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank except as provided in 580.63 of this section unless the following conditions are met:
- 580.621 Such stationary storage tank is equipped with a permanent submerged fill pipe and approved vapor recovery system, and
- 580.622 Such transport tank is equipped to balance vapors and is maintained in a vapor-tight condition in accordance with Section 580.10 and
- 580.623 All vapor return lines are connected between the transport tank and the stationary storage

tank and the vapor recovery system is operating.

- 580.63 Notwithstanding the requirements of 580.61 of this regulation, the following stationary gasoline storage tanks are exempt from the requirements of 580.62:
- 580.631 All tanks with a capacity less than seven thousand five hundred liters (2,000 gallons) installed before January 1, 1990.
- 580.632 All tanks with offset fill lines installed before January 1, 1990.
- 580.633 All tanks with a capacity less than one thousand liters (260 gallons).
- 580.64 It shall be unlawful for any person to cause or allow the transfer of gasoline from a stationary tank into a motor vehicle fuel tank except as provided in WAC 173-491.

PASSED: February 14, 1990

Amended: April 14, 1993, October 13, 1994, March 13, 1997, May 14, 1998, November 12, 1998

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Northwest Air Pollution Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### REPEALER

SECTION 580.9 - High Vapor Pressure Volatile Organic Compound Storage in External Floating Roof Tanks

#### **WSR 98-19-060**

#### **PROPOSED RULES**

#### **UTILITIES AND TRANSPORTATION COMMISSION**

[Docket No. TV-971477—Filed September 16, 1998, 10:31 a.m.]

##### Original Notice.

Preproposal statement of inquiry was filed as WSR 97-22-082.

Title of Rule: Motor carriers of household goods.

Purpose: To promote competition within the household goods industry and provide consumers with more choices by easing entry requirements, eliminating barriers to areas of operations, and providing rate flexibility. To strengthen consumer protection elements, and to review rules in accordance with Executive Order 97-02.

Other Identifying Information: Repeal all rules in chapter 480-12 WAC, except WAC 480-12-100 and 480-12-370, and establish a new chapter 480-15 WAC, governing carriers of household goods.

Statutory Authority for Adoption: RCW 80.01.040 and 81.04.160

Summary: Federal preemption of most areas of transportation economic regulation has left household goods carriers, a group of approximately 250 regulated carriers, under the rules, policies, and procedures designed to regulate almost 4,000 carriers. Many of the current rules are ill-suited for the smaller group. In addition, chapter 480-12 WAC is scheduled for agency review in compliance with Executive

PROPOSED

Order 97-02. The proposed rules are drafted to apply only to the smaller transportation subset of household goods carriers. The proposed rules ease entry requirements, eliminate barriers to areas of operations, allow pricing flexibility, strengthen consumer protection elements, and clarify commission policy regarding the household goods definition.

Reasons Supporting Proposal: Changes are necessary to allow more carriers to provide household goods moving services and allow carriers to expand their operations. Changes are also necessary to protect consumers. It is expected these changes will promote competition within the industry, increase consumer choice, and provide stronger consumer protection elements.

Name of Agency Personnel Responsible for Drafting: Kim Dobyms, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1242; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal would make several changes to existing rules. It would ease entry requirements by changing the application process and interpreting the standards of public interest and public convenience and necessity to address the concerns of the consumer. The proposed rules allow carriers greater opportunities to operate in the state by eliminating rules which require carriers to obtain specific operating authority (local cartage and commercial zones) to provide services in specific cities and metropolitan areas of the state. These changes are necessary to allow more carriers to provide household goods moving services and allow carriers to expand their operations. It is expected these changes will increase competition and consumer choice.

Additionally, the proposed rules provide for pricing flexibility through the use of an interim rule which allows carriers to price their services within a range of the current tariff rates. This policy change is necessary to allow for service expansion in the industry and will also increase consumer choice where pricing is a determining factor.

The proposed rules strengthen consumer protection by capping the amount a carrier can charge a consumer above its estimate, providing carriers the option to issue binding estimates, clarifying credit options, reducing carrier complaint response time, and providing a more complete range of valuation options.

The proposed rules also clarify commission policy and authority in the areas of compliance, complaint resolution, and what constitutes household goods.

Finally, the proposed rules are drafted in clear language, as directed by Executive Order 97-02.

Proposal Changes the Following Existing Rules: It provides a new chapter of rules specifically for household goods carriers. The proposed rules provide a new process for new entrants to follow when seeking to enter the household goods industry and a new process for existing carriers wishing to change their operating areas.

It provides for a tariff band of rates and charges of 15% above and 35% below the existing tariff rates in effect on the effective date of the proposed rules. It puts a cap of 25% for local moves and 15% for long distance moves on the amount a carrier may charge a customer above its written estimate. It provides carriers with an option of offering customers a binding estimate.

It provides a revised set of consumer disclosure information. The proposed rules are written in language that is more clear and concise than the existing rules.

Finally, the proposed rules eliminate and/or revise unnecessary or burdensome requirements such as eliminating rules that applied to other transportation sectors and reducing certain recordkeeping requirements.

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

#### Small Business Economic Impact Statement

**RULE SUMMARY:** These rules include a reduction in the regulatory burden associated with registering with the commission as a household goods mover, together with increased consumer protection for customers of such businesses. The proposed rules provide for a different process for obtaining permanent authority by requiring new applicants to obtain temporary authority for a six month period on a provisional basis, and allow the commission to evaluate whether the firm is providing service to consumers consistent with statutory and regulatory requirements during this period, prior to consideration of whether to grant permanent authority. The rules also eliminate the requirement for a hearing to determine fitness, permit flexibility in pricing, allow the use of binding estimates, impose limits on the amount which a carrier may charge in excess of the amount estimated in a nonbinding estimate, and allow for the temporary voluntary suspension of a permit for medical reasons. Finally, the rules provide for more expedited handling of consumer complaints about the quality of service rendered.

**REGULATORY FAIRNESS ACT REQUIREMENTS:** The Regulatory Fairness Act, chapter 19.85 RCW, requires review and mitigation of rules which have an economic impact on more than twenty percent of the businesses of all industries or more than ten percent of the businesses in any one industry (as defined by any three digit SIC code).

Mitigation should minimize the impact on small businesses. The revisions proposed to chapter 480-12 WAC may meet these requirements, and the commission has elected to submit a small business economic impact statement with the proposed rules.

As used herein, the word "statement" means the small business economic impact statement required by the Regulatory Fairness Act. "Commission" means the Washington Utilities and Transportation Commission. "Carrier" means a firm providing household goods transportation service for hire. "Consumer" means an individual or company purchasing household goods transportation service.

**BACKGROUND:** The term "household goods mover" and "household goods carrier" refer to companies providing moving services for residential consumers. These services are regulated if they include actually moving the goods from one location to another within the state (subject to some narrow

exclusions), but do not apply to firms which merely pack and load a truck for a customer, nor to self-moving operations such as U-Haul, Penske, or Ryder, where the consumer actually rents and operates the vehicle.

Prior to 1980, all interstate and intrastate transportation of goods for hire was regulated as to price and service quality. In 1980, the federal government deregulated interstate transportation of most goods, except for a few categories, including household goods. In 1995, federal legislation extended this to intrastate transportation of most goods, again, with an exclusion for household goods. The clear trend in transportation regulation has been to allow market forces and consumer protection standards, rather than regulation, to ensure quality service at fair, just, and reasonable prices.

Washington's regulations which apply to household goods carriers are essentially unchanged since the period prior to deregulation efforts. The rules are somewhat antiquated, and may actually interfere with the ability of citizens of the state to obtain high quality service at fair, just, and reasonable prices. One reason for this is that under deregulation of carriage of material other than household goods, many additional carriers having the fitness to carry household goods have entered the state's economy, providing carriage of other categories of goods. Another is that the process of obtaining regulatory approval to carry household goods may be so onerous that few potential applicants seek approval. Many of these may be providing service in violation of existing regulations, some may be providing service which conforms to safety and quality standards, but without required permits, and others may be unwilling to apply for approval or offer service despite their fitness to do so.

Because of the onerous nature of the state's regulation of this industry, the actual number of firms currently offering service in the state has declined. While two hundred forty seven firms hold authority to move household goods, in 1997, only one hundred sixteen actually provided such services and filed reports in compliance with the commission's regulations.

Part of the current system of regulation is the establishment by the commission of specified rates and charges for household moving services. One of the most frequent causes of complaints to the commission by consumers is that household goods carriers have provided an estimate, but the actual bill for moving greatly exceeds the estimate. Because the carriers are statutorily required to charge the approved rate, even if it is greater than the estimate, the commission is not in a position to assist these consumers, although it may impose penalties on carriers which are the subject of multiple complaints.

**INVOLVEMENT OF SMALL BUSINESS IN THE RULE MAKING (RCW 19.85.040 (2)(b) and (3)):** The commission involved small businesses in the rule making through a series of meetings throughout the development of the rules. Attachment A to this statement lists the meeting dates and attendees at these meetings. Two associations were involved in the development of the rules, under the process described by RCW 34.05.310 (2)(a). The Washington Movers Conference represents substantially all of the currently permitted carriers, large and small. The Association of Independent Movers represents a self-selected group of nonpermitted firms cur-

rently providing or interested in providing household goods carriage. In addition, some attendees were small firms which were not members of either association, and consumers of household goods moving were included. A representative was appointed by the Public Counsel Section and Consumer Protection Division, Office of the Attorney General, to represent the general public.

**SUMMARY OF FINDINGS AND MITIGATION EFFORTS:** This analysis finds that, on balance, the proposed rules will reduce the regulatory burden on all firms engaged in providing household goods moving service, as follows:

**Benefits:**

**New Entrants:** Reduction in the regulatory burden associated with obtaining permission to provide service is a great reduction in the burden on new entrants.

**Limited Carriers:** Provides all existing carriers the option to expand their certificated service territories up to and including state-wide service with no requirement for a hearing, no fee, and no arduous application procedure. The regulatory burden associated with educating personnel regarding the boundaries of service will be eliminated for those which choose unlimited service or service with recognized political boundaries.

**Unlimited Carriers:** Carriers currently holding state-wide authority are granted increased flexibility to refuse to provide service under specified circumstances. The smallest unit of service will be at the county level, so household goods carriers will no longer need to be familiar with the boundaries of cities and towns or commercial districts, which can shift over time as annexations occur.

**Small Business**

**New Entrants:** The requirement that the commission hold a hearing on every protested application for authority is eliminated, and the conditions for demonstrating "public convenience and necessity" are expanded to reflect a consumer perspective, resulting in a higher probability that an application will be approved. Since small businesses are likely to be the primary new applicants, these changes are likely to primarily benefit small businesses.

Information received during workshops during the drafting of the proposed rule indicated that small firms desiring to enter this field have lower cost structures than those implied by the current tariff. The authority to have rates which are lower than the current tariff, within the rate bands proposed, are anticipated to be the largest benefit to small business new entrants, allowing them to offer competitive pricing in order to secure market share, while still earning a fair return.

**All Carriers:** The permission for use of both binding estimates and estimates with rate caps around them will allow all carriers to provide an estimate to consumers which will not be exceeded by more than a limited amount, eliminating the most common source of time-consuming complaints. The elimination of most hearings on the fitness of new entrants will greatly reduce the time and money spent by both new and existing carriers in proceedings before the commission.

**Small Business**

**Users:** Small businesses which use household goods carriers (e.g., to move employees) will benefit from greater predictability in cost resulting from binding estimates and/or

price caps around nonbinding estimates. To the extent that the banded rates facilitate pricing at less than the current tariff rate, these provisions will allow direct economic benefits to small businesses using household goods carriers.

#### Detriments:

**Small Carriers:** The requirements for complaint handling, a complaint register, and the requirement to retain estimates create potential additional costs. Because these costs are only partly variable with the size of the enterprise, they may represent a disproportionate impact on small businesses. Mitigation is recommended with respect to the creation of a complaint register and estimate form.

**All Carriers:** The tariff, including a banded rate, may be more confusing for personnel to understand. A requirement for cargo insurance may increase costs for any carriers not currently procuring such insurance. A very slight increase in recordkeeping will be required with respect to complaints.

**NUMBER OF BUSINESSES AFFECTED:** Currently there are two hundred forty-seven certificated household goods carriers in the state, but only one hundred sixteen of these reported actual revenues during 1997 from moving household goods between points within the state of Washington. While additional new entrants who are not currently providing any kind of transportation service for hire may enter the household goods carrier field as a result of these rules, the number of motor freight carriers operating in the state provides a rough indication of the number of businesses which are currently fit and able (or could easily become fit and able) to provide household goods service, but are not currently certificated to provide such service. There are more than four thousand motor freight carriers operating within the state.

Of the two hundred forty-seven household goods carriers permitted in the state, only two reported 1997 revenues from intrastate carriage of household goods of more than \$2 million, and only seven reported 1997 revenues from intrastate carriage of household goods of more than \$1 million. If these were the total revenues of the firms involved, essentially all household goods carriers would be considered small businesses under the Regulatory Fairness Act. However, many of the firms engaged in intrastate household goods carriage also provide interstate service, and many provide other forms of transportation service. It is the total number of employees of a firm which determine whether they are "small" or not small, not just the number of employees working exclusively in intrastate carriage of household goods.

**CHANGES IN REGULATORY BURDEN:** Attachment B to this statement provides a section by section comparison of the existing and proposed rules, and identifies the changes in regulatory burden associated with each.

**COSTS OF COMPLIANCE (RCW 19.85.040 (1)(c)):** The costs of compliance with these rules occurs primarily as a result of three changes:

**Valuation and Insurance:** The proposed rule requires carriers to offer financial responsibility for loss or damage to household goods at different optional levels, and to obtain cargo insurance.

Current rules effectively provide for self-insurance of goods at very low valuations. The proposed rule provides for higher levels of valuation, but permits carriers to charge con-

sumers directly for any coverage they opt for above the current requirement. This feature is not expected to impose any cost on carriers; in fact, experience in the rental car industry is that "optional" coverage is often a profit center, not a cost. Therefore there is no additional net cost to the carrier of the valuation options required by the rule.

There is an additional regulatory requirement for a maximum of \$20,000 of cargo insurance. Insurance representatives who currently provide insurance to household goods carriers have indicated that all or nearly all already carry this level (or more) of cargo insurance. This is not expected to be a material cost addition to any significant number of household goods carriers. For the few which may currently not carry cargo insurance (and therefore are self-insuring on even the minimum level of valuation which must be provided), there will be a small additional insurance cost. Self-move companies currently offer per-trip coverage at nominal rates (\$10 - \$20 per day); these firms report that the vast majority of claims are for damage to the vehicles, not to the contents. Insurance carriers indicated that a major cost of cargo insurance is driven by state regulatory filing requirements — if the carrier (rather than the insured) must notify the commission of the provision or expiration of the insurance. In order to mitigate this cost, the rule does not require that the insurance company make filings with the commission.

The maximum cost this statement anticipates any small carrier would incur for cargo insurance is the equivalent of 10% of the self-move rate, or \$2 per move; for larger carriers, one-half of this amount is assumed, consistent with the information staff received from insurers.

**Estimates:** The proposed rule allows carriers to provide consumers with binding estimates as well as nonbinding estimates. A small cost associated with changing forms is anticipated. Estimates must be retained for a period of two years, so a storage/recordkeeping cost is imposed.

**Complaints:** The proposed rule requires that complaints be acknowledged (not resolved) within ten days, compared with a thirty day requirement in current rules. This may impose a labor cost on some carriers.

**DECREASED COSTS CAUSED BY THE RULE:** There are decreased costs of compliance resulting from these rules. These fall primarily into the following categories:

**Hearings to Modify Service Territory:** Currently, existing and potential carriers may expend significant time in hearings which the commission convenes to consider grants of authority, based on an historic application of the requirement to determine if additional firms are required to serve the "public convenience and necessity." The proposed rule allows the Commission to grant or deny such authority without hearings, which will greatly reduce the labor and professional services costs for both existing and potential carriers.

**Binding Estimates and/or Bill Caps Reducing Complaint Resolution Requirements:** The proposed rule allows carriers to provide binding estimates to consumers, and places limits on the amount a carrier may charge over a non-binding estimate. Once an estimate is accepted by a consumer, that consumer is protected against higher charges for the services identified in the estimate. This rule change is designed to prevent any increase in the number of complaints

the commission receives and processes. Some complaints in the past have been the result of carriers charging up to three times the amount estimated. Such complaints are time consuming for the carrier, the consumer, and the commission staff.

**Complaint Procedure:** The current rule requires carriers to produce records "on demand" of the commission. The proposed rule allows carriers five days to respond. This may eliminate the need for carriers to pay overtime to respond to commission requests for information.

**Voluntary Suspension of Permit:** The current rule allows a voluntary suspension of a permit only if the permit holder is called into active military service. The proposed rule also allows a voluntary suspension of the permit for medical reasons. The economic benefit of suspension to the carrier is that insurance coverage can be suspended during the period that the permit is suspended, a considerable economic savings.

**Reduced Cost of Buying a Permit:** There are two reasons for a new entrant to currently purchase an existing permit, rather than apply for a new permit. The first is that the existing permit comes with an ongoing business, including the reputation, goodwill, and market recognition of an existing business. The proposed rule will not change this incentive. The second is that securing a new permit generally requires a contested hearing process, with high legal, professional, and managerial time commitments. The proposed rule will generally reduce these costs, meaning that the cost of buying an existing permit will be reduced to a level consistent with the value of the enterprise which is being purchased.

**COMPARISON OF COSTS — LARGE VERSUS SMALL BUSINESSES:** A key element to the SBEIS is a comparison of how the costs of regulation affect small versus large businesses, and identifying ways to mitigate any disproportionate impacts on small businesses. The majority of the language in the proposed rule simply restates in simpler terminology the current regulations in place. The SBEIS does not examine the existing costs of compliance, but only the changes in the cost of compliance as a result of proposed changes in the existing rules.

This statement identified the costs imposed by these rules in two ways. First, an annual cost is computed for these costs, for both a large and small carrier. Second, a per-unit cost, tied to the revenues of the firm, is computed for those costs which do vary with the amount of service provided. These costs are then evaluated based on the fee structure which the proposed rule and applicable statute impose for fairness among larger and smaller firms.

The key cost increases resulting from the proposed rules involve providing estimates, recordkeeping and filing of reports with the commission. There is no specific expense category in the current annual reports filed by household goods carriers to precisely track how these types of costs vary between small and larger carriers. There is a cost category for "accounting services" which is used in this statement as a proxy for the costs of recordkeeping and report filing. This statement finds that there is NOT a disproportionate burden on small business from existing accounting requirements, based on the following analysis, based on an examination of a ran-

dom sample of one-half of the carriers providing intrastate household goods carriage in each size category and reporting costs for accounting services in their 1997 Annual Report to the WUTC.

#### Percentage of Revenue to Accounting Services

Intrastate Household Goods Revenue	Total Revenue Range	% of Revenue for Accounting Services
Over \$1 million	\$1.6 - \$9.5 Million	.55%
\$100,000 - \$250,000	\$134,000 - \$7 Million	.52%
Under \$50,000	\$40,000 - \$1.3 million	.52%

In discussions with small businesses, the following factors were identified as leading to this proportionate burden of accounting costs:

- 1) The average cost per move does not differ significantly between large and small firms;
- 2) Outside accounting and bookkeeping firms typically charge on either a number of transactions basis or a percentage of revenues basis; both are proportionate for small and large firms;
- 3) In small firms where bookkeeping is handled internally, the individuals providing this service are either employed part-time or have multiple duties, which keeps the costs assigned to this function proportionate.

The estimated costs and benefits of the proposed rules are set forth below by category. "Recordkeeping" includes creating and retaining estimates, assumed to be at \$2 per estimate, with one-half of estimates producing revenues averaging \$1000. Cargo insurance is estimated at \$2 per move for small firms, based on charges from self-move companies for "safe-move" type insurance, and one-half that amount for large firms, but only 10% of carriers are assumed to be not currently carrying such insurance. Equipment costs are zero, because there is no change in required equipment for permitted carriers; costs incurred by currently nonpermitted carriers to comply with regulatory requirements are a cost created by the opportunity to become a permitted carrier (a reduction of regulation), not by any changes in safety rules.

Commission filing requirements are assumed to be reduced for small firms based on the proposed mitigation measure reducing the frequency of the detailed filing requirement for small firms to once every four years. Complaints are assumed to use less carrier (and commission) time, because the caps on how much can be charged over the estimate is expected to hold down the number of complaints. The cost of participating in fewer WUTC hearings for existing permitted carriers is assumed to reduce costs by \$100 per year for small firms and \$1000 per year for large firms, based on a legal/technical cost of \$10,000 per hearing shared proportionately among permitted carriers, and an assumption of three avoided hearings per year. The same level of cost — \$10,000 — is assumed to be avoided by all new applicants for permits.

Estimated Burden of Proposed Rules (RCW 19.85.040 (1)(c))

Costs	Per Firm		Per \$100 of Revenue	
	Small	Large	Small Firms	Large Firms
Recordkeeping	\$200	\$2000	\$.20	\$.20
Insurance	\$20	\$100	\$.02	\$.01
Equipment	None	None	None	None
<b>Benefits - All Carriers</b>				
Filings	-\$100	None	(\$.10)	None
Complaints	-\$100	-\$1000	(\$.10)	(\$.10)
<b>Benefits - Existing Permitted Carriers</b>				
Protests/Hearings	-\$100	-\$1000	(\$.10)	(\$.10)
<b>One-Time Benefits - New Permitted Carriers</b>				
Protests/Hearings	-\$10,000	-\$10,000	(\$10.00)	(\$1.00)

**Assumptions:**

Small Firms: 100 moves per year, \$100,000 Annual Revenue

Large Firms: 1000 moves per year, \$1,000,000 Annual Revenue

Complaints: # of consumer complaints reduced by 50%

Hearings: 2 hearings per year avoided; assume 10 large, 100 small firms. Large firms contribute \$500 per hearing; small firms contribute \$50 per hearing.

Recordkeeping: The mitigation recommendations which allow small firms more time to respond to demands for production of records and the ability to suspend their permits for medical reasons are assumed to partially offset the additional recordkeeping caused by these rules. The elimination of the Schedule 2 filing requirement as part of the annual report (requiring this only quadrennially) reduces the filing costs for small businesses.

**OTHER ISSUES:**

**Small Business Suppliers:** The statement recognizes a class of small business which may be affected by the rule for which no clear impact of the rule is evident. This consists of small businesses which are suppliers to the household goods moving industry. Examples include truck repair, equipment suppliers, accounting services and legal services. If, as expected, the rules result in more firms becoming permitted carriers, greater compliance with safety regulations is expected, and there will be a small net benefit to small businesses providing truck repair and moving equipment (with a corresponding net cost to currently unpermitted carriers not presently meeting these safety requirements). If, as expected, the rules result in a larger number of firms becoming permitted carriers and filing annual reports, there will be a small net benefit to small businesses providing accounting services (with a corresponding net cost to currently unpermitted carriers not presently meeting these filing requirements). If, as expected, the rules result in fewer protests of applications for operating permits and fewer hearings before the WUTC, there will be a small net detriment to small business firms providing legal services (with a corresponding savings to firms now employing such services for protests and hearings).

**Devaluation of Permit:** Historically, new entrants have often become certificated household goods carriers by pur-

chasing existing businesses and permits, rather than applying for new permits. This has led to a perceived "value" being ascribed to a permit, which might be seen to be diminished by these rules providing for more expeditious handling of applications for new permits.

First and foremost, many of the transactions for permits occurred in years prior to deregulation of interstate and intrastate motor freight, and many of these firms provided regulated services in that environment. The carriage of household goods in intrastate commerce is typically only a small fraction of the business of such firms, and the "devaluation of permits" issued by the state of Washington, if any occurred, can primarily be ascribed to the deregulation of motor freight and office moving services, not household goods.

From an economic perspective, the commission's rate-making authority requires that it set rates based upon the investment and expenses used to provide service. In this process, no value has ever been ascribed to the "permit" as an investment, even though many carriers may have actually incurred a direct cost to secure the permit. The only "value" which an existing permit should ever have under regulation is the underlying value of the market presence, goodwill, and name familiarity of the underlying business.

Given the requirement that the commission regulate "in the public interest" and issue permits when justified by the "public convenience and necessity," it is axiomatic, in economic terms, that the "permit" itself has no value. If at any time regulation created a scarcity of household moving services to the point where the mere permission to operate was valuable, over and above the value of the business and the equipment owned by the business, it is clear that the regulators should have either reduced the rates (rebating the excess of rates over costs of providing service to consumers) or allowed additional entrants into the business.

The fact that the commission has not allowed the inclusion of costs of acquiring a permit to be included in the formula used to construct rates for household goods carriers is consistent with this view: The "permit" itself is not a thing of value.

**RECOMMENDATIONS: MITIGATION OF DISPROPORTIONATE COSTS TO SMALL EMPLOYERS (RCW 19.85.040 (2)(a)):** The Regulatory Fairness Act requires consideration of measures which will mitigate the impact of the proposed

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rule on small businesses. These are defined as those with fewer than fifty employees. This statement recommends consideration of the following mitigation measures, and adoption of those which do not impose a significant administrative burden on the agency or impair the effectiveness of the intent of the proposed rule:

- 1) Allow more time for small businesses to meet certain deadlines imposed by the rules;
- 2) Require less information to be filed with the commission by small businesses;
- 3) Have the WUTC develop a model or uniform Estimate form and Complaint Register available for use by all carriers.

The small businesses affected by this rule, in many cases, are sole proprietor or family owned and operated firms. Many do not have a full time office staff, or the ability to handle routine correspondence in the way that a larger firm might be able to. The "management" of the firm in many cases is also the driver of the vehicle providing service, and "office work" must compete with the provision of household goods carriage for the owner or manager's time. During the peak moving season in particular, this can create circumstances where prompt responses to some inquiries may be difficult. Consequently, this statement recommends three specific measures to permit smaller firms to have more time to respond to circumstances requiring written communication. Large firms, by contrast, generally have a full-time office staff person or persons, and can be expected to have more resources available to facilitate prompt communication.

**Mitigation Measures Recommended for Agency Consideration: Time Limit for Application for Reinstatement of a Suspended Permit:** The proposed rule (WAC 480-15-460) would allow thirty days for application for reinstatement. This statement recommends that this be extended to sixty days for a small business, as defined.

**Time Limit for Production of Records:** The proposed rule (WAC 480-15-890) changes the current "on demand" requirement to five days. This statement recommends that this deadline be set at ten days for a small business, as defined.

**Shorter Annual Report:** The next mitigation measure is to reduce the amount of information which must be filed with the commission by a small business. The current annual report is four pages long, consisting of a summary page and two schedules. This statement recommends that Schedule 2 (Income Statement) be required only once every four years from a small business, as defined (this frequency will permit analysis of the costs incurred by small businesses by the WUTC). The certification on Schedule 1 (name and officers of company) would be modified to permit self-certification of eligibility as a small business, by modifying the "drivers and equipment" section to include total number of employees. This will reduce the reporting requirement and paperwork by more than 50% for small businesses. Larger businesses will still be subject to filing Schedule 2. The commission may want to consider a financial threshold rather than the fifty employee threshold for definition of a small business. If the threshold were set at \$200,000 per year, approximately two-thirds of the currently reporting carriers would be exempt

from filing Schedule 2. The commission would still retain the right to request the information on Schedule 2 from any carrier. The commission will implement this recommendation outside of this rule making, effective in 1999.

**Model or Uniform Estimate Form:** One of the additional costs which the rule would cause to be incurred is the development of forms for providing estimates for consumers, which the rule then requires be adhered to within specified limits. It is assumed that some consumers will desire binding estimates, and that therefore some carriers will offer binding estimates. This statement recommends that the WUTC consider developing a model estimate form which could be used by any carrier. This would eliminate the cost to any small business to develop such a form. The model form would set forth the elements of the estimate, together with the rules and regulations affecting binding and nonbinding estimates. Because the cost of developing (as opposed to printing) the form is a fixed cost, it represents a disproportionate impact on small businesses. An example of this is the standard real estate forms offered by escrow agencies, which are used by multiple real estate brokerages. The commission will develop a model form within one hundred twenty days of adoption of these rules. The model estimate form may be used by any carrier, or carriers may develop their own estimate form, provided it complies with the requirements of the rule.

**Model or Uniform Complaint Register:** One of the additional costs which the rule would cause to be incurred is the development of a complaint register, which is in a different form than firms currently log complaints. This is a disproportionate cost on small business because of the fact that the process of establishing a register is a fixed cost, independent of volume. By creating a model complaint register, which any firm may use, the commission would eliminate the costs incurred in creating a complaint register. The actual logging of complaints will be proportionate to the volume of business and quality of service, and there is no reason to believe that these will impose a disproportionate burden on small business. The commission will develop a model complaint register within one hundred twenty days of adoption of these rules. The model complaint register may be used by any carrier, or carriers may develop their own complaint register, provided that it complies with the requirement of the rule.

#### Mitigation Measures Considered and Rejected

The following mitigation measures were considered as part of the statement and rejected for the reasons set forth:

**Time to Acknowledge a Complaint:** The proposed rule (WAC 480-15-810) reduces the currently allowed thirty days to acknowledge a complaint down to ten days. This statement considered a recommendation that the lag be permitted to be up to twenty days for a small business, as defined. The ten day period would continue to apply to carriers which do not meet the definition of a small business. This option was rejected because it would impose a burden on consumers, who may be facing an impending deadline by which they must file a claim, without knowing if their complaint has been received or not. The only cost of compliance is to respond with a post card acknowledging receipt of the com-

plaint; no change in the time allowed for a substantive response to the complaint is required by the rule.

**Lower Application Fee for Smaller Carriers:** The statute limits the application fee the commission can charge to \$550 per applicant, and that is the current and proposed level. This fee represents a disproportionate impact on small businesses, because it does not vary with the size of the enterprise. This statement considered a recommendation that a lower fee be imposed on smaller firms. The commission staff has determined that this does not cover even the processing costs of the smallest applications for authority. If the \$550 limit is raised in the future, it may be appropriate to establish a lower fee for smaller firms.

**Lower Regulatory Fee for Smaller Carriers:** The statute limits the regulatory fee the commission can collect to .25% of gross operating revenues. This does not represent a disproportionate impact on small businesses, because it does vary in a completely linear fashion with the size of the enterprise. A separate statute requires that the commission's regulatory programs be self-funding. Household goods carriage regulatory costs currently exceed regulatory revenues, and one of the purposes of the proposed rule is to reduce the regulatory workload to a level consistent with available program revenue, while enhancing that revenue by bringing a larger percentage of firms actually providing household goods carriage under regulation. A reduction in the regulatory fee can perhaps be considered in the future if these goals are successful.

**Deadline for Filing the Required Annual Report:** The proposed rule (WAC 480-15-480) requires all firms obligated to file annual reports to do so by May 1 of each calendar year. This statement considered a recommendation that this date be extended to June 1 of each year for a small business, as defined. This date was selected to permit flexibility for small businesses, while spreading the commission staff workload. Because the larger businesses generate the majority of the revenues which are submitted with the annual reports, the revenue impact to the state of this recommendation would be minor. This measure was rejected because of a statutory requirement that the annual report be filed no later than four months after the end of the year, and that is the current requirement. (RCW 81.80.321)

PROPOSED

PARTICIPATION IN THE HOUSEHOLD GOODS RULEMAKING - Docket No. TV-971477

Attachment A

08/12/98

	Interested Persons	CR101 10/22/97	Stakeholder Meeting 1/29/98	Written Comments to date 03/31/98 Draft 1 CR101 Stakeholder Meeting	Stakeholder Meeting 4/14/98	DRAFT 2 Additional Written Comments to date 5/14/98	Rule Drafting Session 5/15/98	Rule Drafting Session 5/26/98	Rule Drafting Session 6/5/98	Valuation (Insurance) Brainstorming Session 6/25/98	Written Comments and Stakeholder Meeting 7/29/98
<b>CONSUMERS:</b>											
1	Charlene Blankenship					X					
2	Debra Chakos; Office of State Procurement			X	X		X	X		X	
3	Mrs. B. R. Geddes			X							
4	Julian Gladstone			X							
5	Cynthia J. Lansphear			X							
6	Grace Lee			X							
7	Chris & Betsy Preston			X							
8	Ray Schwehr			X							
9	Dave Tillon					X					
10	Victoria Zadeh			X							X
<b>PERMITTED CARRIERS;</b>											
11	Doug Bernd; Bernd Moving		X		X		X				
12	Robert J. Boush; Boush Moving and Storage				X	X					
13	Bill Brown; Evergreen Moving				X						
14	Terry Brusio; Graebel Companies		X								
15	James M Bunger; Bekins			X							
16	Bruce Carmichael; Lincoln Moving & Storage		X								
17	James M. Connors; S&M Moving Systems United		X	X							X
18	Mike Conner; Clancy's Transfer		X								
19	Scott M. Creek; Crown-Mayflower		X	X				X			X
20	Ron Cronkhite; Metropolitan Movers		X								
21	Greg Cutlip; Graebel Companies		X								
22	Steve Davenport; Bellingham Transfer		X		X						
23	James K. Deuel; Evergreen Transfer & Storage				X						
24	Pat DiJulio; Western Van & Storage		X								
25	Phil Elrod; Blue Bird		X		X						
26	Steve Ericlar; K&E Moving & Storage		X								
27	George Fouch; Rainier Moving Systems, Inc.		X	X	X		X				
28	Al Gainey; All American Allied		X								
29	Remo S. Galvagno; Air Van NorthAmerican								X		
30	Sieven M. Galvagno; Air Van NorthAmerican								X		
31	Gary Hansen; Blue Ribbon		X		X						
32	Pete Hockstaff; Sanders Transfer		X								
33	Cody Hodge; Eagle Transfer Company				X						
34	Dean Jackson; Larson Transfer Co.				X						
35	Doug Jackson; Larsen Transfer co.				X						
36	Al Jones; Pratt-Mayflower			X							

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Proposed

**PROPOSED**

**PARTICIPATION IN THE HOUSEHOLD GOODS RULEMAKING - Docket No. TV-971477  
Attachment A  
08/12/98**

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	Interested Persons	CR101 10/22/97	Stakeholder Meeting 1/29/98	Written Comments to date 03/31/98 Draft 1 Stakeholder Meeting	Stakeholder Meeting 4/14/98	DRAFT 2 Additional Written Comments to date 5/14/98	Rule Drafting Session 5/15/98	Rule Drafting Session 5/26/98	Rule Drafting Session 6/5/98	Valuation (Insurance) Brainstorming Session 6/25/98	Written Comments and Stakeholder Meeting 7/29/98
37	Lorie Kenyon; A-1 Piano		X		X		X	X	X		X
38	Wall Kupka; Ed's Moving & Storage, Inc.				X						
39	Steven K. Levan; Starving Students				X						
40	Bob Loidhamer; Spaeth Transfer, Inc.		X								
41	John Loidhamer; United Moving		X		X						
42	Garry Lynch; Alexander's Moving & Storage			X							
43	Mike MacDowell; City Moving Systems			X							
44	Mike Marsh; PomArleau Transfer & Storage			X							
45	Mike Michael; Morgan Transfer, Inc.		X								
46	Kathy Mitchell; Sanders Transfer		X								
47	Harry W. Naubert, Jr.; Allwest Transportation			X							
48	Mark Naubert; Washington Moving & Storage		X		X			X			X
49	Larry Nelsen; Hansen Bros. Moving & Storage				X						
50	Shane Oliver; A-1 Piano				X						
51	Terry PomArleau; PomArleau Transfer & Storage Corp.			X	X						
52	Dan Powell; Star Moving Systems		X		X						
53	Jane Purkey; A.A. Star Transfer Co., Inc.			X	X						X
54	P. Alan Purkey; Grayport Transfer & Storage Co.			X	X						
55	Scott Robertson; Crown Moving Co.		X		X						X
56	Michael B. Schab; Maskelyne Transfer & Storage		X		X						
57	Richard K. Smith; Corporate Moving Systems		X			X					
58	Jay Swan; Swan's Moving & Storage		X								
59	Stephen Tillotson; Conrad Moving & Storage				X						
60	Ed Tuohy; Mountain Moving & Storage				X						
61	Christy Urelat; Bekins NW		X								
62	Ed Wendler; Wendler Hauling Co.		X		X						
63	Sibyl Wendler; Wendler Hauling Co.				X						
64	Vaughn Windham; Graebel Van Lines				X						
65	Dennis White; Worldwide Movers		X								
66	Sieve Yates; Northwest Moving Service, Inc.			X							
	<b>ORGANIZATIONS REPRESENTING PERMITTED CARRIERS:</b>										
67	Jack R. Davis; Davis & Baldwin		X		X						
68	Dick Goff; Acordia Insurance							X	X		
69	Joe Harrison; American Moving & Storage Assn. (AMSA)			X							
70	Rochelle Hayden; Better Business Bureau				X						
71	Jay Lawley; Washington Movers Conference (WMC)				X		X	X	X		X
72	Teresa Maher; Better Business Bureau				X	X	X	X	X		X
73	James R. Tutton; Washington Movers Conference (WMC)		X	X	X	X	X	X	X	X	X

Attachment A  
08/12/98

	Interested Persons	CR101 10/22/97	Stakeholder Meeting 1/29/98	Written Comments to date 03/31/98 Draft 1 CR101 Stakeholder Meeting	Stakeholder Meeting 4/14/98	DRAFT 2 Additional Written Comments to date 5/14/98	Rule Drafting Session 5/15/98	Rule Drafting Session 5/26/98	Rule Drafting Session 6/5/98	Valuation (Insurance) Brainstorming Session 6/25/98	Written Comments and Stakeholder Meeting 7/29/98
74	David W. Wiley; Williams, Kasner & Gibbs		X	X	X			X			X
<b>NON-PERMITTED INDIVIDUALS AND COMPANIES:</b>											
75	James Albertson; Spring Moving & Storage						X	X		X	X
76	Dave Campbell; Father & Fast Careful Sons				X		X	X	X		X
77	Ken Crowe; A.A.R.K.				X			X			X
78	Tony Bompadre; A.A.R.K.				X						
79	Marsha Erickson; NW Smooth Moving						X				
80	Pat Hutton						X				
81	Michele Marsh; NW Smooth Moving & Packing		X		X			X			X
82	Christine McKay; Shurgard Storage To Go, Inc.						X				X
83	Mike the Mover			X							
84	Patty Moody; NW Moving & Packing		X				X				
85	Bruce Palm; Advanced Moving Service		X								
86	Thomas Shanks; Mike the Mover		X					X			
87	Ronald Sulter; A.A.R.K.						X				
88	Cheryl Svendsen; NW Smooth Moving & Packing				X						
89	Matthew Throop; Advantage Moving										
<b>NON-PERMITTED ORGANIZATIONS:</b>											
90	Todd G. Glass; Heller Ehrman White & McAuliffe			X	X				X		
91	David Spellman; Lane Powell Spears Lubersky		X								
<b>CONSUMERS' ORGANIZATIONS:</b>											
92	Consumers Union, Southwest Regional Office			X						X	X
93	Regina Cullen; Attorney General's Office/Consumer Protection						X		X		X
94	Shaun Gill; Attorney General's Office/Consumer Protection				X						
95	Donna Fisher; Attorney General-Consumer Protection						X	X			
96	Michael Karp; Attorney General's Office										
<b>MEDIA:</b>											
97	Bruce Ramsey; Seattle Post Intelligencer		X				X				
<b>REPRESENTING INDEPENDENT CARRIERS:</b>											
98	Brian C. McCulloch		X	X	X		X	X	X	X	X
<b>TOTALS</b>			40	28	47	6	17	13	11	6	15

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Proposed

**PROPOSED**

ATTACHMENT B

the staff's proposed rule presented to the commission at the open meeting on August 12, 1998.

Following are the rules reviewed in the small business economic impact statement. Rule language can be found in

PROPOSED

SBEIS Rules for Review				
WAC Reference/Title	Expected Result of the Cost of Compliance	What changed?	What will cause the expected result?	Recommended Mitigation Action
WAC 480-15-190 Where may I operate with a permit?	Decrease	Under existing rule, local cartage and commercial zones rules required grant of special authority before a carrier could operate in those urban areas. The proposed rule eliminates these restrictions and carriers will be granted unrestricted authority unless the carrier opts to self select less territory (at the county level) in which to serve.	The proposed rule will reduce the administrative cost of compliance. Existing carriers will be granted state-wide authority unless they self select a smaller operating zone at the county level. New entrants will benefit through significantly reduced costs associated with hearings. Protest will no longer mandatorily require a hearing. Carrier staff will not have to educate themselves on the boundaries that may be served. Charts and maps that may have been maintained (never required by UTC) by carriers can be eliminated.	No mitigation required.
WAC 480-15-280 When must I apply for temporary authority?	No effect	Under existing rule, the commission has authority to ask the questions identified. The proposed rule will formalize the elements.	There is no increase in costs associated with obtaining a temporary permit. These rules merely state elements commission has always had authority to require for temporary permit authority.	No mitigation required.
WAC 480-15-300 What conditions may be attached to my temporary authority?	Decrease	Under existing rule the commission has authority to ask these questions. The proposed rules formalizes the elements.	Carrier savings are expected to be realized through the process change which will decrease the likelihood of a hearing when the carrier requests permanent operating authority.	No mitigation required.

SBEIS Rules for Review				
WAC Reference/Title	Expected Result of the Cost of Compliance	What changed?	What will cause the expected result?	Recommended Mitigation Action
WAC 480-15-330 When must I apply for permanent authority?	Decrease	Existing rule allows that a new applicant may operate under temporary authority before receiving permanent authority. However, most applications are protested and go to a hearing. Under the proposed rules, the applicant will have the opportunity to satisfy the public need while conducting business under temporary authority and the commission may choose to forgo a hearing during the permanent authority process. Under the proposed rule new applicants are required to operate under temporary authority before a permanent authority will be granted.	Increased expectation there will be less need for a hearing to grant permanent authority which will result in reduced costs associated with a hearing. Note: In the past many carriers have bought existing permits from carriers and then come to the commission to transfer authority. This practice will likely decrease which will reduce the high cost of buying a permit on the open market.	No mitigation required.
WAC 480-15-350 Will my application be set for a hearing?	Decrease	Under existing rule, all applications that are protested are set for hearing. The new process allows that, depending on the nature of a protest, there is an increased expectation that applications will not be set for hearing.	Increased expectation that many new applicants and protestants will not have to incur the cost of a hearing	No mitigation required.
WAC 480-15-410 What if I can't use my permit?	Decrease	Under existing rule, the only reason a carrier can voluntarily suspend their permit is due to military leave. The new rule expands acceptable reasons for voluntary suspension to include military service and medical reasons.	Voluntary suspension due to medical reasons will allow carriers to cancel their required insurances due to medical reasons.	No mitigation required.

PROPOSED

SBEIS Rules for Review				
WAC Reference/Title	Expected Result of the Cost of Compliance	What changed?	What will cause the expected result?	Recommended Mitigation Action
WAC 480-15-480	No Effect	Existing rules are not changed under the proposed rules.	While no increased compliance costs are expected, these rules may represent a disproportionate higher cost for small business compared to costs for large business.	Recommend mitigation action: Direct commission staff to change annual report forms to require an Income Statement from small businesses every four years rather than every year. The mitigation measure can be accomplished outside the rule-making process.
WAC 480-15-490 Tariff and Rates, General (2)(b)	No Effect	Under existing rule, the tariff rates and charges are set at one price. The proposed interim rule allows for minimum and maximum rates and charges.	Recordkeeping costs are not disproportionately excessive compared to large business.	No mitigation recommended -see SBEIS discussion.
WAC 480-15-550 Cargo Insurance	Increase	Existing rule, the commission does not have a requirement for cargo insurance. Staff has used federal common carrier requirements as a guideline for the new rule and increased that level based on comments received from stakeholders.	A very slight increase may be realized as carriers may have to research and purchase cargo insurance. It is anticipated that over 90% of the carriers providing household goods moving services already have cargo insurance. The increase is not disproportionately higher for small business when compared to large business.	No mitigation recommended - SBEIS discussion.
WAC 480-15-630 Estimates	Optional Increase	Existing rules do not allow binding estimates. The proposed rule allows carriers to offer binding estimates.	If a carrier chooses to offer a binding estimate, estimate forms and other sales information must be changed and printed. The increased administrative costs will come from the development of a new form. As a fixed cost, form development will be proportionately higher for small businesses than for a large business.	Recommend mitigation action: Direct commission staff to develop an estimate form for optional use. This mitigation measure can be accomplished outside the rule-making process.

SBEIS Rules for Review				
WAC Reference/Title	Expected Result of the Cost of Compliance	What changed?	What will cause the expected result?	Recommended Mitigation Action
WAC 480-15-690 Form of estimates	Decrease	Existing rules require carriers to bill shippers for any charges above their estimate. Proposed rule will prohibit carriers from billing customers above the set percentages of their estimate and supplemental estimate.	Reduced administrative costs due to reduced billing paperwork.	No mitigation required.
WAC 480-15-810 What must I do when I receive a complaint and/or a loss or damage claim?	Increase	Existing rule allows carriers thirty days to notify a shipper, in writing that they have received the complaint and/or loss or damage claim. Proposed rule reduces time to notify the customer of receipt of complaint and/or loss or damage claim to ten days.	A twenty day reduction in time to notify the shipper they have received their complaint and/or loss and damage claim may put an increased burden on small carriers that is disproportionately higher than for large carriers.	No mitigation recommended: Allowing small businesses a greater period of time to respond to consumers would penalize consumers for contracting their move with a small business.
WAC 480-15-840 Are complaint or claim records subject to commission review and in what order must I keep the records?	Increase	Existing rule requires carriers to keep all complaint and claims in consecutive numbered order. The proposed rule adds the requirement to also establish and maintain a register that records the complaint and claims records.	Establish and maintain a complaint and claims register.	Recommended mitigation action: Direct commission staff to develop a claims register form for optional use. This mitigation measure can be accomplished outside the rule making.
WAC 480-15-870 What must I do if, after review, the shipper is still dissatisfied with the resolution of the complaint or claim?	Increase	Existing rule does not require the carrier to notify the shipper of the Washington and Utilities and Commission. The proposed rule will require the carrier to notify the unsatisfied shipper that the commission is available for further review and our address and telephone number.	A very slight increase in the cost of compliance is anticipated. Notification may be accomplished by any means appropriate such as: Phone, fax, mail, etc.	No mitigation recommended: Allowing small businesses any decrease in responsibility for complying with this rule would penalize consumers for contracting their move with a small business.

PROPOSED

PROPOSED

SBEIS Rules for Review				
WAC Reference/Title	Expected Result of the Cost of Compliance	What changed?	What will cause the expected result?	Recommended Mitigation Action
WAC 480-15-890 What must I do if the commission refers a complaint to me?	Decrease	Existing rule requires carrier to produce any records on demand. The proposed rule increases the time to respond to the commission to five days regarding shipper complaints.	A five day increase in time to respond to the commission regarding shipper complaints may still represent a disproportionate increase in cost for small businesses.	Recommended mitigation action: Allow small businesses ten days to respond to commission requests for the production of claim and complaint records. If accepted, the mitigation measure should be included in rule.

A copy of the statement may be obtained by writing to Washington Utilities and Transportation Commission, Records Center, Docket No. TV-971477, P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 664-1234, fax (360) 586-1150.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.005.328 [34.05.328] applies and this rule is not a significant legislative rule as defined in this statute.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, on November 16, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by November 14, 1998, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, or e-mail to records@wutc.wa.gov, fax (360) 586-1150, by October 14, 1998. Please include Docket No. TV-971477 in your communication.

Date of Intended Adoption: November 16, 1998.  
September 16, 1998  
Terrence Stapleton  
for Carole J. Washburn  
Secretary

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 480-12-001      Supersession of this chapter.
- WAC 480-12-003      Procedure.
- WAC 480-12-005      Communications.
- WAC 480-12-010      Rule book must be in main office—Rule book fee—Updates—Notification of pending and adopted rule

- changes—Compliance with rules.
- Documents—When filed.
- Remittances.
- Procedures for contest of fees.
- Address, change of.
- Applications.
- Petition to amend permit to incorporate commercial zone authority.
- Temporary permits.
- Application for authority, docketing—Protests—Hearings.
- Transfer of permit rights.
- Permits, canceled—New application.
- Permit rights defined—Classification of carriers.
- "Local cartage" defined, and restrictions.
- Commercial zones defined.
- Adoption by reference defined.
- Federal Regulations, 49 C.F.R., Part 390—Adoption by reference.
- Forwarders and brokers.
- Revision of permit.
- Permits, location of.

WAC 480-12-121	Operating authority on vehicles.	WAC 480-12-330	Tariffs, observance of.
WAC 480-12-125	Lost permits.	WAC 480-12-335	Rebating and other violations—Hearing.
WAC 480-12-126	Interstate operations; requirements; definitions.	WAC 480-12-340	Credit, extension of, by common carriers.
WAC 480-12-127	Registered carriers.	WAC 480-12-345	Credit, extension of, by contract carriers.
WAC 480-12-130	Interstate exempt carriers.	WAC 480-12-350	Insurance.
WAC 480-12-135	Permits and receipts—Return required—Loss improper use of cards or stamps.	WAC 480-12-355	Insurance, continuance of.
WAC 480-12-150	Equipment—Identification.	WAC 480-12-360	Insurance endorsement.
WAC 480-12-165	Equipment—Inspection—Ordered for repairs.	WAC 480-12-365	Insurance termination.
WAC 480-12-170	Equipment of carrier suspended.	WAC 480-12-370	Insurance, carrier shall not misrepresent.
WAC 480-12-180	Equipment—Drivers—Safety.	WAC 480-12-375	Bond required—Broker—Forwarder.
WAC 480-12-185	Equipment, lawful operation of.	WAC 480-12-385	Inactive status of permits during military service.
WAC 480-12-190	Hours of service—On duty—Adoption of federal safety regulations.	WAC 480-12-395	Rules—How changed.
WAC 480-12-200	Accidents, reporting of.	WAC 480-12-400	Definitions.
WAC 480-12-210	Leasing.	WAC 480-12-405	Determination of weights.
WAC 480-12-215	Pseudo leasing.	WAC 480-12-410	Discounts prohibited—Rates based on prepayment charges prohibited.
WAC 480-12-220	Unfair or destructive competitive practices by carrier operating under permit.	WAC 480-12-415	Prohibition against carrier acting as agent for another carrier.
WAC 480-12-235	Claims for loss or damage.	WAC 480-12-420	Acting as agent for compensation for insurance company prohibited.
WAC 480-12-250	Accounts—Uniform system adopted—Reports.	WAC 480-12-425	Issuance of receipt or bill of lading for transportation prior to receiving household goods prohibited.
WAC 480-12-255	Contracts.	WAC 480-12-430	Liability of carriers.
WAC 480-12-265	Tariffs.	WAC 480-12-435	Estimates of charges.
WAC 480-12-270	Tariffs shall be issued, posted and filed.	WAC 480-12-440	Absorption or advancement of dock charges.
WAC 480-12-275	Freight classifications.	WAC 480-12-445	Information to shipper.
WAC 480-12-280	Tariffs, must have.	WAC 480-12-450	Minimum weight shipments.
WAC 480-12-285	Tariffs, distribution and fees.	WAC 480-12-455	Underestimates.
WAC 480-12-290	Rules of distribution.	WAC 480-12-460	Complaint procedures.
WAC 480-12-295	Tariffs, proposed changes in—How made.	WAC 480-12-465	Charge card plans.
WAC 480-12-300	Tariff rules.	WAC 480-12-600	Regulatory fee.
WAC 480-12-320	Routing of freight.	WAC 480-12-990	Appendix A—Classification of brokers, forwarders and motor carriers of property.
WAC 480-12-325	Freight charges paid in any manner other than cash.		

## Chapter 480-15 WAC

## INTRASTATE HOUSEHOLD GOODS CARRIERS

## Part 1 - GENERAL

## Part 1.1 - GENERAL INFORMATION

NEW SECTION

**WAC 480-15-010 Purpose and application.** (1) The legislature has declared that operating as a motor carrier of freight, including household goods, for compensation over the highways of this state is a business affected with a public interest and should be regulated. The purpose of these rules is to carry out the policies set forth in RCW 81.80.020 as they apply to household goods carriers, by establishing standards for public safety, fair competitive practices, just and reasonable charges, nondiscriminatory application of rates, adequate and dependable service, consumer protection, and compliance with statutes, rules and commission orders.

(2) This chapter applies to all intrastate household goods carriers.

NEW SECTION

**WAC 480-15-020 Definitions.** For the purpose of this chapter, the words, terms, and phrases in this section have the following meaning:

(1) "**Accessorial services**" means any services provided by a household goods carrier that supplement, or are secondary to, the transportation of household goods, including, but not limited to, packing and unpacking, wrapping or protecting a portion of the shipment, and providing special handling of household goods.

(2) "**Agent**" means a permitted carrier, who, under the provisions of a formal written agreement, performs services on behalf of another permitted carrier.

(3) "**Application docket**" means a commission publication listing applications requesting operating authority, and commission action taken on applications for temporary authority.

(4) "**Authority**" means the rights granted to a common carrier to transport household goods.

(5) "**Cancellation**" means an act by the commission to terminate a household goods carrier's authority.

(6) "**Commission**" means the Washington utilities and transportation commission.

(7) "**Common carrier**" means any person who undertakes to transport property, including household goods, for the general public by motor vehicle, for compensation over the public highways. This term also includes transportation under special and individual contracts or agreements.

(8) "**Constructive weight**" means a weight based on a formula of seven pounds per cubic foot of properly loaded van space occupied by the shipper's goods.

(9) "**Consumer**" means a person or entity that hires a household goods carrier.

(10) "**Customer**" means a person or entity that hires a household goods carrier.

(11) "**Exempt carrier**" means any person operating a motor vehicle exempt from certain provisions of Title 81 RCW pursuant to RCW 81.80.040.

(12) "**Filing**" means any application, petition, tariff proposal, annual report, comment, complaint, pleading, or other document submitted to the commission.

(13) "**Household goods carrier**" means a common carrier transporting household goods within the state of Washington.

(14) "**Household goods**" when the term is used in connection with transportation, means personal effects and property used or to be used in a residence when it is a part of the equipment or supply of such residence, and is transported between residences or between a residence and a storage facility, with the intent to later transport to a residence. This term excludes transportation of customer packed and sealed self-storage type containers when no accessorial services are provided by a motor carrier in connection with the transportation of the container.

(15) "**I**" means a household goods carrier or shipper, depending upon the context of the rule.

(16) "**Loaded weight**" means the weight of a motor vehicle obtained when:

(a) The shipper's goods are loaded into the vehicle;

(b) The vehicle's fuel tank is full;

(c) All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle;

(d) The vehicle's crew is not on board the vehicle.

(17) "**Local move**" means all moves taking place within the limits of a city or town or moves specifically defined as local in the commission tariff.

(18) "**Long distance move**" means any move not meeting the definition of a local move.

(19) "**May**" means an option. You may do something but it is not a requirement.

(20) "**Motor carrier**" means "common carrier," "exempt carrier," and "private carrier," as defined in this chapter.

(21) "**Motor vehicle**" means any vehicle, machine, tractor, trailer, or semi-trailer, propelled or drawn by mechanical power, or any combination of such vehicles, used upon the highways in the transportation of property, including household goods.

(22) "**Must**" means a legal obligation. You are required to do something.

(23) "**Net weight**" means the weight of the goods shipped by the consumer. It is determined by subtracting the tare weight of a motor vehicle from the loaded weight.

(24) "**Permit**" means a document issued by the commission describing the authority granted to a household goods carrier under the provisions of chapter 81.80 RCW, as amended. A permit may be temporary or permanent in duration, and may allow a household goods carrier to transport household goods throughout the state of Washington or limit the household goods carrier to transportation of household goods in designated areas of the state.

(25) "**Person**" includes any individual, firm, corporation, company, or partnership.

(26) **"Private carrier"** means persons who transport their own household goods, household goods being bought or sold by them in good faith, or transport household goods purely as an incidental adjunct to some established business owned or operated in good faith.

(27) **"Registered carriers"** means motor carriers operating in interstate or foreign commerce under authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.

(28) **"Registered exempt carriers"** means motor carriers operating in interstate or foreign commerce under the exemptions of the Federal Motor Carrier Act without interstate authority issued by the Interstate Commerce Commission, the U.S. Department of Transportation, or a successor agency.

(29) **"Shipper"** means a person or entity that hires a household goods carrier.

(30) **"Small business"** means 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.

(31) **"State"** means the state of Washington.

(32) **"Suspension"** means an act by the commission to temporarily withhold a household goods carrier's authority.

(33) **"Tare weight"** means the weight of an empty motor vehicle obtained when:

(a) The vehicle's fuel tank is full;

(b) All pads, chains, dollies, hand trucks, and other equipment needed in the transportation of the shipment are on board the vehicle; and

(c) The crew is not on board the vehicle.

(34) **"Tariff"** means a publication containing the rates and charges that must be assessed on shipments of household goods and the rules that govern how rates and charges are assessed.

(35) **"Transportation of household goods"** means the for hire movement of household goods by motor vehicle over the public highways of the state. This includes providing estimates, arranging for receipt, delivery, storage in transit, handling, and providing any accessorial services in connection with that movement.

(36) **"Us"** means the Washington utilities and transportation commission.

(37) **"We"** means the Washington utilities and transportation commission.

(38) **"You"** means a household goods carrier, shipper, insurance company, or other person or entity, depending on the context of the rule.

#### NEW SECTION

**WAC 480-15-030 Waiver of rules.** (1) We may grant a waiver of any rule in this chapter, when doing so is consistent with the public interest, the purposes underlying regulation, and sound public policy, and is consistent with applicable statutes.

(2) To request a rule waiver, a person must file with the commission a written request identifying the rule for which a

waiver is sought, and giving a full explanation of the reason(s) the waiver is requested. The commission will notify you in writing when your request is granted or denied.

#### NEW SECTION

**WAC 480-15-040 Adoption by reference.** We have adopted by reference the following publications:

(1) *"North American Uniform Out-of-Service Criteria"* published by The Commercial Vehicle Safety Alliance, in effect on April 1, 1998.

(2) The sections of "Title 49 Code of Federal Regulations," cited as 49 CFR, listed below, including all regulations and appendices and amendments to those sections in effect on October 1, 1998:

(a) 49 CFR Part 382: Controlled Substance and Alcohol Use and Testing;

(b) 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties;

(c) 49 CFR Part 390: Safety Regulations, General;

(d) 49 CFR Part 391: Qualification of Drivers;

(e) 49 CFR Part 392: Driving of Motor Vehicles;

(f) 49 CFR Part 393: Parts and Accessories Necessary for Safe Operations;

(g) 49 CFR Part 395: Hours of Service of Drivers;

(h) 49 CFR Part 396: Inspection, Repair, and Maintenance; and

(i) 49 CFR Part 397: Transportation of Hazardous Materials; Driving and Parking

#### NEW SECTION

**WAC 480-15-050 Where may I get copies of documents adopted by reference?** (1) The *North American Uniform Out-of-Service Criteria* may be viewed at the branch of the Washington state library housed at the commission's headquarters and is available for a fee from the Commercial Vehicle Safety Alliance and third-party vendors.

(2) Title 49 of the Code of Federal Regulations may be viewed at the branch of the Washington state library housed at the commission's headquarters and is available for a fee from the GPO (Government Printing Office) and third-party vendors.

#### **Part 1.2 - CONTACTING THE COMMISSION**

#### NEW SECTION

**WAC 480-15-060 How may I contact the commission?** You may contact the commission in writing, in person, by telephone, by e-mail, or by FAX. If you are a permit holder, you should provide your permit name and number for proper identification.

(1) Mailing address:

The Secretary

Washington Utilities and Transportation Commission (or, WUTC)

P.O. Box 47250

Olympia, WA 98504-7250

- (2) E-mail address: transinfo@wutc.wa.gov
- (3) FAX number: (360) 586-1150
- (4) Telephone number: (360) 664-1222

NEW SECTION

**WAC 480-15-070 Where is the commission located?** The Washington utilities and transportation commission is located at 1300 S Evergreen Park Drive SW, Olympia, Washington.

NEW SECTION

**WAC 480-15-080 How do I file documents with the commission?** You may file documents by mailing them to the address listed in WAC 480-15-060, or by hand delivering them to the commission's records management section. Your documents are officially received when date stamped by the commission's records management section. You may file certain documents electronically, as provided in WAC 480-09-120.

NEW SECTION

**WAC 480-15-090 May I submit information to the commission confidentially?** Yes, you may submit information confidentially under the following conditions:

(1) **Information other than complaints.** The commission will limit access to information that is identified as confidential and is submitted under the provisions of WAC 480-09-015. Copies of this rule are available upon request.

(2) **Complaints and rule violations.** If you fear for your safety when reporting a complaint for rule violation then, at your request, we will keep your name and address confidential. We require that you sign and submit a form specifying that you fear for your safety if your name and address are made public. Please note, however, that it is difficult to investigate complaints regarding a specific shipment if we are unable to release the name of the shipper, as carrier records are often kept by shipper name and address.

NEW SECTION

**WAC 480-15-100 What form of payment does the commission accept?** You may pay by money order, check, or certified check payable to the Washington utilities and transportation commission. You may also pay with cash if you make your payment in person. We accept only U.S. funds.

NEW SECTION

**WAC 480-15-110 If I change my business address or telephone number, must I notify the commission?** Yes, if you change your physical or mailing business address or your business telephone number, you must immediately notify the commission in writing at the addresses listed in WAC 480-15-060.

NEW SECTION

**WAC 480-15-120 What rules apply to commission proceedings?** The commission's rules governing administrative practices and procedures are in chapter 480-09 WAC. When a rule in this chapter is different than a rule in chapter 480-09 WAC, the rule in this chapter applies to household goods carriers.

**Part 1.3 - COMPLIANCE WITH THIS CHAPTER**NEW SECTION

**WAC 480-15-130 What is the commission's compliance policy?** (1) In enforcing the law, the commission encourages voluntary compliance with statutes, rules and commission orders, through the following:

(a) A program emphasizing education and technical assistance; and

(b) A compliance program including:

(i) Investigation and informal dispute resolution of customer complaints;

(ii) Investigation of informal and formal company complaints;

(iii) Driver and equipment safety compliance reviews;

(iv) Economic compliance audits (i.e., concerning rates, charges, and billing practices);

(v) Coordinated roadside enforcement; and

(vi) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.

(2) Where necessary to ensure compliance with statutes, rules and commission orders, the commission will pursue:

(a) Administrative actions, including, but not limited to, warnings, sanctions, penalty assessments, suspension or cancellation of permits, and hearings to show cause and classify motor carriers; and

(b) Proceedings in district and superior court.

(3) The commission is authorized to administer and enforce the laws and rules relating to household goods carriers by:

(a) Inspecting equipment, drivers, accounts, books, and documents, including, but not limited to:

(i) Vehicles, drivers, and vehicle and driver records and files;

(ii) Business and financial records;

(iii) Insurance certificates;

(iv) Compliance records;

(v) Billing documents;

(vi) Shipment records; and

(b) Prosecuting violations of statutes, rules and commission orders.

NEW SECTION

**WAC 480-15-140 How will the commission enforce this chapter?** The commission authorizes staff to inspect the equipment, accounts, books, papers and documents of household goods carriers and to conduct inspections and investigations on its behalf. The commission will institute appropriate

enforcement action against violators based on information collected by its staff. The commission has delegated authority to its staff to place vehicles and drivers out-of-service if they do not meet minimum safety standards. In addition, the commission has delegated authority to its staff to issue citations or arrest without warrant any person found violating this chapter in the presence of staff.

#### NEW SECTION

**WAC 480-15-150 Why would the commission take administrative action?** The commission will take administrative action for violations in a manner that it believes will best assure future compliance by the violating household goods carrier and other household goods carriers. The commission may:

(1) Assess monetary penalties under the provisions in chapter 81.04 RCW as a tool of enforcement and remediation; or

(2) Suspend or cancel the permit of a household goods carrier under circumstances in which the commission believes education and penalties have not been, or will not be, effective to secure compliance; for serious actions including fraud or misrepresentation; and for willful violation of legal requirements.

#### NEW SECTION

**WAC 480-15-160 What sanctions apply to carriers operating without valid permits? (1) Operating while suspended.** Household goods carriers who continue to operate after their permits have been suspended are subject to:

(a) Misdemeanor or gross misdemeanor citations, for which they must appear in district court; and/or

(b) Monetary penalty assessments or other administrative actions; and/or

(c) Proceedings to cancel their permit.

(2) **Operating after cancellation.** Household goods carriers who continue to operate after their permits have been canceled are subject to:

(a) Misdemeanor or gross misdemeanor citations, for which they must appear in district court; and/or

(b) Enforcement proceedings in superior court.

(3) **Operating with no permit.**

(a) Motor carriers who transport household goods entirely within the state of Washington without first obtaining a permit from the commission to do so are subject to citation if observed or contacted by a representative of the commission, or other law enforcement agency, while transporting household goods over the public roads of the state of Washington.

(b) If we receive information that a motor carrier is transporting household goods without a household goods permit, we may issue a citation and/or contact the motor carrier and provide education and technical assistance concerning the applicable rules and regulations. We will supply the motor carrier with a copy of the applicable laws and rules, as well as forms with which to apply for a permit.

(c) If the motor carrier continues to operate without a permit after the commission provides the motor carrier with

an opportunity to apply for a permit and the motor carrier does not do so, the commission may institute an administrative proceeding to classify the motor carrier. If, after the hearing, the commission determines the motor carrier is operating as a household goods carrier without the required permit, the commission will issue a cease and desist order to the party(s) involved in the operations pursuant to RCW 81.04.510.

(d) If the motor carrier continues to operate without a permit after applying for a permit and before the commission has acted in that application, the commission may consider those operations in determining whether the carrier is fit to provide the proposed service.

(e) The commission may institute legal action in the appropriate court if it obtains sufficient information that a motor carrier continues to operate in violation of a commission order.

### Part 2 - PERMITS

#### Part 2.1 - GENERAL PERMIT INFORMATION

#### NEW SECTION

**WAC 480-15-170 What is a household goods permit?**

A household goods permit is a document issued by the commission describing the transportation services a common carrier is authorized to provide, and the territory the common carrier is authorized to serve. It includes at least the following information:

(1) The permit number issued by the commission;

(2) The official name of the permit holder;

(3) The registered trade or business name(s);

(4) The address of record;

(5) The date the permit is issued;

(6) The operating authority granted by the commission; and

(7) Any conditions imposed by the commission upon on the permit.

#### NEW SECTION

**WAC 480-15-180 When must I have a household goods permit? (1) Unless you are operating in the territory described in WAC 480-15-200, you must receive a permit from us before you transport household goods:**

(a) By motor vehicle;

(b) Over the public highways;

(c) Between points in Washington state; and

(d) For compensation.

(2) If you transport household goods without first obtaining a permit you will be subject to the enforcement actions described in WAC 480-15-160(3).

#### NEW SECTION

**WAC 480-15-190 Where may I operate with a household goods permit? (1) Household goods permits authorize state-wide operations unless:**

- (a) You elect to limit your service territory to specific counties; or
  - (b) The commission, by order, limits your service territory.
- (2) If you choose to limit your service territory to specific counties, you must notify us in writing at the address shown in WAC 480-15-060. Your written request must include your household goods permit number and name.

**NEW SECTION**

**WAC 480-15-195 When will my existing household goods permit be reissued?** If you hold a household goods permit that is valid on the effective date of these rules, it will be recognized as authorizing state-wide operations until a new household goods permit is issued, or until January 31, 1999, whichever occurs first.

(1) If you choose to limit your service territory to specific counties, you must notify us in writing at the address shown in WAC 480-15-060. Your written request must include your household goods permit number and name.

(2) For the purpose of this rule, a valid household goods permit does not include temporary permits, suspended permits, canceled permits, or permits that are held by carriers that have not filed required annual reports, paid regulatory fees, or satisfied penalty assessments, or whose checks have been returned because of insufficient funds or closed bank accounts.

**NEW SECTION**

**WAC 480-15-200 Are there areas I may operate without a permit?** Pursuant to RCW 81.80.040(1), you do not need a permit to transport household goods exclusively between points within the limits of a city or town with a population of less than ten thousand, unless the city borders a city or town with a population of greater than ten thousand.

Pursuant to RCW 81.80.040(2), you do not need a permit to transport household goods exclusively between points within a city with a population between ten thousand and thirty thousand, if the commission has issued an order exempting transportation within that city from regulation.

**NEW SECTION**

**WAC 480-15-210 Are there different kinds of household goods permits?** We issue household goods permits for emergency temporary, temporary, and permanent authority. We may grant:

- (1) Emergency temporary authority for a period of thirty days or less when there is an urgent need for service and time or circumstances do not reasonably allow for filing and processing of an application for temporary authority;
- (2) Temporary authority for up to one hundred eighty days to meet a short-term public need or until a decision is made on a pending application for permanent authority. The applicant must be fit, willing, and able, and the proposed service must be in the public interest; and
- (3) Permanent authority with no expiration date or renewal requirement when the applicant is fit, willing, and

able to provide service, when granting that service is in the public interest, and when the proposed service is needed to meet the current or future public convenience and necessity.

**NEW SECTION**

**WAC 480-15-220 How do I apply for a permit?** (1) You may file an application for a permit on forms furnished by the commission. You may file your application in person or by mail. (See WAC 480-15-060 for the commission's address.)

(2) You must include all requested information, attachments, complete signed statements, and fees when you file your application. (See WAC 480-15-230 for the appropriate application fees.) We will not accept your application until all required information is supplied and any outstanding fees or penalties are paid.

(3) We may reject or dismiss your application if you include false, misleading, or incomplete information.

**NEW SECTION**

**WAC 480-15-230 What is the application fee?** The maximum application fee, under RCW 81.80.090, is five hundred fifty dollars. After reviewing the actual costs of processing applications, we may set fees at less than the legal maximum. Each application form will clearly state the fee you must submit when filing an application.

The following table lists the application fees in place on the effective date of these rules:

Type of Permit Application:	Fee:
Emergency temporary authority	\$ 50.00
Temporary authority	\$250.00
Permanent authority	\$550.00
Permanent authority (under the exceptions named in WAC 480-15-260)	\$250.00
Permit reinstatement (under provisions of WAC 480-15-460)	\$250.00
Name change only	\$ 35.00

**NEW SECTION**

**WAC 180-15-240 How may a new entrant obtain authority?** You must file both a temporary and a permanent authority application if you do not hold an existing permit that allows you to transport household goods within the state of Washington.

The following table describes the application process for new entrants seeking to obtain permanent authority:

PROPOSED

If you file an application for:	You must also file an application for:	We will:	We will grant an application when:
PERMANENT authority Refer to WAC 480-15-330	TEMPORARY authority Refer to WAC 480-15-280	Publish your application on an application docket subject to public comment.	The applicant is fit, willing, and able to provide the proposed service; The proposed services is in the public interest; and For applications for permanent authority, the proposed service is required to meet the current or future public convenience and necessity.

**NEW SECTION**

**WAC 480-15-250** What is the process to expand the authority in an existing permit? You must file only a per-

manent authority application if you want to expand the authority included in your existing household goods permit.

The following table describes the filing process for existing household goods carriers seeking to obtain additional permanent authority:

If you file an application for:	We will:	We will grant an application when:
PERMANENT authority Refer to WAC 480-15-330	Publish your application on an application docket subject to public comment.	The applicant is fit, willing, and able to provide the proposed service; The proposed service is in the public interest; and The proposed service is needed to meet the current or future public convenience and necessity.

**NEW SECTION**

**WAC 480-15-260** Are there exceptions to the application process? We will grant an application for permanent authority without public notice or comment if:

- (1) The applicant is fit, willing, and able to provide service; and
- (2) The application is filed to transfer or acquire control of permanent authority for the following reasons:
  - (a) A partnership has dissolved due to the death, bankruptcy, or withdrawal of a partner, and that partner's interest is being transferred to one or more remaining partners or a spouse;
  - (b) A shareholder in a corporation has died and that shareholder's interest is being transferred to a surviving spouse or one or more surviving shareholders;
  - (c) A sole proprietor has died and the interest is being transferred as property of the estate;
  - (d) An individual has incorporated, and the same individual remains the majority shareholder;
  - (e) An individual has added a partner, but the same individual remains the majority partner;
  - (f) A corporation has dissolved and the interest is being transferred to the majority shareholder;
  - (g) A partnership has dissolved and the interest is being transferred to the majority partner;
  - (h) A partnership has incorporated, and the partners are the majority shareholders; or

(i) Ownership is being transferred from one corporation to another corporation when both are wholly owned by the same shareholders.

**Part 2.2 - EMERGENCY TEMPORARY AND TEMPORARY AUTHORITY**

**NEW SECTION**

**WAC 480-15-270** When will the commission grant emergency temporary authority? We will grant an application for emergency temporary authority to meet an urgent need when time or circumstances do not reasonably allow for the filing and processing of a temporary permit application. We may grant emergency temporary authority for up to thirty days when a qualified applicant:

- (1) Provides a certified statement of support identifying the need;
- (2) Pays the application fee;
- (3) Furnishes a list of vehicles to be used under emergency temporary authority; and
- (4) Furnishes proof of public liability and property damage insurance.

**NEW SECTION**

**WAC 480-15-280** When must I apply for temporary authority? (1) You must apply for temporary authority if you are a new entrant, or to provide service to meet a short-

PROPOSED

term need. If you are a new entrant, and the commission grants your application, the temporary authority will allow you to provide service as a household goods carrier on a provisional basis for at least six months. During this time, the commission will evaluate whether you have met the criteria in WAC 480-15-330 to obtain permanent authority.

(2) We will grant or deny an application for temporary authority after we have conducted a complete review of your application, any supporting statements, reports or other information necessary to determine your fitness, and determine whether granting the application is in the public interest.

(3) When determining if an applicant is fit, willing, and able to provide the proposed service we will consider any information provided by the applicant and other members of the public regarding:

(a) The applicant's experience in the industry; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws and rules; and

(b) Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or has previously been denied authority on the basis of fitness; or has had permit authority canceled.

(4) When determining if the proposed service is in the public interest we will consider any information provided by the applicant, shippers and other members of the public supporting the proposed service, and whether granting the temporary authority will:

(a) Enhance choices available to consumers, promote a viable yet competitive household goods industry, or fill an unmet need for service; and

(b) Allow us to more efficiently regulate the household goods industry, and provide increased consumer protection through regulation.

(5) Statements and reports from the applicant, shippers, and other members of the public, must include their full name, address, phone number, and state that the information submitted is true and accurate. They must be signed and show the place and date where/when they were signed.

#### NEW SECTION

**WAC 480-15-285 Are there times when the commission will reject my application for temporary authority?** We will reject your application for temporary authority if you file within six months of a denial of a previous application submitted by you. We will reject your application if filed within one year of cancellation of a permit, held by you, under WAC 480-15-320 or 480-15-450 (3), (4), (5), or (6).

#### NEW SECTION

**WAC 480-15-290 How will I know what the commission has decided?** After reviewing your application, and all supporting statements and reports, the commission will issue an order to you granting or denying your application for temporary authority. An order granting temporary authority may include specific terms and conditions that you must satisfy before you begin or while operating under authority. We

publish an application docket listing temporary authority we have granted or denied.

#### NEW SECTION

**WAC 480-15-300 What conditions may be attached to my temporary authority?** Based on a review of your application and supporting statements, we may impose any of the following conditions when granting temporary authority:

(1) Driver and equipment safety training;

(2) Rates and billing practices training;

(3) Surety bond, or other means to ensure compliance;

(4) Special compliance audits;

(5) Special customer notices and comment forms which evaluate your services;

(6) Other reporting as the commission may require, such as customer lists, and financial reporting;

(7) Vehicles must pass inspection and be issued a valid Commercial Vehicle Safety Alliance (CVSA) inspection decal; and

(8) Other conditions depending on the circumstances surrounding the application.

#### NEW SECTION

**WAC 480-15-310 May I comment on a decision to grant or deny temporary authority?** (1) We publish an application docket listing temporary authority we have granted or denied. We mail the docket to each applicant and, upon written request, to any other person interested in application proceedings.

(2) Anyone having an interest in an application appearing on the docket may file written comments within ten days following publication. Comments may be in the form of statements supporting or protesting the grant of authority or application. Comments must include your full name, address, telephone number, FAX number, and permit number, if applicable. Comments must state the nature of your support or protest and address the following issues: Fitness, public interest, levels of service, business practices, safety, and/or operation of equipment.

(3) We may grant or deny a protest without a hearing. We may, at our own discretion, hold a brief adjudicative proceeding on a protest. Rules governing applications and procedures for brief adjudicative proceedings are in chapter 480-09 WAC.

#### NEW SECTION

**WAC 480-15-320 May the commission cancel a temporary permit?** Yes, we may cancel a temporary permit at any time if we determine that:

(1) The permit was not issued in the public interest;

(2) The grant of temporary authority was based on fraud, misrepresentation, or erroneous information from the applicant; or

(3) We find cause to cancel the permit under the circumstances described in WAC 480-15-450.

**Part 2.3 - PERMANENT AUTHORITY****NEW SECTION**

**WAC 480-15-330 When must I apply for permanent authority?** (1) You must apply for permanent authority if you are requesting:

- (a) New original authority;
- (b) Transfer of existing authority;
- (c) Acquisition of control of existing authority;
- (d) Additional authority for an existing household goods permit; or

(e) Household goods authority for an existing general commodities permit granted under the provisions of chapter 480-14 WAC.

(2) We will grant or deny an application for permanent authority after we have conducted a complete review of your application, supporting statements, reports, or other information necessary to determine fitness, public interest, and current or future public convenience and necessity.

(3) Some transfers of existing permanent authority are not subject to the requirements in this rule. The exceptions are listed in WAC 480-15-260.

(4) When determining if an applicant is fit, willing and able to provide the proposed service, we will consider statements and reports including any information provided by the applicant and other members of the public regarding:

(a) The applicant's experience in the industry; knowledge of safety regulations; financial resources and equipment; compliance with tax, labor, employment, business, and vehicle licensing laws;

(b) Whether the applicant has been cited for violation of state law or commission rules, has been convicted of a Class A or Class B Felony, or previously has been denied authority on the basis of fitness; and

(c) The results of any compliance reviews, audits, inspection reports, and consumer complaints filed against the applicant.

(5) When determining if the proposed service is in the public interest we will consider statements and reports, including any information provided by the applicant, and other members of the public supporting the proposed service, and whether granting the permanent authority will:

(a) Enhance choices available to consumers, promote a viable yet competitive household goods industry, or fill an unmet need for service; and

(b) Allow us to more efficiently regulate the household goods industry, and provide increased consumer protection through regulation.

(6) When determining if the proposed service is needed to satisfy the current or future public convenience and necessity, we will consider any information provided by the applicant, shippers, and other members of the public supporting the proposed service, and any reports relating to the operations you conducted under temporary authority, including, but not limited to, the following:

- (a) The number of customers you served;
- (b) The nature of the service you provided;
- (c) Your customers' satisfaction; and
- (d) Statements regarding future need for your services.

**NEW SECTION**

**WAC 480-15-340 May I comment on an application for permanent authority?** (1) We publish applications for permanent authority on the application docket which we mail to each applicant and, upon written request, to any other person interested in application proceedings.

(2) Anyone having an interest in an application appearing on the docket may file written comments within thirty days following publication, unless the application is published in conjunction with a grant of temporary authority. If the permanent authority application is published in conjunction with a grant of temporary authority, then comments will be accepted for one hundred eighty days or the full term of the temporary permits.

(3) Comments may be in the form of statements supporting or protesting the application. Comments must include the commenter's full name, address, telephone number, and should also include a FAX number and permit number, if available. Comments should be signed and indicate the place and date when they were signed. Comments must state the nature of your support or protest and address the following issues: Fitness, public interest, levels of service, business practices, safety, operation of equipment, and current or future public need for service.

(4) A comment protesting an application may not cause the application to be set for a hearing.

**NEW SECTION**

**WAC 480-15-350 Will my application be set for a hearing?** We may hold a hearing or brief adjudicative proceeding on any application for permanent authority if it is necessary to resolve outstanding issues or concerns related to fitness, public interest, public convenience and necessity, or any other issue resulting from a compliance review, audit, inspection report, complaint, or public comment. Rules governing hearings and brief adjudicative proceedings are contained in chapter 480-09 WAC.

**Part 2.4 - USING YOUR PERMIT****NEW SECTION**

**WAC 480-15-360 Where must I keep my permit?** You must keep your original permit in your main office, and also carry a copy of your permit in each vehicle used to transport household goods. You must show a copy of your permit to any law enforcement or compliance officer who asks to see it.

**NEW SECTION**

**WAC 480-15-370 What should I do if my permit is lost or destroyed?** You may write to us and request replacement of a lost or destroyed permit. We will issue a replacement permit at no charge.

PROPOSED

NEW SECTION

**WAC 480-15-380 May I allow others to use my permit authority?** You must not allow others to transport household goods under your permit authority. All operations under a household goods permit must be conducted by the lawful permit holder. While you may not lease your permit authority, you may lease vehicles for use in your own operations pursuant to the leasing rules in WAC 480-15-590 and 480-15-600.

NEW SECTION

**WAC 480-15-390 What name may I use?** (1) You must conduct operations under the name shown on your household goods permit. If you do business under a trade or assumed name, that name must also appear on your permit.

(2) You may not operate under a name that is similar to that of another carrier unless:

- (a) The carrier whose name is similar has given you written permission to use the name; or
- (b) The commission authorizes use of the similar name. Before authorizing use of a similar name, the commission must first determine that the use of the similar name will not:
  - (i) Mislead the shipping public; or
  - (ii) Result in unfair or destructive competitive practices.

NEW SECTION

**WAC 480-15-400 How do I change my permit name?**

(1) You must file a name change application if you want to change your permit name, corporate name, trade name, or add a trade name to your permit.

(2) Your name change application must include the application fee (as shown in WAC 480-15-230), copies of any corporate minutes authorizing the name change, and proof that you have properly registered your new name with the department of licensing, office of the secretary of state, or other agencies, as may be required.

(3) You must file an application to transfer or acquire control of permanent authority if your name change is the result of a change in ownership or controlling interest.

(4) You may not advertise or operate under the changed name until the commission approves your request.

NEW SECTION

**WAC 480-15-410 What should I do if I cannot use my permit?** (1) If you are unable to use your permit due to medical reasons or because you have been called into active military service, you may request that your authority be voluntarily suspended.

(2) You must send your request to us in writing and include the following information:

- (a) Your name, address, and permit number;
- (b) The reason for the request (e.g., medical statement, military orders);
- (c) The date you would like the voluntary suspension to begin;

(d) The length of time you will be unable to use your permit; and

(e) A statement that no household goods transportation will occur under your permit while it is suspended.

(3) We will issue an order suspending your permit. The order will set the length of time and the terms of your permit suspension.

(4) To activate your suspended permit you must send us a letter advising that you are ready to resume household goods service and agree to conduct operations in compliance with all laws and rules. You must satisfy any outstanding filing requirements before we will issue an order lifting the suspension.

(5) If you do not activate your permit before the suspension period expires, your permit may be canceled.

NEW SECTION

**WAC 480-15-420 What should I do if I no longer want to use my permit?** If you no longer want to use your permit, you may send the original permit to us with a written request that it be canceled. Your cancellation request must include your name, address, and permit number. We will issue an order canceling your permit. Cancellation will be effective on the date of that order.

**Part 2.5 - SUSPENDED AND CANCELED PERMITS**NEW SECTION

**WAC 480-15-430 Why would the commission suspend my permit?** (1) The commission may suspend your permit under the provisions of WAC 480-15-410 or for good cause. Good cause includes, but is not limited to:

- (a) Failure to maintain evidence of required cargo and/or liability insurance coverage for all areas of your operations;
- (b) Failure to maintain your tariff and/or comply with the rates and rules contained in the tariff;
- (c) Failure or refusal to comply with operating standards that protect the public health and/or safety;
- (d) Allowing others to transport goods under your permit authority. See WAC 480-15-380.

(e) Operating in a manner which harms the rights of the shipping public or which constitutes unfair or deceptive business practices. For example: Investigation by the commission's staff representatives upholds numerous consumer complaints related to loss and damage, packing, loading and/or unloading, estimating or billing.

(2) The commission may suspend a permit without an opportunity for hearing if there is imminent danger to the public health, safety or welfare, or there is insufficient time to conduct a hearing.

NEW SECTION

**WAC 480-15-440 What happens if my permit is suspended for cause?** (1) **Notification.** The commission will send you notice of its action to suspend your permit. The suspension is effective upon the service date of the notice.

(2) **Contest of suspension.** You may contest the suspension of your permit by requesting a hearing or brief adjudicative proceeding. The procedures for such hearings are contained in chapter 480-09 WAC.

(3) **Reinstatement of permit.** We will lift the suspension of your permit after you correct all conditions leading to the suspension.

#### NEW SECTION

**WAC 480-15-450 Why would the commission cancel my permit?** The commission may cancel your permit under the provisions of WAC 480-15-410, 480-15-420 or for good cause. Good cause includes, but is not limited to:

(1) Failure to file an annual report or pay required regulatory fees;

(2) Failure to correct, within the time frame specified in the suspension order, all conditions that led to the suspension of your permit;

(3) Continued violations of applicable laws and rules affecting the public health, safety or welfare when the commission has reason to believe you would not comply with those laws and rules following a specified period of suspension;

(4) Repeated failure or refusal to comply with applicable laws and rules pertaining to operations of household goods carriers;

(5) Failure to supply information necessary to the commission for the performance of its regulatory functions when requested by the commission to provide such information;

(6) Submission of false, misleading or inaccurate information. The commission will hold a hearing prior to cancelling your permit unless your permit is subject to cancellation because you failed, within the time frame specified by a suspension order, to correct the causes of the suspension;

(7) Allowing others to transport goods under your permit authority in violation of WAC 480-15-380.

#### NEW SECTION

**WAC 480-15-460 What happens if my permit is canceled for cause?** (1) **Notification.** The commission will send you notice of its action to cancel your permit. The cancellation is effective upon the service date of the notice.

(2) **Contest of cancellation.** You may contest the cancellation of your permit by requesting a hearing or brief adjudicative proceeding. The procedures for such hearings are contained in chapter 480-09 WAC.

(3) **Reinstatement of permit.** If you correct all conditions that led to the cancellation of your permit, you may apply for reinstatement of your permit.

(a) To reinstate your permit within thirty days of cancellation, you must file an application for reinstatement and pay the applicable reinstatement fees.

(b) If you file an application for reinstatement after thirty days of cancellation, your application will be considered in all aspects to be an application for new authority, and will be subject to all terms and conditions specified in WAC 480-15-240 for new entrants.

(4) **Small business, reinstatement of permit.** If you are a small business as defined in WAC 480-15-020, and you correct all conditions that led to the cancellation of your permit, you may apply for reinstatement of your permit.

(a) To reinstate your permit within sixty days of cancellation, you must file an application for reinstatement and pay the applicable reinstatement fees.

(b) If you file an application for reinstatement after sixty days of cancellation, your application will be considered in all aspects to be an application for new authority, and will be subject to all terms and conditions specified in WAC 480-15-240 for new entrants.

### **Part 3 - ADMINISTRATIVE, TARIFF, AND RATE REQUIREMENTS TO TRANSPORT HOUSEHOLD GOODS, FOR HIRE, WITHIN THE STATE OF WASHINGTON**

#### **Part 3.1 - RULE BOOKS**

#### NEW SECTION

**WAC 480-15-470 Rule books.** (1) **What is a rule book?** A rule book is a reprint of the complete set of Washington Administrative Code (WAC) rules governing the operations of household goods carriers.

(2) **How do I get a rule book?** You may request a rule book by contacting the commission. The first copy of the rule book is free. However, we may charge a fee for multiple copy requests. We will automatically send a rule book to anyone who applies for a household goods permit.

(3) **How do I get a rule book update?** If changes occur, we will automatically send annual rule book updates to everyone who has a household goods permit. Any person may request a current rule book by contacting us at the address listed in WAC 480-15-060.

(4) **Is the rule book copyrighted?** The rule book is not copyrighted. You may copy or reproduce it without our permission.

#### **Part 3.2 - ANNUAL REPORTS AND REGULATORY FEES**

#### NEW SECTION

**WAC 480-15-480 Annual reports and regulatory fees.** (1) **What is an annual report?** An annual report is a year end statement that discloses to the commission financial, equipment, operating, and management information about you and the operations you conducted under your household goods permit. Your signed report includes a statement certifying that the information in your report is true and accurate.

(a) You must report your financial information according to the Uniform System of Accounts established by the commission for household goods carriers.

(b) The commission will mail annual report forms and instructions to each household goods permit holder at their address of record. If you do not receive an annual report

form, it is your responsibility to contact the commission and request the form.

(2) **What is a regulatory fee?** A regulatory fee is an annual assessment paid by each household goods carrier to cover the costs of regulating the household goods industry. The maximum regulatory fee is set by law at one-fourth of one percent of the gross operating revenue generated from your intrastate transportation of household goods. We may reduce the fee by general order. Each year we review the costs of regulating the household goods industry and set the next year's fee accordingly.

(3) **How do I calculate my regulatory fee?** Your regulatory fee is calculated as a percentage of your intrastate gross operating revenues generated from the transportation of household goods during the prior calendar year.

For example: Gross Operating Revenue \$100,000.00 x  
 Regulatory Fee Percentage .0025 =  
 Regulatory Fee Due \$ 250.00

(4) **When are my annual report and regulatory fees due?** You must file your annual report and pay your regulatory fees by May 1st of the year following the calendar year for which you are reporting.

(a) If you pay your regulatory fee late, we will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month after that.

(b) If you do not file your annual report and/or do not pay your regulatory fee, we may issue penalty assessments or cancel your permit under the provisions of WAC 480-15-450.

**Part 3.3 - TARIFF AND RATES**

NEW SECTION

**WAC 480-15-490 Tariff and rates, general.** (1) **What is a tariff?** A tariff is a publication containing the rates and charges that household goods carriers must assess on shipments of household goods, including rules that govern how rates and charges are assessed.

(2) **How are tariff rates and charges established?**

(a) Pursuant to RCW 81.80.130 and 81.80.150, the commission publishes tariffs to be used by all household goods carriers, or allows household goods carriers to file individual tariffs if the commission finds it is impractical to publish tariffs for certain commodities or services. The commission determines the rates and charges contained in the tariffs by commission order following notice and hearing. Under RCW 81.80.130, the commission must set fair, just, reasonable, and sufficient rates and charges. We will do this by setting minimum and maximum rates.

(b) Upon the effective date of these rules, and continuing until such time as the commission, after notice and hearing, determines a different rate level, household goods carriers may charge no more than fifteen percent above the current tariff rates and charges and no less than thirty-five percent below the current tariff rates and charges contained in the

commission's household goods tariff on the effective date of these rules.

(3) **Who must have tariffs?** Each person holding household goods permit authority must purchase and display at least one copy of the current tariff, and pay applicable tariff maintenance fees. Any interested person may purchase a copy by paying the applicable fees in advance.

(4) **Where must I display my tariffs?** You must display a current copy of the tariff in your main office, and in each billing office.

(5) **Who must charge rates contained in the tariff?** All household goods carriers must charge the rates and charges, and comply with the rules contained, in the tariff unless we have approved, in writing, deviations from the tariff.

(6) **Is the tariff the only publication I need to use to determine rates?** We may adopt other publications that will be used to assess rates. If we do, we will notify tariff subscribers of the change.

(7) **Where may the public view tariffs?** Tariffs are public documents and you must make them available for the public by posting copies at your main office and any billing office. Tariffs are also available for review at our headquarters office.

(8) **How much does a tariff cost?** The cost of tariffs may change periodically depending on our costs for compiling, printing, distributing, and maintaining them. To find out the current cost, you may contact the commission as described in WAC 480-15-060.

(9) **Are copies of current or expired tariff pages available?** We will supply you with current or expired single tariff pages upon request. Copies of entire expired tariffs, or entire tariffs applicable on a specific date in the past, generally are not available.

NEW SECTION

**WAC 480-15-500 Tariff maintenance and fees.** (1) **What is a tariff maintenance fee?** A tariff maintenance fee compensates us for compiling, printing, and distributing amended tariff pages.

(2) **Do I always have to pay full maintenance fees?** The annual maintenance fee is payable in advance on a pro-rated basis depending upon the month in which you purchase a tariff. See the table below:

Month in which maintenance service is purchased	Percentage of total maintenance fee payable
January, February, March	100%
April, May, June	75%
July, August, September	50%
October, November, December	25%

(3) **How am I billed for my annual tariff maintenance fees?** By December 1 of each year, we send a bill to each tariff subscriber for the next year's annual tariff maintenance service. Tariff subscribers must pay maintenance fees by December 31.

PROPOSED

**(4) What happens if a tariff subscriber fails to pay the annual maintenance fees by December 31?**

(a) If a tariff subscriber does not have a permit, and fails to pay the maintenance fee by December 31, we will cancel the tariff subscription. To reinstate a subscription, the tariff subscriber must purchase a new original copy of the tariff and pay all applicable maintenance fees.

(b) If a tariff subscriber has a permit and fails to pay tariff fees by December 31, we may take administrative action against the household goods carrier to suspend or cancel the permit, or to assess penalties.

**(5) Am I entitled to a refund if I cancel my tariff subscription?** If you cancel your tariff subscription and send us a written request we will refund your prepaid tariff maintenance fees. We base refunds on a prorated formula of one-twelfth the amount of the fee prepaid, times the number of whole months remaining in the calendar year.

**NEW SECTION**

**WAC 480-15-510 Changing commission-published tariffs. (1) Who may propose changes to the tariff?** Companies holding temporary or permanent household goods authority may propose changes to the tariff. We may, on our own motion, propose tariff changes.

**(2) How do I propose changes to the tariff?** All proposed changes must be sent to the commission's mailing address and must:

- (a) Be in writing;
- (b) Identify the rates, rules, or classifications to be changed;
- (c) Fully describe the proposed change;
- (d) State clearly the reason(s) for the proposed change;
- (e) Include any information or documents that justify the proposed change (the person proposing the change must prove the change is just and reasonable); and
- (f) Identify the name, address, title, telephone number, permit number and FAX number (if any) of the person we should contact regarding the proposal.

**(3) How does the commission consider proposals for tariff changes?** When we receive a proposed tariff change we:

- (a) Assign a docket number;
- (b) Schedule each docketed proposal for tariff change for consideration at one of our regularly scheduled open public meetings. The commission may approve the proposed changes, or suspend them and set them for hearing;
- (c) Notify you and other interested persons of the date when we will consider the tariff change; and
- (d) Process each application for tariff change under the procedures set forth in chapter 480-09 WAC.

**(4) When do approved changes become effective?** Changes we approve are not effective until we publish and distribute a revised tariff page. We will identify the effective date of the change on the revised page.

**NEW SECTION**

**WAC 480-15-520 Procedure for filing individual carrier tariffs. (1) What must be filed?** You must submit to us:

(a) A cover letter requesting permission from us to publish and file an individual tariff. The letter must describe the reasons you believe permission should be granted. Your letter should state the reasons you believe it is impractical for us to publish a tariff for the commodities or services contained in your proposed tariff.

(b) Two copies of your proposed tariff. Your proposed tariff must comply with the tariff drafting standards in chapter 480-149 WAC (Tariff Circular No. 6). You may request a copy of chapter 480-149 WAC from our records management section. The proposed tariff must contain all rates, charges, and rules you will be using if we grant you permission to publish and file an individual tariff.

(c) Data showing that the rates and charges contained in the proposed tariff are fair, just, reasonable, and sufficient.

**(2) How are individual carrier filed tariffs processed?**

(a) We review individual carrier filed tariffs:

- (i) For compliance with laws and rules relating to content and format;
- (ii) To ensure rates are fair, just, reasonable, and sufficient; and
- (iii) For reasonableness and accuracy.

(b) If tariffs are incomplete or do not comply with laws and rules, staff will discuss the issues with the carrier and require that corrected tariffs be filed.

(c) When an individual carrier filed tariff is approved, the commission will issue an order stating the date on which the rates become effective. One copy of the tariff marked "approved" will be returned with the order.

**(3) How does the commission consider proposals to amend individual carrier filed tariffs?** When we receive your proposed tariff amendment we will:

- (a) Assign a docket number;
- (b) Schedule each proposed tariff amendment for consideration at one of our regularly scheduled open public meetings. The commission may approve the proposed amendment, or suspend them and set them for hearing;
- (c) Notify you and other interested persons of the date when we will consider the tariff proposed amendment;
- (d) Process your proposed tariff amendment under the procedures established in chapter 480-09 WAC; and
- (e) Notify you of the disposition of your proposed tariff amendment. If the filing is approved, we will notify you of the date upon which the tariff amendment becomes effective.

**(4) What happens if I don't charge the rates and charges in my tariff?** You are subject to administrative action (see WAC 480-15-130(3)) if you charge rates or charges different from those contained in your tariff.

**Part 3.4 - INSURANCE****NEW SECTION**

**WAC 480-15-530 Public liability and property damage insurance. (1) What insurance am I required to obtain?** Before operating under a household goods permit,

you must have public liability and property damage insurance covering each motor vehicle that you use, or that you will use, to transport household goods in the state of Washington.

(a) Your policy must be written by an insurance company authorized to write insurance in Washington state.

(b) Your policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Endorsement, Form F.

(c) If you operate motor vehicles without the required insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.

(2) **What are the minimum insurance limits?** The minimum limits of required public liability and property damage insurance for motor vehicles operated by household goods carriers are as follows:

(a) Motor vehicles with a gross vehicle weight rating of less than ten thousand pounds must have at least three hundred thousand dollars in combined single limit coverage.

(b) Motor vehicles with a gross vehicle weight rating of ten thousand pounds or more must have at least seven hundred fifty thousand dollars in combined single limit coverage.

(3) **Am I required to file proof of insurance?** Yes, you must file a Uniform Motor Carrier Property Damage and Public Liability Certificate of Insurance (Form E) as a condition of maintaining your household goods permit.

(a) The Form E is a standard motor carrier insurance form recognized by the insurance industry. In most cases your insurance agent must request that the insurance company file the Form E with us.

(b) Your Form E filing must be issued in exactly the same name as your permit.

(c) Your Form E filing must be continuous, until canceled by a Notice of Cancellation (Form K) filed with us no less than thirty days before the cancellation effective date.

(d) You may file a Uniform Motor Carrier Property Damage and Public Liability Surety Bond (Form G) instead of the Form E.

(4) **May I file an insurance binder?** We will accept an insurance certificate or binder for up to sixty days. A certificate or binder may be canceled by filing written notice with us at least ten days before the cancellation effective date. A certificate or binder must be replaced by a Form E within sixty days of filing, or before the expiration date, whichever occurs first.

(a) Certificates or binders must show:

(i) The commission as the named certificate holder;

(ii) Your name, exactly as it appears on your permit or application, as the insured;

(iii) The insurance company name;

(iv) The insurance policy number;

(v) The effective and expiration dates; and

(vi) The insurance limits of coverage.

#### NEW SECTION

**WAC 480-15-540 What happens if my insurance filing is canceled?** If your insurance filing is canceled, and a new filing which provides continuous coverage is not filed with us, we may:

(1) Dismiss your application for a permit; and/or

(2) Suspend your permit under the provisions of WAC 480-15-430 and/or 480-15-450.

#### NEW SECTION

**WAC 480-15-550 Cargo insurance.** (1) **What are the cargo insurance requirements?** You must have cargo insurance coverage sufficient to protect all household goods that you transport under your permit. If you transport household goods under your permit without the required cargo insurance coverage you will be subject to immediate compliance action as described in WAC 480-15-430.

(2) **What are the minimum cargo insurance limits?** The minimum limits of required cargo insurance are:

(a) Ten thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of less than ten thousand pounds.

(b) Twenty thousand dollars for household goods transported in motor vehicles with a gross vehicle weight rating of ten thousand pounds or more.

(3) **Am I required to file proof of cargo insurance?** No, you are not required to file proof of your cargo insurance with us. You must have proof of cargo insurance at your main office available for inspection by commission representatives.

### **Part 4 - EQUIPMENT AND SAFETY REQUIREMENTS**

#### **Part 4.1 - EQUIPMENT**

#### NEW SECTION

**WAC 480-15-560 Equipment safety requirements.**

(1) **What is the commission's equipment safety policy?** All motor vehicles operated under the provisions of this chapter must be at all times:

(a) Maintained in a safe and sanitary condition;

(b) Free of defects likely to result in an accident or breakdown; and

(c) Made available for inspection by commission representatives.

All motor vehicles having safety defects likely to result in an accident or breakdown will be placed out-of-service and taken off the road until such time as all out-of-service defects have been repaired and the motor vehicle is safe to operate.

(2) **How does the commission enforce this policy?** Commission representatives conduct inspections of motor vehicles and safety operations. These representatives may place out-of-service any motor vehicle having a defect defined in the *North American Uniform Out-Of-Service Criteria*. No motor vehicle which has been placed out-of-service may be operated until all out-of-service defects are repaired and the motor vehicle is safe to operate.

(3) **How must I identify my motor vehicles?** You must display your permit name and number, as registered with the commission, on both the driver and passenger doors of all power units.

(a) All markings on the power unit must be:

- (i) Clearly legible;
  - (ii) No less than three inches high;
  - (iii) In a color that contrasts with the background color;
- and

(iv) Permanent. *Exception:* You may use temporary markings on vehicles you are operating under lease.

(b) If you have both intrastate and interstate authority, you must display either your commission permit number, federal permit number, or both, on the power unit.

**(4) What vehicle safety laws and rules must I follow?**

(a) You must comply with:

(i) All state and local motor vehicle safety laws and rules including, but not limited to, those contained in this chapter;

(ii) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter:

(A) 49 CFR Part 390: Safety Regulations, General; except:

(I) The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;

(II) The term "commercial motor vehicle" means any motor vehicle used by a household goods carrier to transport household goods;

(III) Whenever the term "director" is used, it shall mean the commission.

(B) 49 CFR Part 392: Driving of Motor Vehicles;

(C) 49 CFR Part 393: Parts and Accessories Necessary for Safe Operation;

(D) 49 CFR Part 396: Inspection, Repair, and Maintenance; and

(E) 49 CFR Part 397: Transportation of Hazardous Materials; Driving and Parking Rules.

(b) If you fail to comply with these laws and rules, we may issue a citation to you, place your vehicle out-of-service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).

**(5) Am I required to equip my motor vehicles with anti-spray devices (mud flaps)?**

(a) Yes, all motor vehicles must be equipped with mud flaps which effectively reduce the spray or splash of water from the road.

(b) Mud flaps must be as wide as the tires on which they are mounted, and must extend from the top of the tires down to at least the center of the axle.

## Part 4.2 - DRIVERS' REQUIREMENTS

### NEW SECTION

**WAC 480-15-570 Driver safety requirements. (1) What is the commission's policy for driver safety requirements?** No household goods carrier shall employ or allow any driver to operate a motor vehicle who fails to meet minimum criteria related to:

- (a) Driver's licensing;
- (b) Background and character;
- (c) Physical qualifications;
- (d) Hours of service; and
- (e) Controlled substances and alcohol use testing.

**(2) How does the commission enforce those requirements?** Commission representatives inspect driver and company safety records and documents to determine compliance with these rules. Additionally, the representatives may contact drivers during the course of investigations, inspections, or other routine commission business. The representatives may order out-of-service any driver meeting the conditions defined in the *North American Uniform Out-Of-Service Criteria*. No driver who has been placed out-of-service may operate a commercial motor vehicle until all conditions which caused the driver to be placed out-of-service are corrected.

**(3) With which driver qualification laws and regulations must I comply?**

(a) You must comply with:

(i) All state and local laws and rules governing driver safety, including, but not limited to, the rules in this chapter;

(ii) The following parts of Title 49 of the Code of Federal Regulations (49 CFR), as adopted by reference in this chapter:

(A) 49 CFR Part 390: Safety Regulations, General; except:

(I) The terms "exempt motor carrier," "motor carrier," "motor vehicle," and "private carrier" have the meanings assigned to them in this chapter;

(II) The term "commercial motor vehicle" means any motor vehicle used by a household goods carrier to transport household goods;

(III) Whenever the term "director" is used, it shall mean the commission.

(B) 49 CFR Part 382: Controlled Substance and Alcohol Use and Testing;

(C) 49 CFR Part 383: Commercial Driver's License Standards; Requirements and Penalties;

(D) 49 CFR Part 391: Qualification of Drivers; and

(E) 49 CFR Part 395: Hours of Service of Drivers.

(b) If you, or your driver, fail to comply with any driver safety law or rule, we may issue a citation to you or your driver, place your driver out-of-service, and/or initiate an administrative proceeding against you. See WAC 480-15-130(3).

**(4) Are there any exceptions?** Yes, the following exceptions apply:

(a) If your operations are exclusively in intrastate commerce, you are not subject to the following provisions:

(i) 49 CFR Part 391.11 (b)(1): Minimum age requirements. The minimum age for drivers of motor carriers operating solely intrastate is eighteen years of age rather than the twenty-one years of age required to operate in interstate commerce.

(ii) 49 CFR Part 391.49: Waiver of certain physical defects. This part does not apply if the driver has obtained from the Washington department of licensing a driver's license with endorsements and/or restrictions allowing operation of the motor vehicle they are driving.

(b) If you are a single vehicle owner-operator and your operations are solely intrastate, you are not subject to the following provisions:

(i) 49 CFR Part 391.21: Application for Employment;

- (ii) 49 CFR Part 391.23: Investigation and Inquiries;
- (iii) 49 CFR Part 391.25: Annual Review of Driving Record;
- (iv) 49 CFR Part 391.27: Record of Violations;
- (v) 49 CFR Part 391.31: Road Test; and
- (vi) 49 CFR Part 391.33: Equivalent of Road Test.

#### Part 4.3 - Accidents

##### NEW SECTION

**WAC 480-15-580 Accident reporting.** (1) **When must I report a vehicle accident to the commission?** You must report to the commission, within twenty-four hours, any accident occurring within the state of Washington which:

(a) Results in bodily injury to any person who as a result of the injury requires immediate medical treatment away from the scene of the accident;

(b) Results in the death of any person;

(c) Results in damage to any motor vehicle which is severe enough to require the motor vehicle to be transported from the scene by a tow truck or other motor vehicle;

(2) **How do I report accidents?** You may report accidents to the commission by providing your name or company name, your permit number; the date, time and location of the accident; and the nature of the accident by:

(a) Telephoning 1-800-562-6150 (if calling from within Washington) or 360-664-1222 (if calling from outside Washington); or

(b) Sending a FAX to 360-586-1150.

(3) **What accident records must I keep?** You must retain copies of all written accident reports for the period of one year from the date of the accident. You must keep the copies in your main office, subject to inspection by commission representatives.

#### Part 4.4 - EQUIPMENT LEASING

##### NEW SECTION

**WAC 480-15-590 What is the procedure for leasing vehicles?** (1) You must receive commission approval before you may operate a leased motor vehicle. To request approval you must submit a completed lease agreement on a form supplied by the commission, or an alternate form as long as it contains substantially the same information as that on the commission form. The form must be:

(a) Completed in its entirety (we will reject and return incomplete forms);

(b) Signed by both parties;

(c) Submitted in duplicate (we will return one approved copy to you);

(d) Clearly marked "master lease" if you intend it to be used as such in lieu of submitting individual leases; and

(e) Submitted through any means identified in WAC 480-15-060.

(2) We may institute administrative action as described in WAC 480-15-130(3) against any household goods carrier who operates leased motor vehicles without first having obtained commission approval.

(3) You are not required to file a lease for approval on an emergency substitution of a disabled vehicle.

##### NEW SECTION

**WAC 480-15-600 What are my responsibilities when entering into a lease?** When entering into a lease agreement, it is your responsibility to ensure that:

(1) A copy of the approved lease is carried in all leased motor vehicles;

(2) Copies of all approved leases are kept in your permanent files for at least one year after the lease expires;

(3) You give a copy of the approved lease to the owner of the leased motor vehicle;

(4) You have complete possession, control and use of the motor vehicle during the period of the lease agreement;

(5) You provide insurance on the leased motor vehicle as specified in WAC 480-15-530 and/or 480-15-550;

(6) You properly identify the motor vehicle as specified in WAC 480-15-560(3);

(7) The appropriate tariff rates and charges are billed and collected;

(8) The driver of the leased motor vehicle is on your payroll during the leased period;

(9) You comply with all safety rules;

(10) You and the owner of the leased motor vehicle specify on the lease form who is responsible for all expenses relating to the leased motor vehicles; and

(11) You comply with the terms of the approved lease.

#### Part 5 - CARRIER'S RESPONSIBILITIES TO SHIPPERS

##### Part 5.1 - GENERAL RESPONSIBILITIES

##### NEW SECTION

**WAC 480-15-610 What are my responsibilities regarding advertising?** (1) You must include your permit number in any advertising of your household goods moving services. Advertising includes, but is not limited to, reference to your services on your vehicles, equipment, and in telephone books, Internet, contracts, correspondence, cards, signs, posters, newspapers, and documents which show your name and address.

(2) You may only advertise services authorized by your permit.

(3) You may advertise services you provide as an agent of, or connecting carrier to, another household goods carrier if you include the name and permit number of the other household goods carrier in your advertising.

(4) You must not advertise services or rates and charges that conflict with those in the tariff.

(5) If you violate these advertising rules we may assess a penalty of up to five hundred dollars for each violation, or initiate other administrative action. See WAC 480-15-130(3).

**NEW SECTION**

**WAC 480-15-620 What information must I provide to each shipper?** (1) You must give each shipper a copy of the commission brochure, *"Your Rights and Responsibilities as a Moving Company Customer"*:

- (a) At the time you issue a written nonbinding estimate;
- (b) At the time you issue a written binding estimate;
- (c) If you issue neither a written estimate or a written nonbinding estimate, prior to loading the shipment; or
- (d) Upon request, by the shipper.

(2) The brochure is available from the commission and contains the text shown below. The commission may choose to: Add information, present information in a different format than shown below, or present information in different formats for various media (printed materials, on-line materials, fact sheets, brochures, etc.).

**YOUR RIGHTS AND RESPONSIBILITIES  
AS A MOVING COMPANY CUSTOMER**

**Important information:** As a shipper of household goods in the state of Washington, the Washington utilities and transportation commission requires that your mover provide you with the following important information. Please take the time necessary to read it thoroughly.

**Make sure you know the full name, address and phone number of the mover:** Some movers perform the transportation themselves. Others act as agents for other movers who do the actual hauling. In other instances, the transportation is arranged by brokers. You should be sure to obtain the complete and correct name, business address, and telephone number of the mover who is to transport your shipment, and keep that mover informed as to how and where you may be reached at all times until the shipment is delivered.

**1. Estimates.** Your mover will provide you with a written estimate if you request one. Commission rules require that all estimates must be written — oral or telephone estimates are not permitted.

**A. The accuracy of the estimate you receive depends upon cooperation between you, as the shipper, and the mover.** The mover cannot provide an accurate estimate unless you provide the mover with sufficient information upon which to base the estimate. This includes, but is not limited to:

- Accurately describing all articles to be included in the shipment: This requires you to carefully consider what articles, if any, you will pack or transport yourself. Be realistic in this assessment. Many shippers believe they will be able to pack most of their own goods, only to find that when moving day arrives they have been unable to attend to all of the items they were going to pack, sell, give away, or ship themselves.

- Accurately describing any problems the household goods mover may encounter at the pickup point: Are there large pieces of furniture that were moved into your current residence with a hoist, or that had to be disassembled before they could be moved into the residence?
- Accurately describing special services you wish to be performed during your move: For example: Picking up part of the load from another residence or storage facility, or disconnecting appliances.
- Accurately describing conditions at the delivery point: Will delivery involve the use of stairs, elevators, or hoisting goods using special equipment? Are there narrow roads, streets or alleys that will require the mover to transfer the shipment to smaller trucks to accomplish delivery? Are there ordinances or covenants that limit parking to unload or that restrict the hours of the day during which delivery may be done? Is there a narrow driveway that will hamper unloading?

**B. Supplemental estimates.** The mover must provide to you an additional (supplemental) estimate if there are additional items and services to be performed which were not covered by the original estimate. For example: Services and items you may have intended to take care of yourself but were unable to accomplish. Before the mover performs the additional services, those services must be listed on a supplemental estimate and you must, by signature, accept the supplemental estimate.

**C. Types of estimates.**

**1. Binding estimates of total cost.** Binding estimates are provided at the option of the mover. Some movers may not offer binding estimates. When you receive a binding estimate, you cannot be required to pay any more than the amount shown in the binding estimate. *However:* If you request the mover to provide more or different services than those included on the estimate, the mover must provide you with a supplemental estimate. You will then be expected to pay the total of the original binding estimate, plus the amount shown on the supplemental estimate, at the time of delivery.

If you agree to a binding estimate, you are responsible for paying the total charges due. If you are unable to pay at the time the shipment is delivered, the mover may place your shipment in storage, at your expense, until the charges are paid.

**2. Nonbinding estimates of approximate costs.** A nonbinding estimate is not a bid or a contract. It is provided by the mover to give you a general idea of the cost of the move, but does not bind the mover to the estimated cost. It does not guarantee that the final cost of your move will be the same amount as the estimate.

You must pay the transportation and other charges computed in accordance with the tariff published by the Washington

utilities and transportation commission. However, in no instance will you be required to pay more than:

(a) On hourly-rated shipments:

(i) One hundred twenty-five percent of the amount of the estimate (and any supplemental estimates) for your move; and

(ii) One hundred fifteen percent of the amount of the estimate (and any supplemental estimates) for accessorial services provided during your move.

(b) On distance-rated shipments: One hundred fifteen percent of the amount of the estimate (and any supplemental estimates) for your move.

If the charges at the destination exceed the amount of the original estimate plus any supplemental estimate, the mover must, at your request, deliver the shipment to you upon payment of one hundred ten percent of the estimate. The mover will defer payment of the balance of the amount due for thirty days.

### 3. Paying for your move.

Most carriers insist that you pay in cash, by money order, or by certified check. However, you may arrange in advance for the carrier to extend you credit. If the carrier will accept payment by credit card or personal check, be sure this arrangement is noted on the agreement. If a carrier accepts credit arrangements at the beginning of your move, the carrier must accept the same credit arrangements for the final bill.

**4. Tariffs.** The tariff is published by the commission. It contains rates, charges, and rules governing the transportation of household goods. The tariff is available for public inspection at the mover's office. The tariff includes special provisions governing shipments to be picked up or delivered at more than one place, overtime charges, packing and marking, furnishing of boxes, and carrying goods up and down steps.

**5. Preparing articles for shipment.** Some articles, such as large appliances and stereo sets, may require special servicing to prepare them for being moved, such as disconnection. If the mover provides these services there may be an extra charge. If you wish to avoid extra per-hour charges, you should consider taking down drapes, blinds, mirrors, and any other articles attached to the walls.

Movers are not responsible for articles of extraordinary value. You should never pack the following items with your other belongings:

- jewelry
- valuable papers
- coins
- money
- valuable collections
- inflammables
- dangerous articles

**6. Valuation protection for loss and damage.** All movers are required to assume liability for the value of the goods which they transport. However, there are different levels of valuation protection, and consumers should be aware of the amount of protection provided and the charges for each option.

The dollar amount of responsibility your mover assumes for loss or damage to your household articles is up to you. You choose the dollar amount. What the mover is or is not responsible for is printed on the mover's standard bill of lading. Ask your mover for a sample bill of lading and read it before you move.

Most movers offer four different levels of liability. Generally, your choices are:

#### Option 1: Basic value protection.

This is the most economical protection option available. This option provides minimal protection at no additional cost, but may be inadequate in case of a major or total loss (as in the case of the moving truck being involved in an accident). Under this option, the mover assumes liability for only sixty cents per pound per article. Loss or damage claims are settled based on the pound weight of the article multiplied by sixty cents. For example: If a ten-pound stereo, valued at one thousand dollars were lost or destroyed, the mover would be liable for six dollars. You should think carefully before selecting this level of protection. There is no charge for this minimal protection, but you must sign a specific statement on the bill of lading agreeing to it.

#### Option 2: Depreciated value protection.

Under this option, the valuation of your shipment is based on the total weight of the shipment times two dollars per pound. For example, a four thousand-pound shipment would have a maximum liability of eight thousand dollars. Any loss or damage claim under this option is settled based on the depreciated value of the lost or damaged item(s) up to the maximum liability value based on the weight of the entire shipment. Under this option, if you shipped a ten-pound stereo that originally cost one thousand dollars, the mover would be liable for up to one thousand dollars, based on the depreciated value of the item. There is a charge for this type of protection.

#### Option 3: Replacement cost coverage, with a deductible, and

#### Option 4: Replacement cost coverage, with no deductible.

Coverage under these plans is also referred to as "full value protection" or "full replacement value." If you choose to purchase full value protection, articles that are lost, damaged or destroyed will either be repaired, replaced with like items, or a cash settlement will be made for the current market replacement value regardless of the age of the lost or damaged item. Unlike the other options, depreciation of the lost or damaged item is not a factor in determining replacement value. The prices for these types of coverage are set in the tariff and are based on a charge per one hundred dollars of declared value. Declared value is the amount which you, the shipper, state in writing on the bill of lading. It must be equal to or exceed the figure determined by multiplying the weight of your shipment times three dollars and fifty cents. For example: If your shipment weighs five thousand pounds, the minimum declared value upon which you will be required to pay valua-

tion charges must be at least seventeen thousand five hundred dollars.

Normally, replacement cost protection will not apply to antiques, fine art, paintings, statuary or other similar articles which, by their inherent nature, cannot be replaced with new articles. Shippers should arrange for third party insurance on these items.

Replacement cost protection does not normally cover memorabilia, souvenirs and collector's items, or other articles when the age of the item or its history contribute substantially to the value of the article. The valuation for these articles reverts to the depreciated or fair market value basis.

**7. Weights.** For distance-rated moves, the transportation charge you will be assessed depends on the weight of the goods you ship. To determine the net weight of your shipment, the mover weighs the empty vehicle then reweighs it after loading your goods into the truck. If you request it, the mover will:

- Notify you of the weight and charges as soon as the net weight of your shipment is established.
- Reweigh the shipment before delivery, if it is practical to do so. You are responsible for the cost of reweighing the shipment. The charges that apply in the tariff.

**8. Expedited service.** Movers must offer reasonable dispatch, but do not have to make delivery at any definite time. However, at your request, a shipment will be delivered on or before the date specified. You may have to pay an extra charge for delivery by a specified date.

**9. Small shipments.** The minimum weight for shipments in distance moves is five hundred pounds. If your shipment weighs less than five hundred pounds, you should consider using other means of transportation (a freight carrier, small package carrier, etc.) even if you have to pay for crating and packing. Movers frequently find it difficult to deliver small shipments in a reasonable time.

**10. Temporary storage.** You may ask the mover to place your goods in temporary storage for a period not to exceed one hundred eighty days. You will be charged an additional amount for this service. If you do not remove the shipment from temporary storage within one hundred eighty days, then the shipment will revert to permanent storage and the mover ceases to have responsibility as a mover. The mover's responsibility becomes that of a warehouseman and the commission has no further jurisdiction over the shipment.

**11. Bill of lading contract.** The bill of lading is a receipt for goods, and is also a contract between you and the mover. You should obtain a copy of this document before your shipment leaves the point of origin. It is your responsibility to read the bill of lading and understand it. If you do not understand something on the bill of lading, ask the mover to explain it to your satisfaction. You should sign the bill of lading before transportation begins, and sign it again as a receipt upon delivery of the goods at your destination.

The bill of lading is an important document: Do not lose or misplace your copy. Have it available until your shipment is delivered, all charges are paid, and all claims are settled.

**12. Payment of charges - freight bill.** Movers do not ordinarily deliver or relinquish possession of property until all tariff rates and charges have been paid in cash, by certified check, or by traveler's check. Some movers may accept bank cards or personal checks. You should clarify with the individual mover what forms of payment are acceptable, and be prepared to pay payment for the move when the shipment is delivered.

**13. Bills of lading on long distance moves.** Because long distance moves are charged on the basis of weight and distance, your receipt for the charges should show:

- The gross (loaded) and tare (empty) weights of the vehicle;
- The net weight of your shipment (loaded weight minus empty weight);
- The mileage;
- The rate per one hundred pounds for the transportation;
- The cost for valuation protection; and
- Rates or charges for any accessorial services.

**14. Bills of lading on local moves.** Because local moves are charged on an hourly basis, the receipt should show:

- The time the vehicle left the mover's place of business, and the time of return to that place of business;
- The rate per hour;
- The cost for valuation protection; and
- Rates or charges for any accessorial services.

**15. Loss and damage.** In the event of loss or damage to your shipment, ask the driver to acknowledge the facts on the bill of lading. If the driver refuses, you should have a disinterested party inspect the damage in the driver's presence, and report it in writing to the mover.

**16. Loss or damage claims.** All claims for loss or damage must be filed with the mover in writing. Ask the mover for a claim form.

Claims must be filed within nine months from date of delivery. It is preferable to do so as soon as possible — while memories are fresh. While the commission can sometimes act informally to facilitate negotiation between parties, we cannot require you or the mover to settle claims for loss and damage. If the mover will not voluntarily settle a claim to your satisfaction, the recourses available to you are:

- Submitting the claim to arbitration or mediation through a third party (including services provided by a local government agency); or
- Filing suit in a court of law (depending upon the amount contested, you may be able to use small claims courts).

**17. Complaints, other than loss and damage claims.** If you have a complaint about your household goods move, you must first contact your mover and attempt to resolve the dispute. If you are unable to resolve the dispute with the mover, then you may file an informal complaint with the commission.

An **informal complaint** is an unresolved dispute between the shipper and the mover, brought to the attention of the commission staff by the shipper. The shipper is generally requesting assistance in resolving the complaint.

The complaint is handled informally by commission staff working directly with the carrier in an attempt to resolve the complaint without the need for a formal hearing process or legal arbitration. The conclusion (finding) of the informal complaint is not binding on the company or the shipper, but is included in a permanent file subject to public review.

You may file an informal complaint with the commission: In writing, in person, by telephone, by e-mail or by FAX. We do have forms available with which you may file an informal complaint, and will provide them to you upon request. No matter which method you choose to file, you must include at least the following information:

- Your name, current address and telephone number;
- The date of your move;
- The bill of lading number for your move;
- The name and address of the company who performed the move;
- The origin and destination cities of the move;
- The details of your dispute; and
- The resolution you seek.

It is also helpful to us in resolving your dispute if you attach a copy of the bill of lading and/or other documents related to the dispute.

You may file a **formal complaint** with the commission at any time. A formal complaint is a quasi-judicial proceeding, much like going to court. A formal complaint must state a situation in which the moving company is in violation or claimed to be in violation of a provision of law, order, or rule of the commission, or the provisions of the company's approved tariff. You are responsible for proving the violation occurred.

## Part 5.2 - ESTIMATES

### NEW SECTION

**WAC 480-15-630 Estimates.** An estimate is a written approximation of the probable cost of a move prepared in compliance with the provisions of the household goods tariff. Estimates are based on factors such as the van space required, the weight of the household goods, the amount of time needed to complete the move, and the type of special services provided. You may provide your customer with either of two basic types of estimates:

(1) A **nonbinding estimate** which is based on an inventory of the customer's goods and provides the customer with a pricing guideline. There is no contractual commitment to this estimate, and the final charges the customer must pay could be higher or lower than the estimated cost, depending on the actual weight of the shipment, the total time consumed, or physical location at the origin and destination, or other conditions of the move; or

(2) A **binding estimate** which allows the customer to know in advance what the move will cost, regardless of differences in the actual weight or time to complete the move.

(a) The basis (such as inventory sheets, tally sheets, special instructions, etc.) used to provide a binding estimate must be attached to the bill of lading.

(b) Any change to the move, by the customer, that results in an increase in cost must be documented on a supplemental estimate form which also must be attached to the bill of lading.

### NEW SECTION

**WAC 480-15-640 Verbal estimates.** (1) **May I give verbal estimates to prospective shippers?** Verbal estimates are not allowed. Household goods carriers must provide all estimates to prospective shippers in writing.

(2) **What if the shipper requests a verbal estimate?** You must tell the shipper that verbal estimates are prohibited. However, you may inform the shipper of the applicable legal rates. For example, you may say:

(a) The hourly rate for a van and one person is (state the dollar amount you charge within the tariff range); or

(b) The rate per one hundred pounds from (origin) to (destination) is (state the dollar amount you charge within the tariff range).

### NEW SECTION

**WAC 480-15-650 Form of estimates.** (1) **When must I provide a written estimate?** If a shipper requests an estimate, you must provide a written estimate only after you, or your representative, have visually inspected the goods to be shipped.

(2) **What must I include on a written estimate?** Your written estimate must include the following information:

(a) The name, address and telephone number of the household goods carrier who will perform the service;

(b) The name, company affiliation, title and telephone number of the person preparing the estimate;

(c) The name of the shipper and the receiver of the goods;

(d) The complete physical address of the origin, destination and any intermediate stops of the proposed movement;

(e) The total mileage between the origin and destination, including any intermediate stops;

(f) The applicable rates;

(g) A list of the articles upon which the estimate is based (inventory);

(h) The estimated cubic footage for each article;

(i) The estimated total weight of the shipment, based upon a formula of not less than seven pounds per cubic foot

(example: A box one foot by one foot by one foot= seven pounds);

(j) An itemized statement of all known accessorial services to be performed, articles supplied, and their charges;

(k) An estimate of the total charges, including transportation and accessorial charges;

(l) A printed statement on the first page of a nonbinding estimate, in contrasting lettering, and not less than eight-point bold or full-faced type, as follows:

#### IMPORTANT NOTICE

This nonbinding estimate covers only the articles and services listed. It is not a warranty or representation that the actual charges will not exceed the amount of the estimate. If you request additional services to complete the move or add articles to the inventory attached to this estimate, the household goods mover must prepare a supplemental estimate which will change the amount of the original estimate.

Household goods carriers are required by law to collect transportation and other incidental charges computed on the basis of rates shown in their lawfully published tariffs, except as provided below:

(1) A household goods carrier may not charge more than twenty-five percent more than its written nonbinding estimate for time charges for a local hourly rated move nor can the household goods carrier charge more than fifteen percent more than the written nonbinding estimate for accessorial and other services not related to time, unless the household goods carrier prepares and the shipper signs a supplemental estimate.

(2) A household goods carrier may not charge more than fifteen percent above your written nonbinding estimate for a long-distance-rated move, unless the household goods carrier prepares and the shipper signs a supplemental estimate.

(3) **Am I required to have the shipper sign the estimate?** Yes, shippers must sign the written estimate.

(4) **How long must I keep written estimates?** You must keep written estimates in your files for at least two years, including estimates you provided but for which you did not perform any services.

(5) **What if I am unable to provide a written estimate?** If a customer requests a written estimate and you refuse to provide one, you may not conduct that move by agreeing to meet or beat another company's estimate.

#### NEW SECTION

**WAC 480-15-660 Supplemental estimates.** (1) **When must I prepare a written supplemental estimate?** You must provide a written supplemental estimate if you have given the shipper a written estimate and the circumstances surrounding the move change in any way to cause the estimated charges to increase.

(2) **Must the shipper sign the supplemental estimate?** Yes, the shipper must sign the supplemental estimate or the additional work cannot be performed.

#### NEW SECTION

**WAC 480-15-670 Exceptions for nonbinding estimates.** (1) **What must I do if the actual charges exceed the estimated charges?** If the actual charges exceed the estimated charges, you must:

(a) Inform the shipper of this rule as soon as possible; and

(b) Release the shipment when the shipper pays you one hundred ten percent of the estimated charges.

(2) **How long must I allow the shipper to pay the remaining balance?** If the actual charges exceed the estimated charges and the shipper has paid you one hundred ten percent of the estimated charges, you must allow the shipper at least thirty days to pay the remaining balance. Credit and payment schedules for shipments delivered into storage are in the commission tariff.

#### Part 5.3 - UNDERESTIMATES

#### NEW SECTION

**WAC 480-15-680 Am I required to provide an accurate estimate?** It is your responsibility to issue an accurate estimate to the shipper. Shippers must be able to base their moving decisions on accurate information. This cannot occur unless you provide an accurate estimate.

#### NEW SECTION

**WAC 480-15-690 What will happen if I underestimate a household goods move?** (1) You may not charge more than twenty-five percent above your written nonbinding estimate for time charges for a local hourly rated move nor can you charge more than fifteen percent above your written nonbinding estimate for accessorial and other services not related to time, unless the shipper signs a supplemental estimate.

(2) You may not charge more than fifteen percent above your written nonbinding estimate for a long distance-rated move, unless you obtain a shipper signed supplemental estimate.

(3) We may take administrative action against household goods carriers who fail to provide accurate estimates. Administrative actions may include, but are not limited to:

(a) Assessing penalties of up to one thousand dollars, per incident, under RCW 81.80.132;

(b) Suspending your permit;

(c) Initiating a proceeding to cancel your permit;

(d) Denying permanent authority if you are operating under temporary authority; or

(e) Limiting collection of excess charges.

#### NEW SECTION

**WAC 480-15-700 What are the commission's guidelines in deciding to assess monetary penalties for underestimating?** The commission may assess monetary penalties against you for underestimating a move when:

(1) On long distance-rated moves, the actual total charges exceed the estimated and supplemental estimated charges by fifteen percent;

(2) On local (hourly) rated moves:

(a) The actual time charges exceed the estimated and supplemental estimated time charges by twenty-five percent; or

(b) The actual charges for accessorial and other services not related to time charges exceed the estimated charges for those services by fifteen percent.

Part 5.4 - BILLS OF LADING

NEW SECTION

WAC 480-15-710 What is a bill of lading? A bill of lading is a shipping document issued by the household goods carrier, signed by both the shipper and the household goods carrier, that establishes the legal contract terms and conditions for a shipment of household goods.

NEW SECTION

WAC 480-15-720 Who must issue bills of lading? You must issue a bill of lading for each shipment of household goods you transport.

NEW SECTION

WAC 480-15-730 What is the format for bills of lading? You must use the bill of lading format shown in our published tariff.

NEW SECTION

WAC 480-15-740 What information must I include on a bill of lading? You must list on the bill of lading all information necessary to determine tariff rates and charges. Any element that you use in determining transportation charges must be clearly shown on the bill of lading. This information includes, but is not limited to:

- (1) The date the shipment was packed, loaded, transported, delivered, unloaded and unpacked;
(2) The number and size of each type of carton, crate, or container used in packing the shipper's goods;
(3) The exact address at which the shipment, or any part of that shipment, was loaded or unloaded;
(4) The nature of any special services performed on behalf of the shipper;
(5) The name, address, and total charges of any third party services incurred on behalf of the shipper;
(6) Any special circumstances that entered into the determination of transportation charges (for example: Detours or road conditions that required you to take a circuitous route, thus incurring additional mileage charges);
(7) The start time, stop time, and any interruptions for each person involved in or on a shipment rated under hourly rates;
(8) On any shipments where the shipper did not receive a written estimate, you must make a notation on the bill of lading

ing that the shipper was given a copy of the brochure "Your Rights and Responsibilities as a Moving Company Customer." The shipper must initial on or near your notation on the bill of lading, acknowledging receipt of the information.

Part 5.5 - SHIPMENT WEIGHTS

NEW SECTION

WAC 480-15-750 How do I verify the weight of distance-rated shipments of household goods? (1) You must obtain all tare and loaded weights by having your motor vehicles weighed by a certified weighmaster or on a certified scale;

(2) You must obtain a certified tare weight prior to loading the shipper's goods;

(3) You must obtain a certified loaded weight at the point of origin, or:

(a) If no certified scale is available at the point of origin, you may obtain the loaded weight at the first certified scale located along the route of travel to the destination point; or

(b) If no certified scale is available at the point of origin, at a point along the route to the destination, or at the destination point, you may use the constructive weight of the shipment;

(4) You must obtain a weight or scale ticket from the weighmaster or scale for the tare and loaded weights, and you must maintain a copy of those tickets with the bill of lading for the shipment. The weight ticket must include substantially the same information shown below:

Household Goods Uniform Weight Ticket

Date: \_\_\_\_\_

Name of carrier: \_\_\_\_\_

Vehicle identification: \_\_\_\_\_

Name of shipper: \_\_\_\_\_

Origin of shipment: \_\_\_\_\_

Destination of shipment: \_\_\_\_\_

LOADED WEIGHT of vehicle without the crew \_\_\_\_\_ #

TARE WEIGHT of vehicle (without the crew on board, including full fuel tank and all necessary pads, chains, hand trucks, and other equipment) \_\_\_\_\_ #

NET WEIGHT of shipment \_\_\_\_\_ #

The above loaded weight was obtained at

Name of scales: \_\_\_\_\_

Location of scales: \_\_\_\_\_

The above tare weight was obtained at

Name of scales: \_\_\_\_\_

Location of scales: \_\_\_\_\_

PROPOSED

As shown by attached weight ticket(s) prepared by weighmaster(s). List of shipments, if any, on vehicle at time above weights were obtained:

Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_  
 Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_  
 Shipper: \_\_\_\_\_ Net weight \_\_\_\_\_

I certify the above entries are true and correct:

\_\_\_\_\_  
 (Driver's signature)

**NEW SECTION**

**WAC 480-15-760 What are my responsibilities to notify the shipper of the actual weight and charges for the shipment?** If the shipper requests notice of the actual weight and charges of the shipment following pick-up, you must notify the shipper by whatever means you and the shipper agree upon, immediately after weighing the shipment. You are responsible for the cost of notifying the shipper.

**NEW SECTION**

**WAC 480-15-770 Must I reweigh the shipment at the point of delivery if the shipper requests it?** Yes, upon shipper request, you must reweigh the shipment at the point of delivery. The shipper is responsible for the cost of reweighing the shipment. Prior to reweighing the shipment, you must notify the shipper of the cost of reweighing.

**Part 5.6 - REFUSAL OF SERVICE**

**NEW SECTION**

**WAC 480-15-780 When may I refuse to provide service to a shipper?** You may refuse to provide service to a shipper if:

- (1) The move will cause you to travel outside of the service territory listed on your permit;
- (2) Service to a shipper will adversely affect service to other shippers, subject to review by the commission;
- (3) The shipper fails to provide accurate and verifiable information necessary to establish the shipper's identity;
- (4) The shipper uses an alias or false name with intent to deceive;
- (5) The service is hazardous, or where, because of the condition of the streets, alleys or roads, it is impracticable or dangerous to persons or property to operate a motor vehicle;
- (6) When driving onto private property, in your judgment, driveways or roads are improperly constructed or maintained, or without adequate space to turn around, or have other unsafe conditions;
- (7) Satisfactory service cannot be given, or providing service would adversely affect the health or safety of your employees.

**NEW SECTION**

**WAC 480-15-790 When must I not refuse service?** You must not refuse service due to discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

**NEW SECTION**

**WAC 480-15-795 Payment options.** You may accept payment for a move by cash, money order, or certified check. You may also extend credit to your customer, at your option, by accepting a personal check or credit card. However, if you agree to accept credit terms at the beginning of the move, you must accept the same credit terms for payment of any monies due to you during any part of the move and at the end of the move for the final payment.

**Part 5.7 - COMPLAINT AND CLAIM PROCEDURES**

**NEW SECTION**

**WAC 480-15-800 What must I do if a shipper is not satisfied with my service?** If a shipper is not satisfied with your service, you must allow the shipper to speak with you, or a representative of your company, and you must provide the shipper with all information and forms necessary to file a complaint or claim. The shipper has nine months to file a claim for loss and damage. The shipper must pay all proper charges for the move prior to filing a claim for loss or damage.

**NEW SECTION**

**WAC 480-15-810 What must I do when I receive a complaint or claim?** If your shipper files a complaint or claim concerning loss or damage, or your general service operations, or rates and charges, you must:

- (1) Notify the customer, in writing, within ten working days that you have received the claim or complaint;
- (2) Investigate the claim or complaint quickly;
- (3) Advise the shipper of your resolution; and
- (4) If it is a loss or damage claim, pay the claim, refuse the claim, or make a compromise offer within one hundred twenty days.

**NEW SECTION**

**WAC 480-15-820 What must I do if I cannot resolve a claim within one hundred twenty days?** If you cannot resolve a loss or damage claim with your shipper within one hundred twenty days, you must, for each sixty-day period until the claim is settled, inform your shipper, in writing, of the reason for your failure to resolve the claim or clearly state your final offer or denial and close the claim.

**PROPOSED**

**NEW SECTION**

**WAC 480-15-830 How long must I keep complaint and claim records?** (1) You must keep all papers relating to claim records for loss or damage, concealed or otherwise, for six years.

(2) You must keep all records of complaints in your office for not less than three years after the date of the shipment, or date of resolution, whichever is later.

**NEW SECTION**

**WAC 480-15-840 Are complaint or claim records subject to commission review and in what order must I keep the records?** Yes, complaint or claim records are subject to commission review. You must number all complaints and claims consecutively and maintain a complaints and claims register.

**NEW SECTION**

**WAC 480-15-850 What additional requirements exist if a claim involves more than one carrier?** If more than one household goods carrier is involved in a damage claim, each household goods carrier must keep all paperwork relating to the claim, and each must show the percentage and amount of the total claim paid by each.

**NEW SECTION**

**WAC 480-15-860 What information must be included in the claim or complaint record?** You must include, at a minimum, the following information in a claim or complaint record:

- (1) The date the claim or complaint was received;
- (2) The name, address and telephone number of the shipper;
- (3) Detailed information about the dispute;
- (4) Details of any action you have taken in response to the claim or complaint; and
- (5) The date the claim or complaint was resolved and a description of the final disposition.

**NEW SECTION**

**WAC 480-15-870 What must I do if, after review, the shipper is still dissatisfied with the resolution of the complaint or claim?** If you are unable to satisfy the shipper's dispute, you must advise the shipper of the availability of the commission for further review. You must provide the shipper with the commission's toll-free number and mailing address: 1-800-562-6150; P.O. Box 47250, Olympia, Washington 98504-7250.

**NEW SECTION**

**WAC 480-15-880 Must I respond to all written correspondence, complaints and claims?** You must acknowledge and consider all written correspondence, complaints and claims.

**NEW SECTION**

**WAC 480-15-890 What must I do if the commission refers a complaint to me?** You must:

- (1) Respond with complete investigation results within five business days. However, small businesses, as defined in WAC 480-15-020, must respond within ten business days. In addition, any person may request and commission staff may grant, if warranted, an extension of time for a specific number of days;
- (2) Respond to commission staff inquiries regarding the complaint; and
- (3) Keep the commission currently informed of any progress made in resolving the complaint.

**Part 6 - INTERSTATE OPERATIONS****NEW SECTION**

**WAC 480-15-900 General requirements for interstate operations.** (1) **General requirements:** No household goods carrier may operate any motor vehicle or combination of motor vehicles over the public highways of this state in interstate commerce unless the household goods carrier has:

- (a) Obtained the appropriate operating authority from the U.S. Department of Transportation (USDOT) or its successor agency, if operating as a registered carrier;
  - (b) Obtained valid insurance as required by USDOT;
  - (c)(i) Registered with a base state as required by 49 C.F.R. part 1023, if operating as a registered carrier; or
  - (ii) Registered with the commission if operating as a registered exempt carrier; and
  - (d) Paid the annual Washington state registration fee for the vehicle.
- (2) **Applicable laws and rules:**
- (a) When conducting interstate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to interstate operations.
  - (b) When conducting Washington intrastate operations, registered and registered exempt carriers and the motor vehicles they operate must comply with the laws and rules that apply to intrastate operations.

**NEW SECTION**

**WAC 480-15-910 How do I register as a registered carrier?** (1) Washington participates in the base state insurance registration program established in 49 USC § 11506 and 49 CFR part 1023. To register as a registered carrier in interstate commerce within the state of Washington, you must register with a base state, pay the appropriate fee for any motor vehicles operated within Washington state, and show proof of insurance.

(2) **Motor carriers based outside of Washington state.** Any motor carrier whose base state, as defined in federal regulation, is a state other than the state of Washington must register with that state and carry a legible receipt in each motor vehicle operated within the state of Washington showing

base state registration, payment of the appropriate per vehicle fee, and proof of insurance.

(3) **Washington-based motor carriers.** Any motor carrier whose base state, as defined in federal regulation, is Washington state must register for interstate operations as follows:

(a) Between August 1 and November 30 of each year, each Washington-based interstate motor carrier must apply to the commission to register for the following year, on forms provided by the commission.

(b) The registering motor carrier must state the number of motor vehicles to be operated in each participating state, provide other required information, such as proof of insurance, and submit the registration fee established by that state for each motor vehicle.

(c) Within thirty days after receiving the registration fee and application, the commission will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its USDOT permit number, and the names of the states for which it is registered.

(d) The motor carrier must place a receipt or an authorized copy in each motor vehicle for which it has paid the required fee.

(e) Any Washington-based motor carrier that begins interstate operations in a state for which it has not registered may register for that state at any time, stating the number of motor vehicles to be operated in each state and submitting the required information and registration fee for each motor vehicle. The commission will provide a new receipt, if the motor carrier has not previously registered, or supplemental receipt, if it has registered, showing the states for which the motor carrier has registered.

#### NEW SECTION

**WAC 480-15-920 How do I register as a registered exempt carrier?** (1) If you are operating under the exemptions of the Federal Motor Carrier Act, with no authority issued by the USDOT or its successor agency, you may not operate over the public highways of the state of Washington unless you register with the commission between August 1 and November 30 of each year, or at any time after November 30 when you begin interstate exempt operations, or when you will operate additional motor vehicles within the state.

(2) To register with the commission as a registered exempt carrier, you must:

(a) Complete a registration application on a form provided by the commission;

(b) Identify the number of motor vehicles you will operate within the state;

(c) Pay the registration fee for each motor vehicle; and

(d) Provide proof of insurance.

#### NEW SECTION

**WAC 480-15-930 Registration fee and receipts.** (1) **Registration fee.** The annual registration fee for registered and registered exempt carriers in Washington state is ten dollars for each motor vehicle operated in interstate commerce over the public highways of the state.

#### (2) **Registration receipts.**

(a) A legible receipt showing registration with a base state or the commission as a registered or registered exempt carrier must be present in each motor vehicle and the receipt is subject to inspection at all times by law enforcement agents and commission representatives. No person or firm may use a registration receipt issued by the commission other than the registered or registered exempt carrier to whom it was issued.

(b) All receipts issued for a calendar year expire on December 31 of that year.

#### NEW SECTION

**WAC 480-15-940 Insurance requirements for interstate operations.** Registered and registered exempt carriers conducting interstate operations must provide evidence of insurance in the amount prescribed by the USDOT or its successor agency written by a company authorized to write insurance in any state.

#### WSR 98-19-128

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed September 28, 1998, 11:02 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-078.

Title of Rule: Chapter 16-200 WAC, Rules relating to feeds, fertilizers and livestock remedies.

Purpose: To describe requirements for registration for commercial fertilizers; including the methods to use for total metals analysis and specifying the metals information which must be submitted with the registration application; to describe the methods for determining maximum use rates for plant nutrients; to set the Washington application rates; to express the Washington standards for metals in pounds per acre per year; to describe how the department will determine if a commercial fertilizer meets or exceeds the metals standards; and to describe a violation of the rules.

Statutory Authority for Adoption: Chapter 15.54 RCW.

Statute Being Implemented: Chapter 15.54 RCW.

Summary: The proposed rules adopt methods for total metals analysis and reporting which will enable the fertilizer industry to analyze their products for nine metals as required by chapter 15.54 RCW. The proposed rules also set Washington application rates and Washington standards for metals in pounds per acre per year.

Reasons Supporting Proposal: The proposed rules set Washington standards for metals in fertilizer as required by recent amendments to chapter 15.54 RCW. The standards will enable the industry and the department to determine if a commercial fertilizer meets or exceeds the Washington standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ted Maxwell, 1111 Washington Street, Olympia, WA 98504, (360) 902-2026.

**Name of Proponent:** Washington State Department of Agriculture, governmental.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** These rules are required for the department to implement the new fertilizer law adopted in SSB 6474 by the 1998 legislature.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The 1998 legislature passed SSB 6474 which amends chapter 15.54 RCW, the commercial fertilizer registration law, and adopts standards for maximum acceptable cumulative metals additions to soil. This new law requires persons who register commercial fertilizers in Washington to disclose the levels of nine metals which may be present in a commercial fertilizer. These rules adopt the methods for total metals analysis and reporting which will guide the fertilizer industry on total metals analysis for their fertilizer products. The rules also set the Washington application rates and express the Washington standards for metals in pounds per acre per year to enable the industry and the department to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

**Proposal Changes the Following Existing Rules:** The proposed rule amendment adds definitions, describes the analysis methods which must be used, sets the Washington application rates, provides a reference to the Washington standards for metals, describes requirements for registration of commercial fertilizers including information which must be submitted as part of the registration application, and describes acts which are unlawful under this chapter.

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

## Small Business Economic Impact Statement

### Executive Summary

**Overview of Analysis:** This study analyzes the compliance costs associated with a proposed permanent rule that would require additional registration procedures for commercial fertilizer products, and estimates whether the revised rule would place a disproportionate economic burden on Washington small businesses. The purpose of this analysis is to comply with state legislative requirements that each prospective rule be evaluated in order to minimize potential differential impacts on small business, and that economic aspects of all agency rules be evaluated prior to promulgation.

**Analysis Results:** As shown in Table 3 of the report, the compliance cost for a representative small business over the analysis period is estimated to be approximately \$800 per employee. The compliance cost for a large business over the same time period is estimated to be \$960 per employee. Therefore, the compliance cost burden, from rule revisions, is greater for a large business than for a small business, and no disproportionate compliance burden exists for small businesses. These results arise primarily from small versus large business variations in the number of products registered, hourly labor rates, and testing frequency.

**Mitigation:** As indicated above, the proposed rule revisions are not anticipated to result in a disproportionate compliance cost burden for small Washington businesses required to register fertilizer products with WSDA. As a result, mitigating measures are not required to reduce impacts on small businesses affected by the rule revisions. Despite this finding, a number of mitigation measures have already been included in the proposed rule revisions.

One way that the proposed rule revisions mitigate compliance cost impacts is by allowing for multiple methods to test for metals compliance. The proposed rule revisions contain three different, commonly used, types of analysis methods.<sup>1</sup> In addition to these measures, the revised rule also allows for other testing methods, with prior WSDA approval (WAC 16-200-7062).

<sup>1</sup>The proposed rule revisions provide a total of eighteen possible tests, within three broad categories of analysis methods.

A second mitigation measure is that a registrant, in his/her original application under the proposed rule revisions, may submit a single analysis to register each product. Requiring only a single analysis result per registered product, rather than requiring several or multiple analyses, reduces the compliance cost burden by at least half for both small and large businesses affected by the proposed rule revisions.

As the final mitigation measure, WSDA is not requiring a regular retesting schedule for future product registration renewals. Allowing businesses to determine their own retesting frequency, permits smaller businesses to retest less frequently (e.g., only when reformulating a product). This mitigation contributes substantially to the overall lack of disproportionate compliance burden on small businesses.

### I. Proposed Rule Revisions

This study analyzes the compliance costs associated with a proposed permanent rule that would require additional registration procedures for commercial fertilizer products, and estimates whether the revised rule would place a disproportionate economic burden on Washington small businesses. The purpose of this analysis is to comply with state legislative requirements that each prospective rule be evaluated in order to minimize potential differential impacts on small business, and that economic aspects of all agency rules be evaluated prior to promulgation. The analysis also identifies mitigation measures that have been embodied in the revised rule to lessen the financial burden of the rule revisions on affected parties.

#### A. Regulatory Context

**Regulatory Fairness Act:** The purpose of this study, requested by the Washington State Department of Agriculture (WSDA), is to ensure that the proposed revisions to chapter 16-200 WAC comply with the Regulatory Fairness Act (chapter 19.85 RCW). The Regulatory Fairness Act (RFA) requires that rules promulgated by state agencies under the Administrative Procedure Act be examined for their impact on small businesses (fifty or fewer employees). The purpose of the RFA is to ensure that proposed rules do not place a disproportionate burden on small businesses relative to the burden they place on large businesses. RFA compliance analysis must be documented in a small business economic impact statement (SBEIS). This SBEIS documents

the analysis and results for proposed revisions to chapter 16-200 WAC. Appendix A contains additional discussion of RFA requirements.

**Economic Policy Act:** The Economic Policy Act (chapter 43.21H RCW) requires all state agencies and local government entities to ensure economic values are given "appropriate consideration" in development of rules. Under the Economic Policy Act, "economic values" can be interpreted to include impacts associated with employment, income, production, growth, development, and similar attributes. While the Economic Policy Act does not require that proposed rules be modified to lessen economic effects, the effects must be considered during the rule-making process. To the extent that economic impacts of the rule revisions are the focus of this analysis, and to the extent that WSDA has conducted extensive interaction with affected industries through a variety of forums (see Appendix A for a summary of industry interaction), economic values have been given appropriate consideration in the rule-making process for chapter 16-200 WAC.

**B. Summary of Rule Revisions**

Chapter 15.54 RCW grants the Washington State Department of Agriculture (WSDA) authority to regulate the distribution and sale of fertilizers in Washington. During the 1998 legislative session, Substitute Senate Bill 6474 was introduced to amend this statute, and was subsequently passed by the legislature. A portion of the amended statute now establishes maximum allowable levels of nonnutritive substances in commercial fertilizers (RCW 15.54.800 (3)(a)). These standards focus on regulating nine heavy metals<sup>2</sup> and are based upon Canadian maximum cumulative metals additions to soil established under Trade Memorandum T-4-93 (August, 1996).

<sup>2</sup>These metals are: Arsenic, cadmium, cobalt, mercury, molybdenum, lead, nickel, selenium, and zinc.

The WSDA has proposed rule revisions to implement the new requirements of RCW 15.54.800 (3)(a). Rule revisions were adopted on an emergency basis in June of this year; permanent rule adoption is now being pursued. Table 1 shows major changes between the previously enacted version of the rule (prior to emergency rule adoptions) and the revised rule that is evaluated in this analysis.

**Table 1**

**Major Proposed Revisions to chapter 16-200 WAC**

- Requires submitting additional fertilizer registration information associated with laboratory analysis for the nine regulated metals (WAC 16-200-7061).
- Specifies acceptable laboratory methods for analyzing total metals content in fertilizers, and allows for other analysis methods with prior WSDA approval (WAC 16-200-7062).
- Establishes Washington application rates for commercial fertilizers, to be used in the absence of specific application directions provided on fertilizer labeling (WAC 16-200-7063).

- Expresses the maximum acceptable annual metals additions to soils for the nine regulated metals in a more easily readable format than the underlying statute. It also allows for higher levels of cobalt, molybdenum, and zinc if they are guaranteed as plant nutrients (WAC 16-200-7064).

**C. Potentially Affected Industries**

Compliance costs could be incurred by a variety of industries as a result of the proposed rule revisions. Primary impacts would be borne by companies that register fertilizer products - generally producers and wholesalers of commercial fertilizers. These businesses are engaged in the production of fertilizers and/or fertilizer components, mix fertilizer components to produce fertilizer blends, or wholesale fertilizer products to retailers.

Fertilizer producers and wholesalers are generally categorized in Standard Industrial Classification (SICs) codes 2873, 2874, 2875, and 5191. Potentially affected businesses account for the majority of establishments in the 2800-series SIC industries, and a smaller subset of businesses in SIC 5191. According to Washington State Employment Security Department data, there are approximately 360 business establishments in these SIC classifications within Washington.<sup>3</sup>

<sup>3</sup>Consistent with other employment-related information provided by Employment Security, these businesses include those with employment covered by unemployment compensation programs. Consistent with intent of the RFA, only Washington businesses are reported and analyzed in this study.

Of these 360 business establishments, approximately 272 are registered with the WSDA as producers and wholesalers of commercial fertilizer products within Washington. For these businesses, potential compliance cost burdens created by rule revisions could include additional administrative time, laboratory testing, supplies, etc. (compliance costs are discussed in detail in section III. of this SBEIS). Other industry characteristics are shown below in Table 2.

**Table 2**

**Select Industry Characteristics**

- Most firms hire full-time employees (i.e., total number of employment positions is similar to number of full-time-equivalent employees).
- The size of businesses varies from sole proprietors with one employee, to large firms with hundreds of employees located in Washington.
- Many businesses regularly test their products for quality control purposes, particularly larger fertilizer manufacturers, although few tested for the nine metals prior to the emergency rule.

In addition to industries that may bear primary impacts of rule revisions, a number of related industries may also be indirectly affected (see Appendix B for full industry list). These businesses include companies that mine and process raw materials for fertilizers (e.g., potash mining and milling, phosphate rock mining), that sell fertilizer products to consumers (e.g., lawn and garden stores, hardware stores), that use commercial fertilizers in the provision of their services

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(e.g., soil preparation services, tree services), or that are indirectly related to some other aspect of commercial fertilizer production.

It should be noted that "industry" within the context of the Regulatory Fairness Act denotes businesses within a four-digit SIC code (or three digit SIC code if confidentiality laws would be violated with release of data). However, to meet the intent of the Regulatory Fairness Act and to be consistent with past guidance received from CTED's (Washington Department of Community, Trade and Economic Development) Business Assistance Center on prior SBEISs, a subset of these four-digit industries was evaluated through surveying. Therefore, the combination of four-digit Employment Security data and sub-four-digit SIC survey data used in this analysis goes beyond the strict requirements of the Regulatory Fairness Act and includes a greater degree of industry specificity than required in the statute.<sup>4</sup> For discussion purposes, these greater-than-four-digit SIC groups are still referred to as affected "industries" in this analysis.

<sup>4</sup>A subset of a four-digit SIC is effectively an SIC classification greater than four-digit. To illustrate, wholesale fertilizer distributors are classified in SIC 5191 - Farm Supplies. While this four-digit industry classification includes wholesale fertilizer distributors, it also includes wholesalers of alfalfa, flower bulbs, pesticides, and hay. In this case, wholesale fertilizer distributors were chosen as the relevant industry subgroup to analyze. Similar industries subgroups were identified for other potentially affected industries.

## II. Approach to Estimating Differential Economic Impacts on Small Versus Large Businesses

The WSDA determined that an analysis of compliance costs should be conducted for the proposed rule revisions and documented in an SBEIS, consistent with chapter 19.85 RCW. An SBEIS analysis was performed for the rule revisions and is described below.

### A. Likely Industry Response to Proposed Rule

The first step was to anticipate how affected industries would respond to the rule revisions. Figure 1 illustrates anticipated business responses to the rule revisions. This compliance scenario was identified based upon information provided by the WSDA and surveyed businesses potentially affected by the rule revisions. As this figure shows, the first action undertaken by a business will likely be to learn more about the rule revisions, such as whether the rule revisions apply to its products and what actions would need to be taken to comply. Assuming that a business needs to comply with the rule revisions, the next step in the compliance process

requires locating a laboratory to test product samples, followed by collecting samples, and sending them out for testing. The final step is to complete the certification form and submit the completed form to WSDA.

### B. Data from Small and Large Businesses in Affected Industries

Once affected industries were identified and their anticipated responses to the rule revisions were estimated, data were gathered to estimate impacts. Data were provided through three primary sources: WSDA, Washington State Employment Security Department, and affected businesses that were surveyed. WSDA provided a variety of information, including the number of registered products by regulated business. Employment Security provided employment information by business within the designated SIC codes.

In addition to these data sources, potentially affected businesses were surveyed. A total of thirty-seven industry firms were contacted for information; nineteen of these businesses provided information that could be used to estimate compliance costs. This sampling of businesses included small and large businesses, located throughout Washington, likely to be affected by the proposed rule revisions. It is noteworthy that industry participants often provided relatively similar information in response to survey questions. The relative uniformity in certain responses may suggest that a degree of confidence could be inferred from the responses that would normally be reserved for much larger sample sizes. However, given the relatively small number of surveyed businesses, survey data were combined with data from WSDA and Employment Security to estimate impacts. Combining data yielded a total of forty-three discrete "data points" in the database used for compliance cost evaluation.

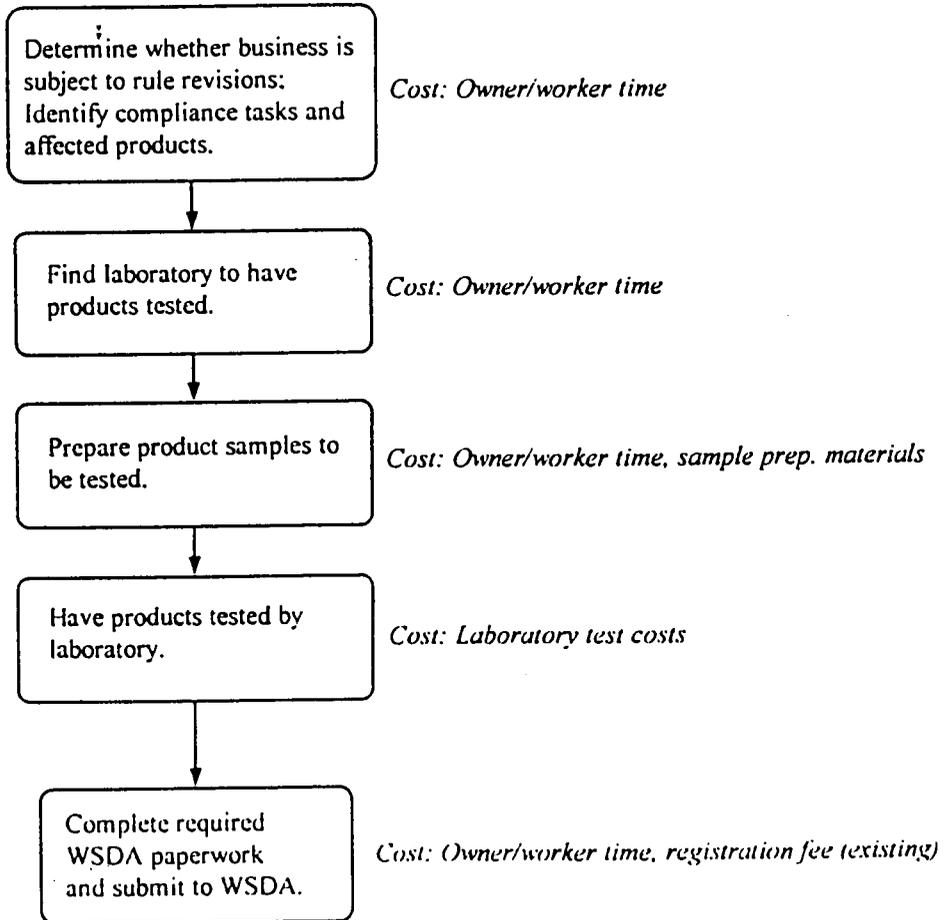
### C. Differential Regulatory Compliance Cost for Small Versus Large Businesses

To differentiate between impacts on small versus large businesses, regulatory compliance costs were evaluated for "typical" small firms and the largest firms within each of the affected industries. These costs were then divided by the number of employees that a typical large and small firm would employ. Comparison of regulatory compliance cost per employee for small and large businesses was then used to determine whether a disproportionate economic burden would exist for small businesses and to estimate the magnitude of any disproportionate burden.

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**Figure 1**

**Estimated Compliance Process  
for Affected Businesses**



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### III. Analysis Results

#### A. Overview

Over the analysis period, the proposed rule revisions are not anticipated to have a disproportionate economic impact on small businesses in affected industries.<sup>5</sup> As Table 3 shows, cost impacts of proposed rule revisions are estimated to vary for small and large firms depending upon year of analysis. However, when evaluated over a representative analysis period, disproportionate compliance cost impacts are not anticipated to occur for small businesses. Results for small and large businesses are discussed in more detail below, and a discussion of analysis methodology and assumptions is contained in Appendix A.

<sup>5</sup>The analysis period for the study was chosen to be ten years. This time-frame was used because compliance costs would be borne by regulated businesses on an ongoing, long-term basis.

As Table 3 shows, a variety of compliance costs will be borne by affected businesses. The greatest compliance costs are generally associated with completing new metals certification paperwork. The other substantial compliance cost for most businesses would be related to the cost of laboratory testing (see Table 3). Surveyed businesses indicated that professional services of legal counsel/consultants and laboratories could be required to comply with the rule revisions (these costs are included in Table 3 calculations). Compliance with these rule revisions are not likely to cause a substantive loss of sales revenues for large or small businesses.

#### B. Disproportionate Economic Burden Evaluation

As shown in Table 3, the compliance cost for a representative small business over the analysis period is estimated to be approximately \$800 per employee. The compliance cost for a large business over the same time period is estimated to be \$960 per employee. Therefore, the compliance cost burden is greater for a large business than for a small business from rule revisions, and no disproportionate compliance burden exists for small businesses.

A number of compliance costs vary for small and large businesses and lead to the aforementioned result of no disproportionate compliance cost burden for small businesses. These variations are primarily related to differences in three factors: The number of products registered, hourly labor rates, and testing frequency for small versus large businesses. Data analysis showed that it was generally true that larger businesses registered more fertilizer products with WSDA than smaller businesses. This relationship was approximated by identifying the average number of registered products and employees for each size business.<sup>6</sup> A representative small business was determined to have approximately sixteen employees and seven registered fertilizer products, and a representative large business<sup>7</sup> was determined to have three hundred thirty-seven employees and approximately thirty-three registered fertilizer products. These representative small and large business profiles were used to estimate impacts shown in Table 3.

<sup>6</sup>Linear and polynomial regression analysis was conducted to identify the relationship between employment and number of registered products, but did not produce statistically significant results.

<sup>7</sup>Top ten percent largest affected businesses, consistent with the RFA requirements.

Table 3

Estimated Business Compliance Costs from Revisions to WAC 16-200

<u>Compliance Cost Categories</u>	<u>First Compliance Year (1998)</u>		<u>Typical Post-1998 Compliance Year</u>	
	Small Business	Large Business	Small Business	Large Business
<i>Fixed Costs</i>				
- Time to understand/research new rule requirements and identify compliance tasks and affected products (time).	\$320	\$850	\$0	\$0
- Time to find testing laboratory (time).	\$40	\$70	\$0	\$0
<i>Variable Costs<sup>1</sup></i>				
- Sample preparation for laboratory (time, materials).	\$150	\$2,200	\$80	\$4,400
- Cost of laboratory testing (in-house testing costs or contractor services).	\$920	\$8,840	\$460	\$17,680
- Complete and submit new paperwork to WSDA (time).	<u>\$1,250</u>	<u>\$8,980</u>	<u>\$520</u>	<u>\$12,430</u>
<b>Total Estimated Compliance Cost</b>	<b>\$2,680</b>	<b>\$20,940</b>	<b>\$1,060</b>	<b>\$34,510</b>
<b>Average Number of Employees</b>	<b>16</b>	<b>337</b>	<b>16</b>	<b>337</b>
<b>Estimated Compliance Cost Burden Per Employee Per Year</b>	<b>\$170</b>	<b>\$60</b>	<b>\$70</b>	<b>\$100</b>
<b>Estimated Cumulative Compliance Cost Burden Per Employee Over 10 Years</b>	<b>\$800</b>	<b>\$960</b>		

<sup>1</sup> Variable costs for small and large businesses are based upon number of products registered (7 products for a small business; 33 products for a large business).

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Hourly labor rates also varied for small versus large businesses potentially affected by the rule revisions. The average hourly labor rate for a small business was found to be approximately \$32 per hour; the comparable labor rate for a large business was found to be approximately \$80 per hour.<sup>8</sup> One reason for this labor cost differential could be attributed to greater overhead costs for larger companies, or it could arise from differences in employee compensation.

<sup>8</sup>Hourly labor rates generally included wages, benefits, and other labor-related costs.

The final difference that contributed to compliance cost differentials was associated with laboratory testing frequency. Discussions with industry businesses indicated that smaller business would generally retest<sup>9</sup> for metals when a fertilizer product would change inputs. However, large firms were found to already test products on a relatively frequent basis (e.g., monthly, quarterly) and indicated that the required metals testing would simply be added to the testing procedures already established. For these reasons, small businesses were assumed to retest each product an average of every two years, and large businesses were assumed to test products quarterly after the initial compliance test.

<sup>9</sup>"Retesting" denotes testing after the first metals compliance test conducted in 1998.

As Table 3 illustrates, the compliance cost per employee would be greater in 1998 for small businesses than for large businesses. This would be primarily due to the aforementioned relationship between the size of affected businesses and the number of registered products. However, in latter years the compliance burdens would be reversed as a result of the more frequent testing undertaken by larger firms. Given these year-by-year compliance cost variations and the long-term nature of the rule revisions, compliance costs were evaluated over a ten-year period to provide an appropriate basis for comparison. Table 3 shows that when compliance costs are evaluated over the ten-year analysis period, compliance costs are greater for large businesses than for small businesses, and no disproportionate compliance burden is expected to exist for small businesses from proposed rule revisions.

#### IV. Mitigation

As the above analysis demonstrates, the proposed rule revisions are not anticipated to result in a disproportionate compliance cost burden for small Washington businesses required to register fertilizer products with WSDA. As a result, mitigating measures are not required to reduce impacts on small businesses affected by the rule revisions. Despite this finding, a number of mitigation measures have already been included in the proposed rule revisions.

One way that the proposed rule revisions mitigate compliance cost impacts is by allowing for multiple methods to test for metals compliance. The proposed rule revisions contain three different, commonly used, types of analysis methods.<sup>10</sup> In addition to these measures, the revised rule also allows for other testing methods, with prior WSDA approval (WAC 16-200-7062).

<sup>10</sup>The proposed rule revisions provide a total of 18 possible tests, within three broad categories of analysis methods.

A second mitigation measure is that a registrant, in his/her original application under the proposed rule revisions, may submit a single analysis to register each product. Requiring only a single analysis result per registered product, rather than requiring several or multiple analyses, reduces the compliance cost burden by at least half for both small and large businesses affected by the proposed rule revisions.

As the final mitigation measure, WSDA is not requiring a regular retesting schedule for future product registration renewals. Allowing businesses to determine their own retesting frequency, permits smaller businesses to retest less frequently (e.g., only when reformulating a product). This mitigation contributes substantially to the overall lack of disproportionate compliance burden on small businesses.

#### Appendix A: Background Information and Assumptions

**Regulatory Fairness Act:** The Regulatory Fairness Act (RFA) (chapter 19.85 RCW) requires that rules promulgated by state agencies under the Administrative Procedure Act be examined for their impact on small businesses. The purpose of the Regulatory Fairness Act is to ensure that proposed rules do not place a disproportionately high burden on small businesses, relative to the burden they place on large businesses.<sup>a</sup> A small business is defined by the RFA as an independent, for-profit Washington business entity with fifty or fewer employees.<sup>b</sup>

<sup>a</sup>Note that the purpose of the Regulatory Fairness Act is not to ensure that a proposed rule does not place any burden on industry, but rather, focuses on whether the burden is disproportionate with regard to its magnitude.

<sup>b</sup>RCW 19.85.020(1).

The RFA requires all rules that impose "more than minor costs" on industry businesses to be evaluated and, if necessary, altered to minimize their impact on small business. An analysis of compliance costs must be completed and documented in a small business economic impact statement (SBEIS) if: (1) A proposed rule meets or exceeds this "more than minor" criterion, or if (2) the Joint Administrative Rules Review Committee (JARRC) requests an SBEIS for a proposed rule. A state agency may independently decide to complete an SBEIS. This SBEIS was independently requested by the Washington State Department of Agriculture, although it is possible that the "more than minor" criterion may also be applicable for certain industries analyzed in this SBEIS.

The RFA establishes specific analyses and necessary elements for inclusion in an SBEIS. Among other requirements, the SBEIS must include a brief description of the compliance requirements of the rule, a description of the professional services needed by small businesses to comply with the rule, an analysis of the compliance cost for small business, and a comparison of the compliance cost for small and large businesses. A basis of comparison must be chosen from: Cost per employee, cost per hour of labor, cost per \$100 of sales, or any combination of these three measures.

Based upon the extent any disproportionate impact is anticipated to occur for small businesses from the proposed rule, the agency must reduce the costs on small businesses (where legal and feasible in meeting the stated objective of the statutes upon which the rule is based). Mitigation can be

accomplished in a number of ways, such as establishing differing compliance or reporting requirements for small businesses, clarifying or simplifying the compliance requirements for small businesses, delaying compliance timetables, exempting small businesses from any or all of the rule requirements, or similar measures.

**Conservative Approach:** The analysis undertaken to estimate compliance cost impacts was generally "conservative" in its approach. Assumptions were typically chosen that would result in showing greater compliance cost impacts for affected industries. Using this approach provided an additional degree of certainty that estimated compliance costs would generally be no greater than estimated in the analysis. Specific assumptions implementing this conservative approach included (but were not limited to):

- Using average laboratory testing cost estimates, as opposed to using the lowest cost laboratory testing estimates (affected businesses would likely choose the lowest cost testing approach allowable by the proposed rule revisions).
- Including "between year" testing costs for small businesses, even though testing was anticipated to only take place every other year (i.e., counting half of testing costs each year, as opposed to counting only full testing costs every other year).

**Timing:** Affected industries will initially need to test and certify to WSDA that their products meet the new metals application standards. This initial compliance cycle is occurring under the emergency rule during the summer of 1998. Thereafter, no specific timetable is required for retesting, but would presumably be driven by the frequency of product reformulation, switching of suppliers that provide raw fertilizer materials (assuming they have not already registered their inputs with WSDA), related types of product testing, and other changes to product composition. The analysis estimated costs separately for small and large businesses for both the initial compliance year (1998) and for nine subsequent "retesting" years.

**Public and Industry Involvement:** Potentially affected businesses, including small businesses, were involved throughout the rule-making process. Small businesses were involved through participating in and providing input on the Governor's Fertilizer Advisory Workgroup, serving as members of or sitting in on Fertilizer Advisory Board Meetings, and by providing survey input for this SBEIS. In addition to these efforts to actively involve small businesses, a number of other forums provided opportunities for businesses of all sizes to provide input, as described below.

- Affected businesses had the opportunity to testify at all legislative hearings.
- Businesses were given the opportunity to attend a meeting for the affected fertilizer industry, where WSDA explained the new laws and proposed rules (May 18, 1998 at Sea-Tac approximately 100 people attended, at least 50% were Washington businesses).
- All registrants and licensees (affected businesses) received a mailing containing the emergency rules and a memo requesting their comments.

- A number of businesses continued to have significant ongoing input by being members of the Fertilizer Advisory Board.
- Industry representatives helped develop the Washington Application Rates portion of the proposed rule revisions at two separate meetings with WSDA's Program Manager, Ted Maxwell.
- Laboratory representatives supplied WSDA with information to identify appropriate metals testing methodologies.
- WSDA sent additional mailings asking specifically for comment on the methodology and Washington Application Rates portion of the proposed rules to: The Governor's Fertilizer Workgroup; the Advisory Board; Organic Growers; other laboratories; and university researchers.
- All registrants will be notified of the proposed final rule and will have the opportunity to comment on the rule in writing and/or at the public hearing.

In addition to the above opportunities for industry input, potentially affected industries were also directly surveyed to assess the likelihood and magnitude of compliance cost impacts. Survey participants were selected from two sources: Fertilizer Advisory Board membership, and a random sampling of businesses taken from WSDA's database of registrants and licensees. A total of 37 potentially affected industry firms (including fertilizer producers, wholesalers, retailers, etc.) were originally contacted for information, and 19 of these firms provided usable information. This sampling of businesses included small and large businesses likely to be affected by the proposed rule revisions, and covered businesses geographically dispersed throughout Washington.

**Data Characteristics:** As noted in the body of the SBEIS, data used to estimate compliance costs for affected businesses came from three primary sources: WSDA, Washington State Employment Security Department (ESD), and affected businesses that were surveyed. Together, these sources provided 43 observations for individual businesses. Relevant data characteristics are listed below.

- SICs and their frequency of occurrence in the 43 observations were: 0711(1); 2875(3); 2879(2); 3274(1); 5191(26); 5193(3); 5261(3), and 4 observations with unspecified SICs. The SIC emphasis in the sample data approximated the expected degree of impact as shown in Appendix B (i.e., greater representation for industries more directly affected).
- When data were identified both through surveying and ESD/WSDA data sets, they were cross-checked for consistency. Review of cross-checked observations confirmed that the base data were very similar and were likely to be relatively reliable.
- Survey data were generally provided by businesses after complying with the emergency rule requiring testing and submission of metals analysis with their fertilizer registration application to meet the proposed metal standards. As a result, most costs were actually incurred, as opposed to estimated without actual experience complying with rule requirements.

**Appendix B: SIC Codes for Fertilizer-Related Industries**

**List of Potentially Affected Industries**

SIC	Industry/SIC Category	Potentially Affected Industry Component	Industry Level
<b>Direct Impacts</b>			
2873	Nitrogenous Fertilizers	Mixed ferts. made in nitr. fert. mfg. plants; organic fert. – mfg.	Production
2874	Phosphatic Fertilizers	Mixed ferts. made in phos. fert. mfg. plants – mfg.	Production
2875	Fertilizers, mixing only	Mixed ferts. not made in fert. mfg. plant	Wholesale
5191	Farm Supplies – wholesale	Fert. and fert. materials - wholesale	Wholesale
<b>Indirect Impacts</b>			
<u>Level 1*</u>			
1474	Potash, Soda, and Borate Minerals	Mining and milling of fert. compounds	Production
1475	Phosphate Rock	Phosphate rock mining	Production
1479	Chemical and Fertilizer Minerals Mining NEC	Same as SIC category	Production
2810	Industrial Inorganic Chemicals – mfg.	Same as SIC category	Production
2819	Industrial Inorganic Chemicals NEC	Muriate and sulfate of potash – mfg.	Production
3274	Lime	Lime – mfg.	Production
<u>Level 2</u>			
0711	Soil Preparation Services	Fert. application for crops	Retail/Service
0721	Crop Planting, Cultivating, and Protecting	Fert. application	Retail/Service
0782	Lawn and Garden Services	Lawn fertilizing services	Retail/Service
5169	Chemical and Allied Products NEC	Organic chemicals – wholesale	Wholesale
<u>Level 3</u>			
5193	Flowers, Nursery Stock, and Florist Supplies	Florist Supplies – wholesale	Wholesale
5211	Lumber and Building Materials	Fert. Sales	Retail/Service
5251	Hardware Stores	Fert. Sales	Retail/Service
5261	Nurseries, Lawn and Garden Supply Stores	Fert. Sales	Retail/Service
5331	Variety Stores	Fert. Sales	Retail/Service
5399	Misc. General Merchandise Stores	Fert. Sales	Retail/Service
<u>Level 4</u>			
0783	Ornamental Shrub and Tree Services	Shrub and tree care – retail	Retail/Service
3523	Farm Machinery and Equipment	Fert. machinery – mfg.	Production
5992	Florists	Fert. use/sales	Retail/Service

\*Levels refer to degree of likely indirect impact from proposed rule revisions (1 = greatest impact). Direct impacts would be expected to be greater than any level of indirect impacts.

**Appendix C: Glossary of Abbreviations**

<u>Abbreviation</u>	<u>Abbreviated Term</u>
CTED	Washington Department of Community, Trade and Economic Development

PROPOSED

<u>Abbreviation</u>	<u>Abbreviated Term</u>
JARRC	Joint Administrative Rules Review Committee
RCW	Revised Code of Washington
RFA	Regulatory Fairness Act
SBEIS	Small Business Economic Impact Statement
SIC	Standard Industrial Classification
WSDA	Washington State Department of Agriculture
WAC	Washington Administrative Code
ESD	Employment Security Department

A copy of the statement may be obtained by writing to Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2012, fax (360) 902-2093.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: On November 10, 1998, at 7:00 p.m., at the Washington Interactive Technologies, 710 Sleater-Kinney Road S.E., Suite Q, Lacey, WA 98503; at the Washington Interactive Technologies, 1500 Harvard, Seattle, WA 98122; and at the Educational Service District, 2500 N.E. 65th Avenue, Vancouver, WA 98661-6812.

On November 12, 1998, at 7:00 p.m., at the Washington Interactive Technologies, 8551 West Gage Boulevard, Suite H, Kennewick, WA 99336; at the Washington Interactive Technologies, North 1101 Argonne, Suite 109, Spokane, WA 99201; and at the Washington Interactive Technologies, Yesterday's Village, 15 West Yakima Avenue, Suite 220, Yakima, WA 98902.

Assistance for Persons with Disabilities: Contact Cathy Jensen by November 6, 1998, TDD (360) 902-1996.

Submit Written Comments to: Laurie Mauerman, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2093, by November 13, 1998.

Date of Intended Adoption: December 10, 1998.

September 23, 1998

Bob Arrington

Assistant Director

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-695 Definitions.** The definitions set forth in this section shall apply throughout this chapter unless context otherwise requires:

(1) "Organic" means a material containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth. When the term "organic" is utilized in the label or labeling of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified.

(2) "Natural organic" means a material derived from either plant or animal products containing carbon and one or

more elements (other than hydrogen and oxygen) essential for plant growth.

(3) "Synthetic organic" means a material that is manufactured chemically (by synthesis) from its elements and other chemicals, containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(4) "Unit" means one percent (by weight) of a ton.

(5) "AOAC" means the association of official analytical chemists.

(6) "Commercial fertilizer" means ~~((any))~~ a substance containing one or more recognized plant nutrients and ~~((which))~~ that is used for its plant nutrient content ~~((and))~~ or ~~((which))~~ that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It ~~((shall))~~ does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule~~((s))~~.

(7) "Fertigation" means a method of applying commercial fertilizers with irrigation water to fertilize land or plants.

(8) "Fertilizer component" means a commercial fertilizer ingredient containing one or more recognized plant nutrients which is incorporated in the commercial fertilizer for its plant nutrient value.

(9) "Maximum acceptable cumulative metals additions to soil" means the amount of total metals that can be added to soil over a forty-five-year period of time without exceeding the Canadian standards which have been adopted in RCW 15.54.800(3) as Washington standards for metals.

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-705 Purpose.** The following sections concerning the protection of ground water, labeling requirements and examination of fertilizer minerals and limes (WAC 16-200-708 through 16-200-742) are established in this chapter under the authority of the Commercial Fertilizer Act, chapter 15.54 RCW.

This chapter also describes the requirements for registration of commercial fertilizers, including the information which must be submitted as part of the registration application, the analysis methods which must be used, the maximum use rates the department will use to determine whether a commercial fertilizer may be registered, the Washington standards for metals (in pounds per acre per year), and the acts which are unlawful under this chapter.

NEW SECTION

**WAC 16-200-7061 What information must I include with my registration application concerning total metals?**

(1) You are required to submit the following metals information with your registration application:

(a) Total concentration of each metal in each commercial fertilizer reported in parts per million (PPM) which is equivalent to milligrams of metal per kilogram of fertilizer (mg/kg); or micrograms per gram;

(b) Copy of the laboratory report on total metals analysis;

- (c) Method of analysis;
  - (d) Method of sample preparation; and
  - (e) Minimum detection limits for each method used.
- (2) The department may request quality assurance and quality control documentation for analytical procedures and/or for the laboratory which performed the analyses.
- (3) The analytical data and maximum application rate will be used to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

**NEW SECTION**

**WAC 16-200-7062 What method must I use to analyze the total metals contained in my commercial fertilizer?** (1) You must prepare and analyze your commercial fertilizer for the total concentration of each of the following nine metals in each commercial fertilizer using one or more of the EPA methods listed in Table 1. All methods are described in the U.S. Environmental Protection Agency's SW-846, Third Edition.

**Table 1. Acceptable Analysis Methods for Metals Contained in SW-846, Third Edition.**

Metal	Inductively Coupled Plasma (ICP)	Atomic Absorption	Inductively Coupled Plasma Mass Spectroscopy (ICP/MS)
Arsenic (As)	6010, 6010A, 6010B	7060A, 7061A	6020
Cadmium (Cd)	6010, 6010A, 6010B	7131A	6020
Cobalt (Co)	6010, 6010A, 6010B	7201	6020
Lead (Pb)	6010, 6010A, 6010B	7420, 7421	6020
Molybdenum (Mo)	6010, 6010A, 6010B	7480	6020
Nickel (Ni)	6010, 6010A, 6010B	7520, 7521	6020
Selenium (Se)	6010, 6010A, 6010B	7740, 7741A	6020
Zinc (Zn)	6010, 6010A, 6010B	7951	6020
Mercury (Hg)		7470A, 7471A	

The sample preparation method for the analyses listed in Table 1 shall be one of the appropriate total recoverable metals determinations methods listed in SW-846, Third Edition, Final Update III, Chapter 3, 3.2 Sample Preparation Methods, December 1996.

Copies of SW-846, Third Edition and all associated updates are available from: The Government Printing Office, Superintendent of Documents, Washington, DC 20402, (202) 512-1800, and from the Department of Commerce, National Technical Information Center, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650 or 800-553-NTIS.

(2) Other analysis methods for total concentration of each metal in each commercial fertilizer may be used only under the following conditions:

(a) You must submit a request to the department, in writing, detailing the sample preparation and analysis methods,

minimum detection limits and quality assurance, quality control documentation and a side-by-side comparison of the analysis results from the alternative method to one of the approved methods' analysis results of the same material; and

(b) The department, after reviewing the request, may approve the analysis method only if the capability of the method meets or exceeds the sensitivity and accuracy of the applicable method listed in the Table 1.

**NEW SECTION**

**WAC 16-200-7063 How will the department determine whether a commercial fertilizer meets Washington standards for metals?** (1) To determine whether a commercial fertilizer meets Washington standards for metals, the department will use the following formula:

$$\frac{\text{Pounds of product applied per acre per year} \times \text{metal content of product (ppm)}}{1,000,000}$$

The number used for pounds of product applied per acre per year will be the maximum application rate allowed by the commercial fertilizer label. If specific label directions for use are not available, the department will use the Washington application rates listed in subsection (2) of this section, divided by four.

(2) Using normal agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state, the department developed the following Washington application rates:

Nutrient	4 Yr. Cumulative Total (lbs./acre)
Nitrogen (N)	1600
Phosphorous (as P2O5)	700
Potassium (as K2O)	1600
Boron (B)	12
Calcium (Ca)	800
Chlorine (Cl)	300
Copper (Cu)	10

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Iron (Fe)	80
Magnesium (Mg)	400
Manganese (Mn)	40
Molybdenum (Mo)	4
Sulfur (S)	400
Zinc (Zn)	30
Lime (CaCO <sub>3</sub> equivalent)	20,000
Gypsum (CaSO <sub>4</sub> )	16,000

(3) To ensure that the maximum acceptable cumulative metals additions to soil are not exceeded, the department will assume the commercial fertilizer will be applied at the maximum rate as stated on the label or established in this rule.

**NEW SECTION**

**WAC 16-200-7064 What are the Washington standards for metals?** (1) The standards for metals in Washington are the maximum acceptable annual metals additions to soils adopted in RCW 15.54.800 and are presented in Table 2. Because the Canadian standards contained in the Canadian Trade Memorandum T-4-93 dated August 1996 are based on long-term (forty-five-year) cumulative metals additions to soils, the maximum acceptable annual metals additions to soils are determined by dividing the Canadian standards by forty-five. The Washington standards are expressed as pounds per acre per year.

**Table 2. Washington Standards For Metals**

Metals	Lbs./acre/yr.
Arsenic (As)	.297
Cadmium (Cd)	.079
Cobalt (Co)	.594
Mercury (Hg)	.019
Molybdenum (Mo)	.079
Nickel (Ni)	.713
Lead (Pb)	1.981
Selenium (Se)	.055
Zinc (Zn)	7.329

(2) To be registered with the department and distributed in Washington, a commercial fertilizer must not exceed the above standards. Because cobalt (Co), molybdenum (Mo), and zinc (Zn) are also plant nutrients, higher concentrations than those presented in the table may be permitted. Commercial fertilizers which contain cobalt (Co), molybdenum (Mo), and/or zinc (Zn) concentrations may be registered and distributed in Washington if those metals are used as plant nutrients and those metals meet all applicable minimum guarantees and labeling requirements of chapter 15.54 RCW and the rules adopted thereunder.

(3) If a commercial fertilizer contains cobalt (Co), molybdenum (Mo), or zinc (Zn) and any one or more of those metals are not intended to be used as a plant nutrient, then the

nonplant nutrient metals must meet the Standards shown in Table 2.

**AMENDATORY SECTION** (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-708 Unlawful acts.** (1) It shall be unlawful for any person to refuse or neglect to comply with the provisions of the applicable sections of chapter 15.54 RCW, the rules adopted thereunder, or any lawful order of the department.

(2) It is unlawful to distribute a commercial fertilizer in Washington that exceeds the standards for nonnutritive substances established in RCW 15.54.800(3). The department will determine if a commercial fertilizer exceeds the standards by using the maximum application rates and by either:

(a) Comparing data submitted by the registrant to the standards established in WAC 16-200-7064; or

(b) Comparing the results of the analysis of an official sample to the standards established in WAC 16-200-7064. Official samples will be analyzed by the methods set forth in these rules.

**WSR 98-20-033  
PROPOSED RULES  
DEPARTMENT OF LICENSING**

[Filed September 29, 1998, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-080.

Title of Rule: Chapter 308-56A WAC General procedures for making applications for ownership.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02. 2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110.

Summary: Repealing WAC 308-56A-025 General procedure for application, 308-56A-035 Form required for name and address—One name on application, 308-56A-045 Form required for name and address—Address nonresident, 308-56A-050 Form required for name and address—Last registered owner shown on application, 308-56A-100 Declaration of use tax form, 308-56A-105 Previously titled vehicles, 308-56A-125 Foreign title or registration, 308-56A-130 Acquired from United States government, and 308-56A-135 Registered by foreign military command; amending WAC 308-56A-030 Form required for name and address, 308-56A-040 Form required for name and address—Address, 308-56A-055 Form required for name and address—Owners in common, 308-56A-060 Form required for name and address—Ownership in joint tenancy, 308-56A-110 New vehicles, 308-56A-115 Vehicles not previously titled and 308-56A-210 Lack of proper release of interest; and new section WAC 308-56A-295 Vehicle sold—Reported stolen—Liability if abandoned.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

PROPOSED

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation: Nancy Kelly, 1125 Washington Street S.E., Olympia, (360) 902-3754; and Enforcement: Eric Anderson, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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, 1125 Washington Street S.E., Olympia, WA 98507, on November 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by November 9, 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 November 9, 1998.

Date of Intended Adoption: December 5, 1998.

September 29, 1998

Nancy S. Kelly, Administrator  
Title and Registration Services

AMENDATORY SECTION (Amending WSR 96-04-004, filed 1/25/96, effective 2/25/96)

~~WAC 308-56A-030 ((Form required for)) Owner name and address—Application for certificate of ownership. ((The application for certificate of ownership shall indicate the names and addresses of the registered and legal owners of the vehicle, including lessees and lessors, and each owner's department assigned customer account number. The names indicated shall be the names of the owners in the form in which the person wishes his/her interests to be reflected. The owner's names reflected on the certificate of registration are identical with the name shown on the certificate of ownership.)) (1) What registered owner and lien holder or secured party information is required on the application for certificate of ownership?~~

The application for certificate of ownership shall include:

(a) The name of each owner of the vehicle and, if the vehicle is subject to security interest, the name of each secured party;

(b) The department's assigned customer account number for each owner of the vehicle including secured parties if available;

(c) The address at which one of the owners regularly receives mail; and

(d) The mailing address of the first secured party.

(2) Do the addresses need to conform to United States Postal Service (USPS) standards?

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

(3) If there are multiple owners with different addresses, may both addresses be shown on the application?

No. The address of only one of the registered owners and one secured party will be accepted on the application for certificate of ownership.

AMENDATORY SECTION (Amending WSR 92-15-024, filed 7/6/92, effective 8/6/92)

~~WAC 308-56A-040 ((Form required for)) Name and address—Address. ((The address of the registered and legal owner must be shown on the application as the address at which the owner regularly receives mail. If there is a change in the address, the department must be notified with the following information:~~

(1) The registered owner's name as it appears on the department records;

(2) The license plate number of each vehicle;

(3) The new address with zip code and county of the new address;

(4) Whether or not the new address is in an incorporated or unincorporated area.)) (1) If the owner's address changes, does the owner need to notify the department?

Yes.

(2) What information does the owner need to provide to the department if their address changes?

The owner shall provide the department with the following information:

(a) The registered owner's name as it appears on the department records;

(b) The license plate number of each vehicle;

(c) The new address with at least a five digit zip code and preferably a nine digit zip code; and

(d) The county of the new address.

(3) Does the address need to conform to United States Postal Service (USPS) standards?

Yes. USPS address standards must be used on all vehicle records, registrations, and certificates of ownership.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

~~WAC 308-56A-110 New vehicles—Manufacturer's statement/certificate of origin. ((1) Application for a certificate of title to a new vehicle never before licensed or titled and sold by an in-state or out-of-state dealer or manufacturer must be accompanied by a Manufacturers Statement of Ori-~~

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gin (MSO) or other document certifying the first conveyance of said vehicle after its manufacture.

(2) The statement of origin or other similar document or the factory invoice of the dealer shall reflect the year, make, model, body style, and vehicle identification number and additionally, in the case of motoreycles, the motor number and frame number.

(3) No statement of origin or other similar document can be accepted for the issuance of a title unless all persons named on said statement have released or assigned their interest thereon, or on a department release of interest form. If the selling dealer is the only interest named, a dealer's report of sale on a title application shall have the effect of a release.

(4) Dealer to dealer transfers may be accomplished either by appropriate endorsement of the statement of origin or other similar document, or by a department release of interest form. A complete chain of ownership must be reflected from the original dealer named on the MSO to the retail selling dealer making the application.

(5) If the statement of origin or other similar documentation is not available and obtaining a replacement from the manufacturer would cause an undue amount of delay in titling the vehicle, a photocopy of the factory invoice to the dealer can be substituted. A clear chain of ownership must be reflected from the original dealer named on the invoice to the retail selling dealer making application.

(6) This rule shall be applied to all new vehicles commencing with the 1974 model year. (1) What ownership documentation from the manufacturer is required to title a new vehicle?

An application for a certificate of ownership to a new vehicle shall be accompanied by a manufacturer's statement/certificate of origin (MSO/MCO).

(2) What information needs to be shown on the MSO/MCO?

The MSO/MCO shall contain the following information:  
 (a) First conveyance of the vehicle after its manufacture;  
 (b) The model year;  
 (c) Make;  
 (d) Model, body style;  
 (e) Vehicle identification number;  
 (f) An indication that the vehicle was not manufactured for road use, if applicable; and  
 (g) If a moped, a statement indicating the vehicle meets the definition in RCW 46.04.304.

(3) What documentation may be used in lieu of an MSO/MCO?

If the MSO/MCO is not available, the manufacturer's invoice to the dealer may be used. The manufacturer's invoice shall contain all the information required in subsection (2) of this section. If a flooring agent is shown on the invoice, the department requires a release of interest from the flooring agent.

(4) How is a dealer to dealer sale recorded on the MSO/MCO before the first retail sale?

A dealer to dealer sale is recorded in the assignment area on the MSO/MCO.

In the absence of an available assignment area a dealer to dealer report of sale or similar document may be used as long as a complete chain of ownership is documented from the original dealer named on the MSO/MCO through the retail selling dealer making the application.

AMENDATORY SECTION (Amending WSR 93-14-084, filed 6/30/93, effective 7/31/93)

WAC 308-56A-115 Vehicles ((not previously titled) from jurisdiction other than Washington. ((1) Application for certificates of ownership and/or registration to a vehicle not previously titled or licensed in this state must be accompanied by documents acceptable to the department.

(2) Application for certificates of ownership and/or registration to a used vehicle or vehicle that has never been titled or registered in this state or any other jurisdiction must be accompanied by documents set forth in WAC 308-56A-110 for new vehicles.

(3) Application for certificates of ownership and/or registration to a used vehicle or vehicle that has been titled and/or registered in a foreign jurisdiction must be accompanied by the most recently issued valid title or other documents acceptable to the department which constitute proof of ownership.

(4) Application for certificates of ownership and/or registration, for a vehicle imported from a country that cancels the vehicle title and/or registration for export, must be accompanied by the documents evidencing the cancellation and constituting proof of ownership.

(5) Any document provided which is not in the English language, shall be accompanied by a literal translation into the English language and verified as to the accuracy of the translation by a notarized affidavit from the translator.)) (1) What ownership documents are required to title a vehicle not currently titled or licensed in the state of Washington?

(a) If the vehicle was acquired from an agency of the United States government, the original or a copy of the bill of sale issued by the United States government must accompany the application for certificate of ownership.

(b) If a vehicle is titled in another state, the application for certificate of ownership must be accompanied by the most current title issued by that state. The department will accept a copy of the current title when it is being held by the lien holder and is not available.

(c) If a vehicle is titled in another country, the application for certificate of ownership must be accompanied by the most current title issued by that jurisdiction. If the country from which the vehicle is imported cancels the vehicle title and/or registration for export, the application for certificate of ownership must be accompanied by documents showing proof of ownership and evidence of the cancellation.

(d) If a member of the United States armed forces owns the vehicle and the vehicle has been registered by the United States government military entity, the application for certificate of ownership shall be accompanied by the registration certificate as proof of ownership. If there is a lien holder, the United States armed forces member must contact the lien

holder and obtain a copy of the ownership documents being held.

**(2) What ownership documents are required to obtain a certificate of ownership for a vehicle from a jurisdiction that by policy or law does not title or register certain classes of vehicles based on age, type, or other criteria?**

If the vehicle is from a jurisdiction that by policy or law does not title a specific vehicle, but does register it, the department will accept the registration as an ownership document. If the applicant is not the owner shown on the registration, a bill of sale or release of interest is also required. If the vehicle is from a jurisdiction that neither registers nor titles, the department will accept a statement from the applicant certifying when and where they purchased the vehicle, and that the previous jurisdiction does not title or register this type of vehicle. If the applicant is not the owner of the vehicle that was brought in from such jurisdiction, a bill of sale is required, and the statement certifying how the vehicle was acquired. The Washington certificate of ownership may contain a special notation if issued under these circumstances. If the bill of sale is not available, ownership in doubt procedures from WAC 308-56A-210 apply.

**(3) What ownership documents are required to title a vehicle from a jurisdiction which has refused to issue a title document for a specific vehicle?**

If the jurisdiction has refused to issue title, Washington will require the customer to comply with ownership in doubt procedures from WAC 308-56A-210. In those cases where a title was refused for reasons not applicable to Washington, the department may consider issuing a title with the appropriate documentation.

**(4) What additional documentation is required if my vehicle is from a foreign country?**

In addition to the ownership document, the application for certificate of ownership must be accompanied by:

(a) An approved United States Department of Treasury Customs Service form properly executed authorizing the vehicle entry into this country. Applications for certificate of ownership for vehicles imported from Puerto Rico need not be accompanied by a customs document;

(b) A certificate of inspection signed by an authorized inspector as described in WAC 308-56A-150;

(c) An English translation for any document provided which is not in the English language. The translator shall provide a notarized/certified affidavit attesting to the accuracy of the translation; and

(d) A release of interest from the owners shown on the ownership documents, as provided in WAC 308-56A-210, if the applicant is not the owner shown.

**(5) What if my vehicle does not pass the EPA?**

If the vehicle does not conform with all applicable federal motor vehicle safety standards or federal air pollution control regulations, and the United States Customs Service will not issue a custom document, the department will not issue a certificate of ownership or registration for the vehicle.

**(6) What if there is no indication that my vehicle is from a nontitle or nonregistration jurisdiction, and no other jurisdiction has a record of my vehicle?**

If there is no indication that your vehicle is from a nontitle or nonregistration jurisdiction, and no jurisdiction has a record for your vehicle, you need to follow ownership in doubt procedures in WAC 308-56A-210.

AMENDATORY SECTION (Amending WSR 96-03-047, filed 1/11/96, effective 2/11/96)

**WAC 308-56A-210** (~~Lack of proper release of interest.~~) **Ownership in doubt.** (~~If the registered or legal owner, as shown in the records of the department or a foreign state issuing the last certificate of ownership and/or registration of a vehicle, has not released his/her interest in the vehicle, by endorsement on the certificate of ownership or by a satisfactory release of interest, the following must be attached to an application for Washington certificate of ownership:~~

~~(1) Proper documentation authorized in WAC 308-56A-205 to be used in lieu of a release by the registered or legal owner; or~~

~~(2) A bond in accordance with RCW 46.12.151; or~~

~~(3) The following, if satisfactory to the department:~~

~~(a) An affidavit by the applicant stating the reasons the person is unable to obtain a release of interest from the registered and/or legal owner of record; and~~

~~(b) Evidence of ownership of the vehicle by the applicant such as, but not limited to, a bill of sale; and~~

~~(c) Evidence of attempts to locate the owner of record such as, but not limited to, copies of correspondence sent by registered or certified mail, return receipt requested to the last known address of the owner.~~

~~(4) For purposes of this section, an individual purchaser or transferee of a vehicle may request the name and address of the owner(s) of record for that vehicle by satisfying subsection (3)(a) and (b) of this section and completing a form provided by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vehicle.)~~ **(1) What does an applicant do if they are unable to provide an acceptable release of interest as defined in WAC 308-56A-105 from the owner(s) of record for a vehicle?**

When an applicant is unable to provide an acceptable release of interest, the applicant may:

(a) Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vehicle. Such judgment is required if ownership of the vehicle is contested after the applicant makes application for ownership in doubt and before the three-year ownership in doubt period has lapsed; or

(b) Apply for registration only or bonded certificate of ownership as described in this rule if a judgment is unnecessary as described in (a) of this subsection. The applicant shall:

(i) Provide evidence of ownership of the vehicle such as, but not limited to, a bill of sale;

(ii) Obtain a Washington state patrol VIN inspection;

(iii) Make a reasonable effort to determine ownership of the vehicle by writing to the agency that issued the last known certificate of ownership or registration. For purposes

of this section, an individual purchaser or transferee of a vehicle may request the name and address of the owner(s) of record for that vehicle from the department by satisfying (b)(i) of this subsection and completing a form approved by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vehicle.

(A) If a record is found, the applicant shall send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on the last record. The letter shall contain information regarding the sender's claim to ownership and a request for the released certificate of ownership or a notarized or certified release of interest.

(B) If no record is found, or the previous owner did not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant shall provide an affidavit of request for bonded title or registration without title form explaining how the vehicle was acquired;

(iv) Determine whether to bond the vehicle and apply for a certificate of ownership or apply for registration only. A bond is required if the seller of the vehicle is a Washington state vehicle dealer or in lieu of the judgment described in (a) of this subsection if there is evidence of a security agreement on the last record as found in (b)(i) of this subsection. A bond shall be for a period of three years from the date of application and be in the amount of one and one-half times the value of the vehicle as determined by one of the following:

(A) Information provided by any guide book or other publication of recognized standing in the vehicle industry; or

(B) A value that is agreeable to the applicant and verifiable by the authorized department agent or employee.

(2) If I have a bonded certificate of ownership, how can I get a certificate of ownership without the bonded notation?

In order to get a certificate of ownership without the bonded notation, you may:

(a) Submit the properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

(3) If I have a three-year registration only, how can I obtain a certificate of ownership?

In order to get a certificate of ownership, you may:

(a) Submit the properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

(4) Can I sell the vehicle when there is a bonded certificate of ownership or has a three-year registration only?

Yes. A bonded certificate of ownership may be released and provided to the buyer the same as any other certificate of ownership. If there is a registration only, provide the buyer with a notarized or certified release of interest. The new owner may either provide a judgment as described in subsec-

tion (1)(a) of this section or shall apply to the department for ownership in doubt as described in subsection (1)(b) of this section and complete the time remaining on the previous ownership in doubt period.

**NEW SECTION**

**WAC 308-56A-295 Vehicle sold—Reported stolen—Liability if abandoned. Who is responsible for removal, storage, and disposal fees if a vehicle has been reported stolen after it was reported sold, and is subsequently abandoned?**

If a report of sale has been properly filed with the department prior to the date the vehicle was reported stolen, the purchaser shown on that report of sale shall be responsible for removal, storage, and disposal fees. If a report of sale has not been properly filed, the registered owner on the department records remains liable.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-025	General procedure for application.
WAC 308-56A-035	Form required for name and address—One name on application.
WAC 308-56A-045	Form required for name and address—Address, nonresident.
WAC 308-56A-050	Form required for name and address—Last registered owner shown on application.
WAC 308-56A-055	Form required for name and address—Owners in common.
WAC 308-56A-100	Declaration of use tax form.
WAC 308-56A-105	Previously titled vehicles.
WAC 308-56A-125	Foreign title or registration.
WAC 308-56A-130	Acquired from United States government.
WAC 308-56A-135	Registered by foreign military command.

**WSR 98-20-034**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
 [Filed September 29, 1998, 3:02 p.m.]

Continuance of WSR 98-15-035.  
 Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

**PROPOSED**

Title of Rule: WAC 356-56-010 Application of rules and 356-56-035 Definitions.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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.

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 October 8, 1998, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Department of Personnel, 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 October 6, 1998.

Date of Intended Adoption: October 8, 1998.

September 29, 1998

Dennis Karras

Director

**WSR 98-20-042**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed September 30, 1998, 1:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-08-084.

Title of Rule: WAC 388-73-012 Definition, 388-73-101 Baby walkers, and 388-73-104 Firearms.

Purpose: Reduce injury to children in foster home settings by prohibiting use of wheeled baby walkers and improve security with the clarification on the storage of firearms in foster homes.

Statutory Authority for Adoption: RCW 74.15.030, 74.08.090.

Statute Being Implemented: RCW 74.15.030.

Summary: Increase security and safety of children in foster home settings.

Reasons Supporting Proposal: Previously small children were injured while using wheeled walkers. Strengthening the

regulations pertaining to the storage of firearms will reduce access to firearms by children in foster homes.

Name of Agency Personnel Responsible for Drafting and Implementation: Jean L. Croisant, P.O. Box 45710, Olympia, WA 98504-5710, e-mail loje300, (360) 902-7992; and Enforcement: Division of Licensed Resources.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new rule, WAC 388-73-101, prohibits the use of wheeled baby walkers in foster family homes. The adoption of this rule would eliminate child injury due to a child tipping over or falling down stairways.

With the expansion of WAC 388-73-102 the definition of a firearm is more definitive in order to assist licensees with what firearms need to be securely stored.

Amendments to WAC 388-73-104 would provide greater security in the storage of firearms in foster family homes. This section clarifies that the gun cabinets with glass fronts will require a cable or chain further securing guns and weapons from access.

Proposal Changes the Following Existing Rules: WAC 388-73-012 Definitions, the term "firearm" is defined; and WAC 388-73-104 Firearms, amends conditions for storage of firearms in family foster homes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. They affect licensed foster families only.

RCW 34.05.328 does not apply to this rule adoption. Proposed rule changes for WAC 388-73-102 Definitions, 388-73-104 Firearms, and 388-73-101 Baby walkers, are "significant legislative rules" as defined in RCW 34.05.328 and therefore require a cost benefit analysis (CBA). A copy of the CBA may be requested by contacting Jean L. Croisant at Children's Administration, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-7992, or loje@dshs.wa.gov.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 30, 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 November 10, 1998.

Date of Intended Adoption: December 11, 1998.

September 25, 1998

Marie Myerchin-Redifer, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3969, filed 4/24/96, effective 5/25/96)

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

(2) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

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

(4) "Child," "youth," and "juvenile" means any unemancipated individual under the chronological age of eighteen years of age.

(5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours from the parent's home, a crisis residential center, an out-of-home placement, or a court-ordered placement on two or more separate occasions; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or

(c)(i) Who is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family;

(ii) Who lacks access, or has declined, to utilize these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

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

(7) "Firearm" means weapon or device from which a projectile or projectiles may be fired. Firearms include, but are not limited to, BB guns, pellet guns, air rifles, stun guns, antique guns, and bows and arrows.

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

~~((8))~~ (9) "Infant" means a child under one year of age.

~~((9))~~ (10) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent.

~~((10))~~ (11) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

~~((11))~~ (12) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

~~((12))~~ (13) "School-age child" means a child five years of age through twelve years of age enrolled in a kindergarten or elementary school.

~~((13))~~ (14) "Secure detention facility" and "juvenile detention facility" means a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

~~((14))~~ (15) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

~~((15))~~ (16) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility or any part thereof, nor be otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

~~((16))~~ (17) "Severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most activities of daily living, except for persons requiring the services of skilled health care providers.

~~((17))~~ (18) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

**NEW SECTION**

**WAC 388-73-101 Wheeled baby walkers.** The use of wheeled baby walkers in foster family homes is prohibited.

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

**WAC 388-73-104 Firearms.** (1) ~~((Except for foster family homes,))~~ The licensee ~~((shall))~~ must not permit firearms, ammunition, and other weapons on the premises of child care agencies, except as allowed in family homes.

(2) In ~~((foster))~~ family homes, firearms ~~((shall))~~, ammunition, and other weapons must be kept in secure, locked storage, at all times when not in use((:)). They must be accessible only to authorized persons. Secure locked storage means a locked storage container, gun cabinet, gun safe, or other storage area made of strong, unbreakable material. If the cabinet has a glass or other breakable front, then the guns need to be

secured with a cable or chain placed through the trigger guards securing the guns in the storage unit.

(3) The licensee (~~shall~~) must only allow firearm use under competent adult supervision and only if the youth has completed a gun safety or hunter safety course.

**WSR 98-20-062**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed October 2, 1998, 10:10 a.m.]

I hereby withdraw the proposed amendments to WAC 356-56-010 and 356-56-035 originally filed as part of WSR 98-15-035 on July 8, 1998, and continued as WSR 98-20-034 filed on September 29, 1998.

If you have any questions, please contact Judy Montoure at 586-1770.

Dennis Karras  
Director

**WSR 98-20-075**  
**PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed October 6, 1998, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-095.

Title of Rule: State adopt-a-highway program participant eligibility criteria, WAC 468-72-050.

Purpose: Defines criteria for participation in the state's adopt-a-highway program through private sponsorship of contracted work. Previous to this, the program only allowed participation by volunteer organizations.

Statutory Authority for Adoption: RCW 47.40.100.

Summary: The scope of the adopt-a-highway program was expanded through legislation in 1995 and resulted in amendment of RCW 47.40.100. The rule change is necessary for consistency of code language.

Reasons Supporting Proposal: This modification in the program rules has been approved by passage through the legislative process.

Name of Agency Personnel Responsible for Drafting and Implementation: Raymond Willard, Olympia, (360) 705-7865.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This change expands participant eligibility for the state's adopt-a-highway program and allows participation by individuals, organizations or private business through sponsorship of contracts to accomplish activities.

Proposal Changes the Following Existing Rules: Previously participation in the program was only open to volunteers.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change will have no negative impact on small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Transportation, Transportation Building 1D2, Olympia, Washington 98504, on November 20, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by November 13, 1998.

Submit Written Comments to: Raymond Willard, Department of Transportation, Olympia, Washington 98504-7358, fax (360) 705-6823, by November 13, 1998.

Date of Intended Adoption: November 20, 1998.

October 6, 1998

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending WSR 90-22-003, filed 10/25/90, effective 11/25/90)

**WAC 468-72-050 Eligibility criteria.** (1) (~~Volunteer~~) Organizations, businesses, and individuals are eligible to participate in the adopt-a-highway program, either as volunteers or through sponsorship of private contracts, provided there is a section of highway available, in the opinion of the department of transportation, that the (~~organization~~) section can be safely assigned.

(2) (~~A volunteer~~) An organization, business, or individual is not eligible if its name (a) endorses or opposes a particular candidate for public office, (b) advocates a position on a specific political issue, initiative, referendum, or piece of legislation, (c) includes a reference to a political party, or (d) includes a reference to anything that may be considered or construed to be obscene or offensive to the general public.

(3) Organizations, businesses, individuals, or contractors that have been denied participation due to lack of compliance to a previous adopt-a-highway agreement shall not be eligible to participate for a period of five years following the termination date of the previous agreement.

**WSR 98-20-077**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed October 6, 1998, 10:47 a.m.]

Supplemental Notice to WSR 98-14-134.

Preproposal statement of inquiry was filed as WSR 97-14-033.

Title of Rule: WAC 314-16-260 Sports/entertainment facility license—Purpose, 314-16-265 Definitions, 314-16-270 Sports/entertainment facility licenses—Operating plans, and 314-16-275 How will the operating plans be enforced?

Purpose: These rules will clarify the conditions under which types and service of liquor may be provided in sports/entertainment facilities. Each facility and event may

PROPOSED

require different conditions based upon the type of event, traffic patterns in the facility and the age of patrons attending the event.

Statutory Authority for Adoption: RCW 66.08.030 and 66.24.570.

Statute Being Implemented: RCW 66.24.570.

Summary: WAC 314-16-260, states the purpose of the rules regarding sports/entertainment facility licensing; WAC 314-16-265, defines terms as used in the rules; WAC 314-16-270, outlines what must be included in the operating plan that sports/entertainment facilities must submit; and WAC 314-16-275, explains how the operating plans will be enforced.

Name of Agency Personnel Responsible for Drafting and Implementation: David Goyette, P.O. Box 43098, Olympia, WA 98504-3098, (360) 753-2724; and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-2710.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The 1996 legislature passed RCW 66.24.570, which created a special liquor license designated as a class "R," and renamed "sports/entertainment facility" by SSB 5173 passed by the 1997 legislature. The intent of the legislation was to simplify the alcohol licensing process and to accommodate the size and unique nature of these facilities.

The purpose of the proposed rules is to clarify the conditions under which types and service of liquor may be provided in sports/entertainment facilities. Each facility and event may require different conditions based upon the type of event, traffic patterns in the facility, and the age of patrons attending the event.

- The first proposed rule, WAC 314-16-260, states the purpose of the rules, which is to provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.
- The second proposed rule, WAC 314-16-265, contains a list of defined terms as used in the rules.
- The third proposed rule, WAC 314-16-270, outlines the elements that must be contained in each sports/entertainment facility's operating plan, which must be submitted and approved by the board before licensing.
- The fourth proposed rule, WAC 314-16-275, explains how the board will enforce liquor laws and regulations in sports/entertainment facilities.

Proposal does not change existing rules.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

Hearing Location: DoubleTree Hotel Bellevue, Lakehills Room, 300 112th Avenue S.E., Bellevue, WA 98004, on November 18, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by November 17, 1998, TDD (360) 586-4727, or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, e-mail teb@liq.wa.gov, fax (360) 704-4920, by November 18, 1998.

Date of Intended Adoption: November 19, 1998.

October 6, 1998

Nathan S. Ford, Jr.  
Chair

#### NEW SECTION

**WAC 314-16-260 Sports/entertainment facility license—Purpose.** (1) **What is the purpose of the rules governing the use of alcohol in sports/entertainment facilities?**

(a) In RCW 66.24.570, the legislature established a spirits, beer, and wine license for arenas, coliseums, stadiums, or other facilities where sporting, entertainment, and special events are presented.

(b) These rules provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.

(c) This framework recognizes the unique conditions associated with events attended by large crowds consisting of diverse age groups.

(2) **Will the liquor control board recognize the differences between types of sports/entertainment facilities?**

Yes. A sports/entertainment facility must submit an operating plan, which must be approved by the board prior to the issuance of a license. All plans will be required to meet the minimum standards outlined in WAC 314-16-270. The board will take into consideration the unique features of each facility when approving an operating plan.

#### NEW SECTION

**WAC 314-16-265 Definitions.** (1) **Premises** - Buildings, parking lots, and any open areas that are owned, leased, or managed by the operator and under the operator's control.

(2) **Operator** - The owner, lessee, or manager of a facility in whose name the liquor license is issued.

(3) **Event categories** - Types of events that the operator expects to hold:

(a) **Professional sporting event** - A contest or demonstration involving paid athletes and sanctioned by a professional sports organization that regulates the sport. A fixed level of alcohol service will apply to all events in this category.

(b) **Amateur sporting event** - A contest or demonstration involving athletes who receive no monetary compensation that is sanctioned by a national or regional amateur athletic regulatory organization.

(c) **Entertainment event** - A concert, comedy act, tractor pull, monster truck rally, or similar event intended for the entertainment of the audience.

(d) **Special event** - A convention, trade show, or other public/private event to large to be held in a separate banquet or meeting room within the facility.

(e) **Youth event** - An event where the proportion of persons under age twenty-one expected to attend is such that it is reasonable to conclude operators will not be able to determine whether or not persons under age twenty-one will have access to alcohol.

(4) **Hawking** - The practice of selling alcohol in seating areas by roving servers who carry the beverages with them. Because of row seating arrangements, servers normally do not have direct access to customers. Therefore, service usually requires that drinks, money, and identification be passed down rows, involving other spectators.

(5) **Club seats** - A specifically designated seating area that is separate and distinct from general seating with food and beverage service provided by servers.

#### NEW SECTION

**WAC 314-16-270 Sports/entertainment facility licenses—Operating plans. (1) What rules govern the submission of operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan.

(c) The plan must be submitted on a form provided by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol.

(iv) A list of event categories (see WAC 314-16-265(3)) to be held in the facility at which alcohol service is planned.

(e) Prior to the first of each month, the operator must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The operator must notify the local enforcement office of any events where alcohol service is planned that are not included in the monthly schedule as soon as the event is booked.

**(2) May the liquor control board impose any other mandatory standards as a part of an operating plan?**

Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may prohibit or restrict the service of alcohol during youth events.

(b) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(c) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-16-030(3) in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

**(3) Where will spirits, beer, and wine be allowed in a sports/entertainment facility?**

Alcohol will be allowed as outlined in an approved operating plan as follows:

(a) The sale and service of beer, wine, and spirits may be permitted in approved restaurants, lounges, private suites, and club rooms;

(b) The sale and service of beer, wine, and spirits may be permitted in temporary lounges, beer gardens, or other approved service areas at trade shows or other events at which the public is allowed access to the arena floor or in open areas in the case of open air facilities. At private, invitation-only events, patrons may consume beer, wine, and spirits throughout the arena floor area;

(c) Beer may also be served and consumed throughout seating areas during events; and

(d) Wine may also be served and consumed in club seats during events.

**(4) Will hawking be allowed?**

(a) Hawking may be permitted in general seating areas for the sale and service of beer, at professional sporting events only.

(b) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(c) During hawking, any patron may decline to handle alcoholic beverages either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

#### NEW SECTION

**WAC 314-16-275 How will the operating plans be enforced?** (1) The board will inspect sports/entertainment facilities and issue violation notices for:

(a) Infractions of all liquor laws and rules, particularly with regard to persons who appear intoxicated or who are under twenty-one years of age; and

(b) Any significant deviation from the approved operating plan.

(2) Violations of liquor laws or rules that occur as a result of not following the approved operating plan will be considered aggravating circumstances, which permit the board to impose added penalties.

**WSR 98-20-078**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed October 6, 1998, 10:50 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-11-081.

Title of Rule: How old do employees have to be to sell and handle cigarettes or tobacco products?

Purpose: This rule clarifies the conditions under which persons under eighteen years of age may sell and handle cigarettes and tobacco products.

Statutory Authority for Adoption: RCW 66.08.030, chapter 133, Laws of 1998.

Statute Being Implemented: Chapter 133, Laws of 1998.

Summary: Chapter 133, Laws of 1998 made it a class 3 civil infraction for persons under eighteen years of age to possess tobacco products. The changes to this rule clarify that employees under eighteen years of age may sell and handle tobacco products provided a person eighteen years of age or older is on the premises to supervise the sale.

Name of Agency Personnel Responsible for Drafting and Implementation: Jan Britt, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-2710; and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-2710.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The changes to this rule clarify that employees under eighteen years of age may sell and handle tobacco products provided a person eighteen years of age or older is on the premises to supervise the sale.

Chapter 133, Laws of 1998 made it a class 3 civil infraction for persons under eighteen years of age to possess tobacco products. The purpose of this proposed revision is to clarify that "possession" does not include selling or handling tobacco products by employees of grocery and convenience stores.

Proposal Changes the Following Existing Rules: The rule previously stated that employees of any age can sell and handle tobacco products. Chapter 133, Laws of 1998 made it a class 3 civil infraction for persons under eighteen years of age to possess tobacco products. The proposed revisions to this rule clarify that "possession" does not include selling or handling tobacco products by employees of grocery and convenience stores.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

Hearing Location: DoubleTree Hotel Bellevue, Lakehills Room, 300 112th Avenue S.E., Bellevue, WA 98004, on November 18, 1998, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by November 17, 1998, TDD (360) 586-4727, or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, fax (360) 704-4920, by November 18, 1998.

Date of Intended Adoption: November 23, 1998.

October 1, 1998

Nathan S. Ford, Jr.

Chair

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-040 ((~~Employees under 18 allowed to sell and handle tobacco products.~~) **How old do employees have to be to sell and handle cigarettes or tobacco products?** ((Employers holding a cigarette retailers license issued under RCW 82.24.500 may allow employees of any age to sell tobacco products provided their employees meet the age employment requirements set by the department of labor and industries (RCW 26.28.060 and WAC 296-125-018).)) (1) **Any employee can sell and handle tobacco products when:**

(a) The business has a cigarette retailer's license; or

(b) The business has registered with the department of revenue; and

(c) There is a supervising employee who is eighteen years of age or older on the retail premises.

(2) If someone under fourteen years of age is employed by a retailer, the retailer must comply with the requirements of the department of labor and industries under RCW 26.28.060 and WAC 296-125-018.

(3) Having an employee under eighteen years of age who handles and sells cigarettes and tobacco products according to subsections (1) and (2) of this section is not:

(a) Considered "possessing" cigarettes and tobacco products and is therefore not a violation of RCW 70.155.080(1); or

(b) Considered "giving" the employee cigarettes and tobacco products and is therefore not a violation of RCW 26.28.080.

**WSR 98-20-080**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed October 6, 1998, 1:09 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-09-078.

**Title of Rule:** WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees.

**Purpose:** The purpose of the fee increase is to defray the cost of administration of the security guard program.

**Statutory Authority for Adoption:** Chapter 18.170 RCW, the laws relating to security guards and chapter 346, Laws of 1998, ESSB 6108.

**Statute Being Implemented:** Chapter 346, Laws of 1998, ESSB 6108.

**Summary:** The security guard program proposes to raise fees to cover the actual cost of doing business as required under RCW 43.24.086 which states that each business and profession program be self-supporting.

**Reasons Supporting Proposal:** The fee increase will help recover administrative costs of issuing security guard licenses for the current biennium.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Pat Brown, Department of Licensing, Olympia, (360) 664-2356.

**Name of Proponent:** Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The security guard program proposes to increase fees to cover the actual cost of doing business as required under RCW 43.24.086 that states that each business and professional program be fully borne by that profession. The reasons supporting the proposal is that the fee increase will help recover the administrative costs of issuing security guard licenses.

**Proposal Changes the Following Existing Rules:** Fee Changes: Private security guard original license, old fee \$35.00, proposed new fee \$53.00; and armed private security guard original license, old fee \$15.00, proposed new fee \$24.00.

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

#### Small Business Economic Impact Statement

The 1998 supplemental budget request to raise private security guard fees above the I-601 limits was approved by the legislature. The Department of Licensing proposes to raise fees to cover the actual cost of administering the program as required under RCW 43.24.086, which states that each business and profession program be self-supporting. The program operates under an annual shortfall of approximately \$90,500. The fee increase will not recover revenue shortfalls incurred in the past, but will address the present and future requirements. The department is not raising fees for additional spending authority, nor has the program included any increased cost of administration for the next biennium.

#### Industries Required to Comply

**Businesses Affected by the Fee Increase:** The Standard Industry Code (SIC) 7381 covers a broad range of occupations. The SIC includes: Security guards, private investi-

gators, detective services, armored car services, dog rentals, fingerprint services, and polygraph services.

The occupations and industries that are affected by the proposed rule are: Private security guard individuals, armed or unarmed, licensed under chapter 18.170 RCW and principally employed as, or typically referred to as one of the following:

- Security officer or guard
- Patrol or merchant patrol service officer or guard
- Armed escort or bodyguard
- Burglar alarm response runner
- Crowd control officer or guard

Private security guard companies licensed under chapter 18.170 RCW engaged in the business of providing the services of private security guards on a contractual basis may also be affected. However, neither the statute nor the rules require the company to pay the individual security guard's licensing fee.

#### Background Circumstances

**Reason for Fee Increase:** The need for the fee increase is because when the program set the original fees, the fees charged by the Washington State Patrol (WSP) for fingerprinting were contracted to the program at \$15.00 for each fingerprint card submitted. Then in 1993, the contract expired and WSP increased the fee to \$25.00. This has resulted in the collection of insufficient licensing fees.

The current fee for an *unarmed* security guard original application is \$35.00. Twenty-five dollars of this \$35.00 fee is paid to the Washington State Patrol (WSP) to compare the applicant's fingerprints to fingerprint records available to the WSP.

If an applicant desires to be an *armed* security guard, the applicant will submit with the application two sets of fingerprint cards and pay the fee for a security guard application (\$35.00) and pay the armed security guard original application fee, which is \$15.00, for a total of \$50.00. For these applications, the program will submit the two sets of fingerprint cards to the WSP, which utilizes one set of the fingerprint cards to compare them to the fingerprint records available to the WSP. The second fingerprint card is forwarded to the Federal Bureau of Investigation (FBI) for a national criminal history records check. The cost for the FBI background check is \$24.00 and the WSP charges \$25.00 for their services. The program at this point has collected \$50.00 in licensing fees and owes \$49.00 for the applicant's background check.

The problem is compounded if the armed license is not requested at the time of unarmed licensure. The cost to the program for the required two fingerprint card background check from the WSP and the FBI is \$49.00 and the armed guard licensing fee collected is \$15.00. This process results in a shortfall of \$34.00 for each armed security guard license issued, plus the cost for the program to issue the license.

#### Compliance Requirements

**Description of the Proposed Rule:** The proposed fee increases are as follows:

License Type	Old Fee	New Fee	Increase
Security Guard Original Application	\$35	\$53	\$18
Armed Security Guard Original Application	\$15	\$24	\$9

**Cost of Compliance**

(NOTE) Neither the statute nor the rule requires the company to pay for the individual security guard licenses.

**COST PER \$100 SALES**

The average large business has a gross business income of \$2,162,900. Cost per \$100 of sales is 0.001 cents per each unarmed security guard employee.

The average small business has a gross business income of \$114,146. Cost per \$100 of sales is 0.016 cents per each unarmed security guard employee.

**COST PER HOUR OF LABOR**

Cost per one hour of labor for a full time unarmed guard is 0.01 cents.

Cost per one hour of labor for a full time armed guard is 0.01 cents.

Cost per one hour of labor for a half time unarmed guard is 0.02 cents.

Cost per one hour of labor for a half time armed guard is 0.03 cents.

**Cost Comparison of Impact on Small and Large Businesses**

The following table provides an overview of the licensee business sizes.

COMPANIES WITH 0 EMPLOYEES	COMPANIES WITH LESS THAN 50 EMPLOYEES	TOTAL SMALL BUSINESSES (LESS THAN 50 EMPLOYEES)	TOTAL LARGE BUSINESSES (MORE THAN 50 EMPLOYEES)
53	97	150	14

**Will the Rule Have a Disproportionate Impact on Small Businesses?**

The increase in the annual licensing fees per employee resulting from the rule is less for the small businesses than it is for the large businesses, and does not disadvantage the small business.

**Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?**

The fee increases are across the board and there are no competitive advantages due to the increase.

**Mitigation Steps: Reasonable Justification for not Mitigating**

The proposed rule does not place any additional responsibilities upon small businesses. The rule is solely for the purpose of meeting the requirement that professional licensing programs be fully self-supporting per the laws of Washington state, RCW 43.24.086.

**How Have Small Businesses Been Involved in the Rule Development?**

Licensed security guard companies were notified that the department is proposing to increase fees and requested their written comments. The department will notify the affected industries of a public hearing and request their comments again before adoption of the rule.

**Hearing Date and Location: November 13, 1998 - 10:00 a.m.-12:00 p.m., Labor and Industries, Room S117, 7273 Linderson Way S.W., Tumwater, WA 98501.**

**Contact Information:** Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, fax (360) 753-3747, e-mail SECURITY@dol.wa.gov, Pat Brown, Administrator, (360) 664-2356, Mary Haglund, Program Manager, (360) 586-4567.

**Date of Intended Adoption: November 16, 1998.**  
**Proposed Effective Date: December 17, 1998.**

A copy of the statement may be obtained by writing to Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 586-4567, fax (360) 753-3747.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendment to WAC 308-18-150 is a procedural rule, not a significant rule. In addition, the Department of Licensing is exempt from this requirement.

**Hearing Location:** Labor and Industries, 7273 Linderson Way S.W., Suite S117, Tumwater, WA 98501, on November 13, 1998, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Mary Haglund by November 11, 1998, TDD (360) 526-2788, or (360) 586-4567.

**Submit Written Comments to:** Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649.

**Date of Intended Adoption:** November 16, 1998.  
 October 5, 1998  
 Pat Brown  
 Administrator

**AMENDATORY SECTION** (Amending WSR 97-17-050, filed 8/15/97, effective 9/15/97)

**WAC 308-18-150 Private security guard company, private security guard, and armed private security guard**

PROPOSED

fees. The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Private security guard company:	
Application/examination	\$250.00
Reexamination	25.00
License renewal	250.00
Late renewal with penalty	350.00
Certification	25.00
Private security guard:	
Original license	<del>((35.00))</del> <u>53.00</u>
Transfer fee	20.00
Certified trainer examination/ reexamination	25.00
Certified trainer renewal	15.00
License renewal	25.00
Late renewal with penalty	30.00
Certification	25.00
Armed private security guard:	
Original license	<del>((15.00))</del> <u>24.00</u>
Transfer fee	20.00
Certified trainer examination/ reexamination	25.00
Certified trainer renewal	15.00
License renewal	25.00
Late renewal with penalty	30.00
Certification	25.00

**WSR 98-20-087**  
**PROPOSED RULES**  
**ARTS COMMISSION**  
[Filed October 6, 1998, 4:33 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-09-082.

Title of Rule: WAC 30-04-020 Public records available, 30-08-070 Appeal procedure, 30-12-150 Complimentary tickets, 30-18-040 Eligibility for grantees, 30-22-070 Contracting, and 30-22-090 Evaluation methods.

Purpose: Amending WAC 30-04-020 to reference correct defining WAC, and amending WAC 30-08-070, 30-12-150, 30-18-040, 30-22-070 and 30-22-090 for clarity.

Statutory Authority for Adoption: RCW 43.46.040.

Summary: Changes will clarify the appeals process, improve consistency between programs and generally be easier to read and follow.

Reasons Supporting Proposal: Improves the clarity of our rules.

Name of Agency Personnel Responsible for Drafting: Bill Palmer, 234 East Eighth Avenue, Olympia, (360) 753-2423; Implementation and Enforcement: Arts Commission, 234 East Eighth Avenue, Olympia, (360) 753-3860.

Name of Proponent: Washington State Arts Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 30-04-020 clarity of public record availability and clarity on definitions. WAC 30-08-070 provides clarity on applicants role regarding an appeal to our awards and contracting procedures and clarifies staff roles. WAC 30-12-150 clarifies the question of receiving complimentary tickets for the purpose of evaluation. WAC 30-18-040 clarifies and simplifies the language on the eligibility for grantees. WAC 30-22-070 clarifies who the approving authority is on the contracting. WAC 30-22-090 explains the requirements of final reports and possible on-site monitoring visits as the evaluation method of the commission.

Proposal Changes the Following Existing Rules: WAC 30-04-020 corrects the WAC number which defines public records of the commission.

WAC 30-08-070 clarifies the authority of the executive director during the appeal process, allow the appeal to go to the commission for a hearing and set a date for the hearing which does not have to wait for the next commission meeting. It also allows for a longer period of time for the descriptive language of the appeal decision to be written and sent to the appellant.

WAC 30-12-150 corrects title of reference to ethics chapter in the RCW and omits unnecessary language on conditions to evaluate an artistic work and limits the number of complimentary tickets for a performance.

WAC 30-18-040 clarifies the language on the eligibility of grantees.

WAC 30-22-070 changes the approving body for contracts from the executive director to the commission.

WAC 30-22-090 changes the monitoring event language from definite to possible.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes that are amended with all of these rule proposals does not have an economic impact on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Washington State Arts Commission is not a listed agency in section 201.

Hearing Location: Gig Harbor City Hall, Courtroom, 3105 Judson, Gig Harbor, WA 98335, on November 19, at 1 p.m. - 5 p.m. and on November 20, at 9 a.m. - 5 p.m.

Assistance for Persons with Disabilities: Contact Mariah Laamb by November 6, 1998, (360) 753-3680.

Submit Written Comments to: Mariah Laamb, Washington State Arts Commission, P.O. Box 42675, Olympia, WA 98504-2675, fax (360) 586-5351, by November 16, 1998.

PROPOSED

Date of Intended Adoption: November 30, 1998.  
November [October] 6, 1998  
Bill Palmer  
Acting Executive Director

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-04-020 Public records available.** All public records of the commission as defined in WAC (~~(30-01-030(9))~~) 30-02-010(34), are available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and WAC 30-04-070.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-08-070 Appeal procedure—Awards and contracts.** The commission shall provide a procedure for applicants to appeal the commission's decisions when there is evidence that information available at the time of the panel's or commission's action was either not considered (~~(included)~~) in (~~(the)~~) their review or was not clearly understood.

(1) Appeals (~~(may not)~~) must be (~~(made)~~) based solely on (~~(new)~~) information (~~(not)~~) available at the time of the original decision.

(2) Appeals must be presented in writing to the executive director, outlining the nature of the appeal.

(3) The executive director (~~(, in consultation with the chairperson shall accept or reject the appeal)~~) shall consider the appeal and issue a written decision. The executive director may schedule a conference if he/she determines it necessary.

(4) (~~(Upon confirmation that the appeal is legitimate)~~) The decision of the executive director may be appealed to the commission. Appeals must be submitted in writing, addressed to the chair of the commission of the commission's official address. Upon receipt of the appeal to the full commission, the executive director shall notify the commission and arrange for an appeals hearing at the next scheduled commission meeting. (~~(The appeal may be presented by the applicant at that time.)~~) The appeal must be presented by the applicant in its entirety at that time and shall be considered final.

(5) The commission shall (~~(defer action to the next meeting of the commission, and must make it known to)~~) inform the applicant (~~(, at which time)~~) of the date when the final decision will be made.

(6) After final commission action on the appeal, the executive director or a designated staff person shall notify the applicant of the decision in writing, within (~~(five)~~) fifteen working days after the date of the commission action.

(7) Administrative remedies shall not be considered exhausted until the applicant has received the written description of the commission's decision and action on the appeal or (~~(ten)~~) thirty working days since the decision (~~(have)~~) has passed, whichever occurs first.

(8) Appeals may not be made (~~(during the public portion of a commission meeting agenda and)~~) to the commission (~~(shall not take action on any such presentations that may be~~

~~made))~~ without the above review by the executive director (~~(and chairperson)~~) as provided in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-12-150 Complimentary tickets requested for the purpose of evaluation.** The following procedures are intended to guide the commission in its efforts to maintain an active liaison with its (~~(constituents (constituents))~~) constituents, to appraise the work of the artistic community as it relates to commission programs, and to assure compliance with (~~(RCW 42.18.200)~~) chapter 42.52 RCW, Ethics in public service, which defines the laws regarding the acceptance of anything of economic value by a state employee.

In the context of the commission's duties to evaluate its clients, commissioners or staff may request (~~(or accept)~~) complimentary tickets or free admissions to arts events which are presented by applicants for grants or events funded in whole or in part by the commission. In order for the receipt of complimentary tickets for the purpose of evaluation to be clearly within the work of the commission, the following conditions must be observed:

(1) (~~(It must be necessary or appropriate to see an event in order to evaluate an applicant or recipient of financial support.~~

~~(2) Performances or exhibitions of all applicants or recipients of financial support should be attended. If the number of applicants or recipients for support makes it impractical to attend performances or exhibitions of all, only those events involving excessive travel or which are clearly unnecessary to attend in order to evaluate the organization may be omitted.~~

~~(3) There should be a limit on)~~ The number of commissioners or staff (attending an event. Generally, free admissions) requesting complimentary tickets for the purpose of evaluation shall be limited to two persons.

~~((4))~~ (2) Those who attend an event must be prepared to evaluate it in the context of commission guidelines and rules.

~~((5))~~ (3) A written evaluation, in a standard evaluation format, will be required from each commission or staff evaluator.

~~((6))~~ (4) Each applicant or recipient of financial support will be required to provide the commission with two complimentary tickets to events, if so requested.

~~((7))~~ (5) The executive director or designee will authorize on-site evaluations and appoint the person or persons to perform the evaluation based upon their expertise and ability to report on the case.

~~((8))~~ (6) The executive director or his/her designee will notify the applicant or recipient of the assigned evaluation, the persons to perform the evaluation and request that admission be provided at no cost to the evaluator(s) at a time convenient to the client and evaluator(s).

PROPOSED

**AMENDATORY SECTION** (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-18-040 Eligibility for grantees.** ~~((1) Residency sponsors are any Washington school, school district, private nonparochial school, preschool, college, or university. In addition, any Section 501(c)(3) of the IRS Code (non-profit) or government agency may apply as a sponsor. This includes local arts councils and commissions, retirement homes, hospitals, correctional facilities, libraries, museums, and agencies serving special populations.~~

~~(2) Arts curriculum grantees are Washington state public school districts and schools. Government and other nonprofit agencies working in collaboration with their local schools, incorporated as not for profit in the state of Washington, and having federal IRS tax exempt status, also are eligible to apply.~~

~~(3) Arts education project grantees are Washington arts organizations and may apply to fund arts education projects developed in partnership with schools.~~

~~(4) Performing artists and arts organizations are professional performing artists residing in Washington state and arts organizations located in Washington state and they may apply to perform in schools and to serve one week, rural residencies that combine performances and workshops. Professional performing arts organizations with facilities in Washington state may apply to provide mainstage performances for students.~~

~~(5) Applications are competitive on a state wide basis and grants are subject to the level of funds available to the commission.)) Nonprofit arts or community organizations, units of government, nonparochial schools and school districts, or artists and artist groups may be eligible to apply to the arts in education program. Eligibility for grants, contracts, or participation in an arts in education program varies and is published in the program guidelines. The commission establishes and publishes guidelines on an annual or biennial basis.~~

**AMENDATORY SECTION** (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-22-070 Contracting.** Artists who have been approved by the commission for funding will be issued contracts based on available funding. Partners who collaborate on specific projects with the approval of the ~~((executive director))~~ commission will be issued contracts based on available funding. Contracts will be issued within a fiscal year beginning July 1 and ending June 30 or within the biennium.

**AMENDATORY SECTION** (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-22-090 Evaluation methods.** Final reports will be required by the commission and must be completed and returned by each contractor by the ending date of the contract. Also, on-site monitoring of events ~~((with))~~ may be conducted by the commission and/or its staff.

**WSR 98-20-090  
PROPOSED RULES  
GAMBLING COMMISSION**

[Filed October 7, 1998, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-029 with a published date of July 15, 1998.

Title of Rule: Location of bingo games.

Purpose: These rules set out the regulations and requirements to allow bingo operators to offer linked bingo prizes to their customers.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: These rules would facilitate the regulations of linked bingo prizes.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, (360) 254-3100, on November 13, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by November 6, 1998, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, Washington 98504-2400, fax (360) 438-8652, by November 6, 1998.

Date of Intended Adoption: November 13, 1998.

October 7, 1998

Susan Arland

Public Information Officer

**NEW SECTION**

**WAC 230-02-207 Linked bingo prize provider defined.** A "linked bingo prize provider" is any person who provides bingo licenses the means to link bingo prizes. This person may provide the licensee's equipment, linked bingo prize management, and distribute necessary gambling equipment and supplies.

A "linked bingo prize provider" is not a "distributor" if the only gambling equipment and supplies they furnish to

bingo operators is to be used exclusively for bingo games that are played to win the linked bingo prize.

In no circumstances may a linked bingo prize provider assume ultimate responsibility for an operator's bingo game operation.

#### NEW SECTION

**WAC 230-02-218 Linked bingo prize provider representative defined.** A "linked bingo prize provider representative" is any natural person who represents a "linked bingo prize provider" in any of their activities in connection with the management of a linked bingo prize game or distribution of linked bingo prize game supplies.

#### NEW SECTION

**WAC 230-02-255 Linked bingo prize defined.** A linked bingo prize is a prize that is awarded to a player who is competing against players from multiple participating licensed bingo halls. Categories of prizes include:

- (1) The main prize, which is the prize paid each time the game is played to the first verified winner(s);
- (2) The consolation prize, which is the prize paid at each participating licensed bingo hall after the main prize has been determined; and
- (3) The bonus prize, which is a prize awarded when a player achieves the winning pattern in a predetermined number of calls or on a specific predetermined number.

#### AMENDATORY SECTION [(Amending Order 362, filed 9/23/98)]

**WAC 230-04-124 Licensing of manufacturer, distributor, ~~((and))~~ gambling service supplier, and linked bingo prize provider representatives.** Prior to selling or supplying to any person gambling equipment, paraphernalia or related services in connection with licensed gambling activities, a representative or agent of a licensed manufacturer, distributor, ~~((or))~~ gambling service supplier, or linked bingo prize provider shall first obtain a license from the commission. The following definitions and restrictions apply:

- (1) A sole owner, partner, major officer and/or owner of a substantial interest in an entity licensed as a manufacturer, distributor, ~~((or))~~ gambling service supplier, or linked bingo prize provider shall not be required to be additionally licensed as a representative to engage in the selling or supplying of the entity's products or services. Office, clerical or warehouse personnel who have contact with the public and potential customers only by telephone or at the manufacturer's, distributor's, ~~((or))~~ gambling service supplier's, or linked bingo prize provider's own premises when working under the immediate and direct supervision of an owner, partner, or major officer shall also be exempt from this licensing requirement. A manager or supervisor who is not a sole owner, partner or a major officer or owner of a substantial interest and whose duties and responsibilities include the supervision of selling, supplying and/or the promotion of products or services shall be licensed as required by this rule prior to performing such functions. A manufacturer, distribu-

tor, ~~((or))~~ gambling service supplier, or linked bingo prize provider shall not allow an unlicensed person to represent them in such transactions and shall take all measures necessary to prevent an unlicensed person from doing so.

(2) The manufacturer, distributor, ~~((or))~~ gambling service supplier, or linked bingo prize provider for which the representative will work shall sign the application acknowledging that the applicant will be representing them with their full knowledge and consent.

(3) An applicant for a license as a distributor, ~~((representative or))~~ gambling service supplier, or linked bingo prize provider representative shall:

(a) Complete a training course for any activity being managed, as required and provided by the commission within thirty days after the first day worked; and

(b) Represent only one licensed distributor, ~~((or))~~ gambling service supplier, or linked bingo prize provider at a time and shall not represent a manufacturer: *Provided*, That this rule shall not prevent a licensed representative from representing a manufacturer, distributor, and/or linked bingo prize provider when all businesses are owned by the same person. *Provided further*, That this rule shall not bar the distributor's representative from representing his own distributor who is also licensed as a manufacturer.

(4) If a licensed gambling service supplier representative has any interest in a licensed manufacturer or distributor and they provide services to any punch board, pull-tab, or bingo operator, they shall inform the commission, the operator, and the manufacturer or distributor of the relationship. Such manufacturer or distributor shall be prohibited from selling punch boards, pull-tabs, or disposable bingo cards to such operator.

**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.

#### NEW SECTION

**WAC 230-04-126 Licensing of linked bingo prize providers.** Prior to providing any type of gambling related service, gambling related equipment, or gambling related supplies to any licensed bingo operator, a linked bingo prize provider shall first obtain a license from the commission. The following requirements and restrictions apply to licensing of linked bingo prize providers:

(1) For purposes of this Title, a license is required to manage a linked bingo prize or provide bingo game operators with the equipment and supplies to offer linked bingo prize games to their customers;

(2) The applicant shall include upon the application form supplied by the commission, sufficient information to determine the types of services and equipment provided, personal and financial information to determine applicant identity and qualifications, evidence of the obtainment of a bond to cover all linked bingo prize jackpots, as well as all other information and materials required elsewhere in these rules;

(3) The applicant shall comply with all applicable laws of the United States, the state of Washington, and all applicable rules of the Washington state gambling commission; and

(4) If the applicant does not maintain a business office within the state or is incorporated in another state or country, then the applicant must disclose the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300.

**NEW SECTION**

**WAC 230-04-206 Fees—Linked bingo prize providers and linked bingo prize provider representatives.** Linked bingo prize providers and linked bingo prize provider representatives shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous charges, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. LINKED BINGO PRIZE PROVIDER		\$3,693
2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE	Original	\$219
	Renewal	\$135

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.

OTHER FEES		
3. CHANGE OF NAME	(See WAC 230-04-310)	\$26
4. DUPLICATE LICENSE	(See WAC 230-04-290)	\$26
5. REPLACEMENT	(See WAC 230-04-240)	As Required
6. OUT-OF-STATE	(See WAC 230-04-240)	As Required
7. RECORDS INQUIRY	(See WAC 230-04-240)	As Required

**AMENDATORY SECTION** (Amending Order 359, filed 7/15/98, effective 1/1/99)

**WAC 230-08-017 Control of gambling equipment—Use of identification and inspection services stamps.** To ensure gambling equipment is used only as authorized, manufacturers, distributors, linked bingo prize providers, and operators shall maintain close control over all gambling equipment in their possession. Each transfer of such equipment shall be documented by completing an invoice or other written record setting forth the information required by WAC 230-08-040. Identification and inspection services stamps obtained from the commission shall be used to identify gambling equipment and shall be permanently and conspicuously affixed to all equipment and devices designated by the commission. Once attached, identification and inspection ser-

vices stamps shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification and inspection services stamps shall be attached to the following gambling equipment and devices:

- (a) Punch boards and pull-tab series;
- (b) Pull-tab dispensing devices;

(c) Disposable bingo cards: *Provided*, That this requirement applies to cards shipped for use in Washington state after December 31, 1993. All inventory on hand at the distributor and operator level at the close of business on December 31, 1993, shall be exempt from this requirement;

(d) Coin or token-activated amusement games operated at any Class A amusement game license location;

(e) Electronic bingo card daubers; and

(f) Other gambling equipment or devices, as determined by the director.

(2) Identification and inspection services stamps shall only be sold to and attached by licensed manufacturers or commission staff: *Provided*, That a licensed owner of controlled gambling equipment may purchase and attach stamps as outlined in subsections (7) and (8) of this section;

(3) The fee charged for identification and inspection services stamps shall be set by the commission at a level sufficient to fund regulation and control of gambling equipment. Fees shall be as set out below:

(a) Punch boards and pull-tabs:

(i) Standard - wagers fifty cents and below - twenty-seven cents;

(ii) Standard - wagers over fifty cents - one dollar;

(iii) Progressive jackpot pull-tab series - ten dollars per series;

(iv) Pull-tab series with carry-over jackpots - one dollar;

(b) Pull-tab dispensing devices:

(i) Mechanical and electro-mechanical - twenty-seven cents;

(ii) Electronic - pull-tab dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes, and other functions determined by the director - one hundred dollars annually.

(c) Disposable bingo cards:

(i) Sets of individual cards or sheets of cards - twenty-seven cents;

(ii) Collations of cards - one dollar and ten cents;

(iii) Cards used to play for linked bingo prizes - forty cents per two hundred fifty cards.

(d) Coin or token-activated amusement games operated at any Class A amusement game license location - twenty-five dollars annually;

(e) Electronic bingo card daubers - ten dollars annually;

(f) Other equipment or devices - the actual cost of inspection or approval, as determined by the director.

(4) Devices that require identification and inspection services stamps to be installed annually shall have such stamps attached prior to placing any device into play and, on or before December 31 of the year preceding operation for each subsequent year: *Provided*, That annual identification and inspection services stamps shall be purchased and attached to electronic pull-tab dispensing devices, coin operated amuse-

PROPOSED

ment games, and electronic bingo card daubers located in the state on December 31, 1996, prior to the operation of such devices on or after January 1, 1997.

(5) Identification stamps shall only be affixed to gambling equipment or devices in such a manner as to assure reasonable inspection without obstruction. If equipment is enclosed or packaged within protective materials, the stamps shall be readily visible for inspection without removal of any portion of the protective packaging: *Provided*, That when more than one device is packed in a shipping carton, this requirement shall not apply if the identification and inspection services stamp numbers of all devices contained in the carton are printed or otherwise noted on the outside of the carton. Stamps and records entry labels shall be affixed in the following manner:

(a) Punch boards - on the reverse side in an area that will not obstruct removal of punches: *Provided*, That if sufficient space is not available on the reverse side, the records entry labels may be wrapped around and/or partially attached to the edge of a punch board in a manner that will not obstruct display of prizes available or other information required by rules of the commission;

(b) Pull-tabs - on the face or reverse side of the flare. If placed on the face, then they must be in an area that will not obstruct prizes available or any other information required by rules of the commission;

(c) Pull-tab dispensing devices - on the outside of the main body, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull-tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded; and

(d) Disposable bingo cards - on the packing label attached to the outside of the shipping carton. Records entry labels shall be attached to the packing slip: *Provided*, That when a set or collation of cards is packed in more than one shipping carton, the stamp shall be attached to carton number one and the stamp number imprinted on all remaining shipping cartons.

(6) Identification and inspection services stamps shall not be attached to gambling equipment or devices that do not comply with rules of the commission. If a piece of equipment or a device requires specific commission approval, stamps shall not be affixed prior to such approval.

(7) A licensed owner of gambling devices which require annual identifications and inspection services stamps may purchase such from the commission. The licensee shall submit the appropriate fee, along with a form provided by the commission, to obtain the stamps.

(8) A licensed owner of pull-tab dispensing devices may obtain a commission identification and inspection services stamp to replace an identification stamp affixed to a pull-tab dispensing device that has become unidentifiable due to wear. The fee for replacement of the stamp shall be as required by WAC 230-04-202 and/or 230-04-203. The operator or distributor shall furnish the following information to the commission:

(a) A copy of the invoice from the operator, distributor or manufacturer for the purchase of the dispensing device in question; or

(b) A complete description of the pull-tab dispensing device, serial number, manufacturer, and the commission stamp number previously affixed to the device, if known.

(9) Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025: *Provided*, That damaged stamps may be returned to the commission and will be replaced with serviceable stamps if they are accompanied by a detailed listing of the damaged stamps and a ten cent per stamp service charge.

#### NEW SECTION

**WAC 230-08-035 Records to be maintained by linked bingo prize providers.** In addition to the accounting records to be maintained by distributors and manufacturers as required by WAC 230-08-025, a linked bingo prize provider must also maintain the following records:

(1) A complete and accurate record for each linked prize offered that includes at least the following:

(a) The date and time the prize was played for;

(b) A complete list of names and addresses of each participating licensee;

(c) The serial number, color, and beginning and ending sheet numbers sold by each licensee;

(d) The dollar amount of sales for each licensee;

(e) A reconciliation of the number of bingo cards issued to each participating licensee and the number of cards sold or returned;

(f) The dollar amount that each licensee contributed to the prize fund;

(g) The total amount contributed to the prize fund;

(h) The dollar amount of prizes paid from the prize fund; and

(i) The dollar amount accrued for a bonus prize;

(2) A record of assets installed at participating licensees' locations that includes the following:

(a) The name and address of the licensee where the asset is installed; and

(b) A physical description of the asset and its cost;

(3) A complete and accurate record that shows where all bingo cards purchased or otherwise obtained have been distributed and the date the cards were used; and

(4) Video tapes must be maintained for at least one year which record at least the following activities:

(a) The ball selection process that clearly shows the numbers drawn; and

(b) All body movements of the caller.

AMENDATORY SECTION (Amending WSR 97-14-012, filed 6/20/97, effective 7/21/97)

**WAC 230-08-040 Sales invoices—Minimum information to be recorded for transfer of gambling equipment and merchandise—Retention—Penalties.** The following requirements apply to sales invoices:

(1) In addition to entries required by WAC 230-08-025, the following information shall be recorded on invoices for sales or transfer of gambling equipment and merchandise:

- (a) Punch boards/pull\_tabs - for each board or series:
- (i) Trade name of device;
  - (ii) Type of device;
  - (iii) Form number or other manufacturer-assigned scheme to specifically identify a device, including the size or number of chances; and
  - (iv) Identification and inspection services stamp number.
- (b) Pull\_tab dispensing devices:
- (i) Trade name of device;
  - (ii) Type of device; and
  - (iii) Identification and inspection services stamp number.
- (c) Disposable bingo cards - for each set of cards or collation of packets:
- (i) Type of product, including product line;
  - (ii) Description of product, including the number of cartons, "series," "on," "cut," and "up";
  - (iii) Identification and inspection services stamp number;
  - (iv) Serial number or, if packets, serial number of the top page;
  - (v) Color and border pattern or, if packets, color and border pattern of the top page; ~~((and))~~
  - (vi) The unit or package number when a series or collation has been divided as authorized in WAC 230-20-192(6); and
  - (vii) For disposable bingo cards to be sold for linked bingo prizes the beginning and ending sheet numbers sold to or returned from the operator.
- (d) Merchandise to be used as prizes for any gambling activity, whether purchased from a licensed distributor or from other than a licensed distributor, must be recorded on a sales invoice or receipt. The following information must be on the sales invoice or receipt provided by the seller:
- (i) The date of purchase;
  - (ii) The company's name and adequate business address;
  - (iii) A full description of each item purchased;
  - (iv) The quantity of items purchased; and
  - (v) The cost per individual items purchased; and
  - (e) All other gambling equipment:
    - (i) Trade name of device;
    - (ii) Type of device;
    - (iii) Serial number or other identification numbers or characteristics; and
    - (iv) Identification and inspection services stamp number.
- (2) All sales invoices and receipts must be maintained by the operator for at least three years.
- (3) Any manufacturer, distributor, linked bingo prize provider, or licensed representative of ~~((either))~~ the above, who fails to accurately complete any invoice for the sale or return of a punch board, pull\_tab series, pull\_tab dispensing device, disposable bingo cards, related merchandise, or other gambling device may be assessed a fee of up to fifty dollars per incomplete invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions.

AMENDATORY SECTION (Amending WSR 98-04-024, filed 1/28/98, effective 7/1/98)

**WAC 230-08-080 Daily records—Bingo.** In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-02-104: *Provided*, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall disclose the following information for each separate session conducted during a bingo occasion:

(1) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross gambling receipts shall be supported by receipting records required by WAC 230-20-101 and inventory control records required by WAC 230-08-105. Licensees using the combination receipting method shall reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register;

(2) The amount paid out or accrued for prizes awarded for each bingo game. Each session record shall contain the following minimum information regarding prizes awarded:

- (a) The game number;
- (b) The dollar amount or the actual cost of each prize;
- (c) A complete description of all noncash prizes;
- (d) The consecutive number of the prize receipt issued for each prize;

(e) The duplicate copy of the prize receipt issued for all prizes awarded during the session or the merchandise prize receipt log as allowed by WAC 230-20-102(4);

(f) The check number of all checks used to pay winners of bingo games: *Provided*, That if the payment must be made by check under the guidelines of WAC 230-20-102 (1)(c), the duplicate copy must be maintained as a part of the session records; ~~((and))~~

(g) Full details of prizes accrued~~((:))~~; and

(h) For accrued prizes contributed to a linked bingo prize:

(i) The amount of the contribution;

(ii) The amount of any consolation prize paid by the licensee for a linked bingo prize game; and

(iii) The name of the linked bingo prize provider to whom the contribution is made;

(3) The net gambling receipts from each bingo session;

(4) The cash on hand at the commencement and the conclusion of each session;

(5) A reconciliation of cash on hand, net gambling receipts, and the bank deposit of net revenue for each session. The bank deposit shall be supported by a validated copy of the bank deposit receipt. Steps taken to reconcile overages and/or shortages that exceed twenty dollars for any session must be documented;

(6) An attendance record indicating the number of people participating and the time the attendance count was made;

(7) All bingo numbers or symbols selected and called during any game that offers a prize exceeding two hundred dollars. The numbers or symbols shall be recorded in the sequence selected. A computer generated "call sheet" may be used in lieu of a manual record if a print-out of results is made;

(8) The winning card or face number(s) for each individual prize awarded that exceeds two hundred dollars: *Provided*, That if the game is played using disposable bingo cards, the winning card or sheet of cards may be retained in lieu of the card numbers;

(9) A copy of the schedule of the games to be played and prizes available for the session: *Provided*, That if the record is annotated with the effective dates of each game schedule, it may be maintained separately and updated only when a change occurs. Any changes to the advertised and printed game and prize schedule, that occur during a session, must be noted in the session records and verified by the signature of the gambling manager assigned primary responsibility for supervising the session and another bingo worker on duty during the session;

(10) The gambling manager assigned primary responsibility for supervising the bingo session(s) must review all session records for accuracy, determine that required information is provided, and confirm the required deposit amount(s). After satisfactory completion of this review, the records must be signed by the gambling manager responsible for supervising the session before the gambling manager leaves the premises on the day(s) the session(s) was conducted; and

(11) All records required by this section shall be:

- (a) Recorded in a standard format prescribed by the commission;
- (b) Recorded during the course of each session; and
- (c) Retained for a period of not less than three years.

#### NEW SECTION

**WAC 230-08-165 Quarterly activity reports by linked bingo prize providers.** Each licensed linked bingo prize provider shall submit an activity report to the commission concerning sales and services relating to gambling activities each quarter by completing a report form furnished by the commission. The following requirements shall be followed for completion and filing of activity reports:

- (1) Quarterly reporting periods are defined as:
  - (a) January 1st through March 31st;
  - (b) April 1st through June 30th;
  - (c) July 1st through September 30th; and
  - (d) October 1st through December 31st;

(2) The completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(3) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or their employee, then the preparer's name and business telephone number must be provided;

(4) The report shall include, among other items, the following:

(a) The gross sales of gambling related supplies or equipment or merchandise of any kind which could be used to operate, or in connection with bingo games where such sales are made in the state of Washington or for use or for distribution within this state;

(b) The quantity of each specific type of device, equipment or merchandise sold within this state or for distribution and use within this state by the licensee;

(c) A listing of the name and address of each person who was a linked bingo prize provider's representative for the licensee during the three-month period or who attempted to solicit sales of such devices, equipment or merchandise, either within the state of Washington or for use or distribution within the state;

(d) The number of employees in the state of Washington other than those listed in (c) of this subsection;

(e) The gross prizes disbursed for all linked bingo prizes managed;

(f) The balance of linked bingo prizes accrued; and

(g) A list of bingo licensees participating in linked bingo prizes managed;

(5) Each linked bingo prize provider with an active license must submit a report regardless of the level of activity. If no activity was conducted during the period, a report stating "no activity" shall be submitted; and

(6) If a licensee does not renew their license, then they shall file a report for the period between the previous report filed and the expiration date of the license.

**AMENDATORY SECTION** (Amending WSR 97-09-073, filed 4/22/97, effective 7/1/97)

**WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited.** (1) Except as provided in subsections (3) ~~((and))~~, (4), (5), and (6) of this section, no person shall enter into any agreement, expressly or implied, with any other person which requires any person to purchase exclusively from, or sell exclusively to, any other person, or which prohibits any person from purchasing from or selling to any other person, any devices, materials, products, equipment or services which are used or offered in any way in connection with a gambling activity.

~~((2))~~ (2) No person shall enter into any agreement, express or implied, wherein any person is prohibited from, or required to, make purchases or sales only within a particular geographic area: *Provided*, That such agreements may be entered into between a licensee and its licensed representative.

(3) For amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, amusement games. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(4) As related exclusively to amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, devices,

materials, products, equipment, or services which are used in connection with a particular amusement game. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(5) A licensed linked bingo prize provider may require a licensee to utilize particular bingo cards for conduct of a game with a linked bingo prize if such requirement is agreed to in a contract between a licensed linked bingo provider and licensed bingo operator, which is approved by the director.

(6) A linked bingo prize provider may enter into an exclusive agreement with a manufacturer to provide the bingo paper used in the linked bingo game.

**AMENDATORY SECTION** [(Amending Order 364, filed 9/23/98)]

**WAC 230-20-102 Bingo prizes—Record of winners.**

All payments of prizes for bingo games shall be accounted for and documented in a manner that affords independent verification of the amount paid and the fact of distribution to winners: *Provided*, That Class A and B bingo licensees, organizations conducting bingo under the provisions of RCW 9.46.0321, and bingo activities conducted at a qualified agricultural fair are exempt from all portions of this rule if the requirements of WAC 230-08-015 are followed. Payment of all prizes shall be documented using the following procedures:

(1) A prize receipt shall be completed for each prize awarded at bingo games: *Provided*, That merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a single log sheet as allowed in subsection (4) of this section. The following minimum information shall be recorded for each prize awarded:

(a) The date;

(b) The game number;

(c) The complete name and address of the winner. The following provision does not apply to linked bingo prizes: *Provided*, That an address of the winner is not required if prizes greater than \$300 are paid by check or a combination of cash or check and:

(i) Checks are drawn on the licensee's gambling bank account;

(ii) Checks are made payable only to the winner: *Provided*, That checks for prizes won by players under age eighteen may be made payable to the guardian or immediate family member accompanying the player;

(iii) The game number and prize receipt number are notated on the check;

(iv) Checks used are of a type that provides a duplicate copy. The copies become a part of the daily bingo records and must be maintained as such;

(v) All original checks are returned by the bank to the licensee. Original checks shall be available for inspection upon demand by the commission; and

(vi) Checks drawn on the licensee's gambling account are not cashed or otherwise redeemed by the licensee or on the licensee's premises.

(d) The dollar amount of the prize or the licensee's cost of noncash prizes;

(e) A full description of all noncash prizes;

(f) The check number, if any portion of the prize is paid by check; and

(g) The initials of the bingo worker making the payout and the cashier making the payment.

(2) Prize receipts shall be consecutively issued in an ascending order. Prize receipts bearing a number below the highest number issued during a session shall be voided and retained with the daily records.

(3) The original of each prize receipt shall be given to the winner and a duplicate copy shall be retained by the licensee as a part of its records for a period of not less than three years.

(4) Merchandise prizes with a cost or fair market value of fifteen dollars or less may be receipted on a merchandise prize receipt log. A separate merchandise prize receipt log shall be maintained for each session used, and retained as a part of the bingo daily records. At a minimum, the following information must be recorded on the log:

(a) The date and session;

(b) The game number;

(c) The complete name of the winner printed;

(d) The cost of the prize or fair market value of the prize if donated;

(e) A full description of the prize;

(f) The initials of the person distributing the prize; and

(g) The criteria for awarding the prizes.

(5) Prize receipts shall be printed by a commercial printer and meet the following standards:

(a) Manufactured of two-part, self-duplicating paper that provides for an original and a duplicate copy;

(b) Imprinted with the name of the licensee and a consecutive ascending number that does not repeat in at least 100,000 occurrences: *Provided*, That Class E and smaller licensees may utilize receipts that are not imprinted with the licensee's name and which the consecutive number does not repeat in at least 1,000 occurrences; and

(c) Provide space for the licensee to record the information required by subsection (1) above.

(6) All prize receipts purchased or otherwise obtained must be accounted for by the licensee. Prize receipts purchased or otherwise obtained by the licensee shall be documented on a vendor's invoice. This invoice, or a photo-copy thereof, shall be maintained on the premises and available for inspection by commission staff. The following information shall be documented on the purchase invoice:

(a) Name of the vendor;

(b) Name of the purchasing organization;

(c) Date of purchase;

(d) Number of receipts purchased; and

(e) The beginning and ending receipt number.

(7) Licensees may establish an accrued prize fund for any game or set of games that have a progressive prize or offer a jackpot prize if special conditions are met during the game. Contributions to the accrued prize fund shall be treated as prizes awarded during the current session if the following conditions are met:

(a) Each game or set of games that offers a prize included in the accrued prize fund must be identified by the licensee prior to making contributions for such games;

(b) The licensee shall maintain a record, in an approved format, of all such games with at least the following information:

(i) The name of the game or set of games;

(ii) The sessions at which the game or set of games is played;

(iii) The game number(s) at each of the sessions the game or set of games is played;

(iv) The amount that will be added to the accrued prize fund each time the game or set of games is played;

(v) A description of how the contribution amount was determined;

(vi) The maximum accrued prize fund balance that will be reached for all games; and

(vii) The date of the most recent changes to this record;

(c) Prize receipts will be issued only when the prize is actually awarded;

(d) Once an election is made to accrue prizes for a particular game or set of games, the predetermined contribution amount must be added to the accrued prize fund each time the game or set of games is played, until the accrued prize fund reaches the maximum balance;

(e) Once the maximum is reached, no contributions will be made until the accrued prize fund balance has been decreased for a prize paid;

(f) Full details of accrued prizes outstanding at the end of each calendar quarter will be furnished on the licensee's activity report;

(g) A reconciliation of the prize fund shall be made on each "Daily summary - Cash control" record;

(h) The amount of prize accrued shall be deposited in the gambling receipts account per WAC 230-12-020;

(i) The balance of the gambling receipts banking account shall not be reduced at any time below the amount of prizes accrued and currently being offered: *Provided*, That accrued prizes may be transferred to a special bank account, for this purpose, if the balance is maintained at a level equal to or greater than the amount of prizes accrued and currently being offered;

(j) At no time shall the total accrued prize balance exceed two times the total amount of prizes available on the games identified in (a) of this subsection; and

(k) The accrued prize fund shall not be utilized for any purpose other than accumulating bingo prizes and the balance shall not be reduced except under the following circumstances:

(i) When prizes are actually awarded;

(ii) If management elects to discontinue games for which prizes were accrued. In this event, the operator shall amend all activity reports and tax returns that are affected by the action and which have been filed.

(8) Contributions made to an approved linked bingo prize shall be deposited into a separate account from the licensee's main gambling receipts account and shall be treated as prizes awarded during the session accrued; and

(9) Linked bingo main and bonus prizes awarded during a session may not be treated as a prize awarded during the current session.

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.

AMENDATORY SECTION (Amending Order 293, filed 6/18/96, effective 7/19/96)

**WAC 230-20-107 Disposable (throwaway) bingo card method for receipting bingo income.** The disposable bingo card method must be used to receipt for bingo income when disposable bingo cards are used. When utilizing the disposable bingo card method, the following requirements must be met:

(1) Cards must meet all requirements of WAC 230-20-192;

(2) The inventory control record required by WAC 230-08-105 must be completed;

(3) Cards or sheets of cards intended for playing a single game, including on-the-way games - the following shall be recorded for each set of cards:

(a) Serial number;

(b) The color and/or border pattern;

(c) The value of each card or sheet;

(d) The lowest consecutive card or sheet number issued as a receipt;

(e) The last card or sheet number issued as a receipt;

(f) Missing cards or sheets per the manufacturer's packing record;

(g) The number of cards returned and not issued;

(h) The number of cards issued as receipts; and

(i) The total gross gambling receipts from all cards issued as receipts;

(4) Packets sold and intended for playing a defined set of games within a session - the following shall be recorded for each set or collation of packs or packets of cards:

(a) The serial number of the top sheet or page of the packet;

(b) The color and/or border pattern of the top sheet or page of the packet;

(c) The lowest consecutive card, sheet, or packet number for the first packet issued as a receipt;

(d) The card, sheet, or packet number of the last or highest packet issued as a receipt;

(e) The number of packets issued as receipts;

(f) The number of packets returned and not issued;

(g) Missing packets per the manufacturer's packing record;

(h) The value of each packet; and

(i) The total gross receipts from all packets issued as receipts;

(5) Each disposable card, or sheet or packet of cards, from the same set or collation shall be consecutively issued at each individual sales point. Each card, or sheet or packet of cards, which were not issued consecutively during a session,

and the audit number is lower than the highest audit number issued as a receipt, shall be retained by the licensee for a period of not less than one year: *Provided*, That cards, or sheets or packets of cards, required by this subsection to be retained may be sold at the next bingo session that the specific set of cards is used: *Provided further*, That unsold cards issued to an operator for the purpose of being sold for a linked bingo prize may be returned to the linked bingo prize provider and stored for a period of six months or until they have been examined and approved by commission staff for destruction, whichever is less; *Provided further*, That unopened blocks of two hundred fifty cards may be reissued; and

(6) Disposable cards issued for each type of sale shall be recorded separately as required by WAC 230-08-080. When more than one card or sheet number appears on a sheet of cards, the audit system designated by the manufacturer shall be used to determine the beginning and ending number sold. Each time the numbering of the sheets breaks in the set, a separate entry shall be made in the records.

**AMENDATORY SECTION** (Amending Order 293, filed 6/18/96, effective 7/19/96)

**WAC 230-20-246 Manner of conducting bingo.** (~~The conducting of a bingo game shall include, but is not limited to, the following rules:~~) In addition to all other requirements set forth in this Title, the following limitations and procedures shall be utilized for conducting bingo games:

(1) For purposes of this Title, a bingo game shall be deemed conducted at the premises at which cards are sold and winners are determined;

(2) All sales of bingo cards shall take place upon the licensed premises during or immediately preceding the session for which the card is being sold;

~~((2))~~ (3) Bingo cards shall be sold and paid for prior to selection of the first symbol or number for a specified game or specified number of games: *Provided*, That cards may be sold after the start of a game, or number of games, if the late sale does not allow any player an advantage over any other player. Hard cards purchased or exchanged after the first symbol or number is selected may only be used during subsequent games. Any sales method that allows a player to select a specific disposable or throwaway card shall be deemed to allow the player an advantage;

~~((3))~~ (4) No operator shall reserve, or allow to be reserved, any bingo card for use by players: *Provided*, That braille cards or other cards for use by visually impaired or disabled players may be reserved. Visually impaired players may use their personal braille cards when a licensee does not provide such cards. The licensee shall have the right to inspect, and to reject, any personal braille card. A visually impaired or disabled person may use a braille card or reserved hard card in place of a purchased throwaway;

~~((4))~~ (5) All cards sold to participate for a specific prize or set of prizes shall be sold for the same price and be distinct and readily distinguished from all other cards in play: *Provided*, That similar cards used to participate for the same prize or set of prizes may be sold at a discount which is based solely on volume if each separate discount price is recorded

using a separate sales identification code and records provide for an audit trail;

~~((5))~~ (6) All symbols or numbers shall be selected on the premises and in the presence of players paying to participate in the game. Immediately following the drawing of each ball in a bingo game, the caller shall display the symbol or number on the ball to the participants: *Provided*, That this subsection does not apply to games being played for a linked bingo prize, as long as the drawing of the balls can be viewed by all participants;

~~((6))~~ (7) The symbol or number on the ball shall be called out prior to the drawing of any other ball;

~~((7))~~ (8) After the symbol or number is called, the corresponding symbol or number on the licensee's flashboard, if any, shall be lit for participant viewing. In a game where a symbol or number on the ball is not applicable to the game being played, it is not necessary to call that symbol or number to the participants before placing it for viewing on the flashboard;

~~((8))~~ (9) A game ends when a specific pattern has been achieved by a player or a specific number of symbols or numbers has been called. Each game shall be played using a separate selection process: *Provided*, That the same or a continuing selection process may be used to play the following games:

(a) Interim or "on-the-way" games, including "instant winner" games in which winners are determined by matching a predetermined number of symbols or numbers to balls called, or by matching a predetermined pattern within an established number of calls;

(b) Games for which cards are sold for different prices and players win a different prize depending on the price they pay to play; and

(c) Bonus games which are games played concurrently with other bingo games and the winner is determined by a player calling a valid bingo which includes a predetermined or preselected number or symbol;

~~((9))~~ (10) No bingo game shall be conducted to include a prize determined other than by the matching of symbols or numbers on a bingo card with symbols or numbers called by the licensee, except as authorized by WAC 230-20-242. All persons who have paid to participate in the game are competing for a specific prize or a portion of a prize pool. If a prize pool has been designated and more than one player achieves a winning pattern at the same time, all such players shall be considered the winner and a portion of the prize pool shall be equally divided among all players achieving the same winning pattern;

~~((10))~~ (11) The minimum amount of an individual prize, prize pool, or portion of a prize pool available for each bingo game shall be established and disclosed to bingo game players prior to their purchase of a chance to participate in a bingo game. The minimum prize may be increased by the gambling manager before the start of a game or through the following schemes during the game:

(a) Schemes using standard bingo equipment and cards such as:

(i) Number of symbols or numbers called before a player achieving a winning combination;

(ii) The specific symbol or number called;

- (iii) The specific letter called;
- (iv) Position of winning combinations on the card;
- (v) Position of the card on the sheet of cards;
- (vi) Odd or even symbol or numbers; and
- (vii) The number of symbols or numbers matched within a specific number of calls;

(b) Schemes preprinted on disposable cards that rely on a number or symbol called during a game; or

(c) Second element of chance schemes authorized by WAC 230-20-242(4).

~~((11))~~ (12) Immediately upon a bingo player declaring a winning combination of symbols or numbers, the winning card shall be verified by a game employee and at least one neutral player: *Provided*, That games played as "instant winners" and awarding fifty dollars or less do not need to be verified by a neutral player if an audit trail is maintained including a method which identifies the winning combination of numbers, symbols, or patterns and the numbers, symbols, or patterns called;

~~((12))~~ (13) Upon a bingo player declaring a winning bingo, the next ball out of the machine shall be removed from the machine prior to shutting the machine off and shall be the next ball to be called in the event the declared winning bingo is not valid;

~~((13))~~ (14) After a winning bingo is validated, the prize shall be awarded using the following procedures:

(a) Each winner shall be required to provide proof that they have purchased the winning bingo card. The licensee shall review the prize winner's income receipt and determine that the player has properly purchased all cards played during the games, including the winning card;

(b) Each prize winner shall be positively identified. The licensee shall require such proof of identification as is necessary to establish the prize winner's identity prior to paying any prize. The winner is responsible for furnishing proof to the licensee that all information required by this rule is true and accurate. Prizes may be withheld until the winner has provided adequate identification;

(c) The prize shall be awarded and a record made by completing a prize receipt as required by WAC 230-08-080 and 230-20-102. A complete address and tax payer identification number should be recorded for each prize valued at \$1,200 or more;

(d) All prizes for a particular game must be available prior to starting the game and shall be awarded by the end of the related session: *Provided*, That linked main and bonus prizes must be paid within forty-eight hours;

(e) All merchandise offered as prizes to bingo players shall have been paid in full, without lien or interest of others, prior to the merchandise being offered as a prize: *Provided*, That the licensee may enter into a contract to immediately purchase the merchandise when it is awarded as a prize, with the contract revocable if prize winners are allowed to exercise an option to receive a cash prize or the prize is no longer offered; and

~~((14))~~ (15) No operator shall engage in any act, practice, or course of operation as would operate as a fraud to affect the outcome of any bingo game.

## NEW SECTION

**WAC 230-20-255 Linked bingo prizes—Approval—Manner of conducting.** A linked bingo prize provider must request and receive approval from the director prior to allowing a bingo operator to participate in a game that offers a linked bingo prize. A bingo operator shall not be approved to offer more than one linked bingo prize per session and no more than three linked bingo prizes per day. Additionally, the provider must notify the commission within seven days when an operator stops participating in a game that offers a linked bingo prize.

The conducting of a linked bingo prize shall include, but is not limited to, the following rules:

(1) All numbers selected for a linked bingo prize shall be selected on the premises of a licensee participating in the linked bingo prize and in the presence of players paying to participate in the game. Immediately following the drawing of each ball in a bingo game, the caller shall display the number to all participants;

(2) Immediately upon a bingo player declaring a winning bingo for the main or bonus prize, the winning card shall be verified by at least a licensed gambling manager, a neutral player, and the game caller with the winning combination disclosed to all players participating in the game;

(3) The machine used for the mixing and selection of the numbers must remain in operation until all balls are removed from the machine and recorded in the order they were removed;

(4) A bingo licensee will have up to forty-eight hours to award a main or bonus prize to the player or players who have been deemed the winner(s);

(5) If a linked bingo prize provider fails to distribute cards in a manner that ensures duplicate cards are not in play, then the linked bingo prize provider shall be responsible for the increases to the prize pool as required by WAC 230-30-240(7);

(6) It is the responsibility of the linked bingo prize provider to establish procedures for participating operators to follow that reduce the possibility of operator error;

(7) Prior to beginning a game for a linked bingo prize, each participating operator must disclose to their players the serial numbers and sheet numbers for all cards sold at the premises;

(8) A linked bingo prize provider may not restrict which licensed bingo operators may participate in a linked bingo prize: *Provided*, That a linked bingo prize provider may establish a minimum card sales volume by an operator for that operator to receive equipment to conduct the game without compensation for that equipment;

(9) A linked bingo prize provider may establish the consolation prize amount to be paid at each participating location: *Provided*, That participating operators whose sales volume does not meet the minimum as set forth in subsection (8) of this section shall be allowed to pay a consolation prize that is less than this amount;

(10) If hidden face bingo cards are used, a linked bingo prize provider may, as part of the game rules, allow players to mark all odd or even numbers based on the calendar date;

(11) Class A, B, or C bingo licensees participating in a linked bingo prize must maintain all records required for a class D bingo licensee. These records shall be maintained for all bingo operations;

(12) All card sales must stop prior to the drawing of the first ball;

(13) The licensee may not require a player to call bingo on the last number called; and

(14) For all games with a linked bingo prize, a winner must be determined at each premises which sells cards to participate in the game.

Hearing Location: Transportation Building, Board Room 1D2, Olympia, WA 98504, on November 18, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Transportation Commission Office by November 17, 1998, TDD (360) 705-7070.

Submit Written Comments to: Ed Johnson, Transportation Planning Specialist, Washington State Ferries, fax (206) 515-3499, by November 17, 1998.

Date of Intended Adoption: November 18, 1998.

October 7, 1998

Chris R. Rose, Administrator  
Transportation Commission

## WSR 98-20-092

### PROPOSED RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed October 7, 1998, 9:52 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-17-076.

Title of Rule: WAC 468-300-700 Preferential loading.

Purpose: The purpose of this rule is to streamline and update the current preferential loading WAC to make it current with changing state policies and enabling legislation.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.140, and 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

Summary: The proposed rule will revise the order of priority for preferential loading privileges on vessels operated by Washington State Ferries (WSF), amending WAC 468-300-700.

Reasons Supporting Proposal: Response to changing legislative and WSF customer needs.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Raymond G. Deardorf, Washington State Ferries, 801 Alaskan Way, Seattle, WA 98104, (206) 515-3491.

Name of Proponent: Washington State Department of Transportation, Washington State Ferries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to streamline and update the current preferential loading WAC to make it current with changing state policies, enabling legislation and WSF customer needs. No major effects are anticipated.

Proposal Changes the Following Existing Rules: The proposed rule changes the existing rule by providing clarification and enhancement of the preferential loading categories for travel aboard WSF vessels.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

RCW 34.05.328 does not apply to this rule adoption.

**AMENDATORY SECTION** (Amending WSR 93-18-006, [96-05-048], filed 8/19/93 [2/16/96], effective 9/19/93 [3/18/96])

**WAC 468-300-700 Preferential loading.** In order to protect public health, safety and commerce; to encourage more efficient use of the ferry system; and to reduce dependency on single occupant private automobiles:

(1) Preferential loading privileges on vessels operated by Washington State Ferries (WSF), exempting vehicles from the standard first-come first-served rule, shall be granted in the order of priority set forth below:

~~a) Emergency vehicles involved in or returning from their particular operations, and medical personnel traveling to unscheduled emergency calls (but not when returning from such calls, and not when traveling to or from their place of employment or to or from operations or procedures, whether emergency or not, which are scheduled enough in advance to allow ferry travel without preferential loading);~~

a) An emergency medical vehicle, medical unit, aid unit, or ambulance dispatched to and returning from an emergency or non-emergency call while in service. Up to one additional vehicle may accompany a qualifying emergency medical vehicle or authorized med-evac when going to but not when returning from an emergency.

b) A public police or fire vehicle only when responding to an emergency call but not when returning from either an emergency or a non-emergency call. However, these vehicles will receive priority loading when they are returning from either an emergency or non-emergency call to Vashon and the San Juan Islands.

c) A public utility or public utility support vehicle only when responding to an emergency call but not when returning from either an emergency or a non-emergency call.

~~b) Vehicles transporting persons with severe illnesses or severe disabilities such that the delay in loading which would otherwise cause health risks to those persons;~~

d) Where a vehicle occupant states that an extended wait would cause detrimental health risks to a vehicle occupant, that vehicle will be allowed preferential loading whenever the afflicted occupant has provided a medical form certified by a physician that such preferential loading is required.

However, when that vehicle occupant has not submitted the proper medical form, preferential loading will be permissible based upon appropriate terminal staff determination.

~~e) Public or pupil transportation vehicles owned or operated by public or private transportation operators providing transit or charter service under a certificate of public convenience and necessity issued by the utilities and transportation commission of the state of Washington or owned and operated by a local school district or private school system;~~

~~e) A visibly marked school vehicle owned, operated, or sponsored by a school when operating on regular schedules pre-approved by the WSF or when advance notice is provided to each affected WSF terminal. (as defined by RCW 28A 150.010 [K-12], RCW 28A 150.020 [public schools], RCW 28A 195.010 [K-12 private schools], and RCW 28B 195.070 [secondary schools]).~~

~~f) A visibly marked, pre-approved or regularly scheduled publicly or privately owned public transportation vehicle operating under a Washington State Utilities and Transportation Commission Certificate for Public Convenience and Necessity (as defined by RCW 81.68.010 [regular route/fixed termin], RCW 81.70.010 [charter and excursion]).~~

~~g) A visibly marked non-profit or publicly supported transportation vehicle having provided each affected WSF terminal with advance notice and displaying a WSF permit making it readily identifiable as a public transportation vehicle. (as defined in RCW 81.66 [private non-profit special needs].)~~

~~h) A visibly marked and randomly scheduled private for profit transportation vehicle\*\* operating under a Washington State Utilities and Transportation Commission Certificate for Public Convenience and Necessity traveling on routes where WSF is the only major access for land-based traffic only when that private for profit transportation vehicle has provided each affected WSF terminal with a pre-approved schedule and/or advanced notice of it's proposed sailing(s). (\*\*as defined by RCW 81.68 [regular route/fixed termin], RCW 81.70 [charter and excursion], RCW 81.66 [private non-profit special needs], RCW 46.72.)~~

~~d) Commuter vanpools which are certified in the manner set forth in WAC 568-300-020;~~

~~e) Commuter car pools which shall consist of a minimum number of persons as determined by ferry system management; and such minimum number shall in no case be less than three; and a formal registration system may be required by ferry system management;~~

~~i) A ridesharing vehicle transporting a minimum of three elderly and/or disabled riders or two elderly and/or disabled riders and an attendant displaying a WSF Rideshare Registration Program permit only when the operator of that vehicle has provided each affected WSF terminal with advanced notice of its proposed sailing(s) (as defined by RCW 46.74.010.2 [ride sharing for persons with special transportation needs]).~~

~~j) A visibly marked, public rideshare vehicle owned by a transit agency and leased out to members of the public through the transit agency's registration program only when the operator of that vehicle has provided each affected WSF terminal with advanced notice of its proposed sailing(s) (as defined by RCW 46.74.010.1 [commuter ride sharing]).~~

~~k) A privately owned commuter rideshare vehicle that visibly displays WSF approved identification markings readily identifiable by the public. There must be a minimum~~

of three occupants in any such vehicle to receive preferential loading. Any such rideshare vehicle must be registered and in good standing in the WSF Rideshare Registration Program (as defined by RCW 46.74.010.1 [commuter ride sharing]).

~~f) l) Specific to the Anacortes-San Juan Islands routes, a vehicle carrying livestock where such livestock (i) is raised for commercial purposes and is Recognized by the Department of Agriculture, County Agriculture Soil and Conservation Service, as raised on a farm; or (ii) is traveling to participate in a 4H event sanctioned by a county extension agent.~~

~~m) Specific to the Seattle-Bainbridge ferry route, where a vehicle occupant claims that an extended wait would cause detrimental health risks to their livestock en-route to veterinarian services not available in the local community, that vehicle will be allowed preferential loading whenever the vehicle occupant has provided a medical form certified by a veterinarian that such preferential loading is required.~~

~~g) Commercial vehicles traveling on routes where Washington state ferries is the only major access for land-based traffic, provided that the vehicles are carrying wholesale perishable article(s) of commerce to be bought or sold in commercial activity or to be used in the production of other such articles;~~

~~n) Specific to the Anacortes-San Juan Islands Routes, a vehicle 20 ft. and over in length and 10,000 lbs. or greater in weight provided that the vehicle is carrying articles(s) of commerce for purchase or sale in commercial activity.~~

~~h) o) An oversized or overweight vehicle (20 ft. and over in length, and/or over 8 1/2 ft. in width, and 80,000 lbs. or greater in weight) requiring transport at special times due to tidal conditions, vessel assignments, or availability of space.~~

~~p) A scheduled bicycle group as determined by WSF only when a representative of that group has provided WSF with advanced notice of the proposed travel schedule.~~

~~i) Specific to the Mukilteo-Clinton ferry route, vehicles engaged in the delivery of U.S. mail. Vehicles must have documentation from the U.S. Postal Service showing they are in the actual process of delivering mail.~~

~~q) Specific to the Fauntleroy-Vashon, Seattle-Bainbridge, Mukilteo-Clinton, and Anacortes-San Juan ferry routes, any mail delivery vehicle with proper documentation from the U.S. Postal Service showing that such vehicle is in the actual process of delivering mail.~~

~~r) Preferential loading may be granted for vehicles carrying passengers needing to attend to a family member subject to risk of physical threat/harm or medical emergencies which requires the customer's timely access to the vessel's destination.~~

(2) Preferential loading privileges shall be subject to the following conditions:

a) Privileges shall be granted only where physical facilities are deemed by ~~ferry system~~ WSF management to be adequate to allow granting the privilege and achieving an efficient operation.

b) Subject to specified exceptions, documentation outlining qualifications for preferential loading and details of travel will be required in advance from all agencies, companies, or individuals requesting such privileges.

c) Privileges may be limited to specified time periods as determined by ~~ferry system~~ WSF management.

- d) Privileges may require a minimum frequency of travel, as determined by ~~ferry system~~ WSF management.
- e) Privileges may be limited to a specific number of vehicle deck spaces and passenger capacity for any one sailing. ~~and~~
- f) Privileges may require arriving at the ferry terminal a specified time prior to the scheduled sailing.

(3) To obtain more information about the documentation required and conditions imposed under subsection (2) of this section, call WSF's general information number, (206) 464-6400, or a terminal on a route for which the preferential boarding right is requested.

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

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

**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 98-20-093**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed October 7, 1998, 10:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-02-079.

Title of Rule: Chapter 296-125 WAC, Nonagricultural employment of minors.

Purpose: The Department of Labor and Industries is proposing new sections to chapter 296-125 WAC, Nonagricultural employment of minors, which benefit both employers and employees by providing increased flexibility in the hiring and scheduling of minors. No new requirements are being proposed. Significant new sections to the rule include the following:

- Minor work permit duplication will no longer be required. The minor work permit endorsement on an employer's master business license would replace the minor work permit and act as an employer's legal permit to hire minors.
- Proposed requirements for meal and rest breaks are simplified for sixteen and seventeen year old minors and are the same as existing rules for adults. This will make it easier for an employer to assign work shifts since the rules for adults and these minors would be standardized.
- No change is proposed for the requirements covering meal and rest breaks for fourteen and fifteen year olds
- The special variance process and requirements are simplified and streamlined.

- Special variances would be valid for a longer period of time (one school year) without renewal or submission of documentation.
- Schools would continue to be responsible for monitoring variance agreements, but would no longer be required to provide detailed student information at the end of each grading period.
- The parent/school authorization form is streamlined which makes it easier to fill out.
- What constitutes "good cause" (in applying for a variance) is clarified.
- Employers involved in school-to-work programs are not required to obtain minor work endorsements since students participating in these programs are not considered employees and are exempt from the minor work rules.
- The proposed rules have been reorganized and rewritten in a clear understandable style, which make the standard easier to use and understand.

Repealed section WAC 296-125-020 Minor work permits.

Proposed new sections:

- Eliminate duplication of the requirement for minor work permits.
- Allow the minor work permit endorsement on the employer's master business license to act as an employer's legal permit to hire minors.
- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0200, 296-125-0210, 296-125-0211, 296-125-0212, 296-125-0220, 296-125-0221, 296-125-0222, 296-125-0223, 296-125-0224, 296-125-0230, and 296-125-0231.
- Repeal this section.

Repealed section WAC 296-125-026 Parent/school authorization forms. Proposed new sections:

- Streamline the parent/school authorization form, which makes it easier to fill out.
- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0260, 296-125-0261, 296-125-0262, 296-125-0263, 296-125-0264, 296-125-0265, 296-125-0266, 296-125-0267, and 296-125-0268.
- Repeal this section.

Repealed section WAC 296-125-028 Meal and rest breaks for minors. Proposed new sections:

- Standardize meal and rest breaks between sixteen and seventeen year olds and adults.
- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0285 and 296-125-0287.
- Repeal this section.

Repealed section WAC 296-125-050 Posting, recordkeeping, and authority to enter, inspect, and investigate;

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- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0275 and 296-125-0280.
- Repeal this section.

Repealed section WAC 296-125-060 Variances. Proposed new sections:

- Clarify the phrase "good cause."
- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0600, 296-125-0610, 296-125-0611, 296-125-0620, 296-125-0630, 296-125-0640, 296-125-0650, 296-125-0651, 296-125-0660, and 296-125-0670.
- Repeal this section.

Repealed section WAC 296-125-070 Special variances. Proposed new sections:

- Allow a longer period of time (one school year) for special variances without renewal or submission of documentation.
- Delete the requirement for schools to provide detailed student information at the end of each grading period.
- Move existing information and requirements, which have been reorganized and clear rule written, from this section to the following new proposed sections: WAC 296-125-0700, 296-125-0710, 296-125-0720, 296-125-0721, 296-125-0722, 296-125-0723, 296-125-0725, 296-125-0730, 296-125-0740, 296-125-0741, 296-125-0750, 296-125-0760, 296-125-0770, 296-125-0771, and 296-125-0772.
- Repeal this section.

Statutory Authority for Adoption: RCW 49.12.121.

Statute Being Implemented: Chapter 49.12 RCW, the Industrial Welfare Act.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Greg Mowat, Tumwater, (360) 902-5317; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Since the proposed rule would place no economic impact on business, the department is not required to prepare a small business economic impact statement.

RCW 34.05.328 applies to this rule adoption. Because the proposed amendments modify current processes, the department has determined the rule to be "significant" as defined by the legislature.

Hearing Location: On November 10, 1998, at 1:00 p.m., at the Cavanaugh's at Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901.

On November 12, 1998, at 1:00 p.m., at the Spokane Service Location, 901 North Monroe, Suite 100, Spokane, WA 99201.

On November 16, 1998, at 1:00 p.m., at the Department of Labor and Industries, Auditorium, 7273 Linderson Way, Tumwater, WA 98504.

On November 18, 1998, at 9:00 a.m., at the Seattle Center, Rainier Room, 305 Harrison Street, Seattle, WA 98109.

On November 20, 1998, at 1:00 p.m., at the Skagit Valley Community College, 2405 East College Way, Mt. Vernon, WA 98273-5899.

Assistance for Persons with Disabilities: Contact Tami Lininger by October 26, 1998, at (360) 902-5039.

Submit Written Comments to: Greg Mowat, Program Manager, Department of Labor and Industries, Employment Standards, P.O. Box 44510, Olympia, WA 98504-4510, by 5:00 p.m. on November 27, 1998. In addition to written comments, the department will accept comments submitted to fax (360) 902-5300.

Date of Intended Adoption: December 31, 1998.

October 7, 1998

Gary Moore

Director

## MASTER BUSINESS LICENSE/MINOR WORK PERMIT ENDORSEMENT

### NEW SECTION

**WAC 296-125-0200 If I plan to employ minors in my business, what general requirements do I have to satisfy?**

(1) You must obtain, keep current and post valid minor work permit endorsements issued by the department.

(2) If employing minors for house-to-house sales, you must satisfy the special requirements for that activity.

(3) You must obtain and keep on file a completed parent/school authorization form for each minor you employ.

(4) You must keep on file any variances issued to you according to variance and/or special variance sections of this chapter.

(5) If you sponsor bona fide school to work permit programs, you are not required to obtain minor work permit endorsements for those programs.

### NEW SECTION

**WAC 296-125-0210 Do I need minor work permit endorsements for my business? If you plan to employ one or more minors, you must obtain, keep current and post valid minor work permit endorsements before you:**

(1) Employ minors; or

(2) Allow minors to work at your workplace; or

(3) Allow minors to work under work conditions controlled by you.

NEW SECTION

**WAC 296-125-0211 What if I employ minors at several different workplaces?** (1) You must obtain, keep current and post separate minor work permit endorsements for each workplace at which you employ minors.

(2) In those situations where you place minors in a workplace controlled by another employer, you and the other employer must obtain, keep current and post minor work permit endorsements at that workplace.

(3) When you employ minor workers in multiple workplaces, you must obtain, keep current and post minor work permit endorsements at each workplace.

(4) Unless modified or revoked, a single endorsement will allow you to employ any number of minor workers at the workplace specified on the endorsement.

(2) Violated the requirements of this chapter; or

(3) Any other condition that the department believes is or could be detrimental to the health, safety, or welfare of your minor employees.

NEW SECTION

**WAC 296-125-0223 How long must my minor work permit endorsements stay in force?** Unless revoked, suspended or modified by the department, your minor work permit endorsements must remain in full force and effect as long as:

(1) You employ minors; or

(2) Have minors working at your workplace; or

(3) Have minors working under work conditions controlled by you.

NEW SECTION

**WAC 296-125-0212 Are there special requirements if I plan to employ minors for house-to-house sales?** In addition to obtaining, keeping current and posting a minor work permit endorsement at your primary place of business in Washington state, you must comply with the following specific requirements:

(1) From the department, obtain and keep current a valid house-to-house sales registration certificate. (See WAC 296-125-024(2).)

(2) If you plan to transport minors out of the state of Washington for house-to-house sales, you must obtain and keep on file an expressed written authorization from each minor's parent or legal guardian allowing you to do so.

(3) Obtain from the department and issue to each minor employee a valid identification card with photograph. (See WAC 296-125-024(5).)

NEW SECTION

**WAC 296-125-0224 Do I need to post my minor work permit endorsements?** (1) At least one copy of your minor work permit endorsements and a current copy of the poster required by WAC 296-126-080 must be posted in plain view of all employees at each workplace specified in each endorsement.

(2) If you employ minors in house-to-house sales, your minor work permit endorsement, a current copy of the poster required by WAC 296-126-080 and your house-to-house sales registration certificate (see WAC 296-125-024) must be posted. These must be posted at your primary place of business in Washington state and in plain view of all employees there.

NEW SECTION

**WAC 296-125-0230 Can the department of labor and industries refuse to issue or renew, revoke, suspend or modify my minor work permit endorsements?** The department may refuse to issue or renew, revoke, suspend, or modify your minor work permit endorsements if it finds:

(1) A condition related to their issuance has not been satisfied; or

(2) You have violated any requirements of this chapter; or

(3) An existing condition that is or could be detrimental to the health, safety, or welfare of a minor. In this case, the department may issue an order of immediate restraint revoking, suspending or modifying your endorsements. If you appeal the department's action, the order of immediate restraint will remain in force until your appeal is resolved.

NEW SECTION

**WAC 296-125-0220 Can I place working condition restrictions on my minor work permit endorsements?** Your work permit endorsements may include restrictions on a minor's working conditions as long as those restrictions are consistent with the requirements of this chapter.

NEW SECTION

**WAC 296-125-0221 Do my minor work permit endorsements expire?** Your minor work permit endorsements will expire one year from the date of issue.

NEW SECTION

**WAC 296-125-0222 Can I renew my minor work permit endorsements?** You may renew your minor work permit endorsements. However, filing an application for renewal does not automatically result in an extension of your endorsement. The department may refuse to renew your endorsement if you have:

(1) Failed to satisfy a condition related to the initial issuance of the endorsement; or

NEW SECTION

**WAC 296-125-0231 Can I appeal the department's refusal to issue or renew, or to revoke, suspend or modify my minor work permit endorsements?** You have the right to appeal such actions by the department. However, your appeal must be filed with the department in writing within thirty days of the department's action according to the procedures established by RCW 49.12.161 and 49.12.400. Your

appeal *will not* set aside an order of immediate restraint issued by the department according to RCW 49.12.390.

## PARENT/SCHOOL AUTHORIZATION FORMS

### NEW SECTION

**WAC 296-125-0260** If I employ minors, do I need a parent/school authorization form? (1) Before allowing your minor employees to begin work, you must obtain and keep on file, at your employee's workplace, a fully completed parent/school authorization form. As the employer, it is your responsibility to ensure that the parent/school authorization form is complete.

(2) In addition, if you intend to transport minor employees out of the state of Washington for house-to-house sales, you must obtain and keep on file an expressed written authorization from each minor's parent or legal guardian allowing you to do so. These written authorizations must be filed at your primary place of business within the state of Washington.

### NEW SECTION

**WAC 296-125-0261** Where can I obtain a parent/school authorization form? Parent/school authorization forms are issued by the department of labor and industries and can be obtained by contacting:

Department of Labor & Industries  
Employment Standards Section  
PO Box 44510  
Olympia WA 98504-4510

### NEW SECTION

**WAC 296-125-0262** Do parent/school authorization forms expire? All parent/school authorization forms expire each year on the thirtieth day of September. *Therefore, each year, prior to September 30, you must:*

- (1) Obtain a new form for each of your minor employees; and
- (2) Make sure it is properly completed; and
- (3) File it where the employee works.

### NEW SECTION

**WAC 296-125-0263** What information must a minor provide on the parent/school authorization form? A minor employee must provide the following information:

- (1) Their name.
- (2) Their address.
- (3) Their date of birth\*.
- (4) Whether they are employed at any other job(s) and the total number of hours worked at that job(s).
- (5) Their signature.

\*Note: The date of birth must be supported by proof. Acceptable forms of proof are:

- A birth certificate and a social security card; or
- A driver's license; or
- A baptismal record and a Social Security card; or
- A notarized statement of a parent or guardian.

### NEW SECTION

**WAC 296-125-0264** What information must an employer provide on the parent/school authorization form? As the employer, you must provide the following information:

- (1) The location of the minor employee's workplace(s).
- (2) A description of the minor employee's duties.
- (3) The earliest and latest hours the minor employee would be working.
- (4) The total number of hours the employee would work per week.
- (5) Your minor work permit endorsement number and expiration date.
- (6) Your unified business identifier number.
- (7) A description of the minor employee's specific meal and rest breaks.
- (8) Your signature or the signature of your authorized agent.
- (9) In addition, you must state, in writing, if a minor employee will be employed for house-to-house sales and transported out of the state for that purpose.

### NEW SECTION

**WAC 296-125-0265** What information must a parent or legal guardian provide on the parent/school authorization form? A parent or legal guardian of a minor employee must:

- (1) Indicate that they authorize (or do not authorize) the minor to work according to the terms listed by the employer.
- (2) Sign the form.
- (3) In addition, if the minor will be employed as a house-to-house sales person and transported out of the state, the parent or legal guardian must, in writing, authorize the use of the minor for that purpose.

### NEW SECTION

**WAC 296-125-0266** What information must a school provide on the parent/school authorization form? (1) If a minor employee will be working during the school year, an authorized school official from the employee's school must:

- (a) Indicate that the school authorizes (or does not authorize) the minor working according to the terms listed by the employer; and
- (b) Sign the form as the school's authorized agent.
- (2) Furthermore, if a minor begins work during a school vacation and wishes to continue working after school resumes, the employer must obtain school approval before the employee can continue. School approval must be based upon:
  - (a) Maintaining an acceptable level of scholastic achievement; and
  - (b) Maintaining good school attendance; and
  - (c) Making satisfactory progress toward graduation.

NEW SECTION

**WAC 296-125-0267 What if a minor employee is no longer attending school?** (1) A parent or guardian must certify a minor's nonenrolled status if the minor is:

- (a) Unmarried and living with a parent or legal guardian; and
- (b) No longer enrolled in school; and
- (c) Has not obtained a certificate of educational competence according to RCW 28A.305.190 or is not enrolled in a bona fide college program.

(2) If a minor is named on a valid marriage certificate or is living independently of a parent or legal guardian, the minor must:

- (a) Certify that they are either married or living independently of a parent or guardian; and
- (b) Certify their nonenrolled status; and
- (c) Provide the name and location of the last school attended; and
- (d) Provide the name and address or telephone number of an adult emergency contact. This person cannot be the minor's employer and they must certify that the minor is living independently of a parent or legal guardian.

NEW SECTION

**WAC 296-125-0268 Can a parent, legal guardian or school revoke the work authorization they gave on the parent/school authorization form?** A parent, legal guardian, or school may revoke their authorization at any time by simply notifying the department and the other parties to the authorization.

**RECORDKEEPING**NEW SECTION

**WAC 296-125-0275 When I employ minors, what recordkeeping requirements must I satisfy?** (1) You must create and maintain a file for each minor employee.

- (2) The file must be maintained for three years from the last date of the minor's employment.
- (3) The file must contain the following:
  - (a) A copy of the completed parent/school authorization form with any attachments; and
  - (b) Copies of any variances you obtained according to the requirements of this chapter.

NEW SECTION

**WAC 296-125-0280 What authority does the department have to enter my place of business, inspect my minor employee records, investigate my business activities, and interview my employees?** To enforce the requirements of this chapter, the director or the director's authorized representatives can, without delay:

- (1) Enter any workplace where work is or has been performed by a minor, or where employment records are, or are required to be maintained; and

- (2) Inspect, transcribe, and copy all pertinent records; and
- (3) Inspect and investigate any workplace and all pertinent conditions, structures, machines, apparatus, devices, equipment, supplies, and materials located there; and
- (4) Question privately any employer, owner, operator, agent, or employee.

**MEAL AND REST BREAKS FOR MINORS**NEW SECTION

**WAC 296-125-0285 What regulations apply to meal and rest breaks for your fourteen and fifteen year old employees?** (1) Since the purpose of meal periods and rest breaks is to provide rest from work, they must not be scheduled near the beginning of the work shift.

(2) The following specific regulations apply to your minor employees who are *fourteen and fifteen* years old:

(a) They must not work more than four hours without being given a meal period. This meal period must be at least thirty minutes in length and be separate and distinct from, and in addition to, the rest breaks mandated by this subsection.

(b) They must be given, on your business's time, a rest break of at least ten minutes for every two hours worked.

(c) When they work four-hour periods, they cannot be required to work more than two hours without being given either a ten-minute rest break or a thirty-minute meal period.

NEW SECTION

**WAC 296-125-0287 What regulations apply to meal and rest breaks for your sixteen and seventeen year old employees?** (1) The following regulations apply to *meal periods* for your minor employees who are *sixteen and seventeen* years old:

(a) They must be allowed meal periods of at least thirty minutes in length.

(b) Their meal periods must start no less than two hours but no more than five hours from the beginning of their work shift.

(c) Their meal periods must be on your business's time whenever you require them to remain on duty either on the premises or at a prescribed work site on your behalf.

(d) They must not be required to work more than five consecutive hours without a meal period.

(2) The following regulations apply to *rest periods* for your minor employees who are *sixteen and seventeen* years old:

(a) They must be allowed a rest period of not less than ten minutes, on your time, for each four hours worked.

(b) Their rest periods must be scheduled as near as possible to the midpoint of the work period.

(c) They must receive a rest period at least every three hours.

## VARIANCES

### NEW SECTION

**WAC 296-125-0600 What is a variance?** A variance is an exception to the rules of this chapter granted for good cause by the director of labor and industries or the director's designee.

### NEW SECTION

**WAC 296-125-0610 How do I obtain a variance?** You must submit a written application to the director requesting the variance(s). In your application you must specify the reasons why your request should be granted. If necessary, the director may request or receive additional information from you or other interested parties.

### NEW SECTION

**WAC 296-125-0611 What does "good cause" mean?** At a minimum, "good cause" refers to those situations and circumstances that support your request for a variance. You must be able to demonstrate that the variance will not be harmful to the health, safety, and welfare (including school attendance and performance) of the minor employee(s) affected. "Good cause" may also include the financial need of the minor's family or an exceptional or special talent manifested by the minor.

### NEW SECTION

**WAC 296-125-0620 Are there special requirements that I must satisfy if I request a variance for minor employees engaged in house-to-house sales?** If you are requesting a variance to employ minors under the age of sixteen in house-to-house sales, you must demonstrate good cause for the variance and file a signed sworn statement ensuring that the following minimum requirements will be in force at all times:

- (1) All house-to-house sales will be conducted only during daylight hours; and
- (2) A responsible adult, who is at least twenty-one years of age, will accompany the minor employee at all times; and
- (3) No house-to-house sales visits will be conducted in inclement weather; and
- (4) The minor employee will only be employed for a specific time period that cannot exceed six weeks.

### NEW SECTION

**WAC 296-125-0630 Do I have any responsibilities to my employees if I apply for a variance?** (1) Your employees have the right to submit, in writing to the director, their views on your variance request. Therefore, you must give notice:

- (a) To the employees affected by the variance you have requested;
- (b) At the affected employees workplace; and

(c) Within three calendar days of the submission of your request to the director.

(2) If a collective bargaining agreement exists between you and your employees, you must give notice to the employees' bargaining representative.

### NEW SECTION

**WAC 296-125-0640 What criteria will be used to evaluate my variance request?** (1) The director or the director's designee may grant your variance request if you:

- (a) Possess a valid minor work permit endorsement; and
- (b) Demonstrate good cause; or
- (c) For residential schools, apprenticeship programs registered with the Washington state apprenticeship and training council, vocational education, diversified career education, work experience, and cooperative education programs accepted and certified by the office of superintendent of public instruction or the local school district.

(2) Variances from federal regulations will not be issued except where you can show exemption from federal statutes and regulations governing minor work.

### NEW SECTION

**WAC 296-125-0650 Do my variances expire?** Each of your variances will expire upon the expiration of the minor work permit endorsement that was in effect at the time the variance was issued unless the variance was issued with an earlier expiration date.

### NEW SECTION

**WAC 296-125-0651 Can my variances be renewed?** When you renew your minor work permit endorsements, you must also apply for new variances that are related to those endorsements.

### NEW SECTION

**WAC 296-125-0660 Can the department of labor and industries revoke, suspend, or modify my variances?** The department may revoke, suspend, or modify your variances if it finds:

- (1) A condition related to its issuance has not been satisfied; or
- (2) You have violated any requirement of this chapter; or
- (3) An existing condition that is or could be detrimental to the health, safety, or welfare of a minor including an adverse impact upon their school attendance or performance.

### NEW SECTION

**WAC 296-125-0670 Can I appeal the department's action to revoke, suspend or modify my variances?** You have the right to appeal a department action to revoke, suspend or modify your variances. However, your appeal must be filed with the department in writing within thirty days of the department's action according to the procedures established by RCW 49.12.161 and 49.12.400. Your appeal *will*

PROPOSED

*not* set aside an order of immediate restraint issued by the department according to RCW 49.12.390.

### SPECIAL VARIANCES

#### NEW SECTION

**WAC 296-125-0700 What is a special variance?** (1) A special variance is an exception to specific rules of this chapter.

(2) The department's director or the director's designee may grant special variances after a showing of good cause.

(3) Special variances are used to facilitate flexibility in a minor's school and work requirements. They may be granted *only* for exceptions to the rules governing:

(a) The maximum hours of work per week during a week when school is in session, up to a maximum of twenty-eight hours per week; and

(b) The maximum hours of work per day during a week when school is in session, up to a maximum of six hours per day.

(4) Special variances will not be granted for sixteen- and seventeen-year-old minors working in house-to-house sales.

#### NEW SECTION

**WAC 296-125-0710 What criteria will be followed in evaluating my special variance request?** The director or the director's designee may grant your special variance request if you:

(1) Possess a valid minor work permit endorsement; and

(2) Demonstrate good cause; and

(3) Request the variance for a minor employee whose school district or individual private school has department approval to participate in the special variance process discussed in WAC 296-125-0720.

#### NEW SECTION

**WAC 296-125-0720 How can a school district or individual private school qualify for participation in the special variance process?** Each school district or individual private school seeking to participate in the special variance process must:

(1) Complete an enrollment form provided by the department; and

(2) Be approved by the department; and

(3) Agree to maintain a mandatory recordkeeping system specified by the department; and

(4) Use the uniform criteria described in WAC 296-125-0750 to evaluate variance requests.

#### NEW SECTION

**WAC 296-125-0721 Where can a school district or individual private school obtain a copy of the special variance process enrollment form?** The form can be obtained from:

Department of Labor & Industries  
Employment Standards Section

PO Box 44510  
Olympia WA 98504-4510

#### NEW SECTION

**WAC 296-125-0722 In addition to completing the enrollment form, what other requirements must be satisfied before a school district or private school can participate in the special variance program?** At a minimum, a school district or private school must agree to all of the following:

(1) Maintain the recordkeeping system required by the department.

(2) Designate a school official at each school who is authorized to evaluate and approve/disapprove variance requests.

(3) Use the uniform criteria discussed in WAC 296-125-0750 to evaluate variance requests.

(4) Submit to mandatory periodic reviews and re-approval of all special variances in effect. (See WAC 296-125-0730.)

(5) Within thirty days of the school's action, forward a copy of each variance approved or denied to the department.

(6) Give department agents immediate access to all variance files during normal school office hours.

(7) Be responsible for ensuring that the employer completes all appropriate sections of the special variance request form.

#### NEW SECTION

**WAC 296-125-0723 What information must an employer provide a minor employee, their parent or legal guardian and school officials?** (1) The department must give each employer a special variance form to complete.

(2) After completion, the employer must give the information on the form to the minor, their parent or legal guardian and their authorized school official.

(3) At a minimum, an employer must provide the following information:

(a) The minor employee's work-related duties; and

(b) The maximum hours to be worked each week; and

(c) The length of the employee's work shifts; and

(d) The latest afternoon or evening hour that employee will work; and

(e) The number of days each week that the employee will be required to work the latest afternoon or evening hour; and

(f) The employer's unified business identifier (UBI) number; and

(g) The expiration dates of the employer's minor work permit endorsements; and

(h) Agree to maintain all special variance records according to the terms of WAC 296-125-0500.

#### NEW SECTION

**WAC 296-125-0725 What additional requirements affect an employer's participation in the special variance program?** (1) When school is in session, minor employees must not work in excess of the maximum hours per week or

per day illustrated in subsection (3) of this section unless their employer has a current, fully completed and executed special variance on file at the employee's workplace.

(2) Except when a minor employee returns to the hours of work limitations illustrated in the table below, a new special variance request must be completed if any change occurs in the work conditions described in WAC 296-125-0724.

**Hours of work--Nonagriculture**

	14- and 15-year-olds		16- and 17-year-olds	
	School	Nonschool	School	Nonschool
<b>Hours a day</b>	3* (weekdays) 8 (Fri.-Sun.)	8	4** (weekdays) 8 (Fri.-Sun.)	8
<b>Hours a week</b>	16	40	20/28***	48
<b>Days a week</b>	6 days	6 days	6 days	6 days
<b>Start</b>	7 a.m.	7 a.m.	7 a.m.	5 a.m.
<b>Quit</b>	7 p.m. (weekdays)	9 p.m.	10 p.m. (Sun.-Thurs.) Midnight (Fri. & Sat.)	Midnight

- \* 14- and 15-year-olds can work up to 3 hours on a school day preceding a school day. All other days, 8 hours per day.
- \*\* 16- and 17-year-olds can work up to 4 hours on a school day preceding a school day. All other days, 8 hours per day.
- \*\*\* Up to 28 hours available through special variances.

(2) When the department receives an incomplete special variance request form, it must give written notification to the school district or private school that its enrollment in the special variance program is being revoked.

NEW SECTION

**WAC 296-125-0730 What other information about special variance requests is important?** (1) To be valid, a special variance request form must be completed and signed by the employer, the minor, the minor's authorized school official and the minor's parent or legal guardian.

(2) The special variance, unless revoked, suspended or modified, shall remain in force for the duration of the school year for which it was granted. While the special variance is in force, it is the school district's responsibility to monitor it to insure that the conditions under which it was granted are being met.

(3) All minors must complete their section of the variance form *after* the employer section has been completed but *before* the form is submitted to the school, parent, or legal guardian.

(4) All minors must explain why they are requesting a special variance.

(5) The minor's parent or guardian must sign the request form. By their signature, they approve or deny the request and attest that they have reviewed the reasons supporting it.

NEW SECTION

**WAC 296-125-0740 What are the consequences of submitting an incomplete special variance request form?**

(1) An incomplete special variance request form submitted to the department is:

- (a) Invalid; and
- (b) A violation of this chapter; and
- (c) Cause for a school district, an individual private school or an employer to be dropped from the special variance program.

NEW SECTION

**WAC 296-125-0741 Can a school district or private school appeal the department's decision to revoke their participation in the special variance program?** A school district or private school may appeal a notice of revocation; however, the appeal must be filed with the department in writing within thirty days of its receipt. The written appeal must be sent to the department according to the procedures established by RCW 49.12.161 and 49.12.400. Filing an appeal does not set aside a notice of revocation.

NEW SECTION

**WAC 296-125-0750 What are the criteria used by a school to evaluate special variance requests?** In evaluating requests for special variances, a school must at least consider the following factors:

- (1) Does the employer hold a current valid minor work permit endorsement?
- (2) What is the student's attendance pattern?
- (3) Is the student making satisfactory academic progress?
- (4) Will the student still have opportunities to participate in extracurricular activities?
- (5) How many school nights will the student work?
- (6) How late in the evening will the student work?
- (7) How long a shift will the student work?
- (8) How sound is the student's rationale for requesting a variance from the work hour restrictions illustrated in the table in WAC 296-125-0725(3)?

PROPOSED

NEW SECTION

**WAC 296-125-0760 Do special variances expire?** (1) Since special variances will only be issued to employers holding valid minor work permit endorsements, each special variance expires on the expiration date of the endorsement that was in effect at the time the special variance was issued.

(2) Upon the renewal of a minor work permit endorsement, an employer must complete a new special variance request form.

NEW SECTION

**WAC 296-125-0770 Can the department of labor and industries revoke, suspend, or modify a special variance?**

(1) The department may revoke, suspend, or modify a special variance if it finds:

(a) A condition related to its issuance has not been satisfied; or

(b) A violation of any requirement of this chapter; or

(c) An existing condition that is or could be detrimental to the health, safety, or welfare of a minor.

(2) If an employer violates the hour standards in WAC 296-125-027 or the hours specified in any special variance, they will forfeit their participation in the special variance process for one year from the finding of the violation by the department.

NEW SECTION

**WAC 296-125-0771 Can the parties to a special variance revoke it?** A parent, legal guardian, or school may revoke a special variance at any time by simply giving written notification to the department and the other parties to the variance.

NEW SECTION

**WAC 296-125-0772 Can the department's action to refuse to issue or renew, revoke, suspend or modify a special variance be appealed?** The department's refusal to issue or renew participation in the special variance process can be appealed, as well as, its decision to revoke or suspend participation. However, the appeal must be filed with the department in writing within thirty days of the department's action according to the procedures established by RCW 49.12.161 and 49.12.400. The appeal *will not* set aside an order of immediate restraint issued by the department according to RCW 49.12.390.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-125-020 Minor work permits.

WAC 296-125-026 Parent/school authorization forms.

WAC 296-125-028 Meal and rest breaks for minors.

WAC 296-125-050 Posting, recordkeeping, and authority to enter, inspect, and investigate.

WAC 296-125-060 Variances.

WAC 296-125-070 Special variances.

**WSR 98-20-094****PROPOSED RULES****NOXIOUS WEED CONTROL BOARD**

[Filed October 7, 1998, 10:24 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-12-069.

Title of Rule: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Purpose: The state Noxious Weed Control Board proposes amending the state noxious weed list to add species determined to be noxious, to change areas designated for control of some noxious weeds and to delete certain noxious weeds from the list. The board also proposes changing its mission statement.

Statutory Authority for Adoption: Chapter 17.10 RCW. Statute Being Implemented: Chapter 17.10 RCW.

Summary: Proposed changes to the state noxious weed list include the addition of two new Class A noxious weeds, one new Class B noxious weed and one new Class C noxious weed; the deletion of six species; and classification and designation area changes for fifteen species. The state weed board mission statement would also be edited.

Reasons Supporting Proposal: New nonnative species were found to be highly destructive, competitive or difficult to control. Distribution data indicated some listed species should be reclassified or deleted.

Name of Agency Personnel Responsible for Drafting: Lisa E. Lantz, Kent, Washington, (253) 872-2972; Implementation: Ray Fann, Kent, Washington, (253) 872-2972; and Enforcement: Mary A. Martin Toohey, Olympia, Washington (360) 902-1907.

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The state noxious weed list provides the basis for noxious weed control efforts by county noxious weed control boards, weed districts, the state weed board and the Washington State Department of Agriculture, under the auspices of chapter 17.10 RCW. The effect of the state noxious weed list is to prioritize control of noxious weed species statewide, concentrating on prevention and early detection, while still allowing for local program flexibility.

Proposal Changes the Following Existing Rules: The proposal adds two new Class A weeds, one new Class B weed, and one new Class C weed. It also deletes six species

and changes the classification or designation area for fifteen listed species. The proposal would also revise the State Noxious Weed Control Board's mission statement.

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

#### Small Business Economic Impact Statement

**Background:** The Washington State Noxious Weed Control Board (WSNWCBC) is charged with annually reviewing and updating the state noxious weed list, found in chapter 16-750 WAC, to ensure it accurately reflects and prioritizes the noxious weeds threatening Washington.

The WSNWCBC issued a call for suggestions and recommendations on the content of the state noxious weed list in December of 1997 to all county noxious weed control boards and an extensive mailing list of agricultural and environmental organizations, state and federal agencies, county governments, and other parties who have asked to be notified of such opportunities. This comment period was open until the end of April 1998. An additional reminder notice was sent during the comment period. A handout was also provided, which included tips for making a successful recommendation.

The WSNWCBC Noxious Weed Committee, which is composed of scientific advisors, county representatives, WSNWCBC representatives, and a public interest representative, first met in May of 1998 to review the suggestions received to date. Committee meetings are open to the public and suggestions can be presented in person or in writing. The committee then used the next few months to gather additional information needed to evaluate suggestions. This process includes field investigations, literature searches, interviews with scientists and weed specialists in other areas of the country or world, and additional interviews with persons making recommendations.

The committee held another public meeting in July 1998 to finish evaluation of suggestions and to review additional suggestions that had been submitted outside of the formal comment period. The committee then developed a draft set of recommendations for changes to the state noxious weed list. The preproposal statement was filed in June and the draft amendments were sent out for comment in August of 1998.

The Noxious Weed Committee met a third time in September to consider public input and to finalize its recommendations to the WSNWCBC. After discussion and review of the committee's recommendations, the WSNWCBC adopted the recommended changes to the state weed list as their formal proposal in September 1998.

**Summary of Amendments:** The following changes are proposed:

WAC 16-750-005 State noxious weed list - Class A noxious weeds. Class A noxious weeds are required to be eradicated by all landowners under the authority of chapter 17.10 RCW.

Add two new nonnative species that are of extremely limited distribution and are highly destructive, competitive, or difficult to control (*Thymelaea passerina* and *Euphorbia oblongata*).

Delete two nonnative species (*Hibiscus trionum* and *Proboscidea louisianica*). Recent evaluation indicates these

species have not been highly destructive, competitive, or difficult to control in Washington.

Move one species found to have an extremely limited distribution from the Class C list to the Class A list (*Tamarix ramosissima*).

Move one species from the Class A list to the Class B list (*Hieracium pilosella*). The increased distribution of this species makes it more appropriate on the Class B list.

WAC 16-750-011 State noxious weed list - Class B noxious weeds. Class B noxious weeds are required to be controlled by all landowners in the areas where they are designated, under the authority of chapter 17.10 RCW. In the areas where they are not designated, landowners are only required to control Class B noxious weeds if they are placed on the county noxious weed control list, as a local priority for control.

Designate new areas for the mandatory control of nine previously listed species, each in only two counties or a smaller area (*Chondrilla juncea*, *Geranium robertianum*, *Kochia scoparia*, *Lepidium latifolium*, *Linaria dalmatica* ssp. *dalmatica*, *Lysimachia vulgaris*, *Lythrum salicaria*, *Lythrum virgatum*, and *Ulex europaeus*). These species have been found to have only limited distribution in the areas where they are proposed for designation, making control and containment feasible.

Move four species from the Class C list to the Class B list (*Anthriscus sylvestris*, *Chaenorrhinum minus*, *Daucus carota*, and *Eruca vesicaria* ssp. *sativa*). These species have been found to have only limited distribution in the areas where they are proposed for designation, making control and containment feasible.

Move one species from the Class A list to the Class B list (*Hieracium pilosella*). The increased distribution of this species makes it more appropriate on the Class B list. This species has been found to have only limited distribution in the areas where it is proposed for designation, making control and containment feasible.

Add one new nonnative species that is highly destructive, competitive, or difficult to control (*Impatiens glandulifera*). The species is designated for control where it is unknown or of limited distribution.

Delete one nonnative species (*Lamium hybridum*). Recent reevaluation indicates this species has not been highly destructive, competitive, or difficult to control in Washington.

WAC 16-750-015 State noxious weed list - Class C noxious weeds. Class C noxious weeds are widespread species that are not state-mandated for control under the authority of chapter 17.10 RCW. Landowners are only required to control Class C noxious weeds if they are placed on a county noxious weed control list, as a local priority for control.

Add one, new, nonnative species that is highly destructive, competitive, or difficult to control (*Polygonum sachalinense*).

Move one species found to have an extremely limited distribution from the Class C list to the Class A list (*Tamarix ramosissima*).

Move four species from the Class C list to the Class B list (*Anthriscus sylvestris*, *Chaenorrhinum minus*, *Daucus carota*, and *Eruca vesicaria* ssp. *sativa*). These species have

been found to have only limited distribution in some areas, making control and containment feasible.

Delete three widespread species (*Cirsium vulgare*, *Solanum dulcamara*, and *Verbascum thapsus*).

WAC 16-750-110 State Noxious Weed Control Board - Mission. Revise mission statement to be more concise and to be consistent with changes to RCW 17.10.007.

**Costs of Compliance:** Changes to the state weed board mission statement and deletion of species from the state noxious weed list should have very little economic impact to businesses. The addition of new noxious weeds to the state noxious weed list or the designation of noxious weeds in new areas of the state impose potential costs on all businesses that own or manage infested property. These costs are only incurred if the listed species occur on the property. By definition, the noxious weeds for which the state requires control are of limited distribution and, therefore, only a relatively small number of businesses will actually incur noxious weed control costs in any one season.

The control of noxious weeds involves costs for the actual control strategy selected, as well as some administrative time for recordkeeping, compliance correspondence, training, and safety education for some control strategies. The state's noxious weed law, chapter 17.10 RCW, does not mandate a specific method of control; it mandates a result. The landowner can select the method he/she feels is most appropriate, after considering site characteristics, cost, time, and effectiveness. Technical assistance in choosing a control strategy is available to all landowners at no cost from the local county noxious weed control board or weed district, Washington State University Cooperative Extension, the Washington State Department of Agriculture, and the WSN-WCB. Control costs will vary widely, based on the noxious weed, the site's environmental characteristics, weather, the extent of the vegetation, the surrounding land use, and the control strategy used.

Chemical control strategies involve costs for the following items. These control cost ranges capture the majority of control situations, but some sites may have higher or lower costs:

- Herbicides - \$15 to \$100 per acre.
- Application equipment - spot spray with a pre-mixed chemical \$0, hand held sprayer \$15 to \$45, backpack sprayer \$60 to \$100 new (may be available for loan from county weed board), truck mounted spray rig and boom \$500 to \$5,000 (not including vehicle).
- Labor - in-house or contracted with a licensed applicator (who would handle equipment, licensing, permitting, and recordkeeping) \$20 to \$100 per hour contracted applicator; aerial application \$150 to \$250 per hour.
- Protective equipment - goggles \$3 to \$10, chemical-resistant gloves \$5 to \$40, chemical-resistant boots \$20 to \$60, Tyvek coveralls \$3 to \$12. Personal protective equipment costs will vary depending on the type of herbicide and the frequency and duration of use.
- Licensing and permitting - application of many herbicides requires the applicator to be licensed and

permits may be required for some types of sites (mainly those in or near water) - \$21 to \$40 for license and study materials, \$20 to \$500 for permit notices and signage.

- Recordkeeping - fifteen minutes to two hours of labor time, depending on the extent and variability of the application.

Hand-pulling or mowing costs include:

- Labor - hand methods may require two to ten times more labor time than chemical strategies.
- Equipment - hand tools \$5 to \$40 each for shovels, hoes, weed whip; \$35 to \$250 for hand-held trimmers.
- Disposal - bags fifty cents to \$4 each, land-filling \$15 to \$100/ton.

Other strategies like burning, steam solarization, tillage, etc. may be appropriate for some sites, but the previous two methods are the most commonly used.

**Comparison of Cost - Small Versus Large Employers:** Administrative and control costs vary only with the control strategy selected, the site characteristics, and the type and extent of the infestation. These costs on a per acre basis would be the same for small and large employers, but could be proportionally more per employee for small employers. The cost to outfit, train, and equip one employee for noxious weed control work would depend on the number of employees needed to conduct the control work, but this may represent a larger percentage of employees for small businesses. Contracting for control work could cost more per hour of labor or per \$100 of sales for a small employer. Larger businesses would be expected, in general, to own or manage more land, thus potentially incurring a higher total cost.

The proposed amendments affect a small percentage of landowners in Washington. It is highly unlikely they would affect more than 20% of all industries or more than 10% of any one industry. The species proposed for the Class A list are all presently known from four or fewer sites in the state. The proposed changes to the B list would also affect limited numbers of landowners; these changes are proposed because the species are present in limited areas or present at very small levels of infestation.

**Mitigation of Disproportionate Costs to Small Employers:** The state noxious weed law recognizes that the immediate prevention, control, and eradication of noxious weeds is practical on some lands and that these activities should be extended over a period of time on other lands. RCW 17.10.154 allows county noxious weed control boards, at their discretion, to enter into agreements with local landowners. These agreements allow for gradual containment and control of noxious weeds over a period of years on appropriate sites. This flexibility allows small businesses to spread noxious weed control costs over time in some cases.

Due to site conditions and infestation patterns, mitigation of control requirements for small businesses may not always be possible. Noxious weeds do not recognize human political and ownership boundaries. Effective control statewide requires that all landowners fulfill the requirements to control and contain noxious weeds. This is an inherent part of all pest control programs. Through the state noxious weed list, the state has prioritized control efforts in Washington,

concentrating landowner efforts on new infestations. Control of infestations when they are small provides the most protection for the least cost. County noxious weed control boards limit landowner costs by conducting regular surveys so that infestations can be caught when small. Technical assistance is also available through several sources to assist landowners in devising the most effective and cost-efficient control program possible.

A copy of the statement may be obtained by writing to Lisa E. Lantz, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031, phone (253) 872-2972, fax (253) 872-6320.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Noxious Weed Control Board is not one of the agencies listed in this section.

Hearing Location: Grant County Public Works Building, 124 Enterprise Street S.E., Ephrata, WA, on November 17, 1998, at 9:00-10:00 a.m.

Assistance for Persons with Disabilities: Lisa E. Lantz by November 12, 1998, TDD (360) 902-1996, or (253) 872-2972.

Submit Written Comments to: Lisa E. Lantz, 1851 South Central Place, Suite 211, Kent, WA 98031, fax (253) 872-6320, by November 12, 1998.

Date of Intended Adoption: November 17, 1998.

October 5, 1998

Lisa E. Lantz  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 97-24-051, filed 11/26/97, effective 1/2/98)

**WAC 16-750-005 State noxious weed list—Class A noxious weeds.**

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
clary, meadow	<i>Salvia pratensis</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
((hawkweed, mouseear	<i>Hieracium pilosella</i> ))
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knawweed, bighead	<i>Centaurea macrocephala</i>
knawweed, Vochin	<i>Centaurea nigrescens</i>
lawnweed	<i>Soliva sessilis</i>
((mallow, Venice	<i>Hibiscus trionum</i> ))

nightshade, silverleaf  
 peganum  
 sage, clary  
 sage, Mediterranean  
saltcedar  
spurge, eggleaf  
 starthistle, purple  
 thistle, Italian  
 thistle, milk  
 thistle, slenderflower  
 ((~~unicorn plant~~  
 velvetleaf  
 woad, dyers

*Solanum elaeagnifolium*  
*Peganum harmala*  
*Salvia sclarea*  
*Salvia aethiopsis*  
*Tamarix ramosissima*  
*Euphorbia oblongata*  
*Centaurea calcitrapa*  
*Carduus pycnocephalus*  
*Silybum marianum*  
*Carduus tenuiflorus*  
*Proboscidea louisianica*))  
*Abutilon theophrasti*  
*Isatis tinctoria*

**AMENDATORY SECTION** (Amending WSR 97-24-051, filed 11/26/97, effective 1/2/98)

**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

Name	Will be a "Class B designate" in all lands lying within:
(1) blackgrass <i>Alopecurus myosuroides</i>	(a) regions 1,2,3,5,6,8,9,10 (b) Ferry, Stevens, Pend Oreille counties of region 4 (c) Adams County of region 7.
(2) blueweed <i>Echium vulgare</i>	(a) regions 1,2,3,4,5,6,8,9,10 (b) region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(3) broom, Scotch <i>Cytisus scoparius</i>	(a) regions 3,4,6,7,9,10.

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(4) bryony, white <i>Bryonia alba</i>	(a) regions 1,2,3,4,5,6,8,9 (b) region 7 except Whitman County (c) Franklin County of region 10.	((10)) (11) cinquefoil, sulfur <i>Potentilla recta</i>	(a) regions 1,3,8,10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
(5) bugloss, common <i>Anchusa officinalis</i>	(a) regions 1,2,3,5,6,8,9,10 (b) region 4 except Stevens and Spokane counties (c) Lincoln, Adams, and Whitman counties of region 7.	((11)) (12) Cordgrass, smooth <i>Spartina alterniflora</i>	(a) regions 1,3,4,5,6,7,9,10 (b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.
(6) bugloss, annual <i>Anchusa arvensis</i>	(a) regions 1,2,3,4,5,6,8,9 (b) Lincoln and Adams counties (c) Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.	((12)) (13) cordgrass, common <i>Spartina anglica</i>	(a) regions 1,3,4,5,6,7,8,9,10 (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County. (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(7) ((fanwort <i>Cabomba caroliniana</i>	(a) regions 1,2,3,4,5,6,7,9,10 (b) region 8 except T8N, R3W of Cowlitz County.	((13)) (14) daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 1,3,4,5,6,7,8,9,10 (b) region 2 except Skagit County--))
(8)) camelthorn <i>Alhagi maurorum</i>	(a) regions 1,2,3,4,5,7,8,9 (b) region 6 except those portions of Sections 23,24,25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington — Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning.	((14)) deadnettle, hybrid <i>Lamium hybridum</i> (15) elodea, Brazilian <i>Egeria densa</i> (16) fanwort <i>Cabomba caroliniana</i> (17) fieldcress, Austrian <i>Rorippa austriaca</i>	(a) regions 7,10 (b) regions 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E. (a) regions 1,3,4,5,6,7,8,9,10 (b) region 2 except Skagit County--))
(8) carrot, wild <i>Daucus carota</i>	(a) regions 3,7,10 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated).	((16)) (17) fieldcress, Austrian <i>Rorippa austriaca</i> (18) gorse <i>Ulex europaeus</i>	(a) regions 3,4,6,7,9,10 (b) Lewis County of region 8. (a) regions 1,2,3,4,5,6,7,9,10 (b) region 2 except Skagit County--))
(9) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3,4,6,7,10 (b) region 9 except Klickitat County.	((17)) (19) hawkweed, mouseear <i>Hieracium pilosella</i>	(a) regions 1,2,3,4,5,6,8,9 (b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River. (a) regions 3,4,6,7,9,10 (b) Skagit ((County)) and Whatcom counties of region 2 (c) Thurston ((and)), Pierce, and King counties of region 5 (d) Wahkiakum, Cowlitz, and Lewis counties of region 8.
(10) Chervil, wild <i>Anthriscus sylvestris</i>	(a) regions 1,2,3,4,6,7,8,9,10 (b) region 5 except those portions of Thurston County within T 15, 16, 17N, R2, 3, 4W.	((18)) (20) hawkweed, orange <i>Hieracium aurantiacum</i>	(a) regions 1,2,3,4,6,7,8,9,10 (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4. (a) regions 3,6,9,10 (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
<p>((19)) (21) hawkweed, polar <i>Hieracium atratum</i></p>	<p>(e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7. (a) regions 1,2,3,4,6,7,8,9,10* (b) region 5 outside the boundaries of Mt. Rainier National Park.</p>	<p>((25)) (28) knapweed, black <i>Centaurea nigra</i></p>	<p>(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County.</p>
<p>((20)) (22) hawkweed, smooth <i>Hieracium laevigatum</i></p>	<p>(a) regions 1,2,3,5,6,7,8,9,10 (b) San Juan and Island counties of region 2.</p>	<p>((26)) (29) knapweed, brown <i>Centaurea jacea</i></p>	<p>(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County.</p>
<p>((24)) (23) hawkweed, yellow <i>Hieracium caespitosum</i></p>	<p>(a) regions 1,2,3,5,6,7,8,10 (b) region 4 except north of T32N in Pend Oreille County and east Highway 395 and north of Highway 20 in Stevens County (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.</p>	<p>((27)) (30) knapweed, diffuse <i>Centaurea diffusa</i></p>	<p>(a) regions 1,2,5,8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5,6,7,8,17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.</p>
<p>((22)) (24) hedgeparsley <i>Torilis arvensis</i></p>	<p>(a) regions 1,2,3,4,5,6,7,8,10 (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.</p>		<p>(c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22,26,27,28,31,32,33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2,10, 11,14,15,19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6</p>
<p>(25) helmet, policeman's <i>Impatiens glandulifera</i></p>	<p>(a) regions 1,3,4,6,7,8,9,10 (b) region 2 except Whatcom County (c) region 5 except Pierce County.</p>		<p>(d) Franklin County of regions 9 and 10.</p>
<p>((23)) (26) herb-Robert <i>Geranium robertianum</i></p>	<p>((b) Clallam County of region 1 (e) Whatcom, San Juan, and Island counties of region 2 (d) Grays Harbor, Mason and Kitsap counties of region 5 (e) portions of King County lying in: (i) Issaquah Alps: T24N, R5E, sections 25, 26, 35, and 36; T24N, R6E, sections 30 and 31; T23N, R6E, sections 4, 5, 6 (north 1/2 and west of SR900), 9, and 10 (north 1/2); T23N, R8E, sections 8 (SW 1/4 SW 1/4), 17, 18 (eastern half), 20, 21 (western half), 28, and 29 (eastern half). (ii) Tradition Plateau area: T24N, R6E, sections 26 (south of I 90, east of E. Sunset Way), and 35).</p>	<p>((28)) (31) knapweed, meadow <i>Centaurea jacea x nigra</i></p> <p>((29)) (32) knapweed, Russian <i>Acroptilon repens</i></p>	<p>(a) regions 1,2,3,4,5,7,9,10 (b) region 6 except Kittitas County (c) region 8 except Clark County. (a) regions 1,2,5,7,8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County. (a) regions 1,2,3,5,6,8,9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 10 except Garfield County.</p>
<p>((24)) (27) indigobush <i>Amorpha fruticosa</i></p>	<p>(a) regions 1,2,3,4,5,6 (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream (c) regions 8, 9, and 10 except within 200 feet of the Columbia River.</p>	<p>((30)) (33) knapweed, spotted <i>Centaurea biebersteinii</i></p> <p>((31)) (34) kochia <i>kochia scoparia</i></p>	<p>(a) Skagit ((County)) and Whatcom counties of region 2 (b) Pend Oreille County of region 4 (c) King County of region 5 ((e)) (d) Kittitas County of region 6.</p>

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
<p><del>((32))</del>                      (35) <i>lepyrodiclis</i>  <i>Lepyrodiclis holosteoides</i></p>	<p>(a) regions 1,2,3,4,5,6,8,9,10                      (b) region 7 except an area within Whitman County east of the Pullman — Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.</p>	<p><del>((35))</del>                      (38) loosestrife, wand  <i>Lythrum virgatum</i></p>	<p><del>((h))</del> Intercounty Weed Districts No. 51                      (j) and No. 52.                      (a) regions 1,4,7,8                      (b) region 2 except Snohomish County                      (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside                      (d) region 5 except King County</p>
<p><del>((33))</del>                      (36) loosestrife, garden  <i>Lysimachia vulgaris</i></p>	<p>(a) regions 1,2,3,4,6,7,8,9,10                      (b) region 5 except King County                      (c) <u>Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.</u></p>	<p><del>((36))</del>                      (39) loosestrife, purple  <i>Lythrum salicaria</i></p>	<p><del>((e))</del> <u>Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</u>                      (e) <u>Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</u></p>
<p><del>((34))</del>                      (37) loosestrife, purple  <i>Lythrum salicaria</i></p>	<p>(a) regions 1,4,7,8                      (b) egion 2 except Snohomish County                      (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside  <del>((d)) region 5 except the area west of the Urban Growth Line, as defined in the King County Comprehensive Plan, and south of I-90, but not including Vashon Island, of King County))</del>                      (d) <u>Grays Harbor, Mason, Kitsap, and Thurston counties of region 5</u>                      (e) <u>Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</u>                      (f) <u>Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections</u>  <del>((e))</del> region 6 except that portion of                      (g) Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed  <del>((f))</del> region 9 except Benton County                      (h)  <del>((g))</del> region 10 except Walla Walla                      (i) County</p>	<p><del>((36))</del>                      (39) nutsedge, yellow  <i>Cyperus esculentus</i></p>	<p><del>((e))</del> region 6 except that portion of                      (f) Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed  <del>((f))</del> region 9 except Benton County                      (g)  <del>((g))</del> region 10 except Walla Walla                      (h) County  <del>((h))</del> Intercounty Weed Districts No. 51                      (i) and No. 52.                      (a) regions 1,2,3,4,5,7,8                      (b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.                      (c) region 9 except:                      (i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be</p>

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:
	the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
	(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
	(d) region 10 except Walla Walla County.
<del>((37))</del>	(a) regions 1,2,3,4,5,6,7,9,10
(40) oxtongue, hawkweed <i>Picris hieracioides</i>	(b) region 8 except Skamania County.
<del>((38))</del>	(a) regions 1,2,3,4,5,6,7,9,10
(41) parrotfeather <i>Myriophyllum aquaticum</i>	(b) region 8 except Clark, Cowlitz, and Wahkiakum counties.
<del>((39))</del>	(a) regions 1,2,3,4,5,7,8,10
(42) pepperweed, perennial <i>Lepidium latifolium</i>	<del>((b)) Grant County lying northerly of Township 21, North, W.M.))</del>
	<del>((c))</del> Intercounty Weed Districts No. 51 <del>(b)</del> and 52
	<del>((d))</del> Kittitas County of region 6 <del>(c)</del>
	<del>((e))</del> Adams County of region 6 except <del>(d)</del> for the area west of Highway 17 and north of Highway 26.
<del>((40))</del>	(a) Skagit County of region 2
(43) puncturevine <i>Tribulus terrestris</i>	(b) Kittitas County of region 6
	(c) Adams County.
<del>((41))</del>	(a) regions 3,4,6,7,9,10
(44) ragwort, tansy <i>Senecio jacobaea</i>	

Name	Will be a "Class B designate" in all lands lying within:
	(b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
(45) rocket, garden <i>Eruca Vesicaria ssp. sativa</i>	<del>(a) regions 1,2,3,4,5,6,7,8,9,10 (except where intentionally cultivated).</del>
<del>((42))</del>	(a) regions 1,2,3,4,5,7,8
(46) sandbur, longspine <i>Cenchrus longispinus</i>	(b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52
<del>((43))</del>	(c) Intercounty Weed District No. 51.
(47) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1,2,3,5,8,9
	(b) Franklin County except T13N, R36E; and T14N, R36E
	(c) Adams County except those areas lying <del>((west)) east</del> of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
	(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road E Northwest
	(e) Stevens County north of Township 33 North of region 4
	(f) Ferry and Pend Oreille counties of region 4
	(g) Asotin County of region 10

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(48) <u>Snaptagon, dwarf</u> <i>Chaenorrhinum minus</i>	(h) Garfield and Columbia counties south of Highway 12 (i) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.	(f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.	
((44)) (49) <u>sowthistle, perennial</u> <i>Sonchus arvensis</i> <i>ssp. arvensis</i>	(a) <u>regions 1,2,3,5,6,8,9,10</u> (b) <u>region 4 except Spokane County</u> (c) <u>region 7 except Spokane County.</u> (a) regions 1,2,3,4,7,8,9,10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.	((47)) (52) <u>Swainsonpea</u> <i>Sphaerophysa salsula</i>	(a) regions 1,2,3,4,5,7,8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington — Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington — Oregon border, then west along the Washington — Oregon border to the point of beginning
((45)) (50) <u>spurge, leafy</u> <i>Euphorbia esula</i>	(a) regions 1,2,3,4,5,6,8,9,10 (b) region 7 except as follows: (i) T27N, R37E, Sections 34,35,36; T27N, R38E, Sections 31,32,33; T26N, R37E, Sections 1,2,3,10, 11,12,13,14,15,16,26; T26N, R38E, Sections 5, 6,7,8 of Lincoln County (ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.	((48)) (53) <u>thistle, musk</u> <i>Carduus nutans</i>	(d) Weed District No. 3 of Grant County (e) Adams County of region 6. (a) regions 1,2,3,5,6,7,8,9,10 (b) Spokane and Pend Oreille counties.
((46)) (51) <u>starthistle, yellow</u> <i>Centaurea solstitialis</i>	(a) regions 1,2,3,5,6,8 (b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25 (c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (d) Franklin County (e) region 9 except Klickitat County	((49)) (54) <u>thistle, plumeless</u> <i>Carduus acanthoides</i>	(a) regions 1,2,3,5,6,7,8,9,10 (b) region 4 except those areas within Stevens County lying north of State Highway 20. (a) regions 1,2,3,4,5,6,8,9 (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (c) Franklin County.

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:
<del>((54))</del>	
<b>(56)</b> toadflax, Dalmatian <i>Linaria dalmatica</i> <i>spp. dalmatica</i>	<ul style="list-style-type: none"> <li>(a) regions 1,2,5,8,10</li> <li>(b) Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E</li> <li>(c) <u>Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E</u></li> <li><del>((e))</del> Kittitas, Chelan, Douglas, and</li> <li>(d) Adams counties of region 6</li> <li><del>((d))</del> Intercounty Weed District No. 51</li> <li>(e)</li> <li><del>((e))</del> Weed District No. 3 of Grant</li> <li>(f) County</li> <li><del>((f))</del> Lincoln and Adams counties</li> <li>(g)</li> <li><del>((g))</del> The western two miles of Spokane</li> <li>(h) County of region 7</li> <li><del>((h))</del> region 9 except as follows: <ul style="list-style-type: none"> <li>(i)</li> <li>(ii) those areas lying within Yakima County</li> <li>(iii) those areas lying west of the Klickitat River and within Klickitat County.</li> </ul> </li> </ul>
<del>((52))</del>	
<b>(57)</b> watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	<ul style="list-style-type: none"> <li>(a) regions 1,9,10</li> <li>(b) region 7 except Spokane County</li> <li>(c) region 8 except within 200 feet of the Columbia River</li> <li>(d) Adams County of region 6</li> <li>(e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.</li> </ul>

**AMENDATORY SECTION** (Amending WSR 97-06-108, filed 3/5/97, effective 4/5/97)

**WAC 16-750-015 State noxious weed list—Class C noxious weeds.**

Common Name	Scientific Name
babysbreath	<i>Gypsophila paniculata</i>
bindweed, field	<i>Convolvulus arvensis</i>
canarygrass, reed	<i>Phalaris arundinacea</i>
<del>((carrot, wild</del>	<del><i>Daucus carota</i></del>
<del>chervil, wild</del>	<del><i>Anthriscus sylvestris</i>)</del>
cockle, white	<i>Silene latifolia ssp. alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
henbane, black	<i>Hyoscyamus niger</i>

Common Name	Scientific Name
houndstongue	<i>Cynoglossum officinale</i>
<del>knotweed, giant</del>	<del><i>Polygonum sachalinense</i></del>
knotweed, Japanese	<i>Polygonum cuspidatum</i>
mayweed, scentless	<i>Matricaria perforata</i>
<del>((mullein, common</del>	<del><i>Verbascum thapsus</i></del>
<del>nightshade, bitter</del>	<del><i>Solanum dulcamara</i>)</del>
poison-hemlock	<i>Conium maculatum</i>
<del>((rocket, garden</del>	<del><i>Eruca vesicaria ssp. sativa</i>)</del>
rye, cereal	<i>Secale cereale</i>
<del>((saltcedar</del>	<del><i>Tamarix species</i></del>
<del>snapdragon, dwarf</del>	<del><i>Chaenorrhinum minus</i>)</del>
spikeweed	<i>Hemizonia pungens</i>
St. Johnswort, common	<i>Hypericum perforatum</i>
tansy, common	<i>Tanacetum vulgare</i>
toadflax, yellow	<i>Linaria vulgaris</i>
<del>((thistle, bull</del>	<del><i>Cirsium vulgare</i>)</del>
thistle, Canada	<i>Cirsium arvense</i>
whitetop, hairy	<i>Cardaria pubescens</i>
wormwood, absinth	<i>Artemisia absinthium</i>

**AMENDATORY SECTION** (Amending WSR 93-01-004, filed 12/2/92, effective 1/2/93)

**WAC 16-750-110 State noxious weed control board—Mission.** The mission of the board is to serve as responsible stewards ~~((of the land and resources))~~ of Washington by protecting and preserving the ~~((agricultural))~~ land~~((s))~~ and ~~((natural))~~ resources ~~((of the state))~~ from the degrading impact of ~~((exotic, invasive))~~ noxious weeds.

The board believes that prevention is the best approach and may be achieved through full implementation of the intent of the state noxious weed law. To further that, the board strives for enhanced public awareness through improved educational efforts.

The board does not deal directly in control activities but rather works to achieve this end through others. For that reason, the board seeks to improve communication, gain cooperation, and improve coordination of the efforts for noxious weed control.

The board believes noxious weed control is best carried out by strong, adequately funded programs at the local level. To achieve this, the board strives to build public support for local programs and to empower those programs to be more successful.

**WSR 98-20-097**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Adult Services Administration)  
[Filed October 7, 1998, 10:56 a.m.]

Original Notice.  
Preproposal statement of inquiry was filed as WSR 98-14-085.

PROPOSED

Title of Rule: WAC 388-78A-990 Boarding home license fees and 388-78A-010 Definitions.

Purpose: 2SSB 6544, chapter 272, Laws of 1998, transferred the responsibility for licensing and inspection of boarding homes from the Department of Health to the Department of Social and Health Services.

WAC 388-78A-990, to increase the fee for obtaining or reissuing a boarding home license from \$54 to \$79 per licensed bed. At the direction of the legislature, the department is to increase quality assurance activities to ensure the health and safety of boarding home residents. The funding for the increased activity is to come from license fee revenue.

WAC 388-78A-010, to change the definition of "department" from Department of Health to Department of Social and Health Services.

Statutory Authority for Adoption: RCW 18.20.090 and 18.20.240.

Statute Being Implemented: RCW 18.20.090 and 18.20.240.

Summary: The department is increasing the boarding home license fee for new and reissued licenses from \$54 to \$79 per licensed bed. The legislature intends that boarding home licensing and quality assurance activities are funded 100% by license fee revenue by the end of the 1999-2001 biennium. To accomplish this, the department must incrementally raise the fees until the entire cost of licensing and quality assurance activity comes from license fee revenue.

Name of Agency Personnel Responsible for Drafting: Patricia Hague, Mailstop 45819, Olympia, Washington 98504-5819, (360) 753-0631; Implementation and Enforcement: Patricia Lashway, Mailstop 45600, Olympia, Washington 98504-5600, (360) 493-2560.

Name of Proponent: Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is increasing the boarding home license fee for new and reissued licenses from \$54 to \$79 per licensed bed. The legislature intends that boarding home licensing and quality assurance activities are funded 100% by license fee revenue by the end of the 1999-2001 biennium. To accomplish this, the department must incrementally raise the fees until the entire cost of licensing and quality assurance activity comes from license fee revenue.

Proposal Changes the Following Existing Rules: WAC 388-78A-990, to increase the fee for obtaining or reissuing a boarding home license from \$54 to \$79 per licensed bed. At the direction of the legislature, the department is to increase quality assurance activities to ensure the health and safety of boarding home residents. The funding for the increased activity is to come from license fee revenue.

WAC 388-78A-010, to change the definition of "department" from Department of Health to Department of Social and Health Services.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025 exempts an agency from preparation of a small business economic impact statement when the rule is one as described in RCW 34.05.310(4). RCW 34.05.310 (4)(f) states "Rules that

set or adjust fees or rates pursuant to legislative standards..." The legislative standard is RCW 43.20B.110(2) "Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection." The proposed change to WAC 388-78A-990 sets a fee for licensing and inspection of boarding homes.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards. The legislative standard is RCW 43.20B.110(2) "Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection." The proposed change to WAC 388-78A-990 sets a fee for licensing and inspection of boarding homes.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 10, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by October 30, 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 November 10, 1998.

Date of Intended Adoption: November 15, 1998.

October 5, 1998

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-990 Fees. For renewal of licenses that expire on December 31, 1998 or after and initial licenses issued effective January 1, 1999 or after, the licensee or applicant shall:

- (1) Submit an annual license fee of ~~((fifty-four))~~ seventy-nine dollars per bed of the licensed resident bed capacity ~~((for initial and renewed licenses))~~;
- (2) Submit an additional one hundred fifty dollars when billed by the department for:
  - (a) A third on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and
  - (b) A complete on-site survey resulting from a substantiated complaint; and
- (3) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-010 Definitions. For the purpose of this chapter, the following words and phrases shall have the fol-

PROPOSED

lowing meanings unless the context clearly indicates otherwise.

((1)) **"Abuse"** means an act by any individual which injures, exploits or in any way jeopardizes a resident's health, welfare, or safety, including but not limited to:

((a)) (1) Physically damaging or potentially damaging nonaccidental acts;

((b)) (2) Emotionally damaging verbal behavior and harassment; and

((c)) (3) Sexual use, exploitation and mistreatment through inappropriate touching, inappropriate remarks or encouraging participation in pornography or prostitution.

((2)) **"Activities of daily living"** means those tasks related to basic personal care such as bathing, toileting, dressing, grooming, hygiene, ambulation, and eating.

((3)) **"Aged person"** means, according to RCW 18.20.020, a person of the age of sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

((4)) **"Ambulatory"** means capable of walking or traversing a normal path to safety without the physical assistance of another individual;

((a)) (1) **"Semi-ambulatory"** means physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual;

((b)) (2) **"Nonambulatory"** means unable to walk or traverse a normal path to safety without the physical assistance of another individual.

((5)) **"Bathing fixture"** means a bathtub, shower or sit-down shower.

((6)) **"Bathroom"** means a room containing at least one bathing fixture.

((7)) **"Board"** means, in the definition of boarding home, the provision of meal service and lodging.

((8)) **"Boarding home"** means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

((9)) **"Colostomy care, uncomplicated routine"** means an act of changing a colostomy bag and dressing according to boarding home procedures approved by a RN or physician, when the resident does not:

((a)) (1) Have colostomy complications, including but not limited to obvious infection, constipation, diarrhea, painful, cracked or bleeding skin; or

((b)) (2) Need colostomy irrigations.

((10)) **"Construction"** means:

((a)) (1) A new building to be used as a boarding home or part of a boarding home;

((b)) (2) An addition, modification or alteration to the facility which changes the department-approved use of an existing boarding home or portion of a boarding home; and

((c)) (3) An existing building or portion thereof to be converted for use as a boarding home.

((11)) **"Continuing care contract"** means, as stated in RCW 70.38.025, a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

((12)) **"Continuing care retirement community"** means, as stated in RCW 70.38.025, an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service.

((13)) **"Contractor"** means an agency or person who contracts with a licensee to provide resident-care services or equipment.

((14)) **"Dementia care"** means a form of care unique to the needs of residents with dementia of the alzheimer type exhibiting symptoms such as impaired cognition, confusion, memory loss, personality change, disorientation, chronic wandering, loss of inhibitions, and other intellectual losses diminishing the ability to perform basic personal care functions, which:

((a)) (1) May or may not be provided in a dementia care unit; and

((b)) (2) Is not normally applied to developmentally disabled individuals as defined in chapter 71A.10 RCW.

((15)) **"Dementia care unit"** means an area of a boarding home staffed by individuals trained in dementia care and designed to facilitate the provision of such care to residents with dementia of the alzheimer type.

((16)) **"Department"** means the Washington state department of social and health services.

((17)) **"Dietitian"** means an individual certified under chapter 18.138 RCW.

((18)) **"Document"** means to record, with signature, title, date and time:

((a)) (1) Information about medication administration or disposal, a nursing care procedure, accident, occurrence or change in resident condition that may impact the care or needs of a resident; and

((b)) (2) Processes, events or activities that are required by law, rule or policy.

((19)) **"Domiciliary care"** means:

((a)) (1) Assistance with activities of daily living provided by the licensee either directly or by contract;

((b)) (2) Assuming general responsibility for the safety and well-being of the resident; and

((e)) (3) Limited nursing services, if provided by the licensee.

((20)) "**Exploitation**" means the illegal or improper use of a resident's resources, labor, or services for another person's profit or advantage.

((21)) "**Functional abilities**" means the physical, mental, emotional and social abilities of a resident to cope with the affairs and activities of daily living.

((22)) "**Health care practitioner**" means any individual authorized by Washington state law to provide health care, including but not limited to a physician, dentist, chiropractor, naturopath, advanced registered nurse practitioner or physician's assistant.

((23)) "**Incident report**" means a written record of an event involving a resident including but not limited to injury, abuse, neglect, or exploitation.

((24)) "**Infectious**" means capable of causing infection or disease by entrance of organisms into the body which grow and multiply there, including but not limited to bacteria, viruses, protozoans, and fungi.

((25)) "**Independent living unit**" means an apartment, condominium or other self-sufficient dwelling unit occupied by an individual or individuals not receiving domiciliary care.

((26)) "**Independent senior housing**" means an independent living unit occupied by an individual or individuals sixty or more years of age.

((27)) "**Individual's resident plan**" means a statement, written by the licensee and approved by the resident or resident's representative, of services to be provided based on an evaluation of the resident's needs.

((28)) "**Infirmity**" means a disability which materially limits normal activity without requiring inpatient medical or nursing care. An infirmity may be based on conditions, including but not limited to physical handicap, mental illness, developmental disability, mental confusion, disability or disturbance.

((29)) "**Licensee**" means the person to whom the department issues the boarding home license.

((30)) "**Licensed resident bed capacity**" means the resident occupancy level requested by the licensee and approved by the department.

((31)) "**Licensed room list**" means a department-approved list identifying resident rooms, the dimensions and calculated square footage of each room, the number of approved bed spaces, and other information relative to the licensed resident bed capacity of a boarding home.

((32)) "**Limited nursing services**" means nursing care, consistent with chapters 18.78 and 18.88 RCW, provided by the licensee which does not include continuous skilled nursing care and supervision of the type provided in nursing homes licensed pursuant to chapter 18.51 RCW.

((33)) "**Medication**" means "**drugs**" as defined in RCW 18.64.011.

((34)) "**Medication administration**" means the act of an authorized individual giving medication to a resident in accordance with the laws and regulations governing such acts and entails:

((a)) (1) Comparing the label on the container with the prescriber's order or with a direct copy of a verified transcription of the order;

((b)) (2) Removing an individual dose from a previously dispensed, properly labeled container;

((c)) (3) Giving an individual dose to the proper resident; and

((d)) (4) Properly recording the medication, dose, and time given in the resident record.

((35)) "**Neglect**" means conduct resulting in the deprivation of care necessary to maintain the resident's minimum physical and mental health including:

((a)) (1) Physical and material deprivation;

((b)) (2) Lack of medical care;

((c)) (3) Inadequate food, clothing or cleanliness;

((d)) (4) Rejection;

((e)) (5) Lack of social interaction and physical activity;

((f)) (6) Lack of personal care; and

((g)) (7) Lack of supervision appropriate for the resident's level of functioning.

((36)) "**Nurse**" means an individual licensed either as a:

((a)) (1) "**Licensed practical nurse**" or "**LPN**" under chapter 18.78 RCW; or

((b)) (2) "**Registered nurse**" or "**RN**" under chapter 18.88 RCW.

((37)) "**Person**" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

((38)) "**Physician**" means an individual licensed under chapter 18.57 or 18.71 RCW.

((39)) "**Prescriber**" means a health care practitioner authorized by Washington state law to prescribe drugs.

((40)) "**Resident-care staff person**" means any employee, temporary employee, volunteer, or contractor who provides direct care services to a resident.

((41)) "**Resident**" means an individual living in a boarding home who is not related by blood or marriage to the operator of the boarding home and, by reason of age or infirmity, requires domiciliary care.

((42)) "**Resident's representative**" means an individual legally appointed, or designated by the resident in writing, to act in the resident's behalf.

((43)) "**Respite care**" means short term care of an aged person to temporarily relieve the family or other caregiver of providing that care.

((44)) "**Restraint**" means any methods used to prevent or limit free body movement, including but not limited to:

((a)) (1) Confinement, unless agreed to as provided in WAC 246-316-335(3);

((b)) (2) An apparatus; and

((c)) (3) A drug given without, or contrary to, a legally prescribed order.

((45)) "**Room**" means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

((46)) "**Staff person**" means any employee, temporary employee, volunteer, or contractor.

((47)) **"State Building Code"** means chapter 51-20 WAC, State Building Code adoption and amendment of the Uniform Building Code; chapter 51-22 WAC, State Building Code adoption and amendment of the Uniform Mechanical Code; chapter 51-24 WAC, State Building Code adoption and amendment of the Uniform Fire Code; and chapter 51-25 WAC, State Building Code adoption and amendment of the Uniform Fire Code.

((48)) **"Toilet"** means a disposal apparatus fitted with a seat and flushing device used for urination and defecation.

((49)) **"Urethral catheter care, uncomplicated routine"** means an act of performing perineal care, emptying the drainage bag, measuring the contents as required, and replacing and repositioning the drainage bag; but does not mean the act of inserting, irrigating, or removing the catheter.

((50)) **"Usable floor space"** means:

((a)) (1) For boarding homes licensed prior to January 1, 1989, and continuously thereafter, floor area in resident bedrooms excluding walk-in closets; or

((b)) (2) For boarding homes licensed after December 31, 1988, floor area in living and sleeping rooms excluding bathrooms, toilets, toilet compartments, closets, halls, storage, and utility spaces.

((51)) **"Volunteer"** means an individual who regularly provides planned and organized services within the boarding home without reimbursement, but does not mean an individual who visits residents or provides occasional entertainment.

((52)) **"Vulnerable adult"** means an individual sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself.

((53)) **"WISHA"** means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the Washington state department of labor and industries.

## WSR 98-20-098

### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed October 7, 1998, 10:58 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 98-02-057.

Title of Rule: In chapter 388-155 WAC, Minimum licensing requirements for family child day care homes, WAC 388-155-010 Definitions, 388-155-180 Staffing qualifications, 388-155-200 Development and training, and 388-155-470 Personnel records. In chapter 388-150 WAC, Minimum licensing requirements for child day care centers, WAC 388-150-010 Definitions, 388-150-180 Staff patterns and qualifications, 388-150-200 Staff training and development, and 388-150-470 Personnel policies and records. In chapter 388-151 WAC, School-age child care center minimum licensing requirements, WAC 388-151-010 Definitions, 388-151-180 Staffing patterns and qualifications, 388-151-190 Group size and staff-child ratios; 388-151-200 Staff develop-

ment, orientation and training, and 388-151-470 Personnel policies and records.

Purpose: To require annual in-service training for child care providers.

Statutory Authority for Adoption: RCW 74.15.030.

Statute Being Implemented: RCW 74.15.030.

Summary: Family child care providers and child care center and school age program directors, supervisors, site coordinators and lead staff must take a 20-hour basic training during the first six months of employment or licensure, unless they have specified prior education. Each year thereafter, persons in these positions must take ten hours of training. Training must be approved by the Washington STARS (State Training and Registry System), which is defined. Licensees must document training in personnel files. Center and school age program employees must complete a profile form at time of hire.

Reasons Supporting Proposal: The legislature directed the Department of Social and Health Services (DSHS) to adopt rules to require annual in-service training for specified categories of child care providers in section 202(8), Legislative Budget for 1997-1999.

Name of Agency Personnel Responsible for Drafting: Susan Kavanaugh/Gretchen Stahr Breunig, Office of Child Care Policy, P.O. Box 45700, (360) 902-8043; Implementation and Enforcement: Office of Child Care Policy, P.O. Box 45700, Olympia, WA 98504-5700, (360) 902-8044.

Name of Proponent: Department of Social and Health Services, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The legislature, in addition to directing DSHS to adopt rules to require training, provided funding for scholarships, a registry of training completed and a system for approving trainers.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Family child care providers, child care center and school age center program directors, lead teachers, program supervisors, and site supervisors are required to complete 20 hours (or two credits) of department approved introductory training prior to or during the first six months of being licensed or employed and 10 hours (or one credit) of annual continuing education each year thereafter. Training must be approved by the department. Current employees and licensees who have not already completed approved basic training (and are not exempt) are obligated to do so within the first year of when the rules are adopted.

Those who have completed at least twelve college quarter credits in early childhood education, child development or related areas or who have a current Child Development Association (CDA) or equivalent credential are exempt from the basic training requirement. They must, however, take the 10 hours of continuing training each year.

Licensees must document training in personnel files. Child care center and school-age program employees must complete a profile form at the time of hire and licensees must submit this form, to permit tracking of compliance with training requirements.

PROPOSED

The Washington STARS (State Training and Registry System) is defined as the entity designated by the department to determine the classes, courses and workshops child care licensees and staff may take to satisfy training requirements.

Proposal Changes the Following Existing Rules: Currently, family child care providers are required to have training in only first aid/CPR and preventing transmission of HIV/AIDS. This proposal requires additional training focused on child development approved through Washington STARS.

Currently, directors of child care centers and school-age programs are required to provide training opportunities for their staff, but hours and subject areas are not specified. This proposal specifies the number of hours of training required of lead staff and requires that it be approved through STARS.

Currently child care center directors or program supervisors and school-age program directors or site coordinators are required to have training in child development prior to employment or licensure. This proposal requires that they also take Washington STARS approved training each year.

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

#### Small Business Economic Impact Statement

See Reviser's Note following.

A copy of the statement may be obtained by writing to Roberta Morley, Office of Child Care Policy, P.O. Box 45700, Olympia, WA 98504-5700, phone (360) 902-8044, fax (360) 902-8044.

RCW 34.05.328 applies to this rule adoption. The proposed rules meet the definition of a "significant legislative rule" and a cost benefit analysis has been included in the small business economic impact statement. To obtain a copy contact the staff person listed above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on November 24, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by November 13, 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 November 24, 1998.

Date of Intended Adoption: November 25, 1998.

October 2, 1998

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 98-21 issue of the Register.

## WSR 98-20-100

### PROPOSED RULES

## DEPARTMENT OF TRANSPORTATION

[Filed October 7, 1998, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-007.

Title of Rule: WAC 468-38-230 Days on which permit movements are prohibited.

Purpose: Designates certain days when the movement of a permitted load is not authorized.

Statutory Authority for Adoption: RCW 46.44.090.

Summary: The proposal removes weekend restrictions, excluding major holidays.

Reasons Supporting Proposal: This will allow industry to make necessary moves of equipment to job sites on weekends for the following work week activity. Traffic impact should be negligible, few carriers would choose to move during Sunday afternoons, only as a necessity, due to the economics (i.e. overtime, etc.).

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Washington State Department of Transportation, Olympia, (360) 664-9497; and Enforcement: Capt. Marsh Pugh, Washington State Patrol, Olympia, (360) 753-0350.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides minimum requirements for rear vision appurtenances (mirrors) which is consistent with RCW 46.37.400.

Proposal Changes the Following Existing Rules: Amended rule makes direct reference to RCW 46.37.400 as well as referencing requirements consistent with RCW.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any costs associated with this amendment should be insignificant. Equipment described in the proposed rule should already be in use by existing operators.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Transportation, Commission Board Room 1D2, Transportation Building, Olympia, Washington 98504, on November 20, 1998, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by November 13, 1998.

Submit Written Comments to: Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 664-9440, by November 13, 1998.

Date of Intended Adoption: November 20, 1998.

October 7, 1998

Gerald E. Smith

Deputy Secretary, Operations

PROPOSED

**AMENDATORY SECTION** (Amending Order 132, filed 11/2/92, effective 12/3/92)

**WAC 468-38-230 Days on which permit movements are prohibited.** (~~Vehicles operating under an overweight permit, where the vehicle cannot maintain the speed of the surrounding traffic flow, and vehicles operating under a permit authorizing an overdimensional feature are prohibited from movement on Fridays after 3:00 p.m. and after 12:00 noon on Sundays. Permit movements are allowed all day on Saturday.~~) Overdimensional movements, and overweight vehicles that cannot maintain the speed of the surrounding traffic flow, are prohibited on the holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and during the afternoon of the day preceding said holidays. Should any of the holidays fall on a Saturday or Sunday, the preceding Friday or the following Monday shall be considered such holiday.

~~((All permit movements may be made on holidays that are not commonly observed, provided they do not conflict with the policy for Fridays and Sundays, e.g., President's Day, Martin Luther King's Birthday, Columbus Day, Veterans' Day and General Election Day.))~~

**WSR 98-20-104  
PROPOSED RULES**

**UTILITIES AND TRANSPORTATION  
COMMISSION**

[Docket No. UT-970545—Filed October 7, 1998, 11:20 a.m.]

Supplemental Notice to WSR 98-03-011 and 98-12-071. Preproposal statement of inquiry was filed as WSR 97-09-023.

Title of Rule: Local calling areas.

Purpose: To define circumstances under which the scope of subscribers' available local calling area will be expanded.

Statutory Authority for Adoption: RCW 80.01.040, 80.04.160, and 80.36.140.

Statute Being Implemented: RCW 80.36.080.

Summary: The proposal would establish a policy favoring competition or optional calling plans to meet customer demand for expanded or alternate calling areas, yet still allow requests for expanded calling areas, and would set the criteria for considering such requests as a local calling area adequate to allow customers to reach community services, including medical facilities, police and fire departments, government offices, elementary and secondary schools, and a commercial center.

Reasons Supporting Proposal: Telephone subscribers in most existing exchanges can reach a diversity of basic services without incurring high toll charges, either because their exchanges are extensive, or because the exchange has been combined in the past into a larger local calling area. To ensure that service is sufficient for all subscribers across the state, it is necessary to provide a means for customers to request expanded local calling.

Name of Agency Personnel Responsible for Drafting: Jeffrey Showman, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1212; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule would establish a policy favoring competition or optional calling plans to meet customer demand for expanded or alternate calling areas, yet still allow requests for expanded calling areas, and would set the criteria for considering such requests as a local calling area adequate to allow customers to reach community services, including medical facilities, police and fire departments, government offices, elementary and secondary schools, and a commercial center.

Telephone subscribers in most existing exchanges can reach a diversity of basic services without incurring high toll charges, either because their exchanges are extensive, or because the exchange has been combined in the past into a larger local calling area. To ensure that service is sufficient for all subscribers across the state, it is necessary to provide a means for customers to request expanded local calling, to provide clear expectations to customers and phone companies about how such requests will be evaluated.

The effect of the rule would be to allow subscribers in exchanges that may not have access to certain basic community services via local calling to obtain such access by incorporating their exchanges into a larger local calling area with other, nearby exchanges.

Proposal Changes the Following Existing Rules: Rule would replace existing rules governing the expansion of local calling areas, WAC 480-120-400 through 480-120-435, which would be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will have no fiscal impact on the industry.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on November 16, 1998, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by November 10, 1998, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, or e-mail to records@wutc.wa.gov, or fax (360) 586-1150, by October 30, 1998. Please include Docket No. UT-970545 in your communication.

PROPOSED

Date of Intended Adoption: November 16, 1998.  
 October 7, 1998  
 Terrence Stapleton  
 for Carole J. Washburn  
 Secretary

**NEW SECTION**

**WAC 480-120-045 Local calling areas.** (1) The commission may expand local calling areas only under the most exceptional circumstances. The commission will generally rely on long distance competition, local competition, and optional calling plans that assess additional charges only to participating customers to meet customer demand for alternate or expanded calling.

(2) In evaluating requests for expanded local calling, the commission will consider whether the local calling area is adequate to allow customers to call and receive calls from the following community services: Community medical facilities, police and fire departments, city or town government, elementary and secondary schools, libraries, and a commercial center. In evaluating such requests, the commission will consider the overall community of interest of the entire exchange, and may consider other pertinent factors such as customer calling patterns and the availability and feasibility of optional calling plans.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-400	Purpose.
WAC 480-120-405	Definition of extended area service.
WAC 480-120-410	Local calling capability.
WAC 480-120-415	Determination of extended area service routes.
WAC 480-120-420	Revenue requirements and rate design.
WAC 480-120-425	Community calling fund.
WAC 480-120-430	Impact on current compensation arrangements.
WAC 480-120-435	Petition for waiver.

**WSR 98-20-106**  
**PROPOSED RULES**  
**LOTTERY COMMISSION**  
 [Filed October 7, 1998, 11:33 a.m.]

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 98-15-038.

Title of Rule: WAC 315-04-200 Denial, suspension or revocation of a retailer license.

Purpose: To add a criteria for which the director may deny, suspend or revoke a retailer's license to sell lottery tickets: conviction for any misdemeanor within the past six months.

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: This amendment to WAC 315-04-200 will add conviction for any misdemeanor within the past six months as a criteria for which the director may deny, suspend, or revoke a retailer's license to sell lottery tickets. This amendment represents lottery policy to review and consider such convictions on a case-by-case basis.

Proposal Changes the Following Existing Rules: As noted above, the amendment adds to WAC 315-04-200 a criteria for which the director may deny, suspend or revoke a retailer's license to sell lottery tickets.

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 and do not include requirements for forms, fees, appearances of 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: SeaTac Airport Large Auditorium, on November 20, 1998, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by November 18, 1998, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by November 18, 1998.

Date of Intended Adoption: November 20, 1998.

October 7, 1998  
 Mary Jane Ferguson  
 Rules Coordinator

PROPOSED

[**AMENDATORY SECTION** (Amending WSR 94-23-047, filed 11/10/94)]

**WAC 315-04-200 Denial, suspension or revocation of a license.** The director may deny an application for or suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

- (1) Failure to meet or maintain the eligibility criteria for license application and issuance established by chapter 7, Laws of 1982, 2nd ex. sess., or these rules;
- (2) Failure to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;
- (3) Failure to pay to the lottery any obligation when due;
- (4) Violating any of the provisions of chapter 7, Laws of 1982, 2nd ex. sess., or these rules;
- (5) Failure to file any return or report or to keep records required by the director or by these rules;
- (6) Failure to pay any federal, state or local tax or indebtedness;
- (7) Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the lottery;
- (8) If public convenience is adequately served by other licensees;
- (9) Failure to sell a sufficient number of tickets to meet administrative costs;
- (10) If there is a history of thefts or other forms of losses of tickets or revenue therefrom;
- (11) If there is a delay in accounting or depositing in the designated depository the revenues from the ticket sales;
- (12) Has violated, failed or refused to comply with any of the provisions, requirements, conditions, limitations or duties imposed by Chapter 9.46 RCW (Gambling Act), or Chapter 7, Laws of 1982 2nd ex. sess., or when a violation of any provisions of Chapter 7, Laws of 1982, 2nd ex. sess. has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
- (13) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state;
- (14) Has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;
- (15) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude, or of any misdemeanor within the past six months, or of any felony.
- (16) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form or questionnaire required to be submitted to the commission or director. Misrepresentation of, or failure to disclose criminal history shall be considered a material fact for purpose of this section;

(17) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document or item required by law or these rules;

(18) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection (15) of this section: **PROVIDED**, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

(19) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(20) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(21) Failure to follow the instructions of the director for the conduct of any particular game or special event;

(22) Failure to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event;

(23) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event;

(24) Failure to comply with lottery point-of-sale requirements which have been published and disseminated to lottery retailers; or

(25) Failure or inability to meet financial obligations as they fall due in the normal course of business.

**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.

PROPOSED

**WSR 98-20-107**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed October 7, 1998, 11:59 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-22-088.

**Title of Rule:** Children with special health care needs.

**Purpose:** Existing rules for the children with special health care needs program include obsolete provisions. Program operations have changed since current rules were adopted. The proposed changes would bring rules into compliance with current program operations.

**Statutory Authority for Adoption:** RCW 43.20.140.

**Statute Being Implemented:** RCW 43.70.080.

**Summary:** Changes in proposed rules include simplification of language, deletion of obsolete content, updated declaration of program purpose, changes in definitions, updated provisions on client financial eligibility and service payment authorization, qualifications of providers, and references to fees and payment schedules.

**Reasons Supporting Proposal:** This proposal is consistent with the Department of Health regulatory improvement plan.

**Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement:** Jan Fleming, CSHCN Program Manager, Olympia, (360) 236-3521.

**Name of Proponent:** Washington State Department of Health, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule concerns the operation of the children with special health care needs program, including role of local CSHCN agencies, management of diagnostic and treatment funds, qualifications of providers, and related elements.

**Proposal Changes the Following Existing Rules:** The rules are updated to reflect current operations and language is simplified. Obsolete provisions are deleted. The declaration of program purpose is updated and definitions are updated. Provisions are updated for client financial eligibility and service payment authorization, qualifications of providers, and fees and payment schedules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not parties to, nor affected by, these rules or the children with special health care needs program. There is no economic impact on small business.

RCW 34.05.328 does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification for professional licensure; and does not make a significant amendment to a policy or regulatory program. Proposed changes are intended to bring rules into conformance with program operations.

**Hearing Location:** Hilton Hotel, 17620 Pacific Highway South, Seattle, WA 98188, on November 12, 1998, at 11:30 a.m.

**Assistance for Persons with Disabilities:** Contact Frank Chestnut by November 3, 1998, TDD (800) 833-6388, or (360) 236-3574.

**Submit Written Comments to:** Jan Fleming, Department of Health, FAX (360) 586-7868, by November 5, 1998.

**Date of Intended Adoption:** November 12, 1998.

October 7, 1998

Sylvia Beck

Executive Director

State Board of Health

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-710-001 Declaration of purpose.** The following rules ~~((are adopted pursuant to))~~ implement RCW 43.20.140 ~~((wherein))~~ and chapter 43.70 RCW. The state board of health ~~((is empowered to promulgate))~~ may develop rules ~~((and regulations as shall be))~~ that are necessary to ~~((carry out the purposes of))~~ implement RCW 43.20A.635 ~~((empowering))~~ authorizing the secretary of the department of ~~((social and))~~ health ~~((services))~~ to ~~((establish and))~~ administer a program of services for ~~((crippled))~~ children with special health care needs. ~~((It is))~~ The purpose of the ~~((crippled children's services))~~ CSHCN program is to develop, extend, and improve services and service systems for locating, diagnosing, and treating children ~~((who are crippled or who are suffering from physical conditions leading to crippling))~~ with special health care needs within available resources.

~~((In accordance with RCW 43.20A.635 and these rules, the crippled children's services (CCS) program shall limit services in such manner and degree as will assure, in the judgment of the physician director, provision of optimum services to crippled children with the greatest needs, commensurate with the fixed funding available to CCS.~~

~~It is the declared purpose of the department of social and health services and the state board of health that the CCS program shall be administered strictly within the limits of funds available for CCS purposes and that CCS may not authorize provision of services beyond those limits.)~~

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-710-010 Definitions.** (1) "Client" means an individual ~~((whose application for crippled children's services program funds has been approved))~~ with special health care needs, seventeen years of age or younger, who is being served by a local CSHCN agency.

(2) ~~(("Crippled child"))~~ "Children with special health care needs" means ~~((an individual below the age of eighteen years having an organic disease, defect or condition substantially interfering with normal growth and development))~~ children with disabilities or handicapping conditions; chronic illnesses or conditions; health related educational or behavioral problems; or children at risk of developing such disabilities, conditions, illnesses or problems.

(3) ~~((“CCS”))~~ “CSHCN” means ((crippled children's services)) the children with special health care needs program.

(4) ~~((“DSHS”))~~ “Department” means department of ((social and)) health ((services)).

(5) ~~((“Limited intervention” means treatment given during a limited period of time designed to move a client's status from a lower to a substantially higher level of functioning.~~

(6)) “Local ((CCS)) CSHCN agency” means the local health ((department and/or district)) jurisdiction or other agency locally administering the ((CCS)) CSHCN program for the county where the ((CCS applicant or)) client resides in the state of Washington.

~~((7))~~ “Physician director” means a medical doctor or osteopath employed by the department of social and health services having the following qualifications:

(a) Doctorate of medicine from a school of medicine accredited by the liaison committee on medical education; and

(b) Licensed to practice medicine in the state of Washington; and

(c) Certified (or eligible for certification) by an appropriate medical specialty board.

(8)) (6) “Service systems” means community-based systems of services such as primary and specialty medical services, early intervention, special education, and social and family support services for children with special health care needs and their families.

(7) “Services” means health-related interventions, including early identification, care coordination, medical, surgical and rehabilitation care, and equipment ((and appliances)) provided in hospitals, clinics, offices, and homes by ((approved)) local CSHCN agencies, physicians and other ((approved)) health care providers.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-710-030 Program limitations. (1) ~~((Reductions in))~~ The department may reduce the scope of ((the program shall be made by the department when required to limit program expenditures for services according to program funding available)) CSHCN services and impose or revise funding limitations on certain services when required for budgetary reasons to accommodate available funding.

(2) ~~((CCS may, for budgetary reasons, upon the advice and authority of the physician director, impose or revise funding limitations on certain CCS programs.))~~ Financial eligibility for a client must be determined annually when health-related services and equipment are paid for with CSHCN funds. Financial eligibility will be determined according to national standards of living for low-income families such as federal poverty levels or state median income adjusted for family size. Financial eligibility is not entitlement to CSHCN services.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-710-050 Authorization of services. Authorization for services ~~((shall))~~ paid for with CSHCN funds will

~~be accomplished in ((the form and manner described by crippled children's services, in))~~ accordance with the following:

(1) ~~((Using forms approved by CCS, the local CCS agency secures financial resource information from the family and the medical documentation of the crippling condition from the provider, prepares a request for authorization, and forwards all three to the state CCS office.~~

(2) ~~Medical eligibility, under the supervision of the CCS physician director, and financial eligibility shall be determined by the state CCS staff.~~

(3) ~~If the child is accepted on the program, each requested service is reviewed for appropriateness to))~~ Financial eligibility for a client has been determined.

(2) A request for services to be paid for with CSHCN funds has been reviewed for consistency with program ((policies and guidelines, and quality assurance criteria)) directions. Services must be ((of a nature and state of development as to be a)) recognized as an acceptable form of treatment by a significant portion of the professional community.

~~((4))~~ If all criteria are met and funding is available, an authorization document is prepared by state CCS staff and sent directly to the provider of service and local CCS agencies.

(5) Written notification of a child's acceptance or nonacceptance to the program shall be mailed to the family.

(6)) (3) No services will be authorized for out-of-state providers if an equivalent service is available within the state of Washington. ((This does not preclude utilization)) However, use of resources in ((contiguous)) bordering states will be authorized when appropriate.

~~((7))~~ In cases of emergencies, and on the basis of information available, the CCS physician director shall have the authority to approve requested services in advance of a written application and service request being received.))

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-710-060 Qualifications ((and assurances)) of hospitals and providers. Providers of services paid for with CSHCN funds must meet the following minimum qualifications.

(1) Hospitals ((authorized by CCS to provide services must be accredited by the joint commission of accreditation of hospitals and licensed by the state of location)) will be:

(a) Accredited by the joint commission on the accreditation of health care organizations; and

(b) Licensed in the state where the hospital is located.

(2) Physicians ((and other health care providers authorized by CCS to provide services must meet all requirements and assurances set forth in the crippled children's services provider agreement form)) will be:

(a) Licensed to practice medicine in Washington, or other state where they practice; and

(b) Board-certified or board-eligible by the appropriate specialty board.

(3) Providers other than physicians will be:

(a) Licensed or certified in Washington or in the state where they practice; or

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(b) Accredited by the appropriate national professional organization when there is no state licensure or certification process.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-710-070 Fees and payments.** (1) Payments to providers of services (~~shall~~) using CSHCN funds will be made (~~in accordance with the DSHS schedule of maximum allowances and the crippled children's services~~) using the current CSHCN standards and payment schedules, including the Washington state department of social and health services medical assistance administration fee schedule and the CSHCN supplemental fee schedule.

(2) A provider will accept the fees paid under this section as full payment for services rendered.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-710-080 Third-party resources.** (~~CCS~~) CSHCN is a secondary payer to all private and other public funded health programs. (~~Such sources of funding must be utilized before CCS payment is made. These sources include, but are not limited to, insurance, Medicaid, Medicare, CHAMPUS (Civilians Health and Medical Program of the Uniformed Services) including provisions for basic benefits and benefits under the program for the handicapped, and other special programs with liability for health care, such as prisons, group or foster homes, and state mental hospitals and facilities. No payment will be made where trust funds or other protected assets are available.~~) The department may pay for services with CSHCN funds only after payment by all entitlement programs and by all other private and public funding resources, except where prohibited by federal law.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-710-090 Repayment.** Repayment to the department from the provider, family or other source is required should insurance benefits, trusts, court-awarded damages or like funds become available, and where payments have been made to the family or provider for services paid for by (~~CCS~~) CSHCN.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 246-710-020            Program eligibility.

## WSR 98-20-108

### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed October 7, 1998, 11:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-18-006.

Title of Rule: Chapter 246-290 WAC, Public water supplies.

Purpose: The purpose of amending the public water supply provisions of chapter 246-290 WAC is to develop performance-based standards, incorporate state and federal legislative changes, and reduce ambiguity. These changes are in response to the reauthorization of the Safe Drinking Water Act, the recommendations of the Water Supply Advisory Committee and the Drinking Water Task Force 2000, as well as studies performed by an engineering consultant concerning the department's water system design standards.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: Chapter 70.119A RCW.

Summary: The changes include: Amending the water system design standards; reducing the engineering document review requirements for certain types of projects; clarifying and adding water conservation and financial viability requirements; clarifying the planning requirements for small systems; incorporating recent federal Safe Drinking Water Act amendments; clarifying cross-connection control requirements; providing a regulatory option for systems that want to pursue a limited alternative to filtration; and making several nonsubstantive organizational and grammatical changes.

Name of Agency Personnel Responsible for Drafting: Jude VanBuren, 7171 Cleanwater Lane, Building 3, (360) 236-3122; Implementation: Dave Monthie, 7171 Cleanwater Lane, Building 3, (360) 236-3091; and Enforcement: Linda Chapman, 7171 Cleanwater Lane, Building 3, (360) 236-3156.

Name of Proponent: Department of Health, governmental.

Rule is necessary because of federal law, Public Law 104-182.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these rules is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies. The rules specifically address: Design, construction, sampling, management, maintenance, and operation practices. The State Board of Health is amending several public water supply provisions to reflect changes in the federal Safe Drinking Water Act as well as the changes in state statute. The proposal incorporates recommendations of consultants to provide flexibility to systems in meeting requirements, and utilize performance-based standards that rely on expertise of engineering professionals. The changes also reflect input from constituents that the department received through an extensive public participation process.

Proposal Changes the Following Existing Rules: The changes include: Amending the water system design standards; reducing the engineering document review requirements for certain types of projects; clarifying and adding

water conservation and financial viability requirements; clarifying the planning requirements for small systems; incorporating recent federal Safe Drinking Water Act amendments; clarifying cross-connection control requirements; providing a regulatory option for systems that want to pursue a limited alternative to filtration; and making several nonsubstantive organizational and grammatical changes.

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

**Small Business Economic Impact Statement**

**Requirements for Small Business Economic Impact Statements:** The legislature enacted the Regulatory Fairness Act (chapter 19.85 RCW) based on the following finding:

The legislature finds that administrative rules adopted by state agencies can have a disproportionate impact on the state's small businesses because of the size of those businesses. This disproportionate impact reduces competition, innovation, employment, and new employment opportunities, and threatens the very existence of some small businesses. The legislature therefore enacts the Regulatory Fairness Act with the intent of reducing the disproportionate impact of state administrative rules on small business. (RCW 19.85.011).

The Regulatory Fairness Act requires state agencies to prepare a small business economic impact statement (SBEIS) to determine whether "the proposed rule will have a disproportionate (cost) impact on small businesses." Whenever an agency finds a disproportionate impact, it must, "where legal and feasible in meeting the state objectives of the statutes upon which the rule is based, reduce the cost imposed by the rule on small businesses."

The Department of Health uses a four-step procedure to comply with this mandate:

(1) The department determines whether the proposed regulation would impose a minor cost on businesses; only regulations imposing a "more than minor" cost require an SBEIS.

(2) For proposed regulations that impose "more than minor" cost, the department investigates the size range of affected businesses. If affected businesses are either all small (defined by the Regulatory Fairness Act as having fewer than fifty employees) or all large, the department determines that there is no disproportionate impact.

(3) When both large and small businesses are affected by the proposed regulation, the department uses one of the means of comparison mandated by the statute to determine if there is a disproportionate cost impact:

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

(4) If this comparison reveals a disproportionate impact, the department considers the legality of establishing a less restrictive standard for small businesses. If legal, the department works to provide regulatory relief in such a way as to maximize achievement of the department's overall regulatory objectives.<sup>1</sup>

<sup>1</sup>The reader should bear in mind that the Regulatory Fairness Act does not intend for state agencies to compare the benefit and cost of a proposed regulation. As such, this SBEIS does not include benefit estimates of the pro-

posed regulation. A benefit-cost analysis is prepared under the Administrative Procedure Act (RCW 34.05.328) and will be placed in the rule-making file and available for public review before the regulation is adopted.

**The Regulation of Private Drinking Water Systems in Washington State:** Washington state law vests authority to regulate drinking water with the department and the Washington State Board of Health (board). Specifically, the board is directed to:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems, and;

(vii) Quality standards of the source or supply, or both source and supply, of water for bottled water plants, (RCW 43.20.050).

In response, the board adopts and periodically revises drinking water regulations. Recent amendments to the federal Safe Drinking Water Act (1996), the Governor's Executive Order on Regulatory Reform (97-02), and program changes initiated the proposed revisions. The revisions are needed for Washington to retain regulatory authority for drinking water systems (rather than federal oversight), to clarify regulatory intent, and to provide drinking water systems substantial flexibility in meeting the regulatory mandates.

This proposal revises regulations governing the operation of Group A water systems - those with fifteen or more connections or serving twenty-five or more people. The department currently regulates 1,524 Group A water systems classified as businesses. Approximately seventy-five percent of Group A water systems fall into the following five categories and Standard Industrial Classification (SIC) codes:<sup>2</sup>

<sup>2</sup> This determination was made by an independent consultant hired by the department in 1995 to establish such baseline information.

Type of business	SIC code
Water suppliers	4941
Mobile homes and trailer parks	6515
Hotels, motels, and resorts	7011
RV parks and campsites	7033
Eating places	5812

However, many other types of businesses own public water systems, even when the provision of water has little bearing on the businesses' primary product or service. The types of companies that compose the remaining twenty-five percent of water systems include, but are not limited to:

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Type of business	SIC code	Type of business	SIC code
Grocery stores	5411	Skating rinks	7999
Golf courses	7997	Day cares	8351
Marinas	4493	Athletic clubs	7991
Fruit companies	0175	Nursing homes	8051
Orchards	0181	Livestock exchanges	5154
Gasoline stations	5541	Air taxi services	4522
Nurseries	5261	Trout farms	0273

For regulatory purposes, public water systems are divided into community systems, which mainly serve residential customers, and noncommunity systems, which serve mostly nonresidential customers. Businesses designated as community systems vary in size and have from two to 4,000 connections, though most have fewer than one hundred connections. The noncommunity systems are typically very small, and the majority have fewer than five connections.

**Is an SBEIS necessary?** Under the act, a small business economic impact statement (SBEIS) is required whenever a regulation imposes "more than minor" costs on a regulated business. The "more than minor" threshold varies by industry (e.g., \$300 for water suppliers and \$50 for eating establishments). However, the projected increase in water system operating costs from the proposed WAC changes exceeds all "more than minor" cost thresholds. Therefore, an SBEIS is required.

**What is a small business?** The Regulatory Fairness Act defines a business as any "... 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 ..." This definition excludes many Washington state water systems. Public systems such as those operated by the cities of Seattle and Tacoma are not considered businesses, nor are not-for-profit systems owned by homeowner associations. The act defines a small business as one that employs less than fifty individuals.

**Does the proposed rule impose disproportionate costs on small businesses?** Under this definition of small busi-

ness, this proposed rule does not impose disproportionate costs on small businesses. Over ninety-nine percent of all private, for-profit entities affected by the rule have fewer than fifty employees. As a result, water systems with less than fifty employees cannot pay more than water systems with more than fifty employees. This finding relieves the department from providing regulatory relief to small businesses<sup>3</sup>. Nevertheless, the department worked hard to ease the regulatory burden to all businesses.

<sup>3</sup> Existing regulations already provide some relief to smallest drinking water systems. For example, the Small Water System Management Plan is significantly less onerous than the Water System plan required of larger systems. Similarly, small systems have reduced monitoring and record-keeping requirements. This regulatory relief is continued in the proposed regulatory changes.

**Department of Health Efforts to Reduce the Cost of the Existing Regulations:** One of the department's goal in the amendments was to increase regulatory flexibility. To this end the proposal includes an alternative procedure for calculating the water demand design criteria. Similarly, the proposal includes an alternative procedure for using noncertified materials having substantial contact with potable water supplies. The proposal also allows purveyors to avoid engineering document review for certain types of projects. The proposed changes would allow, on [a] case-by-case basis, purveyors to use alternatives to traditional filtration, which can be expensive. These proposed changes may reduce purveyor cost in meeting the department's fundamental public health objectives.

**Department of Health Efforts to Reduce the Cost of the Proposed Regulations:** Since the inception of this rule making the department has sought to minimize its cost impacts. The department significantly modified the original July 1997 proposal as a result of the public input process (see the public involvement section). The department eliminated several of the more controversial and costly proposals while significantly changing others. Examples of these changes include:

July 1997 Proposal	Current Proposal
• Small community water systems required to hold a public meeting when preparing small water system management programs.	• No public meeting requirement for small water systems.
•Purveyors would have been required to include several new elements in their pump tests.	•The pump test is performance based, and the stringency depends on the quality of the source and how much is known about it.
•Purveyors with watershed protection programs would have had to update their potential contaminant inventories every two years.	•The frequency update for the contaminant inventory will remain at six years, as it is in current WAC.
•Off-the-shelf disinfectants, such as <i>Clorox</i> or <i>Purex</i> , were not included in the list of certified treatment chemicals.	•Unscented off-the-shelf products, such as <i>Clorox</i> and <i>Purex</i> , can be used without meeting ANSI/NSF Standard 60.
•Water systems could not design below 350 gpd per ERU.	•Water systems can design below 350 gpd per ERU if they have meter records to demonstrate such use.
•When systems exceed secondary contaminant MCLs, purveyors would have to take follow-up action as directed by the department.	•Systems that exceed secondary MCLs must take action as directed by their customers. Those without customers, such as new community and nontransient noncommunity systems, must provide treatment.

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•Closed-loop water systems and without gravity storage would have to provide backup power in order to meet reliability standards.	•Water system consumers can establish an acceptable level of reliability.
•Purveyors have to notify their customers after a nonscheduled loss of pressure (e.g., a main break) and keep the main out of service until obtaining a satisfactory bacteriological sample.	•Purveyors must protect their consumers from hazardous backflow situations, and must use standard industry practices following main breaks.

The department further modified and/or eliminated certain sections after obtaining cost projections in a series of water system work group meetings during the summer of 1998 (see Table below). The department estimates that these changes significantly reduced annual water system costs.

The revisions/deletions lowered the estimated cost for a typical system with one hundred connections by about twenty percent while the cost for a 1000 connection system with [which] fell an estimated fifty percent.

**Annual Cost Reduction of Revisions and Deletions After the 1998 Cost Survey**

Deleted or Modified Revisions	Annual Cost Savings for a Typical Water System by Number of Connections		
	100	1000	10,000
<b>Small Water System Management Program - WAC 246-290-105 (3) (d), (e), (f), (g)</b> The department will not propose to require community and noncommunity systems that have sanitary surveys that identify deficiencies or those that are needing to document regulatory compliance and systems applying for SRF funding to submit a SWSMP ( <i>Cost Survey: Issue 2 - Activity 2</i> )	\$45	N/A	N/A
<b>Watershed Control Program - WAC 246-290-135 (4)(c)(ii)</b> The requirement for a two-year update on potential contaminants was deleted. Words "surface water contamination sources" were added to clarify which contaminants were of concern ( <i>Cost Survey: Issue 8 - Activity 2</i> )	\$10	\$0	\$0
<b>Pilot Studies to Evaluate Groundwater - WAC 246-290-260(2)</b> This entire section addressing requirements of pilot studies for groundwater evaluation was eliminated. ( <i>Cost Survey: Issue 12 - Activity 1</i> )	\$25	\$415	\$950
<b>Agreements for In-Premise Protection - WAC 246-290 (2)(i)(v)</b> All requirements for written agreements between local administrative authorities and purveyor have been eliminated including ( <i>Cost Survey: Issue 21: Activities 1 and 2</i> ): a) Written agreements with local administrative authorities b) Agreements with individual customers	\$5 \$20	\$225 \$550	\$600 \$1150
<b>Recordkeeping and Reporting - Water production and consumption - WAC 246-290-480(2)</b> Monthly water production volumes are allowed to be estimated rather than require metered data ( <i>Cost Survey: Issue 20 - Activity 2</i> )	\$0	\$2400	\$0
<b>Cross Connection Control Education (CCC) Program - WAC 246-290(3)</b> Requirement for educating customers about cross-connection control has been deleted. This issue will be addressed in the Consumer Confidence Report requirements that will be adopted in 1999. ( <i>Cost Survey: Issue 22 - Activity 6</i> )	\$300	\$1400	\$900
<b>Total Cost Reduction from Deletions/Revisions</b>	<b>\$405</b>	<b>\$4,990</b>	<b>\$4,200</b>

In a further effort to minimize purveyor costs, the department has developed numerous guidance documents that are available free of charge to purveyors. These guidance documents are designed to help purveyors understand and comply with regulations governing public water systems. The guidance documents assist purveyors with topics such as water system design, monitoring, reporting and planning. Many of them are in workbook form, and are designed to walk purvey-

ors through regulatory requirements in a simple step-by-step manner. Despite the department's effort towards minimizing costs and increasing purveyor flexibility the proposed changes remain potentially expensive for some systems. Developing a precise estimate of the overall cost of complying with the proposed regulations is very difficult. The proposal affects many different aspects of water system operation. The cost to any given water system will depend on its

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individual circumstances (e.g., whether the system treats its water for chemical contamination) and its operational, technical, managerial and financial capabilities.

The department employed the cost survey to help determine the additional cost of complying with the proposed changes (see the 'small business involvement' section). As a rough estimate, the department places the cost of the proposed regulations as follows:

**Estimates of the Cost of the Regulatory Proposal<sup>†</sup>**

Number of Connections	Annual Water System Cost of Complying with the Draft Amendments by the Number of Customer Connections		
	100	1,000	10,000
Cost Range	\$1,047 - \$8,724	\$3,830 - \$21,380	\$8,300 - \$25,400
Median Cost (cost per customer)	\$1,567 (\$15.70)	\$4,810 (\$4.80)	\$11,300 (\$1.10)

<sup>†</sup>To obtain the above estimates, the department averaged one-time or intermittent costs over time. (e.g., a \$1200 cost once every six years was counted as a \$200 annual cost.) See the significant analysis in the rule-making file for a more complete description of how the department calculated these cost estimates.

To provide perspective on these cost estimates, the department investigated current water rates in Washington. In a 1998 survey, the Association of Washington Cities determined that the average water rate for 200+ cities and towns is \$230.04. Most surveyed towns had more than 1000 connections. Thus, the predicted increase of \$4.80 would equate to about a 2% increase in rates. The department also found that the Utilities and Transportation Commission does not consider privately-owned water systems under one hundred connections to warrant rate regulation unless the average customer revenue is \$418 or more annually. The estimated rate increase brought about by the proposal is only 3.8% of that regulatory threshold.

Some of the proposed changes are necessary for the department to comply with the statutory mandate of "assur(ing) safe and reliable public drinking water and to protect the public health." Other changes will keep Washington state regulations consistent with federal law. Consistency is necessary for Washington state to retain primacy - state rather than federal oversight of drinking water systems. Consistent regulations are also necessary for the state to receive federal money for the Drinking Water State Revolving Fund. The department loans this money to public water systems at below-market rates. This money also is given in grants to groups providing technical assistance to public water systems. Even when they choose not to apply for loans, small water systems can benefit from the technical assistance provided by these nonprofit organizations. See below for examples of changes needed to maintain consistency.

**Revisions to Chapter 246-290 WAC to Retain Consistency with SDWA 1996 Amendments**

**(1) Criteria for Unfiltered Systems with a Limited Alternative to Filtration:** Allow unfiltered systems to utilize alternative to filtration, on a case-by-case basis:

Washington State Rule: WAC 246-290-691.

Federal Rule: Public Law 104-182, Section 106, Section 1412 (b)(7)(C) (42 U.S.C. 300g-1 (b)(7)(C)).

**(2) Water System Capacity Development:** Assure that new community water systems and new nontransient, non-community water systems demonstrate "technical, managerial and financial capacity with respect to each national primary drinking water regulation ..." Section 1420 (U.S.C. 300g-9(a)). After August 6, 2000, the state must develop and implement "... a strategy to assist public water systems in acquiring and maintaining technical managerial and financial capacity" for existing Group A systems. Section 1420 (U.S.C. 300g-9 (c) 1). Furthermore, the state must determine how to "... establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law ..." Section 1420 (U.S.C. 300g-9) (c)(2)(D):

Washington State Rule: WAC 246-290-100 Water system plan and 246-290-105 Small water system management program.

Federal Rule: Public Law 104-182, Section 1420 Part B 42 U.S.C. 300g-9 et seq.).

**(3) Lead Plumbing and Pipes:** Ascertains that materials that have contact with drinking water be lead free:

Washington State Rule: WAC 246-290-220.

Federal Rule: Public Law 104-182, Section 1417 (42 U.S.C. 300g-6).

**(4) State Revolving Funds:** No Drinking Water State Revolving Fund assistance can be provided to a public water system that "does not have the technical, managerial, and financial capability to ensure compliance with the requirements" or in that "the use of the assistance will ensure compliance" Section 1452 (U.S.C. 300j - 12(G)):

Washington State Rule: WAC 246-290-100 Water system plan and 246-290-105 Small water system management program.

Federal Rule: Public Law 104-182, Section 1452 (42 U.S.C. 300j-12).

Draft Federal Rule: 40 CFR Part 35 (due in late 1998).

**(5) Definition of Group A Water Systems:** Includes systems supplying water through "constructed conveyances" to the definition of water systems subject to the SDWA:

Washington State Rule: WAC 246-290-020 Applicability.

Federal Rule: Public Law 104-182, Section 1401(4) (42 U.S.C. 300f(4)).

**(6) Coliform monitoring for small systems (<4,100 population):** Requires sanitary survey in order to avoid significantly higher monthly monitoring:

Washington State Rule: WAC 246-290-300 Monitoring requirements and 246-290-416 Sanitary surveys.

Federal Law: Public Law 104-182, Section 1418 (42 U.S.C. 300g-7).

How did the department involve businesses when developing the proposed rule?

The department's proposal to amend chapter 246-290 WAC has been in progress for approximately two years. During that time, the department has actively sought the regulated community's opinion on its proposals. The department routinely notified water purveyors of all sizes and types of

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ownership, including small businesses, of its progress and invited them to attend several state-wide public workshops. In addition, the department published and widely distributed two review drafts, the first in July 1997 and the second in April 1998, on which it sought public comment both at the workshops and in writing.

The main vehicle the department used for notifying water purveyors of the regulatory proposals was the Division of Drinking Water's newsletter *The Water Tap*. The division publishes the newsletter quarterly and sends it to approximately 8,000 parties, including all Group A systems. Articles concerning the rule and the amendment process appeared in the following issues:

1996 Issues	1997 Issues	1998 Issues
February	March	March
July	June	June
October	September	
December	December	

In addition to publicizing the availability of draft proposals on which water purveyors could comment in the *Water Tap*, the division also used the newsletter to advertise several workshops that the division held around the state concerning the general WAC changes as well as those specifically addressing cross-connection control (WAC 246-290-490). The department held workshops and public meetings to inform the purveyors about the proposals and to take their comments and suggestions. These meetings were very well attended, attracting some 550 participants to the general WAC meetings and 300 to the cross-connection control meetings. In addition, the department received approximately 1000 comments on the draft proposal. Department staff addressed each comment and adjusted the regulatory proposal when appropriate.

Date	Location	Topic
May 21, 1997	Seattle	Cross-connection control
June 17, 1997	Spokane	Cross-connection control
July 22, 1997	Yakima	General chapter changes
July 24, 1997	Tumwater	General chapter changes
July 29, 1997	Edmonds	General chapter changes
July 31, 1997	Spokane	General chapter changes
May 28, 1998	Spokane	General chapter changes
May 29, 1998	Bellevue	General chapter changes
June 1, 1998	Lacey	General chapter changes
June 2, 1998	Spokane	Cross-connection control
June 8, 1998	Lacey	Cross-connection control
June 17, 1998	Everett	Cross-connection control

Another tool the division used to involve businesses and other purveyors in the rule was a cost survey that was designed to more clearly define the costs of the most controversial or costly proposals, as identified by the water purveyors through the public involvement process. The survey asked approximately forty water purveyors and consultants, including businesses, to estimate the costs of the proposed changes. Each individual was asked to respond to a limited

set of proposals and was given the option of responding to others of interest. The department then convened three meetings (July 30, 1998, at Spokane and August 3 and 4 at SeaTac) at which the respondents shared their conclusions. The department used the findings of the cost survey meetings to further refine its proposals and mitigate some of the costs identified by the purveyors.

**What are the reporting, recordkeeping, and other compliance requirements?** The amendments to chapter 246-290 WAC are comprehensive and affect many aspects of public water system operation. The majority of the changes are performance-based and administrative or procedural in nature. Many of the proposed changes will not affect all water systems. Rather, they will affect certain water systems as they undertake actions that fall within the scope of the regulatory proposals.

Some amendments increase the need for purveyors to retain consultants. For example, proposed changes to the regulations regarding water system plans, project reports, and construction documents would require additional review by a professional engineer. Below is a list of the proposed amendments' reporting, recordkeeping and other paperwork requirements. However, the compliance requirements placed on an individual water system will depend on its operational characteristics and its present record-keeping practices.

**Reporting**

- Purveyors who prepare water system plans must prepare a source of supply analysis and must include specific information in the financial viability analysis.
- Purveyors who prepare Wellhead protection area delineations must include the six-month time of travel boundary in their wellhead protection programs.
- All new nontransient noncommunity systems must submit small water system management programs.
- Purveyors who prepare small water system management programs must include new information, including maps, water right evaluation, source pumping records, system improvements, water quality monitoring information, and an emergency response plan.
- Purveyors must address water rights in project reports if they are not already addressed in water system plans.
- Purveyors who are not required to prepare water system plans and who do prepare project reports must include the project's estimated capital and annual operating costs in the project report.
- Purveyors must address water rights in construction documents if they are not already addressed in water system plans or project reports.
- Purveyors must provide documentation of adequate water rights for new source approval.
- Purveyors must include record drawings in construction documents.
- Purveyors who use interties must include specific information in their water system plans, including a water right assessment.
- Intertie agreements between purveyors must include specific information.
- Purveyors who use emergency interties must receive department approval.

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- Purveyors must report physical capacity in equivalent residential units on project reports.
- On the annual water facilities inventory form, purveyors must report monthly water purchases and annual totals of water purchased from or sold to other purveyors.
- Purveyors with more than 1,000 connections must report monthly and annual water usage by consumer class (estimates of monthly usage allowed when monthly data is not collected).
- Purveyors must report backflow incidents to the department, local health jurisdiction, and local administrative authority.
- Purveyors must prepare an annual cross-connection control summary report.
- All systems must have sanitary surveys performed every five years.
- Water purveyors must determine their consumers' desired level of system reliability.
- Purveyors who provide disinfection must conduct chlorine residual sampling at the same frequency and in the same locations as their routine and repeat coliform sample collection.
- Purveyors who operate chemical contaminant treatment facilities must collect finished water samples monthly. Samples from treatment facilities for primary contaminants must go to a certified lab for analysis, while the purveyor can analyze the samples from treatment facilities for secondary contaminants. Purveyors must submit a project report if the treatment exceeds primary maximum contaminant levels in at least four months per year.
- Bypass lines that bypass backflow prevention devices must provide at least as much protection as do the main lines.

#### **Recordkeeping**

- Purveyors must keep monthly and annual totals of water purchased from or sold to other purveyors.
- Purveyors with more than 1,000 connections must keep monthly and annual water production totals for each consumer classes (estimates of monthly usage allowed when monthly data is not collected).
- Purveyors must maintain records of premises posing a potential cross-connection control hazard for as long as the premises pose a hazard.
- Purveyors must keep cross-connection control records concerning device inventories for five years or for the life of the device, whichever is shorter.
- Purveyors must keep cross-connection control records concerning backflow incidents and annual summary reports for five years.

#### **Miscellaneous**

- Purveyors who prepare water system plans must notify their consumers and conduct informational meetings when preparing the plans.
- Purveyors who conduct pump tests must demonstrate that the source has an adequate quantity of water to meet source design, without causing water quality problems. The specific information required will depend on a number of factors identified in the new design manual.
- Materials in substantial contact with water must conform to ANSI/NSF Standard 61.
- Treatment chemicals must conform to ANSI/NSF Standard 60.
- Transmission lines must maintain at least five psi.
- New distribution reservoirs must include a screened roof vent, overflow pipe with atmospheric discharge, provision for sample collection, drain to daylight (or approved alternative adequate to protect against cross-connection), and a provision for tank isolation to perform maintenance.
- Purveyors who sell water to other systems must monitor for source contaminants based on the total population served by that source.
- Purveyors with secondary contaminant problems must determine their existing customers' desire to address the situation.
- New community and nontransient noncommunity systems without consumers must provide treatment for secondary contaminants.

**Will the proposed rule cause water systems to lose sales or revenue?** The department finds it unlikely that the proposed regulatory changes will cause water systems any sales or revenue losses. Virtually all water system customers are captive. That is, they cannot change their supplier. As a result, water systems should not lose customers as a result of the proposed changes. However, to the extent that water systems pass through the increased compliance cost, the higher water bill may move some customers to use water more efficiently. Overall, the department believes that the proposed regulations will have a very small business or fiscal impact on water systems.

Business customers of water systems will probably consider the increased water cost as a fixed cost. Consequently, they will likely spread the small additional cost over all of their production or services, resulting in a negligible increase in the price of the goods or services they sell. It is unlikely that the magnitude of that increase would be large enough to change the purchasing behavior of the general public of those goods.

A copy of the statement may be obtained by writing to Department of Health, Environmental Health Programs, Division of Drinking Water, 7171 Cleanwater Lane, Building 3, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3091, fax (360) 236-2253.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. This proposal is a "significant legislative rule" pursuant to RCW 34.05.328. The Department of Health will complete a significant legislative analysis prior to adopting the rule and will include the analysis in the rule-making file.

Hearing Location: Seattle Airport Hilton, 17620 Pacific Highway South, Seattle, WA 98188, on November 12, 1998, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Zimmerman by November 6, 1998, TDD (800) 833-6388, or fax (360) 586-6033.

Submit Written Comments to: Jude VanBuren, fax (360) 236-3122, by November 12, 1998.

Date of Intended Adoption: November 12, 1998.  
October 7, 1998  
Sylvia Beck  
Executive Director  
State Board of Health

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-001 Purpose and scope.** (1) The purpose of ~~((these rules))~~ this chapter is to define basic regulatory requirements and to protect the health of consumers using public drinking water supplies.

(2) The rules of this chapter are specifically designed to ensure:

(a) Adequate design, construction, sampling, management, maintenance, and operation practices; and

(b) Provision of safe and high quality drinking water in a reliable manner and in a quantity suitable for intended use.

(3) Purveyors shall be responsible for complying with the regulatory requirements of this chapter.

(4) These rules are intended to conform with ~~((P.L.))~~ Public Law 93-523, the Federal Safe Drinking Water Act of 1974, and ~~((P.L.))~~ Public Law 99-339, the Safe Drinking Water Act Amendments of 1986, and certain provisions of Public Law 104-182, the Safe Drinking Water Act Amendments of 1996.

(5) The rules set forth are adopted under chapter 43.20 RCW. Other statutes relating to this chapter are:

(a) RCW 43.20B.020, Fees for services—Department of health and department of social and health services;

(b) Chapter 43.70 RCW, Department of health;

(c) Chapter 70.05 RCW, Local health department, boards, officers—Regulations;

(d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977;

(e) Chapter 70.119 RCW, Public water supply systems—Certification and regulation of operators;

(f) Chapter 70.119A RCW, Public water systems—Penalties and compliance; and

(g) Chapter 70.142 RCW, Chemical contaminants and water quality.

#### NEW SECTION

**WAC 246-290-002 Guidance.** (1) The department has numerous guidance documents available to help purveyors comply with state and federal rules regarding drinking water. These include documents on the following subjects:

(a) Compliance;

(b) System management and financial assistance;

(c) Groundwater protection;

(d) Growth management;

(e) Operations/maintenance;

(f) Operator certification;

(g) Water system planning;

(h) Monitoring and water quality;

(i) System approval;

(j) Small water systems;

(k) Water resources;

(l) Water system design; and

(m) General information.

(2) The guidance documents are available at minimal or no cost by contacting the division of drinking water's publication service at (360) 236-3099 or (800) 521-0323. Individuals can also request the documents via the Internet at <http://www.doh.wa.gov/ehp/dw> or through conventional mail at P.O. Box 47822, Olympia, Washington 98504-7822.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-010 Definitions. Abbreviations and acronyms:**

ADD - average day demand;

AG - air gap;

ANSI - American National Standards Institute;

APWA - American Public Works Association;

ASCE - American Society of Civil Engineers;

AVB - atmospheric vacuum breaker;

AWWA - American Water Works Association;

BAT - best available technology;

C - residual disinfectant concentration in mg/L;

CFR - code of federal regulations;

~~((CSE—comprehensive system evaluation;))~~

CT - the mathematical product in mg/L - minutes of "C" and "T";

CWSSA - critical water supply service area;

DCDA - double check detector assembly;

DCVA - double check valve assembly;

DWSRF - drinking water state revolving fund;

ERU - equivalent residential unit;

gph - gallons per hour;

gpm - gallons per minute;

GW - ground water under the direct influence of surface water;

HPC - heterotrophic plate count;

IAPMO - International Association of Plumbing and Mechanical Officials;

kPa - kilo pascal (SI units of pressure);

m - meter;

MCL - maximum contaminant level;

MDD - maximum day demand;

mg/L - milligrams per liter (1 mg/L = 1 ppm);

mL - milliliter;

mm - millimeter;

MTTP - maximum total trihalomethane potential;

NSF - National Sanitation Foundation;

NTNC - nontransient **noncommunity**;

NTU - nephelometric turbidity unit;

PAA - project approval application;

pCi/L - picocuries per liter;

PHD - peak hourly demand;

ppm - parts per million (1 ppm = 1 mg/L);

psi - pounds per square inch;

PVBA - pressure vacuum breaker assembly;

RPBA - reduced pressure backflow assembly;

**RPDA** - reduced pressure detector assembly;  
**SAL** - state advisory level;  
**SCA** - sanitary control area;  
**SDWA** - Safe Drinking Water Act;  
**SEPA** - State Environmental Policy Act;  
**SOC** - synthetic organic chemical;  
**SMA** - satellite management agency;  
**SPI** - special purpose investigation;  
**SRE** - state revolving fund;  
**SVBA** - spill resistant vacuum breaker assembly;  
**SWTR** - surface water treatment rule;  
**T** - disinfectant contact time in minutes;  
**TTHM** - total trihalomethane;  
**TNC** - transient noncommunity;  
**TNTC** - too numerous to count;  
**UBC** - Uniform Building Code;  
**ug/L** - micrograms per liter;  
**UL** - Underwriters Laboratories, Inc.;  
**umhos/cm** - micromhos per centimeter;  
**UPC** - Uniform Plumbing Code;  
**UTC** - utilities and transportation commission;  
**VOC** - volatile organic chemical;  
**WAC** - Washington Administrative Code;  
**WADOT** - Washington department of transportation;  
**WFI** - water facilities inventory and report form; and  
**WHPA** - wellhead protection area.

"Acute" means posing an immediate risk to human health.

**"Alternate filtration technology"** means a filtration process for substantial removal of particulates (generally > 2 log *Giardia lamblia* cysts) by physical straining through a fixed medium. It does not include conventional, direct, diatomaceous earth, or slow sand filtration processes.

**"Analogous treatment system"** means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

**"Approved air gap"** means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an air gap approved by the department, the separation must be at least:

Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and:

Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

**"Approved atmospheric vacuum breaker"** means an AVB of make, model, and size that is approved by the department. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by

other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the local administrative authority are considered approved by the department.

**"Approved backflow preventer"** means an approved air gap, an approved backflow prevention assembly, or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490 do not apply to backflow preventers installed for other purposes.

**"Approved backflow prevention assembly"** means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

**"As-built drawing"** means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

**"Authorized agent"** means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

**"Average day demand (ADD)"** means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day (gpd).

**"Backflow"** means the undesirable reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

**"Backflow assembly tester"** means a person holding a valid BAT certificate issued in accordance with chapter 246-292 WAC.

**"Backpressure"** means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

**"Backsiphonage"** means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's potable water system.

**"Best available technology (BAT)"** means the best technology, treatment techniques, or other means ((which)) that EPA finds, after examination for efficacy under field conditions, are available, ((€))taking cost into consideration((?)). ((For the purposes of setting MCLs for synthetic organic chemicals, any BAT shall be at least as effective as granular activated carbon.))

**"Blended sample"** means a sample collected from two or more individual sources at a point downstream of the con-

fluence of the individual sources and prior to the first connection.

"C" means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

"Category red operating permit" means an operating permit identified as such pursuant to chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

~~((("Coliform sample" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.)))~~ "Chemical contaminant treatment facility" means a treatment facility specifically used for the purpose of removing chemical contaminants.

"Clarification" means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

"Closed system" means any water system or portion of a water system in which water is transferred to a higher pressure zone closed to the atmosphere, such as when no gravity storage is present.

"Coagulant" means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

"Coagulation" means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

"Completely treated water" means water from a surface or GWI source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

"Composite sample" means a sample (~~(created in a certified laboratory by mixing equal parts of water from up to five different sources))~~ in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

"Comprehensive monitoring plan" means a schedule (~~(which))~~ that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

~~((("Comprehensive system evaluation (CSE)" means a review, inspection, and assessment of a public water system, including but not limited to: Source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.)))~~

"Confirmation" means to demonstrate the accuracy of results of a sample (~~(to be precise))~~ by analyzing (~~(a))~~ another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation (~~(occurs))~~ is when analysis results fall within plus or minus thirty percent of the original sample results.

"Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

"Conservation program" means policies and activities implemented to encourage or cause efficient use of water on a long-term basis. Conservation programs shall include identification of the conservation objectives of the purveyor, evaluation of conservation measures considered, and identification of specific conservation measures identified for implementation.

"Construction completion report" means a form provided by the department and completed for each specific construction project to document:

- Project construction in accordance with this chapter and general standards of engineering practice;
- Physical capacity changes; and
- Satisfactory test results.

The completed form must be stamped with an engineer's seal, and signed and dated by a professional engineer.

"Consumer" means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a plumbing system connected to a public water system through a service connection.

"Contaminant" means a substance present in drinking water (~~(which))~~ that may adversely affect the health of the consumer or the aesthetic qualities of the water.

"Contingency plan" means that portion of the wellhead protection program section of the water system plan or small water system management program (~~(which))~~ that addresses the replacement of the major well(s) or wellfield in the event of loss due to ground water contamination.

"Continuous monitoring" means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal ( $\geq 2.5 \log$  *Giardia lamblia* cysts).

"Critical water supply service area (CWSSA)" means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in such a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

"Cross-connection" means (~~(a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system))~~ any actual or potential physical connection between a public water system or the consumer's potable water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

"Cross-connection control program" means the written document that describes how the purveyor intends to comply with the requirements of this section.

"Cross-connection control specialist" means a person holding a valid CCS certificate issued in accordance with chapter 246-292 WAC.

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**"Cross-connection control summary report"** means the annual report that describes the status of the purveyor's cross-connection control program.

**"CT" or "CTcalc"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T".

**"CT<sub>99.9</sub>"** means the CT value required for 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts.

**"CTreq"** means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

**"Curtailement"** means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

**"Dead storage"** means the volume of stored water not available to all consumers at the minimum design pressure in accordance with WAC 246-290-230(5) and (6).

**"Demand forecast"** means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected conservation savings from implementation of a conservation program, and other appropriate factors.

**"Department"** means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-290-030(1).

**"Design and construction standards"** means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

**"Diatomaceous earth filtration"** means a filtration process for substantial removal of particulates (> 2 log *Giardia lamblia* cysts) in which:

A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

**"Direct filtration"** means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal (> 2 log *Giardia lamblia* cysts).

**"Direct service connection"** means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

**"Disinfectant contact time (T in CT)"** means: When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the

C measurement point for which the particular T is being calculated.

**"Disinfection"** means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

**"Distribution coliform sample"** means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

**"Distribution-related projects"** means distribution projects such as storage tanks, booster pump facilities, transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

**"Distribution reservoir"** means a water storage structure ((which)) that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

**"Distribution system"** means ((that portion)) all piping components of a public water system ((which)) that serve to convey((s)) water from ((the source and/or)) transmission mains linked to source, storage and treatment facilities to the consumer((s)) excluding individual services.

**"Domestic or other nondistribution system plumbing problem,"** means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

**"Drinking water state revolving fund (DWSRF)"** means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act.

**"Duplicate (verification) sample"** means a second sample collected at the same time and location as the first sample and used for verification.

**"Emergency"** means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

**"Emergency source"** means any source that is approved by the department for emergency purposes only, is not used for routine or seasonal water demands, is physically disconnected, and is identified in the purveyor's emergency response plan.

**"Engineering design review report"** means a form provided by the department and completed for a specific distribution-related project to document:

- Engineering review of a project report and/or construction documents under the submittal exception process in accordance with WAC 246-290-125(3); and

- Design in accordance with this chapter and general standards of engineering practice.

The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

**"Equalizing storage"** means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

**"Equivalent residential unit (ERU)"** means a system-specific unit of measure used to express the amount of water consumed by a typical full-time single family residence.

**"Expanding public water system"** means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities (~~(which)~~) that will enable the system (~~(increasing)~~) to increase in size its existing service area and/or its number of approved service connections. Exceptions:

A system (~~(which)~~) that connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

A distribution system extension in an existing service area identified in a current and approved water system plan or project report.

**"Filtration"** means a process for removal of particulate matter from water by passage through porous media.

**"Financial viability"** means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

**"Fire flow"** means the maximum rate and duration of water flow needed to (~~(fight)~~) suppress a fire(~~(s)~~) under WAC 246-293-640 or (~~(adopted city, town, or county)~~) as required under local fire protection authority standards.

**"Fire suppression storage"** means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

**"First (~~(customer)~~) consumer"** means the first service connection(~~(-)~~) associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

**"Flocculation"** means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

**"Grab sample"** means a water (~~(qualify [quality])~~) quality sample collected at a specific instant in time and analyzed as an individual sample.

**"Ground water under the direct influence of surface water (GWI)"** means any water beneath the surface of the ground(~~(-which)~~) that the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

**"Guideline"** means a department document assisting the purveyor in meeting a rule requirement.

**"Health officer"** means the health officer of the city, county, city-county health department or district, or an authorized representative.

**"Heterotrophic Plate Count (HPC)"** means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

**"High health cross-connection hazard"** means a cross-connection which could impair the quality of potable water and create an actual public health hazard through poisoning or spread of disease by sewage, industrial liquids or waste.

**"Human consumption"** means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

**"Hydraulic analysis"** means the study of (~~(the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.~~))

**"Initial inventory"** means an inventory which consists, at a minimum, of all potential sources of ground water contamination located within the one-year time of travel area of a WHPA and all high risk potential sources of ground water contamination located within the ten-year ground water time of travel area) a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

**"Inactivation ratio"** means the ratio obtained by dividing CTcalc by CTreq.

**"Incompletely treated water"** means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

**"In-line filtration"** means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

**"In-premises protection"** means a method of protecting the health of consumers served by the consumer's plumbing system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

**"Intertie"** means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

**"Limited alternative to filtration"** means a process that ensures greater removal and/or inactivation efficiencies

of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

"Local administrative authority" means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

"Low health cross-connection hazard" means a cross-connection that could cause an impairment of the quality of potable water to a degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of such potable waters for domestic use.

"Major project" means all construction projects subject to SEPA in accordance with WAC 246-03-030(3)(a) and include all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet and larger than eight inches in diameter located in new rights of way and major extensions to existing water distribution systems involving use of pipes greater than eight inches in diameter, that are designed to increase the existing service area by more than one square mile.

"Mandatory curtailment" means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table (4) 3.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

"Maximum day demand (MDD)" means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, excluding unusual events or emergencies. MDD is typically expressed as gallons per day (gpd).

"Monitoring waiver" means an action taken by the department pursuant to WAC 246-290-300 ((3)) (4)(g) or (7)(f) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination. ((Guidance on applying for monitoring waivers is found in the department guideline titled, Source Vulnerability and Monitoring Waivers which is available from the department.))

"Nested storage" means one component of storage is contained within the component of another.

"Nonacute" means posing a possible or less than immediate risk to human health.

"Nonresident" means a person ((without a permanent home or without a home served by the system, such as)) having access to drinking water from a public water system, but who lives elsewhere. Examples include travelers, transients, employees, students, etc.

"Normal operating conditions" means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality

standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

"Operational storage" means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

"Peak hourly ((design-flow)) demand (PHD)" means the maximum rate of water use, excluding fire flow, ((which)) that can be expected to ((ever)) occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

"Peak hourly flow" means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

"Performance criteria" means the level at which a system shall operate in order to maintain system reliability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

"Permanent residence" means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

"Permanent source" means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in operation for less than three consecutive months per year, their sources shall also be considered to be permanent.

"Point of disinfectant application" means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

"Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not such persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

"Potable" means water suitable for drinking by the public.

"Potential GWI" means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the well-head and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

"Premises isolation" means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the ser-

vice connection or other location acceptable to the purveyor to isolate the consumer's plumbing system from the purveyor's distribution system.

"Pressure filter" means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

"Primary disinfection" means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Primary turbidity standard" means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

"Project approval application (PAA)" means a department form documenting ownership of water system, design engineer for the project, and type of project.

"Protected ground water source" means a ground water source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

"Public water system" is defined and referenced under WAC 246-290-020.

"Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's ((customers)) consumers.

"Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

"Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

"Record drawings" means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

"Recreational tract" means an area that is clearly defined for each occupant, but has no permanent structures with internal plumbing, and the area has been declared as such in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

"Regional public water supplier" means a water system that provides drinking water to one, or more, other public water systems.

"Regularly" means four hours or more per day for four days or more per week.

"Removal credit" means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

"Repeat sample" means a sample collected to confirm the results of a previous analysis.

"Resident" means an individual living in a dwelling unit served by a public water system.

"Residual disinfectant concentration" means the ((concentration of disinfectant in mg/L in a representative sample of disinfected water)) analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

"Same farm" means a parcel of land or series of parcels ((which)) that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A public water system.

"Sanitary survey" means a review, inspection, and assessment of a public water system by the department or department designee including, but not limited to: Source, facilities, equipment, administration and operation, maintenance procedures, monitoring, recordkeeping, planning documents and schedules, and management practices. The purpose of the survey is to evaluate the adequacy of the water system for producing and distributing safe and adequate drinking water.

"Satellite management agency (SMA)" means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between such systems.

"Seasonal source" means a public water system source used on a regular basis, ((but not in use more than three consecutive months within a twelve-month period)) that is not a permanent or emergency source.

"Secondary standards" means standards based on factors other than health effects.

"Service connection" means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection ((is)) provides water to a ((system)) residential population without clearly defined single family residences ((or with a nonresident population)), the following formulas shall be used in determining ((equivalent)) the number of services to be included as residential connections on the WFI form:

((For group home or barracks type accommodation;)) Divide the average population served each day by two and one-half;

((For NTNC systems, divide the average population served each day by two and one-half; and

For TNC systems, divide the average population served each day by twenty-five;)) or

Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

In no case shall the calculated number of services be less than one.

**"Significant noncomplier"** means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health. Such violations include, but are not limited to, repeated violations of monitoring requirements, failure to address an exceedance of permissible levels of regulated contaminants, or failure to comply with treatment technique standards or requirements.

**"Simple disinfection"** means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

**"Slow sand filtration"** means a process involving passage of source water through a bed of sand at low velocity (generally less than 0.10 gpm/ft<sup>2</sup>) that results in substantial particulate removal (> 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

**"Source meter"** means a meter that measures total output of a water source and has a rate-of-flow indicator and totalizer meter.

**"Source water"** means untreated water that is not subject to recontamination by surface runoff and:

For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

**"Special purpose investigation (SPI)"** means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

**"Special purpose sample"** means a sample collected for reasons other than the monitoring compliance specified in this chapter.

**"Spring"** means a source of water where an aquifer comes in contact with the ground surface.

**"Standard methods"** means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

**"Standby storage"** means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

**"State advisory level (SAL)"** means a ((department-established value)) level established by the department and state board of health for a contaminant without an existing ((state board of health)) MCL. The SAL represents a level ((which)) that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

**"State board of health"** and **"board"** means the board created by RCW 43.20.030.

**"Surface water"** means a body of water open to the atmosphere and subject to surface runoff.

**"Susceptibility assessment"** means the completed Susceptibility Assessment Survey Form developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's((?)) overall ((vulnerability to pollution)) susceptibility to contamination from surface activities.

**"Synthetic organic chemical (SOC)"** means a manufactured carbon-based chemical.

**"System capacity"** means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

**"System physical capacity"** means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

**"Time-of-travel"** means the time required for ground water to move through the water bearing zone from a specific point to a well.

**"Too numerous to count (TNTC)"** means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

**"Tracer study"** means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

**"Transmission line"** means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined as such on the plans and no service connections are allowed along the transmission main.

**"Treatment technique requirement"** means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A "treatment technique requirement" is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

**"Trihalomethane (THM)"** means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. ((Trihalomethanes)) THMs may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection byproducts.

**"Turbidity event"** means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

**"T10"** means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or from published engineering reports or guidance documents for similarly configured tanks.

**"Unapproved auxiliary water supply"** means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

**"Uncovered distribution reservoir"** means a distribution reservoir that is open, without a suitable water-tight roof or cover, where the potable water supply is exposed to external contaminants, including but not limited to people, birds, animals, and insects.

**"Uniform Plumbing Code"** means the code adopted under RCW 19.27.031(4) and amended under chapter 51-46 WAC. This code establishes state-wide minimum plumbing standards applicable within the property lines of the consumer's premises.

**"Used water"** means water which has left the control of the purveyor.

**"Verification"** means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

**"Volatile organic chemical (VOC)"** means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

**"Voluntary curtailment"** means a curtailment of water use requested, but not required of consumers.

**"Waterborne disease outbreak"** means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

**"Water facilities inventory (WFI) form ((WFI))"** means the department form summarizing each public water system's characteristics.

**"Water right"** means a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

**"Water right assessment"** means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. Such an assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

**"Watershed"** means the region or area ((which)) that: Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

**"Water shortage"** means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

**"Water shortage response plan"** means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

**"Well field"** means a group of wells one purveyor owns or controls ((which)) that:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

**"Wellhead protection area (WHPA)"** means the portion of a well's, wellfield's or spring's zone of contribution defined as such using WHPA criteria established by the department.

**"Zone of contribution"** means the area surrounding a pumping well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-020 Applicability.** (1) Public water system shall mean any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm (~~(, providing piped water for human consumption, including any)~~). Such term includes:

(a) Collection, treatment, storage, and/or distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Collection or pretreatment storage facilities not under control of the purveyor, but primarily used in connection with such system.

(2) The rules of this chapter shall apply to all Group A public water systems except those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all water from, but is not owned by, a public water system where the rules of this chapter apply;

(c) Does not sell water directly to any person; and

(d) Is not a passenger-conveying carrier in interstate commerce.

(3) Group A public water systems meeting all of the provisions under subsection (2) of this section may be required by the department to comply with such provisions of this chapter as are necessary to resolve a public health concern if the department determines a public health threat exists or is suspected.

(4) A Group A system shall be defined as a public water system(:

~~(a) With fifteen or more service connections, regardless of the number of people; or~~

~~(b) Serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless~~

of the number of service connections)) providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act (Public Law 104-182, Section 101, subsection b).

(5) **Group A** water systems are further defined as **community** and **noncommunity** water systems.

(a) **Community** water system means any **Group A** water system((:

~~(i) With~~) providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year of the area served by the system, regardless of the number of people((:), or

~~((i))~~ regularly serving at least twenty-five ~~((or more))~~ year-round (i.e., more than one hundred eighty days per year) residents ~~((for one hundred eighty or more days within the calendar year, regardless of the number of service connections))~~.

Examples of a **community** water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.

(b) **Noncommunity** water system means a **Group A** water system ~~((which))~~ that is not a **community** water system. **Noncommunity** water systems are further defined as:

(i) **Nontransient (NTNC)** water system ~~((which regularly serves))~~ that provides service opportunity to twenty-five or more of the same ~~((nonresidents))~~ nonresidential people for one hundred eighty or more days within a calendar year.

Examples of a **NTNC** water system might include a school, day care center, or a business, factory, motel, or restaurant with twenty-five or more employees on-site.

(ii) **Transient (TNC)** water system ~~((which))~~ that serves:

~~(A) ((Has fifteen or more service connections used less than one hundred eighty days within a calendar year; or~~

~~(B) Serves))~~ Twenty-five or more different ((nonresidents)) people each day for sixty or more days within a calendar year; ~~((or~~

~~(C) Serves))~~ (B) Twenty-five or more of the same ((nonresidents)) people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

~~((D) Serves twenty five or more residents for sixty or more days, but less than one hundred eighty))~~ (C) One thousand or more people for two or more consecutive days within a calendar year.

Examples of a **TNC** water system might include a restaurant, tavern, motel, campground, state or county park, an RV park, vacation cottages, highway rest area, fairground, public concert facility, special event facility, or church.

(c) A **Group B** water system is a public water system ~~((which))~~ that does not meet the definition of a **Group A** water system. (See Table 1 and chapter 246-291 WAC for further explanation of a **Group B** water system.)

(6) A **Group A** system meeting more than one of the categories described in this section shall be classified by the department in the following order:

- (a) **Community** water system;
- (b) **NTNC** water system; ~~((and))~~ or
- (c) **TNC** water system.

~~((7) The rules of this chapter to apply to the source or supply of water used by bottled water or ice plants to produce bottled water or ice are as follows:~~

~~(a) If the bottled water or ice plant is a **Group A** water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice shall meet the applicable **Group A** requirements;~~

~~(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a **Group A** system, the owner or operator shall obtain source approval from the department, and the source water shall meet the ongoing source water quality monitoring requirements for a **Group A** community system;~~

~~(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water shall meet the minimum requirements for a **Group A** system, and the owner or operator of the plant shall ensure that the water meets such requirements;~~

~~(d) The source or supply for the water that is bottled or made into ice shall be protected from contamination prior to the bottling or ice making process; and~~

~~(e) In addition to the requirements imposed under this subsection, the processing of bottled water shall be subject to regulation by the state department of agriculture and the United States Food and Drug Administration.)~~

PROPOSED

Public Water Systems

- All systems except those serving only one single family residence or less than five residences on the same farm

Group A

System that regularly serves:

- 15 or more residential connections
- or
- 25 or more people/day for 60 or more days/yr.

Group B

System that serves:

- Less than 15 residential connections (~~and 1~~)
- or
- Less than 25 people ((for 60 or more days/yr.)) /day
- or
- ~~((Less than 15 connections and any number of people for less than 60 days/yr.))~~ 25 or more people/day during fewer than 60 days/yr.

Community

System that regularly serves 15 or more year-round residential connections, or 25 or more year-round residents (for 180

Noncommunity

~~((25 or more nonresidents people/day for 60 or more days/yr or~~  

- ~~15 or more connections or 25 or more residents between 60 and 180 days/yr.))~~ Any system that is not a community system.

PROPOSED

PROPOSED

or more days/yr).

[Redacted]

**Nontransient (NTNC)**

System that serves 25  
 or more of the same  
 ((nonresidents))  
people/day for 180 or  
 more days/yr.

**Transient (TNC)**

- ~~((15 or more connections in use less than 180 days/yr. or))~~
- stem that serves:
  - 25 or more different ((nonresidents for)) people/day during 60 or more days/yr.
  - or
  - 25 or more of the same ((nonresidents for between 60 and 180 days/yr)) people/day for less than 180 days/yr and during more than 59 days/yr.
- ~~((25 or more residents for between 60 and 180 days/yr.))~~
- 1000 or more people for two, or more, consecutive days.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-025 Adoption by reference.** The following sections and subsections of Title 40 Code of Federal Regulations (CFR) Part 141 National Primary Drinking

Water Regulations revised as of July 1, ((1993)) 1996, and including all amendments and modifications thereto effective as of the date of adoption of this chapter are adopted by reference:

141.2 Definitions. Only those definitions listed as follows:

Action level;  
Corrosion inhibitor;  
Effective corrosion inhibitor residual;  
First draw sample;  
Large water system;  
Lead service line;  
Medium-size water system;  
Optimal corrosion control treatment;  
Service line sample;  
Single family structure; and  
Small water system.

- 141.12 Maximum contaminant levels for organic chemicals.
- 141.13 Maximum contaminant levels for turbidity.
- 141.21 Coliform monitoring
- 141.22 Turbidity sampling and analytical requirements.
- 141.23(a) - 141.23(j), Inorganic chemical sampling.
- 141.23(m) - 141.23(o)
- 141.24(a) - 141.24(d), Organic chemicals other than total trihalomethanes.
- 141.24 (f)(1) - 141.24 (f)(15),  
141.24 (f)(18), 141.24 (f)(19),  
141.24 (f)(21),  
141.24 (g)(1) - 141.24 (g)(9),  
141.24 (g)(12) - 141.24 (g)(14),  
141.24 (h)(1) - 141.24 (h)(11),  
141.24 (h)(14) - 141.24 (h)(17)
- 141.40(a) - 141.40(e), Special monitoring for inorganic and organic chemicals.
- 141.40(g), 141.40(i) - 141.40(n)
- 141.61 Maximum contaminant levels for organic contaminants.
- 141.62 Maximum contaminant levels for inorganic chemical and physical contaminants.
- Control of Lead and Copper
- 141.80 General requirements.
- 141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems.
- 141.82(a) - 141.82(h) Description of corrosion control treatment requirements.
- 141.83 Source water treatment requirements.

- 141.84 Lead service line replacement requirements.
- 141.85 Public education and supplemental monitoring requirements.
- 141.86 Monitoring requirements for lead and copper in tap water.
- 141.87 Monitoring requirements for water quality parameters.
- 141.88 Monitoring requirements for lead and copper in source water.
- 141.90 Reporting requirements.
- 141.91 Recordkeeping requirements.
- 143.1-143.5 Secondary contaminants.

Copies of the incorporated sections and subsections of Title 40 CFR are available from the Department of Health, Airstrip Center Building 3, P.O. Box 47822, Olympia, Washington 98504-7822, or by calling the department's drinking water hotline at 1-800-521-0323.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-030 General administration.** (1) The department and the health officer for each local health jurisdiction may develop a joint plan of operation. This plan shall:

- List the roles and responsibilities of each agency;
- Specifically designate those **Group A** systems for which the department and local health officer have primary responsibility;
- Provide for ((a minimum)) an agreed-to level of public water system ((supervision)) oversight;
- Be signed by the department and the local health department or district; and
- Be reviewed at least once every five years and updated as needed.

Wherever in ((these rules)) this chapter the term "department" is used, the term "health officer" may be substituted based on the terms of this plan of operation.

(2) The department shall, upon request, review and report on the adequacy of water supply supervision to both the state and local boards of health.

(3) The local board of health may adopt rules governing **Group A** water systems within its jurisdiction for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

- No less stringent than this chapter; and
- Revised, if necessary, within twelve months after the effective date of revised state board of health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised state board of health rules ((which)) that are more stringent than the local board of health rules shall apply.

(4) For those **Group A** water systems where the health officer has assumed primary responsibility, the health officer may approve project reports and construction documents in accordance with engineering criteria approved by the department and listed under ((WAC 246-290-200)) Part 3 of this

chapter and water system plans in accordance with planning criteria listed under WAC 246-290-100.

(5) An advisory committee shall be established to provide ~~((guidance))~~ advice to the department on the organization, functions, service delivery methods, and funding of the drinking water ~~((issues))~~ program. Members shall be appointed by the department ~~((and conform to department policies for advisory committees))~~ for fixed terms of no less than two years, and may be reappointed. The committee shall ~~((be composed of representatives of public water systems, public groups, agencies, and individuals having an interest in drinking water))~~ reflect a broad range of interests in the regulation of public water supplies, including water utilities of all sizes, local governments, business groups, special purpose districts, local health jurisdictions, other state and federal agencies, financial institutions, environmental organizations, the legislature, professional engineers engaged in water system design, and other groups substantially affected by the department's role in implementing state and federal requirements for public water systems.

(6) The department may develop ~~((guidelines))~~ guidance to clarify sections of the rules as needed and make these available for distribution. Copies of the guidance may be obtained by contacting the division of drinking water.

(7) Fees may be charged and collected by the department as authorized in chapter 43.20B RCW and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering ~~((these rules))~~ this chapter or that are required to be paid under WAC 246-290-990.

(8) All state and local agencies involved in review, approval, surveillance, testing, and/or operation of public water systems, or issuance of permits for buildings or sewage systems shall be governed by these rules and any decisions of the department.

#### NEW SECTION

**WAC 246-290-035 Water system ownership.** (1) The following requirements apply to all newly developed public water systems:

(a) Except for systems proposed within an individual water system's approved service area in a critical water supply service area as governed by the Public Water System Coordination Act, chapter 70.116 RCW and chapter 246-293 WAC, and offered service by that existing system, any proposed new public water system must be owned or operated by a department approved satellite management agency (SMA) if one is available;

(b) The approval of any proposed new public water system shall be conditioned upon the periodic review of the system's operational history to determine its ability to meet the department's financial viability and other operating requirements. If, upon periodic review, the department determines the system is in violation of financial viability or other operating requirements, the system shall transfer ownership to an approved SMA or obtain operation and management by an approved SMA, if such ownership or operation and management can be made with reasonable economy and efficiency.

(2) An owner of a public water system who is proposing to transfer or has transferred ownership shall:

(a) Provide written notice to the department and all consumers at least one year prior to the transfer, unless the new owner agrees to an earlier date. Notification shall include a time schedule for transferring responsibilities, identification of the new owner, and under what authority the new ownership will operate. If the system is a corporation, identification of the registered agent shall also be provided;

(b) Ensure all health-related standards pursuant to this chapter are met during transfer of the utility. It shall also be the responsibility of the utility transferring ownership to inform and train the new owner regarding operation of the utility; and

(c) Comply with the operating permit requirements pursuant to chapter 246-294 WAC.

(3) The purveyor may be required to document compliance with other relevant ownership requirements, such as those pursuant to UTC jurisdiction under Title 80 RCW.

(4) No purveyor may end utility operations without providing written notice to all customers and to the department at least one year prior to termination of service. A purveyor that fails to provide such notice remains subject to the provisions of this chapter.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-040 Engineering requirements.** (1) Purveyors shall ensure that all work required to be prepared under the direction of a professional engineer, including, but not limited to, water system plans, project reports, corrosion control recommendation reports, tracer studies, ((and)) construction documents ((are)) and construction completion reports, and engineering design review reports for distribution-related submittal exceptions, is prepared under the direction, and bears the seal, date, and signature of a professional engineer:

(a) Licensed in the state of Washington under chapter 18.43 RCW; and

(b) Having specific expertise regarding design, operation, and maintenance of public water systems.

(2) Exceptions to this requirement are ~~((minor))~~ projects identified under WAC ((246-290-120 (2)(a) through (d))) 246-290-125 (1)(a) through (e).

~~((2)) Purveyors shall submit a Construction Report For Public Water System Projects to the department within sixty days of completion and before use of any project approved by the department. The form shall:~~

~~(a) Be signed by a professional engineer.~~

~~(b) State:~~

~~(i) The project is constructed and is substantially completed in accordance with approved construction documents; and~~

~~(ii) In the opinion of the engineer, based on information available, the installation, testing, and disinfection of the system was carried out per department guidelines.~~

~~(3) The purveyor shall ensure the requirements of this section are fulfilled before the use of any completed project. When required by the department, the purveyor shall submit~~

~~an updated water facilities inventory form with the Construction Report For Public Water System Projects form.)~~

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-050 Enforcement.** When any purveyor is out of compliance with ~~((these rules))~~ a law or rule regulating public water systems and administered by the department, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued ~~((by the department))~~. These actions may include, but are not limited to, any one or combination of the following:

- (1) Notice of violation instructing or requiring appropriate corrective measures;
- (2) Compliance schedule for specific actions necessary to achieve compliance status;
- (3) Departmental order requiring submission of project reports, construction documents, and construction report forms;
- (4) Departmental order requiring specific actions or ceasing unacceptable activities within a designated time period;
- (5) Departmental order to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;
- (6) Imposition of civil penalties ~~((for failure to comply with departmental orders))~~ may be issued for up to ~~((5,000))~~ five thousand dollars per day per violation, or, in the case of a violation that has been determined to be a public health emergency, a penalty of not more than ten thousand dollars per day per violation under authority of chapter 70.119A RCW; ~~((and))~~
- (7) Imposition of civil penalties may be issued to a person who constructs, modifies, or expands a public water system or who commences the construction, modification, or expansion of a public water system without first obtaining the required department approval. The amount of the penalty may be up to five thousand dollars per service connection, or, in the case of a system serving a transient population, a penalty of not more than four hundred dollars per person based on the highest average daily population the system serves or is anticipated to serve. The total penalty that may be imposed pursuant to this subsection and RCW 70.119A.040 (1)(b) is five hundred thousand dollars;

(8) Action that requires the purveyor to take preventive or corrective steps when results of a sanitary survey or special purpose investigation conducted by, or on behalf of, the department indicate conditions that are currently or may become a detriment to system operation;

(9) Legal action may be taken by the attorney general or local prosecutor. The legal action may be criminal or civil.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-060 Variances, exemptions, and waivers.** (1) General.

(a) The state board of health may grant variances, exemptions, and waivers of the requirements of this chapter

according to the procedures outlined in subsection (5) of this section. See WAC 246-290-300 ~~((3))~~ (4)(g) and (7)(f) for monitoring waivers.

(b) Consideration by the board of requests for variances, exemptions, and waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(c) Statements and written material regarding the request may be presented to the board at or before the public hearing wherein the application will be considered. Allowing cross-examination of witnesses shall be within the discretion of the board.

(d) The board may grant a variance, exemption, or waiver if it finds:

(i) Due to compelling factors, the public water system is unable to comply with the requirements; and

(ii) The granting of the variance, exemption, or waiver will not result in an unreasonable risk to the health of consumers.

(2) Variances.

(a) MCL.

(i) The board may grant a MCL variance to a public water system that cannot meet the MCL requirements because of characteristics of the source water that is reasonably available to the system.

(ii) A MCL variance may only be granted after the system has applied the best available technology (BAT), treatment techniques, or other means as identified by the environmental protection agency (EPA) and still cannot meet ~~((a))~~ an MCL standard as specified in section 1415, ~~((P.L. 99-523))~~ Public Law 93-523 (federal Safe Drinking Water Act) as amended by ~~((P.L.))~~ Public Law 99-339 (SDWA amendments of 1986), and Public Law 104-182 (SDWA amendments of 1996), as codified at 42 USC 300g-4.

(iii) A variance shall not be granted from the MCL for presence of total coliform under WAC 246-290-310 ~~((3))~~ (2).

(b) Treatment techniques.

(i) The board may grant a treatment technique variance to a public water system if the system demonstrates that the treatment technique is not necessary to protect the health of consumers because of the nature of the system's source water.

(ii) A variance shall not be granted from any treatment technique requirement under Part 6 of chapter 246-290 WAC.

(c) The board shall condition the granting of a variance upon a compliance schedule as described in subsection (6) of this section.

(3) Exemptions.

(a) The board may grant a MCL or treatment technique exemption to a public water system that cannot meet an MCL standard or provide the required treatment in a timely manner, or both, as specified under section 1416, ~~((P.L.))~~ Public Law 93-523 (federal Safe Drinking Water Act) as amended by ~~((P.L.))~~ Public Law 99-339 (SDWA amendments of 1986), and Public Law 104-182 (SDWA amendments of 1996), as codified at 42 USC 300g-4.

(b) An exemption may be granted for up to one year if the system was:

(i) In operation on the effective date of the MCL or treatment technique requirement; or

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(ii) Not in operation on the effective date, and no reasonable alternative source of drinking water is available.

(c) No exemption shall be granted from:

(i) The requirement to provide a residual disinfectant concentration in the water entering the distribution system under WAC 246-290-662 or 246-290-692; or

(ii) The MCL for presence of total coliform under WAC 246-290-310(2).

(d) The board shall condition the granting of an exemption upon a compliance schedule as described in subsection (6) of this section.

(4) Waivers. The board may grant a waiver to a public water system if the system cannot meet the requirements of these regulations pertaining to any subject not covered by EPA regulations.

(5) Procedures.

(a) For variances and exemptions. The board shall consider granting a variance or exemption to a public water system upon completion of the following actions:

(i) The purveyor applies in writing to the department. The application, which may be in the form of a letter, shall clearly state the reason for the request and what actions the purveyor has taken to meet the requirement;

(ii) The purveyor provides notice of the purveyor's application to ~~((customers))~~ consumers and provides proof of such notice to the department;

(iii) The department prepares recommendations, including a compliance schedule for the board's consideration;

(iv) The board provides notice for and conducts a public hearing on the purveyor's request~~(-); and~~

(v) EPA reviews any variance or exemption granted by the board for concurrence, revocation, or revision as provided under sections 1415 and 1416 of ~~((P.L.))~~ Public Law 93-523 (federal Safe Drinking Water Act), as amended, codified at 42 USC 300g-4.

(b) For waivers. The board shall consider granting a waiver upon completion of the following actions:

(i) The purveyor applies to the department in writing. The application, which may be in the form of a letter, shall clearly state the reason for the request;

(ii) The purveyor provides notice of the purveyor's application to ~~((customers))~~ consumers and provides proof of such notice to the department;

(iii) The department prepares a recommendation to the board; and

(iv) The board provides notice for and conducts a public hearing on the purveyor's request.

(6) Compliance schedule.

(a) The board shall condition the granting of a variance or exemption based on a compliance schedule. The compliance schedule shall include:

(i) Actions the purveyor ~~((must))~~ shall undertake to comply with a MCL or treatment technique requirement within a specified time period; and

(ii) A description and time-table for implementation of interim control measures the department may require while the purveyor completes the actions required in (a)(i) of this subsection.

(b) The purveyor shall complete the required actions in the compliance schedule within the stated time frame.

(7) Extensions to exemptions.

(a) The board may extend the final date of compliance prescribed in the compliance schedule for a period of up to three years after the date the exemption was granted upon a finding that the water system:

(i) Cannot meet the MCL or treatment technique requirements without capital improvements ~~((which))~~ that cannot be completed within the original exemption period; ~~((or))~~

(ii) Has entered into an agreement to obtain needed financial assistance for necessary improvements; or

(iii) Has entered into an enforceable agreement to become part of a regional public water system and the system is taking all practicable steps to meet the MCL.

(b) The board may extend the final date of compliance prescribed in the compliance schedule of an exemption for one or more additional two-year periods if the purveyor:

(i) Is a community water system providing water to less than five hundred service connections; ~~((and))~~

(ii) Needs financial assistance for the necessary improvements; and

(iii) Is taking all practicable steps to meet the compliance schedule.

(c) Procedures listed in subsection (5) of this section shall be followed in the granting of extensions to exemptions.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-100 Water system plan.** (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) ~~((Identify present and future needs))~~ Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with relevant local, state, and federal plans and regulations;

(b) ~~((Set forth means for addressing those needs; and))~~ Demonstrate how the system will address present and future needs in a manner consistent with other relevant plans and local, state, and federal laws, including applicable land use plans;

(c) ~~((Do so in a manner consistent with other relevant plans and local, state, and federal laws))~~ Establish eligibility for funding pursuant to the drinking water state revolving fund.

(2) Purveyors of the following categories of community public water systems shall ~~((ensure the development and submission of))~~ submit a water system plan for review and approval by the department:

(a) ~~((A-H))~~ Systems having one thousand or more services;

(b) ~~((located in areas utilizing))~~ required to develop water system plans under the Public Water System Coordination Act of 1977((;)) (chapter 70.116 RCW) ((and chapter 248-56 WAC as required in WAC 246-293-230));

(c) Any system experiencing problems related to planning, operation, and/or management as determined by the department;

(d) All new systems;

(e) Any expanding system((;

(e) Any system for which a change of ownership is proposed); and

(f) ~~((All new systems:))~~ Any system proposing to use the document submittal exception process in WAC 246-290-125.

(3) The ~~((department))~~ purveyor shall work with the ~~((purveyor))~~ department and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size ~~((and))~~, complexity, past performance, and use of the water system. Project reports may be combined with a water system plan.

(4) In order to demonstrate system capacity, the water system plan shall address the following elements, as a minimum, for a period of at least twenty years into the future~~((A department guideline titled *Planning Handbook* is available to assist the utility in adequately addressing these elements))~~:

~~(a) ((Basic water system planning data;~~

~~(b) Existing system analysis;~~

~~(c) Planned improvements;~~

~~(d) Conservation;~~

~~(e) Source of supply analysis when additional water rights are being pursued;~~

~~(f) Financial viability;~~

~~(g) Consistency with adjacent water system plans;~~

~~(h) Consistency with applicable land use plans;~~

~~(i) Supporting maps;~~

~~(j) Operations program;~~

~~(k) Ownership and management;~~

~~(l) State Environmental Policy Act; and~~

~~(m) Source protection, including a watershed control program or wellhead protection program when applicable under WAC 246-290-135.~~

~~(5))~~ Description of the water system, including:

(i) Ownership and management, including the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system;

(ii) System history and background;

(iii) Related plans, such as coordinated water system plans, abbreviated coordinated water system plans, local land use plans, ground water management plans, and basin plans;

(iv) Service area map, characteristics, agreements, and policies; and

(v) Satellite management, if applicable.

(b) Basic planning data, including:

(i) Current population, service connections, water use, and equivalent residential units; and

(ii) Projected land use, future population, and water demand for a consecutive six-year and final twenty-year planning period within the system's service area.

(c) System analysis, including:

(i) System design standards;

(ii) Water quality analysis;

(iii) System inventory description and analysis; and

(iv) Summary of system deficiencies.

(d) Water resource analysis, including:

(i) Development and implementation of a cost-effective conservation program, which includes evaluation of conservation-oriented water rate structures;

(ii) Water demand forecasts;

(iii) Water use data collection;

(iv) Source of supply analysis, which includes an evaluation of water supply alternatives if additional water rights will be pursued within twenty years;

(v) Water shortage response plan if a water system experiences a water shortage, or anticipates it will experience a water shortage within the next six-year planning period;

(vi) Water right assessment;

(vii) Water supply reliability analysis; and

(viii) Interties.

(e) Source water protection in accordance with WAC 246-290-135.

(f) Operation and maintenance program in accordance with WAC 246-290-415 and 246-290-654(5), as applicable.

(g) Improvement program, including a six-year capital improvement schedule.

(h) Financial program, including demonstration of financial viability by providing:

(i) A summary of past income and expenses;

(ii) A one-year balanced operational budget for systems serving one thousand or more connections or a six-year balanced operational budget for systems serving less than one thousand connections;

(iii) A plan for collecting the revenue necessary to maintain cash flow stability and to fund the capital improvement program and emergency improvements; and

(iv) A rate structure that has considered:

(A) The affordability of water rates; and

(B) The feasibility of adopting and implementing a rate structure that encourages water conservation.

(i) Other documents, such as:

(i) Documentation of SEPA compliance;

(ii) Agreements; and

(iii) Comments from the county and adjacent utilities.

(5) Purveyors intending to implement the project report and construction document submittal exceptions authorized under WAC 246-290-125 must include:

(a) Standard construction specifications for distribution mains; and/or

(b) Design and construction standards for distribution-related projects, including:

(i) Description of project report and construction document internal review procedures, including engineering design review and construction completion reporting requirements;

(ii) Construction-related policies and requirements for external parties, including consumers and developers;

(iii) Performance and sizing criteria; and

(iv) General reference to construction materials and methods.

(6) The department, at its discretion, may require reports from purveyors identifying the progress in developing their water system plans.

~~((6))~~ (7) Purveyors shall transmit water system plans to adjacent utilities and local governments having jurisdiction, to assess consistency with ongoing and adopted planning efforts.

~~((7))~~ (8) For community systems, the purveyor shall hold an informational meeting for system consumers prior to departmental approval of a water system plan or a water sys-

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tem plan update. The purveyor shall notify consumers in a way that is appropriate to the size of the system.

~~(9) Department approval of a water system plan shall be in effect for six years from the date of written approval unless:~~

~~(a) Major ~~((system improvements are contemplated which))~~ projects subject to SEPA as defined in WAC 246-03-030 (3)(a) are proposed that are not addressed in the plan;~~

~~(b) Changes occur in the basic planning data significantly affecting system improvements identified; or~~

~~(c) The department requests an updated plan or plan amendment.~~

~~((8)) (10) The purveyor shall update the plan and submit it for approval at least every six years. ~~((However, if only minor alterations to an existing plan are considered necessary, the purveyor may submit an amendment to the plan for department approval.~~~~

~~(9) Project reports and construction documents submitted for approval per WAC 246-290-110 and 246-290-120 by purveyors required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project)) If the system no longer meets the conditions of subsection (2) of this section, the purveyor shall submit a plan amendment the scope of which will be determined by the department.~~

NEW SECTION

**WAC 246-290-105 Small water system management program.** (1) The purpose of a small water system management program is to:

(a) Demonstrate the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations; and

(b) Establish eligibility for funding pursuant to the drinking water state revolving fund.

(2) All noncommunity and all community systems not required to complete a water system plan as described under WAC 246-290-100(2) shall develop and implement a small water system management program.

(3) The purveyor shall submit this program for review and approval to the department when:

(a) A new NTNC public water system is created; or

(b) An existing system has operational, technical, managerial, or financial problems, as determined by the department.

(4) Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:

(a) System management;

(b) Annual operating permit;

(c) Water facilities inventory form;

(d) Service area and facility map;

(e) Documentation of water rights, through a water right assessment;

(f) Record of source water pumped;

(g) Water usage;

(h) Water conservation program;

(i) Source protection;

(j) Component inventory and assessment;

(k) List of planned system improvements;

(l) Water quality monitoring program;

(m) Operation and maintenance program;

(n) Cross-connection control program;

(o) Emergency response plan; and

(p) Budget.

(5) The department may require changes be made to a small water system management program if necessary to effectively accomplish the program's purpose.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-110 Project report.** (1) ~~((The purpose of this section is to assure the following factors are taken into account for specific projects prior to construction:~~

~~(a) Engineering concepts;~~

~~(b) Design criteria;~~

~~(c) Planning;~~

~~(d) Source protection, including a watershed control program or wellhead protection program when applicable under WAC 246-290-135;~~

~~(e) Water quality and quantity;~~

~~(f) Results of the filtration facility pilot study;~~

~~(g) Local requirements such as fire flow;~~

~~(h) Facility operation;~~

~~(i) Short-term and long-term financing; and~~

~~(j) Other necessary department-determined considerations.~~

The project report shall document the reasons for carrying out the project and construction documents shall identify how the project will be constructed.

~~(2) The purveyor shall submit project reports to the department for written approval prior to installation of any new water system, water system extension, or improvement with the following exceptions:~~

~~(a) Installation of valves, fittings, and meters;~~

~~(b) Installation of hydrants under WAC 246-290-230;~~

~~(c) Repair of a system component or replacement with a similar component;~~

~~(d) Maintenance or painting of surfaces not contacting potable water; and~~

~~(e) Distribution mains if:~~

~~(i) Approved standard construction specifications are documented in the water system plan approved by the department; and~~

~~(ii) The purveyor provides documentation to the department that a professional engineer registered in Washington, certified the construction and that said construction complied with the standard specifications found in the current department-approved water system plan; and~~

~~(iii) The purveyor provides documentation to the department of the pressure test results, disinfection procedures used and tests performed, and water quality sample results obtained prior to placing the distribution pipe into service.~~

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(3) Project reports shall be consistent with the standards identified under WAC 246-290-200 and shall include, at a minimum, the following elements (information contained in a current approved water system plan or current project report need not be duplicated in the new project report. Any planning information in a project report shall be project specific.):

(a) ~~Project description. Identify what the project is intended to achieve, design considerations, approach, etc.;~~

(b) ~~Planning. If the system has an approved water system plan, show the project's relationship to the plan. If a water system plan is not required, include:~~

(i) ~~General project background with population and water demand forecasts;~~

(ii) ~~Relationship between the project and other system components;~~

(iii) ~~Project schedule;~~

(iv) ~~Management program; and~~

(v) ~~How the project will impact neighboring water systems;~~

(c) ~~Alternatives. Describe options, their impacts, and justify the selected alternative;~~

(d) ~~Legal considerations. Identify legal aspects such as ownership, right of way, sanitary control area, and restrictive covenants. Include discussion of the project's relationship with the boundary review board and the utility and transportation commission;~~

(e) ~~Engineering calculations. Describe how the project complies with the design considerations. Include the hydraulic analysis, sizing justification, and other relevant technical considerations necessary to support the project;~~

(f) ~~Management. If the system has an approved management program, refer to that document. If not, describe:~~

(i) ~~System ownership and management responsibilities;~~

(ii) ~~Long-term management considerations;~~

(iii) ~~How the project will be operated; and~~

(iv) ~~How the project will be maintained over time.~~

(g) ~~Implementation. Identify the schedule for completion of the project and implementation strategies, if any. Project phasing should also be discussed;~~

(h) ~~State Environmental Policy Act (SEPA). Include an environmental impact statement, determination of nonsignificance, or justify why SEPA does not apply to the project. Refer to chapter 246-03 WAC and the *DOH Drinking Water SEPA Guide*;~~

(i) ~~Source development information. If the project involves source development, address requirements under WAC 246-290-130; and~~

(j) ~~Type of treatment. If the project involves treatment, refer to WAC 246-290-250.~~

(4) ~~Approval of project documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.)) The project report is a written document that describes why a project is being proposed and includes engineering design calculations showing how the project will meet its objectives.~~

(2) The purveyor shall submit project reports to the department and receive written approval prior to installation

or construction of any new water system, water system extension, or improvement. The department may require the submittal of a project report for the purpose of resolving a system operational problem. Exceptions to this requirement are listed in WAC 246-290-125.

(3) Project reports submitted for approval by purveyors who are required to have a water system plan will not be considered for approval unless a current, approved water system plan that adequately addresses the project is on file with the department. In the event that a purveyor of an existing system does not have such a plan, the department may enter into a compliance agreement with the purveyor that grants a time extension to complete the water system plan.

(4) Project reports shall be consistent with the standards identified in Part 3 of this chapter. Depending on the complexity and type of project or problem, shall include the following elements (information contained in a current water system plan or other engineering document previously approved by the department need not be duplicated, but must be specifically referenced):

(a) Project description, including:

(i) Why the project is being proposed, how problem(s) (if any) are to be addressed, and the relationship of the project to other system components;

(ii) A statement of State Environmental Policy Action (SEPA) determination of nonsignificance or justification of why SEPA does not apply to project;

(iii) If applicable, source development information (refer to WAC 246-290-130, Source approval, WAC 246-290-132, Interties, and WAC 246-290-135, Source protection);

(iv) If applicable, type of treatment (refer to WAC 246-290-250, Water treatment and Part 6, Surface water treatment); and

(v) A summary of consumer and user complaints.

(b) Planning data. If a purveyor has a water system plan or small water system management program, the project report shall indicate the proposed project's relationship to the plan. If the purveyor is not required by WAC 246-290-100 to have a water system plan, planning related information shall include:

(i) General project background with population and water demand forecasts;

(ii) How the project will impact neighboring water systems;

(iii) Local requirements, such as fire flow;

(iv) Additional management responsibilities in accordance with WAC 246-290-105, Small water system management program, WAC 246-290-415, Operations and maintenance, and chapter 246-292 WAC, Waterworks operator certification regulations;

(v) Implementation strategies or proposed construction schedule;

(vi) Estimated capital and annual operating cost, and method of financing, if applicable.

(c) An analysis of alternatives, including description of options and rationale for selecting the proposed option.

(d) A review of water quality as it relates to the purpose of the proposed project. If a project involves treatment and/or a filtration facility pilot study, refer to WAC 246-290-260, Pilot studies, reporting requirements for corro-

sion control under 40 CFR 141.90, tracer studies under WAC 246-290-636(5), and Part 6 of this chapter, Surface water treatment.

(e) When the project involves a new source or an increase in system physical capacity, a review of water quantity, including a water rights assessment, unless such an assessment has previously been submitted in a water system plan or small water system management program that has been approved by the department. The purveyor shall take any follow-up action as directed by the department, to determine conformance with applicable state water rights laws.

(f) Engineering calculations including sizing justification, hydraulic analysis, physical capacity analysis, and other relevant technical considerations necessary to support the project.

(g) Design and construction standards, including performance standards, construction materials and methods, and sizing criteria, if applicable.

(h) Project reports for the design of treatment facilities shall include the following:

(i) Detailed design criteria and calculations to support the proposed treatment processes, process control, and process utilities; and

(ii) Proposed methods and schedules for start-up, testing, and operation of the completed treatment facility.

(i) Legal considerations, such as ownership, right-of-way, sanitary control area (SCA), restrictive covenants, restrictions related to water use that are recorded on titles or deeds to properties, and relationship with the boundary review board and the utilities and transportation commission (UTC).

(j) Other necessary department-determined considerations.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-120 Construction documents. (1) ((The purpose of this section is to assure detailed plans, specifications, drawings, and other documents are adequately prepared for specific projects.)) Construction documents shall identify how specific projects will be constructed while ((the project report documents the reasons for carrying out the project)) satisfying the requirements and conditions established in the project report and/or the water system plan.

(2) Purveyors shall submit construction documents to the department for written approval prior to installation of any new water system, or water system extension or improvement ((with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Installation of hydrants per WAC 246-290-230(3);

(c) Repair of a system component or replacement with a similar component;

(d) Maintenance or painting of surfaces not contacting potable water; or

(e) Distribution mains if:

(i) Approved water system plan documents standard construction specifications approved by the department; and

(ii) The purveyor provides documentation to the department that a professional engineer registered in Washington,

certified the construction and that said construction complied with the standard specifications found in the current department-approved water system plan; and

(iii) The purveyor provides documentation to the department of the pressure test results, disinfection procedures used and tests performed, and water quality sample results obtained prior to placing the distribution pipe into service)). Exceptions to this requirement are listed in WAC 246-290-125.

(3) Construction documents submitted for approval by purveyors who are required to have a water system plan will not be considered for approval unless a current, approved water system plan that adequately addresses the project is on file with the department. In the event that a purveyor of an existing system does not have such a plan, the department may enter into a compliance agreement with the purveyor that grants a time extension to complete the water system plan.

(4) Construction documents shall be consistent with the standards identified in ((WAC 246-290-200)) Part 3 of this chapter and shall include, at a minimum, the following:

(a) Drawings. Include detailed drawings of each project component;

(b) Material specifications. List detailed material specifications for each project component;

(c) Construction specifications.

(i) List detailed construction specifications and assembly techniques for carrying out the project;

((d)) (ii) Testing. Identify testing criteria and procedures for each applicable portion of the project;

((e)) (iii) Disinfection. Identify specific disinfection procedures ((which must)) that shall conform with American Water Works Association (AWWA) standards or other standards acceptable ((by)) to the department;

((f)) (iv) Inspection. Identify provisions for inspection of the installation of each project component. See WAC 246-290-040 and subsection (5) of this section for construction reporting requirements; ((and

(g)) (d) Change orders. All significant changes ((except for minor field revisions must)) shall be submitted to and approved by the department in writing. The change order must identify who will be responsible for obtaining departmental approval and how change orders will be reported to the department. Significant means a change in materials used, deviations from original intent of project, or changes made to the physical capacity of the project;

((4)) (e) Record drawings. The engineer responsible for construction management or inspection shall provide record drawings to the purveyor following the completion of the project. These plans shall be maintained and available to the department upon request.

(5) Purveyors shall submit a construction completion report (departmental form) to the department within sixty days of completion and before use of distribution-related projects in accordance with WAC 246-290-125 (3)(f), or other project approved for construction by the department. Exceptions to this requirement are projects listed in WAC 246-290-125(1). The form shall:

(a) Bear the seal, date, and signature of a professional engineer licensed in the state of Washington;

(b) State the project is constructed and is completed in accordance with department regulations and principles of standard engineering practice, including physical testing procedures, water quality tests, and disinfection practices; and

(c) Document system physical capacity to serve consumers if the project results in a change (increase or decrease) in physical capacity.

(6) The purveyor shall submit a new or updated water facilities inventory (WFI) form (departmental form) with the construction completion report (departmental form) for a new water system, whenever there are changes or additions to an existing water system that would change information of the WFI, or when required by the department.

(7) If the project results in an increase in the water system's physical capacity, the purveyor shall submit a water right assessment, unless such an assessment has previously been submitted in a project report, water system plan, or small water system management program, that has been approved by the department. The purveyor shall take any follow-up action, as directed by the department, to determine conformance with applicable state water rights laws.

(8) Approval of construction documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

~~((5) A department guideline titled *Planning Handbook* is available to assist the utility in meeting the planning-related requirements of this section.))~~

(9) The purveyor shall fulfill the requirements of this section before the use of any completed project.

(10) Purveyors of new water systems must meet the ownership requirements of WAC 246-290-035 and the water system planning requirements of WAC 246-290-100 or 246-290-105 before the department will review and approve the purveyors' construction documents.

## NEW SECTION

**WAC 246-290-125 Project report and construction document submittal exceptions.** (1) The following projects do not require project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 to be submitted to the department for review and approval prior to installation:

(a) Installation of valves, fittings, and meters, including backflow prevention assemblies;

(b) Installation of hydrants in accordance with WAC 246-290-230 (3) and (6);

(c) Repair of a system component or replacement with a component of a similar capacity and material in accordance with the original construction specifications of the approved design; or

(d) Maintenance or painting of surfaces not contacting potable water.

(2) Purveyors may elect to not submit to the department for review and approval project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 for new distribution mains providing:

(a) The purveyor water system has on file with the department a current department-approved water system plan that includes standard construction specifications for distribution mains; and

(b) The purveyor maintains on file a completed construction completion report (departmental form) in accordance with WAC 246-290-120(5) and makes it available for review upon request by the department.

(3) Purveyors may elect to not submit to the department for review and approval project reports in accordance with WAC 246-290-110 and construction documents in accordance with WAC 246-290-120 for review and approval of other distribution-related projects as defined in WAC 246-290-010 providing:

(a) The purveyor has on file with the department a current department-approved water system plan, in accordance with WAC 246-290-100(5);

(b) The purveyor submits a written request with a new water system plan or an amendment to a water system plan, and updates the request with each water system plan update. The written request should specifically identify the types of projects or facilities for which the submittal exception procedure is requested;

(c) The purveyor has documented that they have employed or hired under contract the services of a professional engineer licensed in the state of Washington to review distribution-related projects not submitted to the department for review and approval. The review engineer and design engineer shall not be the same individual. The purveyor shall provide written notification to the department whenever they proposed to change their designated review engineer;

(d) If the project is a new transmission main, storage tank, or booster pump station, it must be identified in the capital improvement program of the utility's water system plan. If not, either the project report must be submitted to the department for review and approval, or the water system plan must be amended;

(e) A project summary file is maintained by the purveyor for each project and made available for review upon request by the department, and includes:

(i) Descriptive project summary;

(ii) Anticipated completion schedule;

(iii) Consistency with utility's water system plan;

(iv) Water right assessment, where applicable;

(v) Change in system physical capacity;

(vi) Copies of original design and record drawings;

(vii) Engineering design review report (departmental form). The form shall:

(A) Bear the seal, date, and signature of a professional engineer licensed in the state of Washington prior to the start of construction;

(B) Provide a descriptive reference to completed project report and/or construction documents reviewed, including date of design engineer's seal and signature; and

(C) State the project report and/or construction documents have been reviewed, and the design is in accordance with department regulations and principles of standard engineering practice;

(f) The construction completion report is submitted to the department in accordance with WAC 246-290-120(5) for new storage tanks and booster pump stations, and maintained on file with the water system for all other distribution-related projects;

(g) A WFI is completed in accordance with WAC 246-290-120(6); and

(h) The purveyor meets the requirements of chapter 246-294 WAC to have a category "green" operating permit.

(4) Source of supply (including interties) and water quality treatment-related projects shall not be eligible for the submittal exception procedure.

(5) Purveyors not required to prepare a water system plan under WAC 246-290-100 shall be eligible for the submittal exception procedure provided that:

(a) They have a department-approved water system plan meeting the requirements of WAC 246-290-100; and

(b) They comply with all other requirements in this section.

(6) Purveyors shall ensure that all work required to be prepared under the direction of a professional engineer be accomplished per WAC 246-290-040 and chapter 18.43 RCW.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-130 Source approval.** (1) ~~(No new source, previously unapproved source, or modification of an existing source shall be used as a public water supply without department approval.~~

~~(2) A party seeking approval shall provide the department:~~

~~(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;~~

~~(b) A hydrogeologic assessment of the proposed source along with a general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;~~

~~(c) Any information, in addition to (b) of this subsection, as requested by the department to determine whether a source is a GWI;~~

~~(d) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of chapter 246-290 WAC;~~

~~(e) For wells and springs:~~

~~(i) A susceptibility assessment;~~

~~(ii) A preliminary WHPA designation using the calculated fixed radius method, with six month, one, five, and ten year time of travel criteria; and~~

~~(iii) An initial inventory of potential sources of ground water contamination located within the WHPA.~~

~~(f) Upstream water uses affecting either water quality or quantity;~~

~~(g) A map showing the project location and vicinity;~~

~~(h) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drain-~~

~~age patterns, and any other natural or man-made features affecting the quality or quantity of water;~~

~~(i) The dimensions and location of the sanitary control area under WAC 246-290-135;~~

~~(j) Copies of the recorded legal documents for the sanitary control area under WAC 246-290-135;~~

~~(k) A copy of the on-site inspection approval made by the department or local health department representative;~~

~~(l) A copy of the water well report including the Washington well identification number, depth to open interval or top of screened interval, overall depth of well, and location (both plat location and latitude/longitude);~~

~~(m) Required construction documents in accordance with WAC 246-290-120;~~

~~(n) Documentation of source meter installation;~~

~~(o) Well source development data establishing the capacity of the source. Data shall include:~~

~~(i) Static water level;~~

~~(ii) Wellhead elevation;~~

~~(iii) Yield;~~

~~(iv) The amount of drawdown;~~

~~(v) Recovery rate;~~

~~(vi) Duration of pumping; and~~

~~(vii) Interference between existing sources and the source being tested.~~

~~The source shall be pump tested at no less than the maximum design rate to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine the proper pump settings in the well. A department guideline on pump testing is available to assist purveyors;~~

~~(p) An initial analysis result of source water quality, including as a minimum the following:~~

~~(i) Bacteriological;~~

~~(ii) Complete inorganic chemical and physical;~~

~~(iii) VOC;~~

~~(iv) Radionuclide (if source being approved is for a community system); and~~

~~(v) Any other information required by the department.~~

~~When source water quality is subject to variation, the department may require additional analyses to define the range of variation;~~

~~(q) If treatment is planned, refer to WAC 246-290-250(2) and Part 6 of chapter 246-290 WAC, if applicable; and~~

~~(r) Other department required information. Before initiating source development or modification, the purveyor shall contact the department to identify any such additional information.~~

~~(3) The department shall issue a written source approval when:~~

~~(a) The purveyor submits the necessary information to the satisfaction of the department; and~~

~~(b) The developed source provides water complying with this chapter.~~

~~(4) No new surface water or GWI sources with less than one hundred service connections shall be approved unless the system is owned and operated by an approved satellite management agency.)~~ Every purveyor shall obtain drinking water from the highest quality source feasible. No new

source, previously unapproved source, or modification of an existing source shall be used as a public water supply without department approval. No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(2) Before initiating source development or modification, the purveyor shall contact the department to identify submittal requirements.

(3) Any party seeking source approval shall provide the department sufficient documentation, in a project report, construction documents, or in supplemental documents, that the source:

(a) Is reasonable and feasible for the type and size of the system;

(b) May legally be used in conformance with state water rights laws;

(c) Supplies water that is physically and reliably available in the necessary quantities, as shown in:

(i) A hydrogeologic assessment of the proposed source;

(ii) A general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow, which includes seasonal variation and upstream water uses that may significantly affect the proposed source;

(iii) For ground water and spring sources, well source development data that are available from a pump test at the maximum design rate and duration, or are available from other sources of information, that establish pump settings (depth) in the well and demonstrate adequacy of water quantity to meet design criteria while not leading to water quality problems;

(iv) For ground water and spring sources, installation of a source meter or other equivalent device that reliably measures volume of flow into the system;

(d) Is, or is not, a GWI under WAC 246-290-640; and meets or can meet the applicable requirements for GWI sources as described in that section including treatment;

(e) Adequately provides for source protection, as shown in:

(i) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of this chapter;

(ii) For wells, a preliminary department susceptibility assessment or equivalent information, and preliminary WHPA delineation and contaminant inventory, under the requirements for sanitary control and wellhead protection under WAC 246-290-135;

(f) Is designed and constructed in conformance with this chapter, and relevant requirements of chapter 173-160 WAC (department of ecology well construction standards);

(g) Meets water quality standards under WAC 246-290-310, as shown in an initial water quality analysis that includes, at a minimum, the following:

(i) Bacteriological;

(ii) Complete inorganic chemical and physical;

(iii) Complete VOC;

(iv) Radionuclides, if source approval is requested for a community system;

(v) SOC, except where waived or not required under WAC 246-290-310; and

(vi) Any other information required by the department relevant to the circumstances of the particular source.

Sources that otherwise would not meet water quality standards may be approved if treatment is provided.

(4) The required documentation under subsection (3) of this section shall include, at a minimum:

(a) A copy of the water right, or other written evidence of the existence of the right;

(b) A map showing the project location and vicinity;

(c) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(d) The dimensions, location, and legal documentation of the sanitary control area (SCA) under WAC 246-290-135;

(e) A copy of the on-site inspection form completed by the department or local health department representative;

(f) A copy of the water well report including the unique well identification tag number, depth to open interval or top of screened interval, overall depth of well from the top of the casing, vertical elevation, and location (both plat location and latitude/longitude); and

(g) Documentation of source meter installation. The purveyor may utilize other documents, such as a water system plan, susceptibility assessment, wellhead protection program, project report, or construction documents, to provide such documentation and information to the department, provided that such documents are current, and the purveyor indicates the location in the document of the relevant information.

(5) If treatment of a source is necessary to meet water quality standards, the purveyor may be required to meet the provisions of WAC 246-290-250 and Part 6 of this chapter, if applicable, prior to or as a condition of approval.

(6) An intertie must be adequately described in a written agreement between the purveyor and the supplier of the water, and otherwise meet the requirements of WAC 246-290-132.

(7) The purveyor shall not construct facilities for source development and use without prior approval of the department pursuant to the provisions of WAC 246-290-120.

(8) The purveyor shall receive a written source approval when:

(a) The purveyor has complied with the relevant provisions of subsections (1) through (7) of this section; and

(b) The developed source provides water complying with this chapter.

(9) The purveyor may receive a conditional source approval, such as one that sets limits on use or requires interim treatment, if further analysis of the quality of the source is required before final approval.

(10) For sources or supplies of water used by bottled water or ice plants to produce bottled water or ice:

(a) If the bottled water or ice plant is a Group A community water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice shall meet the applicable Group A requirements;

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(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a Group A community water system, the owner or operator shall obtain source approval from the department, and the source water shall meet the ongoing source water quality monitoring requirements for a Group A community system;

(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water shall meet the minimum requirements for a Group A community water system, and the owner or operator of the plant shall ensure that the water meets such requirements;

(d) The source or supply for the water that is bottled or made into ice shall be protected from contamination prior to the bottling or ice making process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water shall be subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

## NEW SECTION

**WAC 246-290-132 Interties.** (1) No interties shall be used and/or constructed as a public water supply without department approval.

(2) Interties shall not be eligible for submittal exceptions pursuant to WAC 246-290-125.

(3) Prior to department approval, purveyors proposing nonemergency interties shall ensure that the intertie is addressed:

(a) In an approved coordinated water system plan, water system plan, water system plan update, water system plan amendment, or small water system management program including:

- (i) Location of the proposed intertie;
- (ii) Date it is proposed to be utilized;
- (iii) The purpose, physical capacity, service area, and proposed usage of the intertie;
- (iv) Copy of the intertie agreement between purveyors;
- (v) Description of how the intertie:
  - (A) Improves overall system reliability;
  - (B) Enhances the manageability of the system;
  - (C) Provides opportunities for conjunctive use; or
  - (D) Delays or avoids the need to develop new water sources;
- (vi) Identification of any potential public health or safety concerns;
- (vii) Discussion of any water quality and treatment issues;
- (viii) Demonstration of the source capacity and hydraulic capacity of the supplying and receiving systems at the designed flow rate through the intertie;
- (ix) Water right assessment;
- (x) Identification of alternative sources that will be utilized when the intertie agreement expires if the water is not being provided in perpetuity; and
- (xi) Identification and comparison of alternatives if any.

(b) In construction documents in accordance with WAC 246-290-120 including:

(i) Demonstration of the installation of a source meter to measure water exchanged; and

(ii) Water right assessment, if not previously provided to the department. Where RCW 90.03.383 requires a water right or water right change to be issued by the department of ecology, construction work on the intertie shall not begin, notwithstanding any prior approval of the intertie by the department in a water system plan, until the department of ecology issues the required water right document.

(4) Emergency use interties are interconnections between public water systems permitting the temporary exchange or delivery of water between those systems only in cases of emergency that result in permanent supplies being unavailable for use. Prior to department approval, purveyors proposing emergency use interties shall ensure that the emergency intertie is addressed:

(a) In an approved coordinated water system plan, water system plan, water system plan update, water system plan amendment, or small water system management plan including:

- (i) Description of the intended use of the emergency intertie;
- (ii) Location of the proposed intertie;
- (iii) Date the intertie is intended to be operational;
- (iv) Copy of the intertie agreement between purveyors detailing the conditions and limitations of such intertie; and
- (v) Hydraulic analysis conducted to identify the impacts upon each water system.

(b) In a project report in accordance with WAC 246-290-110 or in a construction document in accordance with WAC 246-290-120.

(5) Purveyors proposing interties shall apply to the department of ecology for water right changes as provided in RCW 90.03.383. Except as provided in RCW 90.03.383(7) and 90.03.390, no interties may be constructed without department of ecology action on the proposed change.

(6) The purveyor may be required to have emergency interties approved as nonemergency interties where such interties are used frequently or on a long-term basis. If the department makes such a determination, the intertie will require approval in accordance with subsection (3) of this section.

(7) Intertie agreements between purveyors shall include:

- (a) Identification of specific time periods in which water will be provided;
- (b) Identification of the volume of water available for use, including any seasonal or other restrictions; and
- (c) Identification of how water conservation programs, data collection, water demand forecasting, and other operational matters will be coordinated.

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 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-135 Source water protection.** (1) ~~((The purveyor shall obtain drinking water from the highest quality source feasible. Existing and proposed sources of supply shall conform to the water quality standards established in WAC 246-290-310.~~

(2)) The department may require monitoring and controls in addition to those specified in this section if, in the opinion of the department, a potential risk exists to the water quality of a source.

~~((3))~~ (2) Sanitary control area (SCA).

(a) The purveyor shall maintain ~~((a sanitary control area))~~ an SCA around all sources for the purpose of protecting them from existing and potential sources of contamination.

(b) For wells and springs, the minimum ~~((sanitary control area))~~ SCA shall have a radius of one hundred feet (thirty meters) and two hundred feet (sixty meters) respectively, unless engineering justification ~~((supports))~~ demonstrates that a smaller area can provide an adequate level of source water protection. The justification ~~((must))~~ shall address geological and hydrological data, well construction details, mitigation measures, and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger ~~((sanitary control area))~~ SCA than specified in (b) of this subsection, and/or additional mitigation measures if land use, geological, and/or hydrological data support such a decision. It shall be the purveyor's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the ~~((sanitary control area))~~ SCA without the permission of the department and the purveyor.

(e) The ~~((sanitary control area))~~ SCA shall be owned by the purveyor in fee simple, or the purveyor shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) A purveyor, owning all or part of the ~~((sanitary control area))~~ SCA in fee simple or having possession and control, shall send to the department copies of legal documentation, such as a duly recorded declaration of covenant, restricting the use of the land. This legal documentation shall state:

(i) No source of contamination may be constructed, stored, disposed of, or applied without the permission of the department and the purveyor; and

(ii) If any change in ownership of the system or ~~((sanitary control area))~~ SCA is considered, all affected parties shall be informed of these requirements.

(g) Where portions of the control area are in the possession and control of another, the purveyor shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with ~~((these rules))~~ this chapter and provide the department with copies of the appropriate documentation.

~~((4))~~ (3) Wellhead protection.

(a) Purveyors of water systems using ground water or spring sources shall develop and implement a wellhead protection program.

(b) The wellhead protection program shall be part of the water system plan required under WAC 246-290-100 or the small water system management program required under WAC ~~((246-290-410))~~ 246-290-105.

(c) The purveyor's wellhead protection program shall contain, at a minimum, the following elements:

(i) A completed susceptibility assessment or equivalent information;

(ii) Wellhead protection area (WHPA) delineation for each well, wellfield, or spring with the six month, one, five and ten year time of travel boundaries marked, or boundaries established using alternate criteria approved by the department in those settings where ground water time of travel is not a reasonable delineation criteria. WHPA delineations shall be done in accordance with recognized methods such as those described in the following sources:

(A) ~~((Washington State))~~ Department guidance on wellhead protection ~~((Program))~~; or

(B) EPA ~~((Guidelines))~~ guidance for delineation of wellhead protection areas ~~((EPA 440/6-87-010))~~;

(iii) ~~((A list of all actual and potential ground water contaminant))~~ An inventory, including identification of site locations and owners/operators, of all known and potential ground water contamination sources located within the defined WHPA(s) having the potential to contaminate the source water of the well(s) or spring(s). This list shall be updated every two years;

(iv) Documentation of purveyor's notification to all owners/ operators of ~~((actual and))~~ known or potential sources of ground water contamination ~~((within the WHPA boundaries))~~ listed in (c)(iii) of this subsection;

(v) Documentation of purveyor's notification to regulatory agencies and local governments of the boundaries of the WHPA(s) and the findings of the WHPA inventory;

(vi) A contingency plan to ensure consumers have an adequate supply of potable water in the event that contamination results in the temporary or permanent loss of the principal source of supply (major well(s) or wellfield); and

(vii) Documentation of coordination with local emergency ~~((spill))~~ incident responders (including police, fire and health departments), including notification of WHPA boundaries, results of susceptibility assessment, inventory findings, and contingency plan.

~~((Sections in the department guidelines titled Planning Handbook, Washington State Wellhead Protection Program, and Inventory of Potential Sources of Ground Water Contamination in Washington's Wellhead Protection Areas address wellhead protection in more detail, and are available to purveyors establishing local wellhead protection programs.~~

~~((5))~~ (4) Watershed control program.

(a) Purveyors of water systems using surface water or GWI sources shall develop and implement a watershed control program in accordance with Part 6 of chapter 246-290 WAC as applicable.

(b) The watershed control program shall be part of the water system plan required in WAC 246-290-100 or the small water system management program required in WAC ~~((246-290-410))~~ 246-290-105.

(c) The purveyor's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities ~~((which))~~ that may adversely affect source water quality;

(ii) An inventory of all potential surface water contamination sources and activities, including identification of site locations and owner/operators, located within the watershed and having the significant potential to contaminate the source water quality;

(iii) Watershed control measures, including documentation of ownership and relevant written agreements, and monitoring of activities and water quality;

~~((iii))~~ (iv) System operation, including emergency provisions; and

~~((iv))~~ (v) Documentation of water quality trends.

~~((Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to purveyors establishing watershed control programs.))~~

(d) The purveyor shall submit the watershed control program to the department for approval. Following departmental approval, the purveyor shall implement the watershed control program as approved.

(e) Purveyors of systems using unfiltered surface or GWI sources and meeting the criteria to remain unfiltered as specified in WAC 246-290-690 shall submit an annual report to the department ~~((which))~~ that summarizes the effectiveness of the watershed control program. Refer to WAC 246-290-690 for further information about this report.

(f) The purveyor shall update the watershed control program at least every six years, or more frequently if required by the department.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-140 Existing nonexpanding system as-built approval.** ~~((1) When applying for approval, purveyors of existing public water systems without approved construction documents shall provide department determined information:~~

~~(2) Information provided shall be consistent with chapter 248-54 WAC.~~

~~(3) Purveyors shall contact the department to obtain a list of specific requirements including, for wells and springs:~~

~~(a) A susceptibility assessment;~~

~~(b) A preliminary WHPA designation using the calculated fixed radius method, with six month, one, five, and ten year time of travel criteria; and~~

~~(c) An initial inventory of potential sources of ground water contamination located within the WHPA.~~

~~(4) After receipt of the required data, the department shall review the information and either:~~

~~(a) Approve the as-built construction documents; or~~

~~(b) Indicate what additional actions the purveyor needs to complete before approval is granted.))~~ At the discretion of the department, owners of existing systems without approved construction documents shall provide information necessary to establish the extent of the water system's compliance with this chapter. At a minimum, this shall include submission and approval by the department of:

(1) A water system plan or small water system management program;

(2) As-built or record drawings; and

(3) Water quality analyses.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-200 Design standards.** (1) Purveyors shall ensure that good engineering criteria and practices are used in the design and construction of all public water systems, such as those set out in:

(a) Department guidance on design for Group A public water systems;

(b) The most recent published edition of the Uniform Building Code (UBC) or the Uniform Plumbing Code (UPC);

(c) The most ~~((recently))~~ recent published edition of *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers;*

~~((b) Department guideline titled *Sizing Guidelines for Public Water Supplies;*~~

(e)) (d) Standard specifications of the American Public Works Association (APWA), the American Society of Civil Engineers (ASCE), the American Water Works Association (AWWA), or the American Society for Testing and Materials (ASTM);

~~((d) Standard specifications of the American Water Works Association;))~~

(e) Design criteria, such as contained in current college texts and professional journal articles, acceptable to the department;

(f) Chapter 173-160 WAC *Minimum Standards for Construction and Maintenance of Water Wells;*

(g) ~~((Visseher, J.T., et. al., *Slow Sand Filtration for Community Water Supply, Planning, Design, Construction, Operation, and Maintenance. 1987. Technical paper no. 24, The Hague, Netherlands: International Reference Center for Community Water Supply and Sanitation;*~~

~~(h) Huisman, L. and W.E. Wood. 1974. *Slow Sand Filtration. Geneva. World Health Organization;*~~

~~(i) *Manual of Design for Slow Sand Filtration. 1991. AWWA Research Foundation; and*~~

~~(j) *Slow Sand Filtration. 1991. American Society of Civil Engineers.))*~~ The latest edition of the PNWS-AWWA Cross-Connection Control Manual, or the University of Southern California (USC) Manual of Cross-Connection Control.

(2) In addition, purveyors of new or expanding public water systems shall ~~((use))~~ consider and use, as appropriate, the following design factors:

(a) Historical water use;

(b) Community versus recreational uses of water;

(c) Local conditions and/or regulations;

(d) Community expectations;

(e) Public Water System Coordination Act considerations where appropriate;

(f) Provisions for systems and component reliability in accordance with WAC 246-290-420;

(g) Wind pressures, seismic risk, snow loads, and flooding;

(h) Other risks from potential disasters, as feasible; and

~~((g))~~ (i) Other ~~((requirements))~~ information as ~~((determined))~~ required by the department.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-290-220 (~~Lead-in~~) Drinking water materials and additives.** (1) All materials shall conform to the ANSI/NSF Standard 61 if in substantial contact with potable water supplies. For the purposes of this section, "substantial contact" means the elevated degree that a material in contact with water may release leachable contaminants into the water such that levels of these contaminants may be unacceptable with respect to either public health or aesthetic concerns. It should take into consideration the total material/water interface area of exposure, volume of water exposed, length of time water is in contact with the material, and level of public health risk. Examples of water system components that would be considered to be in "substantial contact" with drinking water are filter media, storage tank interiors or liners, distribution piping, membranes, exchange or adsorption media, or other similar components that would have high potential for contacting the water. Materials associated with such components as valves, pipe fittings, debris screens, gaskets, or similar appurtenances would not be considered to be in substantial contact.

(2) Materials or additives in use prior to the effective date of these regulations that have not been listed under ANSI/NSF Standard 60 or 61 shall be allowed for their current applications until such time that the materials are scheduled for replacement, or that stocks of existing additives are depleted and scheduled for reorder.

(3) Any treatment chemicals, with the exception of commercially retailed hypochlorite compounds such as unscented Clorox, Purex, etc., added to water intended for potable use shall comply with ANSI/NSF Standard 60. The maximum application dosage recommendation for the product certified by the ANSI/NSF Standard 60 shall not be exceeded in practice.

(4) Any products used to coat, line, seal, patch water contact surfaces or that have substantial water contact within the collection, treatment, or distribution systems shall comply with the appropriate ANSI/NSF Standard 60 or 61. Application of these products shall comply with recommendations contained in the product certification.

(5) The department may accept continued use of, and proposals involving, certain noncertified chemicals or materials on a case-by-case basis, provided all of the following criteria are met:

(a) The chemical or material has an acknowledged and demonstrable history of use in the state for drinking water applications;

(b) There exists no substantial evidence that the use of the chemical or material has caused consumers to register complaints about aesthetic issues, or health related concerns, that could be associated with leachable residues from the material; and

(c) The chemical or material has undergone testing through a protocol acceptable to the department and has been found to not contribute leachable compounds into drinking water at levels that would be of public health concern.

(6) Any pipe, pipe fittings, solder, or flux used in the installation or repair of a public water system shall be lead-free((-);

(a) This prohibition shall not apply to leaded joints necessary for the repair of cast iron pipes((-); and

((2)) (b) Within the context of this section, lead-free shall mean:

((a)) (i) No more than eight percent lead in pipes and pipe fittings((-); and

((b)) (ii) No more than two-tenths of one percent lead in solder and flux.

## NEW SECTION

**WAC 246-290-221 Water demand design criteria.** (1) Except as provided in this section, expanding systems shall use water demand design for average day demand (ADD), and peak periods of demand such as maximum day demand (MDD), and peak hourly demand (PHD) that are based upon actual metered water use records. The data collected shall be sufficient to account for seasonal or other cyclic changes in water demand, and shall correlate to the maximum number of full-time or part-time equivalent residential units in service at any time.

(2) For seasonally used, transitory noncommunity, or recreational developments the design for ADD, MDD, and PHD shall be based upon metered water uses whenever such data is available. The data must account for the daily population using the water over the time that records are collected, and must reflect the uses associated with maximum occupancy for the development. The design demands for these developments apply only to part-time uses, and may not be applied to structures or dwellings that can be permanently occupied.

(3) In the absence of metered use or other comparable information, the following sources of design information may be used:

(a) Comparable metered water use data from analogous water systems. Analogous systems are those with similar characteristics, such as demographics, housing sizes, income levels, lot sizes, climate, water pricing structure, conservation practices, use restrictions, and soils and landscaping; or

(b) Design criteria or guidelines in the most recent edition of the department manual for design of Group A public water systems.

(4) The design for water systems based upon metered water use records shall have an MDD no lower than three hundred fifty gallons per day per equivalent residential unit (ERU), except for the design of any expansion to an existing water system that has a minimum of two years of meter records that clearly demonstrate that a lower design value for MDD may be used without significant risk of pressure loss. The meter records must correlate the demand data to the actual level of occupancy for the periods covered by the records.

(5) The minimum water demand and duration required for fire flow and/or fire suppression storage shall be determined by the local fire control authority, or chapter 246-293 WAC for systems within the boundaries of a designated critical water supply service area (CWSSA). Public water sys-

tems that are not required to comply with minimum fire flow standards shall coordinate with the local fire control authorities to ensure that any hydrants on the system, if they can possibly be used in the course of fire suppression activities, do not create adverse pressure problems within the water system as a result of fire control actions.

#### NEW SECTION

##### **WAC 246-290-222 Water system physical capacity.**

(1) The water system physical capacity shall be established by evaluating the capacity of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other. The evaluation shall identify any limitations on the ability of the system to provide service to all consumers.

(2) The water system physical capacity shall be:

(a) Reported in terms of total equivalent residential units (ERUs) and the number of residential and nonresidential connections with the number of ERUs they represent; and

(b) Compared to the existing number of residential and nonresidential connections currently served and the ERUs they represent.

(3) Total source capacity calculations shall not include emergency sources as defined in WAC 246-290-010.

(4) Total daily source capacity, in conjunction with any storage that is designed to accommodate peak use periods on a daily or longer basis, shall be sufficient to provide a reliable supply of water equal to or exceeding the MDD.

(5) Treatment capacity, in conjunction with any storage designed to accommodate peak demand periods on a daily or longer basis, shall be sufficient to provide a reliable supply of treated water equal to or exceeding the MDD while meeting the water quality parameters set forth in Part 4 and Part 6 as applicable, of this chapter.

(6) Water storage shall be sufficient to meet expected system service demands by providing sufficient operational, equalizing, standby, and where applicable, fire suppression storage volumes in accordance with WAC 246-290-235.

(7) Distribution system capacity shall provide for PHD, or MDD plus required fire flow, as required in each pressure zone while maintaining minimum design pressures established under this chapter.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-230 Distribution systems.** (1) ~~((Distribution reservoirs completed after June 1, 1975, shall have suitable watertight roofs or covers preventing entry by birds, animals, insects, and dust and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. Purveyors with uncovered distribution reservoirs in use before June 2, 1975, shall comply with the provisions of WAC 246-290-470 until suitable watertight roofs or covers are installed. Purveyors with uncovered distribution reservoirs shall submit a plan and schedule to cover all reservoirs to the department for approval before January 1, 1996.~~

~~((2))~~ The purveyor shall size and evaluate ~~((the))~~ new, or expansions to existing, distribution systems using a hydraulic analysis acceptable to the department.

~~((3))~~ (2) The minimum diameter of all distribution mains shall be six inches (150 mm) unless smaller mains can be justified by hydraulic analysis.

(3) Systems designed to provide fire flows shall have a minimum distribution main size of six inches (150 mm).

(4) Installation of new standard fire hydrants shall not be allowed on mains less than six inches (150 mm) in diameter. Existing fire hydrants on currently active mains less than six inches (150 mm) in diameter shall be allowed to remain provided:

((4)) (a) The existing distribution system consists of mains at least four inches (101.6 mm) in diameter, and the fire flow available from existing four-inch (101.6 mm) mains within the proximity of the proposed fire hydrant exceeds the minimum fire flow standard adopted by the local fire protection authority; and

(b) The location and installation of the existing fire hydrants on the four-inch (101.6 mm) main have received approval by the local fire protection authority.

(5) New public water systems or additions to existing systems shall ~~((provide a design))~~ be designed with the capacity to deliver the design PHD quantity of water at ~~((a positive pressure of at least))~~ 30 psi ~~((200))~~ 210 kPa under ~~((peak hourly design))~~ PHD flow conditions measured at ~~((any customer's))~~ all existing and proposed service water meters or ~~((at the))~~ along property lines adjacent to mains if no meter exists, and under the condition where all equalizing storage has been depleted.

~~((5))~~ (6) If fire flow is to be provided, the distribution system shall be designed to provide maximum day demand (MDD) plus the required fire flow at a pressure of at least 20 psi ~~((during peak hourly design flow conditions:~~

~~(6) Booster pumps needed for individual services shall be subject to review and approval by the department. Installation shall be made under the supervision of the purveyor to assure cross-connection control requirements are met))~~ (140 kPa) at all points throughout the distribution system, and under the condition where the designed volume of fire suppression and equalizing storage has been depleted.

(7) Booster pumps shall be designed in accordance with good engineering criteria and practices as listed in WAC 246-290-200.

(8) On existing systems, or for additions to existing systems, that are unable to meet the pressure requirements of this section, booster pumps for individual services may be used in the interim until system improvements are made to resolve pressure deficiencies. In this situation, the individual booster pumps shall be under the management and control of the purveyor.

(9) Transmission lines as defined in WAC 246-290-010 shall be designed to maintain greater than or equal to five psi (35 kPa) during normal operations, except when directly adjacent to storage tanks, and shall be sized according to a hydraulic analysis. Transmission mains designed to operate at velocities greater than ten feet per second shall include a hydraulic transient (water hammer) analysis in conjunction with the hydraulic analysis.

**NEW SECTION**

**WAC 246-290-235 Distribution reservoirs.** (1) Distribution reservoirs shall be designed to:

(a) Prevent entry by birds, animals, insects, excessive dust, and other potential sources of external contamination. The design shall include provisions for a lockable weather-tight roof, a screened roof vent, an overflow pipe with atmospheric discharge or other suitable means to prevent a cross-connection, sample collection capability, a drain to daylight (or an approved alternative that is adequate to protect against cross-connection), a provision for tank isolation in order to perform maintenance procedures, and other appurtenances appropriate to the protection of stored water from contamination;

(b) Maintain water circulation, prevent water stagnation, and provide adequate disinfection contact time; and

(c) Be accessible for routine maintenance and water quality monitoring.

(2) Equalizing storage, as defined in WAC 246-290-010, shall be provided to meet peak periods of demand, either daily or longer, when determined to be necessary based on available, or designed, source pumping capacity.

(3) Operational, standby, and fire suppression storage volumes as defined in WAC 246-290-010 shall be provided, as applicable, for all pressure zones to meet both normal as well as abnormal demands of the system.

(4) Standby and fire suppression storage volumes may be nested with the larger of the two volumes being the minimum available, provided the local fire protection authority does not require them to be additive.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-250 Treatment design.** (1) ~~((Purveyors shall))~~ Treatment systems or devices shall be piloted and designed to ensure finished water quality ((from existing and proposed sources of supply)) conforms to ((the minimum)) water quality standards established in WAC 246-290-310.

(2) ~~((Purveyors using))~~ Treatment systems or devices for surface water or GWI sources shall ((design, install, and operate treatment facilities to ensure at least:

~~(a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; and~~

~~(b) 99.99 percent (4 log) removal and/or inactivation of viruses.~~

~~Part 6 of chapter 246-290 WAC contains specific requirements for filtered and unfiltered surface water and GWI systems, including treatment technique, monitoring and reporting requirements))~~ be designed in accordance with the provisions of Part 6 of this chapter and the applicable provisions herein.

(3) Pre-design studies, including pilot studies as appropriate, shall be required for proposed surface water and GWI sources and those ground water sources requiring treatment. The goal of the pre-design study shall be to establish the most effective method, considering economics, to produce satisfactory finished water quality meeting the requirements of this chapter and complying with the treatment technique

requirements in Part 6 of chapter 246-290 WAC. The pre-design study shall be included as part of the project report under WAC 246-290-110. Refer to WAC 246-290-676 for requirements relating specifically to the filtration facility pilot study. The purveyor shall not establish nor maintain a bypass to divert water around any feature of a treatment process, except by written permission of the department.

~~(4) ((The minimum level of treatment for))~~ All well ((sources)) and spring sources not ((classified as)) ~~deter-~~ mined to be GWI's shall ((be)) have continuous ((and effective)) ~~disinfection ((as determined by the department)) that meets the operational requirements of WAC 246-290-451 (4) and (5).~~ The department may ((reduce)) modify the requirement for disinfection for public water systems ((with:

~~(a) Well sources not classified as GWI's:~~

~~(i) Having a satisfactory bacteriological history at the source and within the distribution system as determined by the department; and~~

~~(ii) Drawing from a protected aquifer as determined by the department;~~

~~(b) Spring sources not classified as GWI's:~~

~~(i) Having a satisfactory bacteriological history at the source and within the distribution system as determined by the department;~~

~~(ii) Having evidence to demonstrate, to the satisfaction of the department, the spring originates in a stratum not subject to contamination; and~~

~~(iii) Where the water is collected by a method precluding contamination;~~

~~(5) The minimum level of treatment for surface water supplies shall be coagulation, flocculation, filtration, and disinfection. In certain cases, alternative treatment designs followed by disinfection may be acceptable to the department, provided there is adequate engineering justification. Group A systems with surface water sources and GWI sources shall provide treatment as specified under WAC 246-290-630.~~

~~(6) Disinfection methods, other than chlorination, such as ozonation, ultraviolet radiation, and iodination, may be approved by the department with appropriate engineering justification))~~ that demonstrate the well or spring sources (not confirmed as GWI's) have satisfactory bacteriological histories at the source and have SCAs in accordance with WAC 246-290-135.

(5) Purveyors shall use appropriate treatment technologies, such as those outlined in department guidance on water treatment, and shall address water treatment facilities in their water system plans pursuant to WAC 246-290-100.

(6) Project reports for the design of treatment facilities shall meet the requirements of WAC 246-290-110.

(7) Construction specifications for treatment facilities shall meet the requirements of WAC 246-290-120.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-300 Monitoring requirements.** (1) General.

(a) The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) ~~((The department determines))~~ A ground water source ((may)) is determined to be a potential GWI;

(iii) ~~The ((department determines the))~~ degree of source protection is not satisfactory;

(iv) ~~((The department determines))~~ Additional monitoring is needed to verify source vulnerability for a requested monitoring waiver; ((or))

(v) Under other circumstances as identified in a departmental order; or

(vi) Additional monitoring is needed to verify continuing effectiveness of a treatment process.

(b) Special purpose samples collected by the purveyor shall not count toward fulfillment of the monitoring requirements of this chapter unless ~~((both))~~ the quality of data and method of sampling and analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to department-approved methods. The analyses shall be performed by the state public health laboratory or another laboratory certified by the department. Qualified water utility, certified laboratory, or health department personnel may conduct measurements for pH, temperature, residual disinfectant concentration and turbidity as required by this chapter, provided, these measurements are made in accordance with "standard methods."

(d) Compliance samples required by this chapter shall be taken at locations listed in Table 3 of this section.

~~(e) ((When one public water system sells water to another public water system, the purveyor of the selling system, regardless of size, shall conduct at least the minimum source monitoring required by this chapter for community systems.~~

~~(f) ((When one public water system receives completely treated water, as determined by the department, from another public water system, the purveyor of the receiving system shall)) Purveyors failing to comply with a monitoring requirement shall notify:~~

~~(i) The department in accordance with WAC 246-290-480; and~~

~~(ii) The water system users in accordance with WAC 246-290-495.~~

(2) Selling and receiving water.

(a) Source monitoring. Purveyors, with the exception of those that "wheel" water to their consumers (i.e., sell water that has passed through another purchasing purveyor's distribution system), shall conduct source monitoring in accordance with this chapter prior to the sale of water from the sources under their control. The level of monitoring shall satisfy the monitoring requirements associated with the total population served by the source.

(b) Distribution system monitoring. The purveyor of a system that receives and distributes water shall perform distribution-related monitoring requirements. Monitoring shall include, but not be limited to, the following:

(i) Collect coliform samples in accordance with subsection ((2)) (3) of this section;

(ii) Collect trihalomethane samples in accordance with subsection ((5)) (6) of this section;

(iii) Perform the distribution system residual disinfectant concentration monitoring required under WAC ((246-290-440)) 246-290-451 or 246-290-694;

(iv) Perform lead and copper monitoring required under 40 CFR 141.86, 141.87, and 141.88; ((and))

(v) Perform the distribution system monitoring in accordance with 40 CFR 141.23(b) for asbestos if applicable; and  
(vi) Other monitoring as required by the department.

~~((g))~~ The department may reduce) (c) Reduced monitoring for regional programs. The receiving purveyor may receive reductions in the coliform, lead and copper, THM and distribution system disinfectant residual concentration monitoring requirements ((of the receiving system)), provided the receiving system:

(i) Has a satisfactory water quality history as determined by the department;

(ii) Operates in a satisfactory manner consistent with this chapter;

(iii) Purchases water from a purveyor ((which)) that has a department-approved regional monitoring program; and

(iv) Has a written agreement with the supplying system or regional water supplier that is acceptable to the department, and which identifies the responsibilities of both the supplying and receiving system(s) with regards to monitoring, reporting and maintenance of the distribution system.

~~((h))~~ (d) Periodic review of regional programs. The department may periodically review ((both)) the ((selling and receiving system's)) sampling records of public water systems participating in a department-approved monitoring program to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

~~((i)) Purveyors failing to comply with a monitoring requirement shall notify:~~

~~(i) The department in accordance with WAC 246-290-480; and~~

~~(ii) The water system users in accordance with WAC 246-290-330.~~

~~((2))~~ (3) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system. Samples shall be collected after the first service and at regular time intervals ~~((at least once per calendar month unless otherwise specified in this subsection.))~~ each month the system provides water to consumers. Samples shall be collected that represent normal system operating conditions.

(i) Systems providing disinfection treatment shall measure residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected.

(ii) Systems providing disinfection treatment shall assure that disinfectant residual concentrations are measured and

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recorded on all coliform sample report forms submitted for compliance purposes.

(b) Coliform monitoring plan.

(i) The purveyor shall prepare a written coliform monitoring plan and base routine monitoring upon the plan. ~~((A department guideline titled *Preparation of a Coliform Monitoring Plan* is available to assist the purveyor in preparing this plan.))~~ The plan shall include coliform sample collection sites and a sampling schedule.

(ii) ~~((The plan shall include at a minimum:~~

(A) ~~A system map or diagram showing the locations of:~~

~~(I) Water sources;~~

~~(II) Storage, treatment, and pressure regulation facilities;~~

~~(III) Distribution systems;~~

~~(IV) Pressure zones;~~

~~(V) Interconnections; and~~

~~(VI) Coliform sample collection sites.~~

(B) ~~A narrative which includes the following information:~~

~~(I) Public water system identification number;~~

~~(II) Population served and services;~~

~~(III) Water sources;~~

~~(IV) System facilities and processes for storage, treatment, and pressure regulation;~~

~~(V) Coliform sample collection sites; and~~

~~(VI) Sampling schedules.~~

~~(iii)) The purveyor shall:~~

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) Purveyors of community systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 during each calendar month of operation;

(ii) Purveyors of noncommunity systems shall collect and submit for analysis ~~((no less than the number of samples required in Table 2. Each month's population shall be based on the average daily population and shall include all residents and nonresidents served during that month. During months when the average daily population served is less than twenty-five, routine sample collection is not required when:~~

~~(A) Using only protected ground water sources;~~

~~(B) No coliforms were detected in samples during the previous month; and~~

~~(C) One routine sample has been collected and submitted for analysis during one of the previous two months))~~ as determined by the department, and no less than required under 40 CFR 141.21.

(iii) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident ~~((and on))~~ as determined by the

department, but no less than the minimum required in Table 2; and

(iv) Purveyors of systems with a nonresident population lasting two weeks or less during a month shall sample as directed by the department. Sampling shall be initiated at least two weeks prior to the time service is provided to consumers.

(v) Purveyors of TNC systems shall not be required to collect routine samples in months where the population served is zero or the system has notified the department of an unscheduled closure.

(d) ~~((Surface water or ground water under the direct influence of surface water (GWI) sources. A purveyor using unfiltered surface water or unfiltered GWI sources shall:~~

~~(i) Collect and submit for analysis, at least one coliform sample at the first service connection during each day in which source water turbidity exceeds 1.0 NTU; or~~

~~(ii) Collect samples as directed by the department when logistical problems beyond the purveyor's control make analysis of the coliform samples impractical because the time between sample collection and analysis exceeds thirty hours. If the department extends the time limits, the purveyor shall collect the required samples as directed by the department.~~

~~(e) Comprehensive system evaluations (CSEs).~~

~~(i) Purveyors of systems with less than four thousand one hundred one population served shall:~~

~~(A) Submit to a CSE conducted by the department; or~~

~~(B) Collect and submit for analysis five or more routine samples each month.~~

~~(ii) Purveyors electing to have CSEs conducted shall be evaluated by the department based on the following schedule:~~

~~(A) Community water systems, every five years. The initial CSE shall be conducted by June 29, 1994; and~~

~~(B) Noncommunity systems, every five years unless the system uses only disinfected and protected ground water as determined by the department, in which case the evaluation need only be repeated every ten years. The initial CSE shall be conducted by June 29, 1999.~~

~~(iii) The department may substitute source of contamination information from the wellhead protection program for CSE information if the information was collected since the last CSE; and~~

~~(iv) Purveyors collecting less than five routine samples per month shall be responsible for:~~

~~(A) Ensuring full cooperation in scheduling CSEs; and~~

~~(B) Making all facilities and records available to the department for the CSE.~~

~~(f)) Invalid samples. When a coliform sample is determined invalid under WAC 246-290-320 (2)(d), the purveyor shall:~~

~~(i) Not include the sample in the determination of monitoring compliance; and~~

~~(ii) ((Collect and submit for coliform analysis, an additional drinking water sample from the same location as each invalid sample within twenty-four hours of notification by the laboratory of the invalid sample))~~ Take follow-up action as defined in WAC 246-290-320 (2)(d).

~~((g))~~ (e) The purveyor using a surface water or GWI source shall collect representative source water samples for

bacteriological density analysis in accordance with WAC 246-290-664 and 246-290-694 as applicable.

TABLE 2

MINIMUM MONTHLY ROUTINE COLIFORM SAMPLING REQUIREMENTS FOR COMMUNITY WATER SYSTEMS

Population Served <sup>1</sup>	Minimum Number of Routine Samples/Calendar Month	When NO samples with a coliform presence were collected during the previous month	
		When ANY samples with a coliform presence were collected during the previous month	
1 - 1,000	1 <sup>(2)</sup>	5	
1,001 - 2,500	2 <sup>2</sup>	5	
2,501 - 3,300	3 <sup>2</sup>	5	
3,301 - 4,100	4 <sup>2</sup>	5	
4,101 - 4,900	5	5	
4,901 - 5,800	6	6	
5,801 - 6,700	7	7	
6,701 - 7,600	8	8	
7,601 - 8,500	9	9	
8,501 - 12,900	10	10	
12,901 - 17,200	15	15	
17,201 - 21,500	20	20	
21,501 - 25,000	25	25	
25,001 - 33,000	30	30	
33,001 - 41,000	40	40	
41,001 - 50,000	50	50	
50,001 - 59,000	60	60	
59,001 - 70,000	70	70	
70,001 - 83,000	80	80	
83,001 - 96,000	90	90	
96,001 - 130,000	100	100	
130,001 - 220,000	120	120	
220,001 - 320,000	150	150	
320,001 - 450,000	180	180	
450,001 - 600,000	210	210	
600,001 - 780,000	240	240	
780,001 - 970,000	270	270	
970,001 - 1,230,000 <sup>3</sup>	300	300	

<sup>1</sup> Does not include the population of ~~((utilities purchasing water))~~ a consecutive system that purchases water. The sampling requirement for consecutive systems is a separate determination based upon the population of that system.

~~((<sup>2</sup> Noncommunity systems using only protected ground water sources and serving less than 25 individuals, may collect and submit for analysis, one sample every three months.))~~

~~((<sup>3</sup>) <sup>2</sup> Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.~~

<sup>2</sup>In addition to the provisions of subsection (1)(a) of this section, if a system of this size cannot show evidence of having been subject to a sanitary survey on file with the department, or has been determined to be at risk to bacteriological concerns following a survey, the minimum number of samples required per month may be increased by the department after additional con-

sideration of such factors as monitoring history, compliance record, operational problems, and water quality concerns for the system.

~~((3))~~ (4) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical substances.

(i) Primary chemical and physical substances are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and for unfiltered surface water, turbidity.

(ii) Secondary chemical and physical substances are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate, total dissolved solids\*, and zinc.

\* Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Purveyors shall monitor for all primary and secondary chemical and physical substances identified in Table 4 and Table 5. Samples shall be collected in accordance with the monitoring requirements referenced in 40 CFR 141.23(a) through 141.23(j) and 40 CFR 143.4, except for composite samples for systems serving less than ~~((3,300))~~ three thousand and three hundred one persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency. ~~((A department guideline titled Inorganic and Organic Chemical Monitoring Plans is available on request.))~~

(c) Samples required by this subsection shall be taken at designated locations in accordance with 40 CFR 141.23(a) through 141.23(j), and 40 CFR 143.4, and Table 3 herein.

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) In accordance with 40 CFR 141.23 (a)(3), alternate sampling locations may be ~~((allowed))~~ used if approved by the department. The process for determining these alternate sites ((are)) is described in ((the)) department ((guideline titled Inorganic and Organic Chemical Monitoring Plans)) guidance. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system ~~((which))~~ that are blended prior to entry to the distribution system. ~~((Department approval))~~ Alternate sampling plans shall ((consider)) address the following:

(A) Source vulnerability;

~~((B))~~ ~~((Updated inorganic monitoring plan showing location of all sources with current and proposed sampling locations;~~

~~((C))~~ Individual source characteristics;

~~((D))~~ ~~((C))~~ Previous water quality information;

~~((E))~~ ~~((D))~~ Status of monitoring waiver applications; and

~~((F))~~ ~~((E))~~ Other information deemed necessary by the department.

(d) Composite samples:

(i) In accordance with CFR 141.23 (a)(4), purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in ~~((the))~~

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department (~~(guideline titled *Inorganic and Organic Chemical Monitoring Plans*)~~) guidance; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, the department may require the purveyor to sample before and after treatment. The department shall notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and ~~((conduct))~~ base routine monitoring ~~((in accordance with))~~ on the plan. ~~((A department guideline titled *Inorganic and Organic Chemical Monitoring Plans* is available to assist the purveyor in preparing this plan.))~~

(ii) ~~((The plan shall include, at a minimum:~~

~~(A) A system map or diagram showing the location of:~~

~~(I) Water sources;~~

~~(II) Storage, treatment, and distribution system; and~~

~~(III) Inorganic sample collection locations.~~

~~(B) A narrative which includes the following information:~~

~~(I) The system's public water system identification number;~~

~~(II) Population served and number of services;~~

~~(III) Water sources;~~

~~(IV) Storage, treatment, and distribution system;~~

~~(V) Inorganic sampling locations (including asbestos if applicable);~~

~~(VI) Source vulnerability ratings and status of monitoring waiver applications; and~~

~~(VII) Sampling schedule.~~

~~((iii)) The purveyor shall:~~

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 CFR 141.23 (b)(3), 141.23 (c)(3), and 141.40 (n)(4). ~~((A department guideline titled *Source Vulnerability and Monitoring Waivers* is available to assist purveyors.))~~

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

~~((4))~~ (5) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 CFR 141.86, 141.87, and 141.88.

~~((5))~~ Turbidity:

~~(a) Purveyors of systems with surface water or GWI sources and installing filtration, and other water systems as directed by the department, shall monitor turbidity a minimum of once per day at the entry to the distribution system.~~

~~(b) For purveyors of systems installing filtration, the monitoring requirement of (a) of this subsection is effective between written department notification of the filtration requirement and installation of filtration. Once filtration is installed, the purveyor shall monitor turbidity in accordance with WAC 246-290-664.~~

~~(c) Purveyors of systems with surface water or GWI sources not subject to the requirements specified in (a) of this subsection, shall monitor turbidity in accordance with Subpart B or Subpart D of Part 6 of chapter 246-290 WAC, whichever is applicable.~~

~~(d) Purveyors conducting turbidity measurements shall ensure that analytical requirements are met, in accordance with WAC 246-290-638, at all times the system serves water to the public.))~~

(6) Trihalomethanes (THMs).

(a) Purveyors of community systems serving a population of ten thousand or more and providing water treated with chlorine or other halogenated disinfectant shall monitor as follows:

(i) Ground water sources. The purveyor shall collect one sample from each treated ~~((spring, well, or well-field))~~ ground water source every twelve months. This sample shall be taken at the source before treatment ~~((or at the extreme end of the distribution system. The sample shall be))~~ and analyzed for maximum total trihalomethane potential (MTTP) ~~((; or)).~~ The purveyor may receive approval from the department for an alternate sample location if it would provide essentially the same information as an MTTP analysis regarding the levels of THMs that the consumers are, or could potentially be, exposed to in the drinking water.

(ii) Surface water sources. The purveyor shall collect four samples per treated source every three months. The samples shall be taken within a twenty-four-hour period. The purveyor shall take one of the samples from the extreme end of the distribution system, the farthest point possible from the source of supply, and three samples from ~~((representative))~~ intermediate locations in the distribution system. The samples shall be analyzed for total ~~((trihalomethanes))~~ TTHM ~~((; i.e., the sum of trichloromethane, bromodichloromethane, dibromochloromethane, and tribromomethane)).~~ After one year of monitoring, the department may reduce the monitoring frequency to one sample every three months per treatment plant if the TTHM levels are less

than 0.10 mg/L. The purveyor shall take the sample at the extreme end of the distribution system; or

(iii) Purchased surface water sources. The purveyor of a consecutive system shall collect one water sample per each purchased (~~surface~~) source originating from a surface supply or confirmed GWI every three months. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM.

(b) Purveyors of **community** systems shall monitor for TTHM when serving a population less than ten thousand and providing surface water treated with chlorine or other halogenated disinfectant. The purveyor shall collect one water sample per treated source every three months for one year. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM. After the first year, the purveyor shall monitor surface water sources every thirty-six months.

(c) Purveyors of **community** systems shall monitor for TTHM when serving less than ten thousand people and purchasing surface water treated with chlorine or other halogenated disinfectant or adding a halogenated disinfectant after purchase. The purveyor shall collect one water sample every three months at the extreme end of the distribution system or at a department-acceptable location. The sample shall be analyzed for TTHM. After the first year, the purveyor shall monitor every thirty-six months.

(7) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements in accordance with 40 CFR 141.24(a), 141.24(f), 141.24(g), 141.24(h), 141.40(a), 141.40(d), and 141.40(e).

(b) Sampling locations shall be as defined in 40 CFR 141.24(f), 141.24(g), 141.24(h), 141.40(b) and 141.40(c).

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) In accordance with 40 CFR 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in (~~the departmental guideline titled *Inorganic and Organic Chemical Monitoring Plans*~~) department guidance. Purveyors may ask the department to approve an alternate sampling location for multiple sources within a single system (~~which~~) that are blended prior to entry to the distribution system. (~~Department approval~~) The alternate sampling location shall consider the following:

(A) Source vulnerability;

(B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;

~~((e))~~ (C) Individual source characteristics;

(D) Previous water quality information;

(E) Status of monitoring waiver applications; and

(F) Other information deemed necessary by the department.

(c) Composite samples:

(i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in (~~the department guideline titled *Inorganic and Organic Chemical Monitoring Plans*~~) department guidance;

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.

(e) Organic chemical monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and (~~conduct~~) base routine monitoring (~~in accordance with~~) on the plan. (~~A department guideline titled *Inorganic and Organic Chemical Monitoring Plans* is available to assist the purveyor in preparing this plan.~~)

(ii) (~~The plan shall include at a minimum:~~

~~(A) A system map or diagram showing the location of:~~

~~(I) Water sources;~~

~~(II) Storage, treatment, and distribution system; and~~

~~(III) Organic sample collection locations.~~

~~(B) A narrative which includes the following information:~~

~~(I) The system's public water system identification number;~~

~~(II) Population served and number of services;~~

~~(III) Water sources;~~

~~(IV) Storage, treatment, and distribution system;~~

~~(V) Organic sampling locations;~~

~~(VI) Source vulnerability ratings and status of monitoring waiver applications; and~~

~~(VII) Sampling schedule.~~

~~(iii))~~ The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(f) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement except those relating to unregulated VOCs;

(ii) Purveyors requesting a monitoring waiver shall comply with 40 CFR 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), 141.24 (h)(7) or 141.40 (n)(4) (~~A department guideline titled *Source Vulnerability and Monitoring Waivers* is available to assist purveyors~~);

(iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(g) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section when they are (~~in use~~) actively providing water to consumers.

(8) Unregulated chemicals.

(a) Unregulated inorganic contaminants. Purveyors of community and NTNC systems shall:

(i) Monitor for the unregulated inorganic chemicals listed in 40 CFR 141.40 (n)(12); ~~((and))~~

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(2) through 141.40 (n)(9) and 141.40 (n)(12)~~((:)); and~~

(iii) Apply in writing for a monitoring waiver according to the conditions outlined in 40 CFR 141.40 (n)(3), and the departmental procedures described in subsection (7)(f) of this section.

~~((iv) Request the department to defer this monitoring if they are a system with less than one hundred fifty service connections:))~~

(b) Unregulated VOCs. Purveyors shall:

(i) Monitor in accordance with 40 CFR 141.40(e) and 141.40(j);

(ii) Comply with monitoring methods, frequency and sampling locations in accordance with 40 CFR 141.40(a) through 141.40(d), 141.40(g) and 141.40(i); and

(iii) Perform repeat monitoring for these compounds in accordance with 40 CFR 141.40(l).

(c) Unregulated SOCs. Purveyors shall:

(i) Monitor for the unregulated SOCs listed in 40 CFR 141.40 (n)(11); and

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(1) through 141.40 (n)(9).

Purveyors may request that the department defer this monitoring if a system has less than one hundred fifty service connections.

(d) Purveyors with emergency and seasonal sources shall monitor those sources ~~((when they are in use))~~ under the applicable requirements of this section whenever they are actively providing water to consumers.

(9) Radionuclides.

(a) The purveyor's monitoring requirements for gross alpha particle activity, radium-226 and radium-228 shall be:

(i) **Community** systems shall monitor once every forty-eight months. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals;

(ii) The purveyor may omit analysis for radium-226 and radium-228 if the gross alpha particle activity is less than five pCi/L; and

(iii) If the results of the initial analysis are less than half of the established MCL, the department may allow compliance with the monitoring requirements based on analysis of a single sample collected every forty-eight months.

(b) The purveyor's monitoring requirements for man-made radioactivity shall be:

(i) Purveyors of **community** systems using surface water sources and serving more than one hundred thousand persons and other department-designated water systems shall monitor for man-made radioactivity (beta particle and photon) every forty-eight months. Compliance shall be based on the analysis of a composite of four consecutive quarterly samples or the analysis of four quarterly samples; and

(ii) The purveyor of a water system located downstream from a nuclear facility as determined by the department, shall monitor once every three months for gross beta and iodine-131, and monitor once every twelve months for strontium-90 and tritium. The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity if the department determines that such data is applicable to a particular public water system.

(10) Other substances.

On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.

TABLE 3  
MONITORING LOCATION

Sample Type	Sample Location
Asbestos	One sample from distribution system or if required by department, from the source.
Bacteriological	From representative points throughout distribution system.
Complete Inorganic Chemical & Physical	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Lead/Copper	From the distribution system at targeted sample tap locations.
Nitrate/Nitrite	From a point representative of the source, after treatment, and prior to entry to the distribution system.
<del>((Turbidity—Surface Water</del>	<del>From a location at or before the entry point to the distribution system:))</del>
Total Trihalomethanes -Surface Water	From <del>((representative))</del> points at <u>extreme end, and at intermediate locations</u> , in the distribution system <u>from the source after treatment.</u>
Potential Trihalomethanes -Ground Water	From the source before treatment.
Radionuclides	From the source.
Organic Chemicals (VOCs & SOCs)	From a point representative of the source, after treatment and prior to entry to distribution system.
Other Substances (unregulated chemicals)	From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.

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**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-310 Maximum contaminant levels (MCLs).** (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its maximum contaminant level (MCL), the purveyor shall take follow-up action in accordance with WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.

(a) MCLs under this subsection shall be considered primary standards.

(b) Notwithstanding subsection (1) of this section, if coliform presence is detected in any sample, the purveyor shall take follow-up action in accordance with WAC 246-290-320(2).

(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:

- (i) Fecal coliform presence in a repeat sample;
- (ii) *E. coli* presence in a repeat sample; or
- (iii) Coliform presence in ~~(a set of)~~ any repeat samples collected as a follow-up to a sample with fecal coliform or *E. coli* presence.

(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:

- (i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or
- (ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence.

(e) MCL compliance. The purveyor shall determine compliance with the coliform MCL for each month the system provides drinking water to the public. In determining MCL compliance, the purveyor shall:

(i) Include:

- (A) Routine samples; and
- (B) Repeat samples ~~(; and~~
- ~~(C) Samples collected under WAC 246-290-300~~

~~(2)(4)).~~

(ii) Not include:

- (A) Samples invalidated under WAC ~~((246-290-320~~ ~~(2)(4))~~ 246-290-694 (1)(c); and
  - (B) Special purpose samples.
- (3) Inorganic chemical and physical.

The primary and secondary MCLs are listed in Table 4 and 5:

TABLE 4  
INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.05

Substance	Primary MCLs (mg/L)
Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	*
Cyanide (HCN)	0.2
Fluoride (F)	4.0
Lead (Pb)	*
Mercury (Hg)	0.002
Nickel (Ni)	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	*
Thallium (Tl)	0.002

Substance	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO <sub>4</sub> )	250.0
Zinc (Zn)	5.0

\* Although the state board of health has not established MCLs for copper, lead, and sodium, there is enough public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are 0.015 mg/L for lead and 1.3 mg/L for copper and are applied to the highest ten percent of all samples collected from the distribution system. The EPA has also established a recommended level of twenty mg/L for copper as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

TABLE 5  
PHYSICAL CHARACTERISTICS

Substance	Primary MCL
Turbidity	1 NTU))
Substance	Secondary MCLs
Color	15 Color Units

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TABLE 5  
PHYSICAL CHARACTERISTICS

(Substance)	Primary MCL
(Hardness)	None established
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(4) (Turbidity:  
(a) ~~The department shall consider standards under this subsection primary standards.~~  
(b) ~~The MCL for turbidity is in effect for systems using surface water or GWI sources until the treatment technique requirements of Part 6 of chapter 246-290 WAC become effective as listed in Table 9, 12, 13, or 14, whichever is applicable.~~

(c) ~~The MCLs for turbidity are:  
(i) 1.0 NTU, as determined by a monthly average of the daily turbidity, where the daily turbidity is defined as the average of the:  
(A) Highest two hourly readings over a twenty-four hour period when continuous monitoring is used; or  
(B) Daily grab samples taken the same hour every day when daily monitoring is used.~~

~~The department may increase the MCL to five NTUs if the purveyor can show the source is within a controlled watershed and the source meets the requirements under WAC 246-290-135.~~

~~(ii) 5.0 NTUs based on an average of the maximum daily turbidity for two consecutive days.~~

~~(5)) Trihalomethanes.  
(a) The department shall consider standards under this subsection primary standards.~~

~~(b) The MCL for total trihalomethanes (TTHM) is 0.10 mg/L calculated on the basis of a running annual average of quarterly samples. The concentrations of each of the trihalomethane compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane) are ((added together)) totaled to determine the TTHM level.~~

~~(c) There is no MCL for maximum total trihalomethane potential (MTTP). When the MTTP value exceeds 0.10 mg/L, the purveyor shall follow up as described under WAC 246-290-320((5)) (6).~~

~~((6)) (5) Radionuclides.  
(a) The department shall consider standards under this subsection primary standards.~~

~~(b) The MCLs for radium-226, radium-228, and gross alpha particle radioactivity are:~~

TABLE 6

Substance	MCL (pCi/L)
Radium-226	3
Combined Radium-226 and Radium-228	5
Gross alpha particle activity (excluding uranium)	15

(c) The MCL for beta particle and photon radioactivity from man-made radionuclides is: The average annual con-

centration shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.

**NOTE:** The department shall assume compliance with the four millirem/year dose limitation if the average annual concentration for gross beta activity, tritium, and strontium-90 are less than 50 pCi/L, 20,000 pCi/L, and 8 pCi/L respectively. When both tritium and strontium-90 are present, the sum of their annual dose equivalents to bone marrow shall not exceed four millirem/year.

~~((7)) (6) Organic chemicals.~~

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs shall be as listed in 40 CFR 141-61(a).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(f).

(c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 CFR 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(h).

~~((8)) (7) Other chemicals.~~

(a) The state board of health shall determine maximum contaminant levels for any additional substances.

(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:

(i) MCLs ~~((which))~~ that have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or

(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated ~~((March 1991, which))~~ June 1996, that has been approved by the state board of health and is available ~~((on request))~~.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-320 Follow-up action.** (1) General.

(a) When an MCL violation occurs, the purveyor shall take follow-up action as described in this section.

(b) When a primary standard violation occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify the consumers served by the system in accordance with WAC ~~((246-290-330))~~ 246-290-495;

(iii) Determine the cause of the contamination; and

(iv) Take action as directed by the department.

(c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.

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(d) The department may require additional sampling for confirmation of results. ~~((A department guideline on confirmation sampling titled *Inorganic and Organic Monitoring Plans* is available on request.))~~

(2) Bacteriological.

(a) When coliform bacteria are present in any sample and the sample is not invalidated under (d) of this subsection, the purveyor shall ensure the following actions are taken:

(i) The sample is analyzed for fecal coliform or E. coli. When a sample with a coliform presence is not analyzed for E. coli or fecal coliforms, the sample shall be considered as having a fecal coliform presence for MCL compliance purposes;

(ii) Repeat samples are collected in accordance with (b) of this subsection;

(iii) The department is notified in accordance with WAC 246-290-480; and

(iv) The cause of the coliform presence is determined and corrected.

(b) Repeat samples.

(i) The purveyor shall collect repeat samples in order to confirm the original sample results and to determine the cause of the coliform presence. Additional treatment, such as batch or shock chlorination, shall not be instituted prior to the collection of repeat samples unless prior authorization is given by the department. Following collection of repeat samples, and before the analytical results are known, there may be a need to provide interim precautionary treatment or other means to insure public health protection. The purveyor shall contact the department to determine the best interim approach in this situation.

(ii) The purveyor shall collect and submit for analysis a set of repeat samples for every sample in which the presence of coliforms is detected. A set of repeat coliform samples consists of:

(A) Four repeat samples for systems collecting one routine coliform sample each month; or

(B) Three repeat samples for all systems collecting more than one routine coliform sample each month.

~~((iii))~~ (iii) The purveyor shall collect repeat sample sets according to Table 7;

~~((iii))~~ (iv) The purveyor shall collect one set of repeat samples for each sample with a coliform presence. All samples in a set of repeat samples shall be collected on the same day and submitted for analysis within twenty-four hours after notification by the laboratory of a coliform presence. ~~(-If the purveyor can demonstrate to the satisfaction of the department, that logistical problems beyond the purveyor's control make analysis of the samples in the repeat sample set impractical because the time between sample collection and analysis will exceed thirty hours, then the purveyor shall collect the required set of repeat samples),~~ or as directed by the department.

~~((iv))~~ (v) When repeat samples have coliform presence, the purveyor shall:

(A) Contact the department and collect a minimum of one additional set of repeat samples as directed by the department; or

(B) Collect one additional set of repeat samples for each sample where coliform presence was detected.

~~((v))~~ (vi) The purveyor of a system providing water to consumers via a single service shall collect repeat samples from the same location as the sample with a coliform presence. The set of repeat samples shall be collected:

(A) On the same collection date; ~~((or))~~

(B) Over consecutive days with one sample collected each day until the required samples in the set of repeat samples are collected; or

(C) As directed by the department.

~~((vii))~~ (vii) If a sample with a coliform presence was collected from the first two or last two active services, the purveyor shall monitor as directed by the department;

~~((viii))~~ (viii) The purveyor may change a previously submitted routine sample to a sample in a set of repeat samples when the purveyor:

(A) Collects the sample within five adjacent service connections of the location from which the initial sample with a coliform presence was collected;

(B) Collects the sample after the initial sample with a coliform presence was submitted for analysis;

(C) Collects the sample on the same day as other samples in the set of repeat samples, except under ~~(b)((iii))~~ (iv) of this subsection; and

(D) ~~((Notifies))~~ Requests and receives approval from the department ~~((or))~~ for the change.

~~((viii))~~ (ix) The department may determine that sets of repeat samples specified under this subsection are not necessary during a month when a nonacute coliform MCL violation is determined for the system.

**Table 7  
REPEAT SAMPLE REQUIREMENTS**

<del>((SYSTEM GROUP ( )))</del> # OF ROUTINE SAMPLES COLLECTED EACH MONTH <del>(( )))</del>	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
<del>((GROUP A ( )))</del> 1 <del>((routine sam- ple each month )))</del>	4	<ul style="list-style-type: none"> <li>◆ Site of previous sample with a coliform presence</li> <li>◆ Within 5 active services upstream of site of sample with a coliform presence</li> <li>◆ Within 5 active services downstream of site of sample with a coliform presence</li> <li>◆ At any other active service <u>or from a location most susceptible to contamination (i.e., well or reservoir)</u></li> </ul>
<del>((GROUP A ( )))</del> more than 1 <del>((routine sample each month )))</del>	3	<ul style="list-style-type: none"> <li>◆ Site of previous sample with a coliform presence</li> <li>◆ Within 5 active services upstream of site of sample with a coliform presence</li> <li>◆ Within 5 active services downstream of site of sample with a coliform presence</li> </ul>

(((SYSTEM GROUP (H))) # OF ROUTINE SAMPLES COLLECTED EACH MONTH(((H))))	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
(((GROUP B	2	<ul style="list-style-type: none"> <li>◀ Site of the previous sample with a coliform presence</li> <li>◀ From active service other than the site of the previous sample with a coliform presence)))</li> </ul>

(c) Monitoring frequency following a coliform presence. Systems having one or more coliform presence samples that were not invalidated during the previous month shall collect and submit for analysis the minimum number of samples shown in the last column of Table 2.

(i) The ~~((department may reduce))~~ purveyor may obtain a reduction in the monitoring frequency requirement when one or more samples with a coliform presence were collected during the previous month, if the purveyor proves to the satisfaction of the department;

(A) The cause of the sample with a coliform presence; and

(B) The problem is corrected before the end of the next month the system provides water to the public.

(ii) If the ~~((department reduces this))~~ monitoring frequency requirement~~((:~~

~~(A)) is reduced,~~ the purveyor shall collect and submit at least the minimum number of samples required when no samples with a coliform presence were collected during the previous month~~((; and~~

~~(B) The department shall make available a written description explaining:~~

~~(I) The specific cause of the coliform presence; and~~

~~(II) Action taken by the purveyor to correct the cause of coliform presence)).~~

(d) Invalid samples. Coliform samples may be determined to be invalid under any of the following conditions:

(i) ~~((The department shall consider coliform samples with no coliform presence detected invalid when))~~ a certified laboratory determines that the sample results show:

(A) Multiple tube technique cultures that are turbid without appropriate gas production;

(B) Presence-absence technique cultures that are turbid in the absence of an acid reaction;

(C) ~~((There are))~~ Occurrence of confluent growth patterns or growth of TNTC (too numerous to count) colonies without a surface sheen using a membrane filter analytic technique; ((or

~~(D))~~ (ii) The analyzing laboratory determines there is excess debris in the sample.

~~((iii) The department may invalidate a coliform sample when:~~

~~(A))~~ (iii) The analyzing laboratory establishes that improper sample collection or analysis occurred;

~~((B))~~ (iv) The department determines that a ((domestic or)) nondistribution system problem ((is)) has occurred as indicated by:

~~((H))~~ (A) All samples in the set of repeat samples collected at the same location, including households, as the original coliform presence sample also are coliform presence; and

~~((H))~~ (B) All other samples from different locations (households, etc.) in the set of repeat samples are free of coliform.

~~((C))~~ (v) The department determines a coliform presence result is due to a circumstance or condition ((which)) that does not reflect water quality in the distribution system. ((In this case, when the department invalidates a sample:

~~(I) The purveyor shall collect a set of repeat samples following the sample invalidation in accordance with Table 7; and~~

~~(H) The department's rationale for invalidating the sample shall be documented in writing and made available to the public. The documentation shall state the specific cause of the coliform presence, and what action the purveyor has taken, or will take.~~

~~((iii) When a coliform sample is determined invalid, the purveyor shall collect and submit for analysis:~~

~~(A))~~ (e) Follow-up action when an invalid sample is determined. The purveyor shall take the following action when a coliform sample is determined to be invalid:

(i) Collect and submit for analysis an additional coliform sample from the same location as each invalid sample within twenty-four hours of notification of the invalid sample; or

~~((B) Additional coliform))~~ (ii) In the event that it is determined that the invalid sample resulted from circumstances or conditions not reflective of distribution system water quality, collect a set of samples in accordance with Table 7; and

(iii) Collect and submit for analysis samples as directed by the department.

~~((iv) When the department or laboratory invalidates a sample, the sample shall not count towards the purveyor's minimum coliform monitoring requirements:))~~

(f) Invalidated samples shall not be included in determination of the sample collection requirement for compliance with this chapter.

(3) Inorganic chemical and physical follow-up monitoring shall be conducted in accordance with the following:

(a) For nonnitrate/nitrite primary inorganic chemicals, 40 CFR 141.23 (a)(4), 141.23 (b)(8), 141.23 (c)(7), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);

(b) For nitrate, 40 CFR 141.23 (a)(4), 141.23 (d)(2), 141.23 (d)(3), 141.23 (f)(2), 141.23(g), 141.23(m), 141.23(n), and 141.23(o); ~~((or))~~

(c) For nitrite, 40 CFR 141.23 (a)(4), 141.23 (e)(3), 141.23 (f)(2), and 141.23(g); or

(d) The purveyor of any public water system providing service that has secondary inorganic MCL exceedances shall take follow-up action as required by the department. Follow-up action shall be commensurate with the degree of consumer acceptance of the water quality and their willingness to bear the costs of meeting the secondary standard. For new community water systems and new nontransient noncommunity water systems without active consumers, treatment for secondary contaminant MCL exceedances will be required.

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(4) Lead and copper follow-up monitoring shall be conducted in accordance with 40 CFR 141.85(d), 141.86 (d)(2), 141.86 (d)(3), 141.87(d) and 141.88(b) through 141.88(d).

(5) Turbidity.

~~((a) Purveyors using sources not subject to Part 6 of chapter 246-290 WAC and monitoring turbidity in accordance with WAC 246-290-300(4), shall notify the department as soon as possible, but in no case later than the end of the next business day, when:~~

~~(i) The turbidity is monitored continuously, and exceeds 1.0 NTU for longer than one hour; or~~

~~(ii) The results of turbidity analysis of grab samples exceeds 1.0 NTU, and a repeat sample taken within one hour also exceeds 1.0 NTU.~~

~~(b)) Purveyors monitoring turbidity in accordance with Part 6 of this chapter ((246-290 WAC)) shall provide follow-up in accordance with WAC 246-290-634.~~

(6) Trihalomethanes. When the average of all samples taken during any twelve-month period exceeds the MCL for total trihalomethanes, the violation is confirmed and the purveyor shall take corrective action as required by the department. When the maximum trihalomethane potential (MTTP) result is equal to or greater than 0.10 mg/L and the result is confirmed by a repeat sample, the purveyor shall monitor ~~((according to WAC 246-290-300(5) for one year or more))~~ and take action as directed by the department.

(7) Organic chemicals. Follow-up monitoring shall be conducted in accordance with the following:

(a) For VOCs, 40 CFR 141.24 (f)(11) through 141.24 (f)(15); or

(b) For SOCs, 40 CFR 141.24(b), 141.24(c) and 141.24 (h)(7) through 141.24 (h)(11).

(8) Unregulated inorganic and organic chemicals.

(a) Follow-up monitoring shall be conducted in accordance with 40 CFR 141.40 (n)(8) and 141.40 (n)(9).

(b) When an unregulated chemical is verified at a concentration above the detection limit, the purveyor shall:

(i) Submit the sample analysis results to the department within seven days of receipt from the laboratory; and

(ii) Sample the source a minimum of once every three months for one year and then annually thereafter during the three-month period when the highest previous measurement occurred.

(c) If the department determines that an unregulated chemical is verified at a level greater than a SAL, the department shall notify the purveyor in writing. The purveyor shall repeat sample the source as soon as possible after initial department notice that a SAL has been exceeded. The purveyor shall submit the analysis results to the department within seven days of receipt from the laboratory. If any repeat sample confirms that a SAL has been exceeded, the purveyor shall:

(i) Provide consumer information in accordance with WAC ~~((246-290-330(5)(b)))~~ 246-290-495;

(ii) Investigate the cause of the contamination; and

(iii) Take follow-up or corrective action as required by the department.

(d) The department may reduce the purveyor's monitoring requirement for a source detecting an unregulated chemi-

cal if the source has been monitored annually for at least three years, and all analysis results are less than the SAL.

(9) The department shall determine the purveyor's follow-up action when a substance not included in this chapter is detected.

## NEW SECTION

### **WAC 246-290-415 Operations and maintenance.** (1)

The purveyor shall ensure that the system is operated in accordance with the operations and maintenance program as established in the approved water system plan required under WAC 246-290-100 or the small water system management program under WAC 246-290-105.

(2) The operations and maintenance program shall include the following elements as applicable:

(a) Water system management and personnel;

(b) Operator certification;

(c) Comprehensive monitoring plan for all contaminants under WAC 246-290-300;

(d) Emergency response program;

(e) Cross-connection control program; and

(f) Maintenance of service reliability in accordance with WAC 246-290-420.

(3) The purveyor shall ensure that the system is operated in accordance with good operations procedures such as those available in texts, handbooks, and manuals available from the following sources:

(a) American Water Works Association (AWWA), 6666 West Quincy Avenue, Denver, Colorado 80235;

(b) American Society of Civil Engineers (ASCE), 345 East 47th Street, New York, New York 10017-2398;

(c) Ontario Ministry of the Environment, 135 St. Clair Avenue West, Toronto, Ontario M4V1B5, Canada;

(d) The Chlorine Institute, 2001 "L" Street NW, Washington, D.C. 20036;

(e) California State University, 600 "J" Street, Sacramento, California 95819;

(f) Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224; and

(g) Any other standards acceptable to the department.

(4) The purveyor shall not establish or maintain a bypass to divert water around any feature of a treatment process, except by written approval from the department.

(5) The purveyor shall take preventive or corrective action as directed by the department when results of an inspection conducted by the department indicate conditions which are currently or may become a detriment to system operation.

(6) The purveyor of a system using surface water or GWI shall meet operational requirements specified in Part 6 of this chapter.

(7) The purveyor shall have a certified operator if required under chapter 70.119 RCW and chapter 246-292 WAC.

(8) The purveyor shall at all times employ reasonable security measures to assure the raw water intake facilities, water treatment processes, water storage facilities, and the distribution system are protected from possible damage or compromise by unauthorized persons, animals, vegetation, or

similar intruding agents. Such measures include elements such as locks on hatches, fencing of facilities, screening of reservoir vents or openings, and other recommendations as may be found in the current edition of the *Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of State Public Health and Environmental Managers*.

(9) All purveyors utilizing ground water wells shall monitor well levels from ground level to the static water level on a seasonal basis, including low demand and high demand periods, to document the continuing availability of the source to meet projected, long-term demands. Purveyors shall maintain this data and provide it to the department upon request.

(10) All operation and maintenance practices shall conform to Part 5 of this chapter.

### NEW SECTION

**WAC 246-290-416 Sanitary surveys.** (1) All public water systems shall submit to a sanitary survey conducted by the department, or the department's designee, based upon the following schedule:

(a) For community and nontransient noncommunity water systems, every five years, or more frequently as determined by the department. The sanitary surveys shall be consistent with the schedules presented in 40 CFR 141.21; and

(b) For transient noncommunity water systems, every five years unless the system uses only disinfected ground water and has an approved wellhead protection program, in which case the survey shall be every ten years. The sanitary surveys shall be conducted consistent with schedules presented in 40 CFR 141.21.

(2) All public water system purveyors shall be responsible for:

(a) Ensuring cooperation in scheduling sanitary surveys with the department, or its designee; and

(b) Ensuring the unrestricted availability of all facilities and records at the time of the sanitary survey.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-420 Reliability and emergency response.** (1) All public water systems shall provide an adequate quantity and quality of water in a reliable manner ((at all times.

~~(a) In determining whether a proposed public water system or an expansion or modification of an existing system is capable of providing an adequate quantity of water, the department shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.~~

~~(b) In determining whether an existing public water system is providing an adequate quantity of water, the department shall consider the needs of the system's existing consumers exclusively, unless, in the department's discretion, consideration of the needs of potential consumers is in the public interest.~~

(2) The purveyor shall ensure the system is constructed, operated, and maintained to protect against failures of the power supply, treatment process, equipment, or structure

~~with appropriate back-up facilities. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities, and the distribution system are under the strict control of the purveyor)) consistent with the requirements of this chapter and the service expectations of the system's consumers. Reliability shall include consideration for both public health protection and the level of service that meets the expectations of the system consumers under both normal and abnormal operations.~~

~~(2) During routine operating conditions, for both average and peak demand periods, water pressure at the consumer's service meter, or property line if a meter is not used, shall be maintained at the approved design pressure, but in no case be less than 20 psi (140 kPa). Water quality shall be maintained as required in Part 4 and Part 6 of this chapter.~~

~~(3) ((Where)) When fire flow is required, ((a)) 20 psi (140 Kpa) at the operating hydrant and at least positive pressure ((at the water meter or property line)) shall be maintained throughout the system under fire flow conditions.~~

~~(4) ((Water pressure at the customer's service meter or property line if a meter is not used shall be maintained at the approved design pressure under peak hourly design flow conditions. In no case shall the pressure be less than twenty psi.~~

~~(5) Water use restrictions as a designed operation practice shall not be allowed. However, water use restrictions may be allowed in times of drought.~~

~~(6) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.~~

~~(7)) The purveyor shall address abnormal operating conditions, such as those associated with fires, floods, power outages, facility failures, and system maintenance, by using measures consistent with applicable regulations and industry standards to ensure the system is constructed, maintained, and/or operated to protect against the risk of contamination by cross-connections as a result of loss of system pressure. Procedures for system operation during abnormal operating conditions shall be documented in an operations and maintenance and emergency response program in accordance with WAC 246-290-415 and shall be implemented in a timely and reasonable manner.~~

~~(5) The purveyor shall incorporate all appropriate measures necessary to meet the level of reliability for normal or abnormal conditions established by a simple majority of the affected consumers within the system's service area, or within specific, definable pressure zones when different levels of service may be encountered. The level of consumer acceptance shall be identified in the operations and maintenance program and incorporated into the water system design. A simple majority of consumers can be associated with either a vote of the consumers for privately owned and operated systems, or of the system's governing body, such as council, board, or commission, for publicly governed systems.~~

~~(6) If a purveyor is unable to satisfactorily address departmental concerns or consumer complaints regarding the level of reliability and pending a departmental evaluation of the nature, scope, and extent of the problem, the purveyor may be required to prepare a project report that addresses an evaluation of the problem, impacts on affected consumers,~~

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and recommended corrective action. Improvements will be required commensurate with the affected consumers' willingness to bear the cost of the improvement associated with level of service expectations. Improvements associated with public health protection will be based upon the determinations of the project report and will not be subject to consumer acceptance processes.

(7) Restrictions on designed, or historically documented, normal water uses shall not be allowed except under the following conditions:

(a) Whenever there is clear evidence that, unless limitations are imposed, water use at normal levels will lead to a relatively rapid depletion of water source reserves, such as in drought situations or when significant facility failures occur:

(b) Whenever a water system observes that demands for water exceed the available supply, as a result of such events as miscalculated planning, inattentive operation, or unforeseen problems with sources, and that limitations would be necessary to insure basic levels of service while additional sources were being sought or developed, or the situation was being otherwise remedied; or

(c) Whenever the water system institutes restrictions as part of a water conservation program which has been accepted by the system consumers through appropriate public decision-making processes within existing governance mechanisms, or has been mandated under state regulatory authority.

(8) A purveyor shall provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information. The purveyor shall also maintain twenty-four-hour phone availability and shall respond to ((customer)) consumer concerns and service complaints in a timely manner.

#### NEW SECTION

**WAC 246-290-451 Disinfection of drinking water.** (1) No portion of a public water system containing potable water shall be put into service, nor shall service be resumed until the facility has been effectively disinfected.

(a) In cases of new construction, drinking water shall not be furnished to the consumer until satisfactory bacteriological samples have been analyzed by a laboratory certified by the state; and

(b) In cases of existing water mains, when the integrity of the main is lost resulting in a significant loss of pressure that places the main at risk to cross-connection contamination, the purveyor shall use standard industry practices such as flushing, disinfection, and/or bacteriological sampling to ensure adequate and safe water quality prior to the return of the line to service;

(c) If a cross-connection is confirmed, the purveyor shall satisfy the reporting requirements as described under WAC 246-290-490(6).

(2) The procedure used for disinfection shall conform to standards published by the American Water Works Association, or other industry standards acceptable to the department.

(3) The purveyor of a system using ground water and required to disinfect, shall meet the following disinfection requirements, unless otherwise directed by the department:

(a) Minimum contact time at a point at or before the first consumer of:

(i) Thirty minutes if 0.2 mg/L free chlorine residual is maintained;

(ii) Ten minutes if 0.6 mg/L free chlorine residual is maintained; or

(iii) Any combination of free chlorine residual concentration (C), measured in mg/L, and contact time (T), measured in minutes, that results in a CT product (C X T) of greater than or equal to six; or

(iv) Contact time (T) for surface water or GWI sources shall be determined in accordance with WAC 246-290-636.

(b) Detectable residual disinfectant concentration in all active parts of the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide;

(c) Water in the distribution system with an HPC level less than or equal to five hundred/mL is considered to have a detectable residual disinfectant concentration.

(4) The department may require the purveyor to provide longer contact times, higher chlorine residuals, or additional treatment to protect the health of consumers served by the public water system.

(5) The purveyor of a system using surface water or GWI shall meet disinfection requirements specified in Part 6 of this chapter.

(6) The purveyor of a system providing ground water disinfection shall monitor residual disinfectant concentration at representative points in the system on a daily basis, and at the same time and location of routine and repeat coliform sample collection. Frequency of disinfection residual monitoring may be reduced upon written request to the department if it can be shown that disinfection residuals can be maintained on a reliable basis without the provision of daily monitoring.

(7) The analyses shall be conducted in accordance with "standard methods." To assure adequate monitoring of chlorine residual, the department may require the use of continuous chlorine residual analyzers and recorders.

#### NEW SECTION

**WAC 246-290-455 Operation of chemical contaminant treatment facilities.** (1) Purveyors shall ensure finished drinking water from chemical contaminant treatment facilities complies with the minimum water quality standards established in WAC 246-290-310. This section does not apply to facilities used only for corrosion control treatment purposes.

(2) The purveyor shall collect finished drinking water samples at a point directly downstream of the treatment system prior to the first consumer on a monthly basis.

(a) Finished drinking water samples from treatment systems utilized for removal of contaminants with established primary MCLs shall be submitted to a certified laboratory for analysis of the specific contaminant(s) of concern.

(b) Finished drinking water samples from treatment systems utilized for removal of contaminants with established

secondary MCLs shall be submitted to a certified laboratory for analysis or analyzed for the specific contaminant(s) of concern by the purveyor through department-approved on-site methods.

(c) Additional finished drinking water monitoring may be required by the department based on the complexity or size of the water system.

(3) If primary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall submit a project report to the department that addresses the failure to maintain compliance. The project report shall include methods and schedules to correct the treatment deficiency and/or indicate schedules for implementing an alternate source of supply or an effective treatment technology.

(4) If secondary MCLs following treatment are exceeded in four or more months of a consecutive twelve-month compliance period, the purveyor shall take action per WAC 246-290-320 (3)(d).

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-290-460 Fluoridation of drinking water.**

(1) Purveyors shall obtain written department approval of fluoridation treatment facilities before placing them in service.

(2) Where fluoridation is practiced, ~~((the concentration of fluoride shall be maintained))~~ purveyors shall maintain fluoride concentrations in the range 0.8 through 1.3 mg/L. ~~(Determination of fluoride concentration shall be made daily, and reports of such analyses shall be submitted to the department, in a format acceptable to the department, within ten days of the end of the reporting month. Such analyses shall be made in accordance with procedures listed in the most recently published edition of *Standard Methods for the Examination of Water and Waste Water.*~~

(2) Monthly check samples shall be taken downstream, at the first sample tap where adequate mixing has taken place, from each fluoride injection point. These samples should be taken at the same place and time as the routine daily check samples. The samples along with a completed form shall be sent to the state public health laboratory, or a laboratory certified by the state, to test fluoride. A comparison of the results should then be made between samples analyzed in the field and the appropriate monthly check sample to assure the results are equivalent and field equipment is operating properly. An increased sampling schedule may be applied by the department if necessary to assure the adequacy and consistency of fluoridation)) throughout the distribution system.

(3) Where fluoridation is practiced, purveyors shall take the following actions to ensure that concentrations remain at optimal levels and that fluoridation facilities and monitoring equipment are operating properly:

(a) Daily monitoring.

(i) Take daily monitoring samples for each point of fluoride addition and analyze the fluoride concentration. Samples must be taken downstream from each fluoride injection point at the first sample tap where adequate mixing has occurred.

(ii) Record the results of daily analyses in a monthly report format acceptable to the department. A report must be made for each point of fluoride addition.

(iii) Submit monthly monitoring reports to the department within the first ten days of the month following the month in which the samples were collected.

(b) Monthly split sampling.

(i) Take a monthly split sample at the same location where routine daily monitoring samples are taken. A monthly split sample must be taken for each point of fluoride addition.

(ii) Analyze a portion of the sample and record the results on the lab sample submittal form and on the monthly report form.

(iii) Forward the remainder of the sample, along with the completed sample form to the state public health laboratory, or other state-certified laboratory, for fluoride analysis.

(iv) If a split sample is found by the certified lab to be:

(A) Not within the range of 0.8 to 1.3 mg/l, the purveyor's fluoridation process shall be considered out of compliance.

(B) Differing by more than 0.30 mg/l from the purveyor's analytical result, the purveyor's fluoride testing shall be considered out of control.

(4) Purveyors shall conduct analyses prescribed in subsection (3) of this section in accordance with procedures listed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater.*

(5) The purveyor may be required by the department to increase the frequency, and/or change the location of sampling prescribed in subsection (3) of this section to ensure the adequacy and consistency of fluoridation.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-470 Uncovered distribution reservoirs.** (1) Existing uncovered distribution reservoirs shall be operated based on a plan of operation approved by the department.

(2) Purveyors with uncovered distribution reservoirs shall have a department-approved plan and schedule to cover all reservoirs on file with the department.

(3) The plan of operation shall address the following elements as a minimum:

((1)) (a) Assurance of the means and levels associated with the provision of continuous disinfection at all times water is being delivered to the public, including the reliability provisions outlined in WAC 246-290-420;

((2)) (b) Description of the means for control of debris ~~((and undesirable growths of algae or other aquatic organisms;~~

(3) Control of surface water runoff;

(4) Control of airborne contamination ~~(atmospheric or avian-borne);~~

(5)), algal, or other aquatic organism growths, surface water runoff, and atmospheric or avian-borne airborne contamination;

(c) Procedures for ensuring that construction will not lead to reservoir contamination;

~~((6))~~ (d) Provisions for ensuring adequate security measures are provided; and

~~((7))~~ (e) Any required, or department-directed, monitoring and reporting.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-480 Recordkeeping and reporting.** (1) Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results shall be kept for five years. Chemical analysis results shall be kept for as long as the system is in operation. Records of daily source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. Systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

- (i) The date, place, and time of sampling, and the name of the person collecting the sample;
- (ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);
- (iii) Date of analysis;
- (iv) Laboratory and person responsible for performing analysis;
- (v) The analytical method used; and
- (vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water standards. For each violation, copies of public notifications shall be kept for three years after the last corrective action taken.

(c) Copies of any written reports, summaries, or communications~~(s)~~ relating to ~~((CSEs))~~ sanitary surveys or SPIs of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the ~~((CSE))~~ sanitary survey or SPI involved.

(d) Copies of project reports, construction documents~~(s)~~ and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, daily records ~~((including))~~ of the following shall be kept for a minimum of three years:

- (i) Chlorine residual;
  - (ii) Fluoride level;
  - (iii) Water treatment plant performance including, but not limited to:
    - (A) Type of chemicals used and quantity~~(s)~~;
    - (B) Amount of water treated~~(s)~~; and
    - (C) Results of analyses.
  - (iv) Turbidity;
  - (v) Source meter readings; and
  - (vi) Other information as specified by the department.
- (2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours:

(i) The failure to comply with the primary standards or treatment technique requirements under this chapter;

(ii) The failure to comply with the monitoring requirements under this chapter; and

(iii) The violation of a primary MCL.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

~~((Daily))~~ The purveyor shall submit to the department copies of any written summaries or communications relating to the status of monitoring waivers during each monitoring cycle or as directed by the department.

~~((on request))~~ (d) Source meter readings shall be made available to the department ~~((on request))~~.

~~((d))~~ (e) Water facilities inventory ~~((and report))~~ form (WFI).

(i) Purveyors of community and NTNC systems shall submit an annual WFI update to the department;

(ii) Purveyors of ~~((NTNC and))~~ TNC systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

~~((e))~~ (v) Purveyors shall provide on the WFI total annual water production~~((Purveyors shall report total annual water production for each source to the department upon request.~~

~~((f))~~ and use, including:

(i) Total annual water production for each source;

(ii) Monthly and annual totals for water purchased from or sold to other purveyors; and

(iii) For purveyors with more than one thousand service connections, monthly and annual totals for purveyor consumer classes. Monthly data may be estimated if the water system bills less frequently than monthly.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or E. coli in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

(ii) When a coliform MCL violation is determined, the purveyor shall:

(A) Notify the department within twenty-four hours of determining acute coliform MCL violations; and

(B) Notify the department before the end of the next business day when a nonacute coliform MCL is determined~~((and~~

~~(C) Notify water system users in accordance with WAC 246-290-330.~~

~~(iii) When a monitoring violation occurs, including invalid or expired CSEs, the purveyor shall:~~

~~(A) Notify the department of the violation within ten days; and~~

~~(B) Notify water system users in accordance with WAC 246-290-330)).~~

(g) Systems monitoring for unregulated VOCs in accordance with WAC 246-290-300 ~~((8)(b))~~ (9), shall send a copy of the results of such monitoring and any public notice to the department within thirty days of receipt of analytical results.

**AMENDATORY SECTION** (Amending Order 124B, filed 12/27/90, effective 1/31/91)

**WAC 246-290-490 Cross-connection control.** ~~((1) General.~~

~~(a) Purveyors have the responsibility to protect public water systems from contamination due to cross-connections. Cross-connections which can be eliminated shall be eliminated. The purveyor shall work cooperatively with local authorities to eliminate or control potential cross-connections.~~

~~(b) The purveyor shall develop and implement a cross-connection control program acceptable to the department. The scope and complexity of the program shall be directly related to the size of the system and the potential public health risk. A department guideline titled *Planning Handbook* is available to assist the utility in developing this program. The most recently published edition of the manual titled *Accepted Procedure and Practice in Cross-Connection Control—Pacific Northwest Section—American Waterworks Association* shall be used as a resource to establish:~~

~~(i) Minimum cross-connection control operating policies;~~

~~(ii) Backflow prevention assembly installation practices;~~

~~(iii) Backflow prevention assembly testing procedures;~~  
and

~~(iv) Enforcement authority.~~

~~Purveyors and local authorities shall have the option of establishing more stringent requirements.~~

~~(c) The purpose of a cross-connection control program is to protect the health of water consumers and the potability of the public water system by assuring:~~

~~(i) The inspection and regulation of plumbing in existing and proposed piping networks; and~~

~~(ii) The proper installation and surveillance of backflow prevention assemblies when actual or potential cross-connections exist and cannot be eliminated.~~

~~(d) The cross-connection control program shall be included in the water system's plan under WAC 248-54-065 or small water system management program as outlined under WAC 248-54-196, whichever is appropriate.~~

~~(e) When an existing cross-connection poses a potential health or system hazard, the purveyor shall shut off water service to the premises until the cross-connection has been eliminated or controlled by the installation of a proper backflow prevention assembly. The cross-connection control program~~

~~manager for the department shall be notified when a service has been shut off.~~

~~(2) Backflow prevention assembly installation and testing:~~

~~(a) If a cross-connection cannot be eliminated, then:~~

~~(i) An air gap separation, reduced pressure principle backflow prevention assembly (RPBA) or a reduced pressure principle detector backflow prevention assembly (RPDA) shall be installed if the cross-connection creates an actual or potential health or system hazard.~~

~~(ii) An air gap separation, RPBA, RPDA, double-check valve backflow prevention assembly (DCVA), or double-check detector backflow prevention assembly (DCDA) shall be installed if the cross-connection is objectionable, but does not pose an unreasonable risk to health.~~

~~(iii) A pressure vacuum breaker assembly (PVBA) or an atmospheric vacuum breaker may be installed where the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of backpressure in the downstream piping.~~

~~(iv) Backflow prevention assemblies, appropriate for the degree of hazard or air gaps and in some cases both, shall be installed at the service connection or within the following facilities, unless in the judgment of the water purveyor and the department, no hazard exists: Hospitals, mortuaries, clinics, laboratories, piers and docks, sewage treatment plants, food and beverage processing plants, chemical plants using water process, metal plating industries, petroleum processing or storage plants, radioactive material processing plants or nuclear reactors, car washes, facilities having a nonpotable auxiliary water supply, and others specified by the department.~~

~~(b) All installed RPBA's, RPDA's, DCVA's, DCDA's, and PVBA's shall be models included on the current list of backflow assemblies, approved for installation in Washington state, and maintained and published by the department. Backflow prevention assemblies in service, but not listed, shall remain in service provided the backflow prevention assemblies:~~

~~(i) Are listed on the current Washington state approved cross-connection control assembly list at the time of installation;~~

~~(ii) Are properly maintained;~~

~~(iii) Are of a type appropriate for the degree of hazard;~~  
and

~~(iv) Are tested and successfully pass the test annually.~~

~~When unlisted assemblies are moved or require more than minimum maintenance, the unlisted assemblies shall be replaced by an assembly listed on the current approved model list.~~

~~(c) All air gaps and backflow prevention assemblies shall be installed in accordance with the cross-connection control manual referenced under WAC 248-54-285(1)(b) of this section.~~

~~(d) The purveyor may permit the substitution of a properly installed air gap in lieu of an approved backflow prevention assembly. All such air gap substitutions shall be inspected annually by a Washington state certified backflow assembly tester.~~

PROPOSED

~~(e) A Washington state certified backflow assembly tester shall inspect and test all:~~

- ~~(i) RPBA's;~~
- ~~(ii) RPDA's;~~
- ~~(iii) DCVA's;~~
- ~~(iv) DCDA's;~~
- ~~(v) New PVBA installations; and~~
- ~~(vi) Existing PVBA's discovered through routine inspections.~~

~~(f) Tests and/or inspections shall be conducted:~~

- ~~(i) At the time of initial installation;~~
- ~~(ii) Annually after initial installation, or more frequently if tests indicate repeated failures; and~~
- ~~(iii) After the assembly is repaired.~~

~~(g) The assemblies shall be repaired, overhauled, or replaced whenever found to be defective. The purveyor shall require that improperly installed or altered air gaps be replumbed or replaced by an approved RPBA at their discretion. Inspections, tests, and repairs shall be made under the purveyor's supervision and records thereof kept as required by the purveyor.~~

~~(h) The purveyor shall deny or discontinue water service to any customer failing to cooperate in the installation, maintenance, testing, or inspection of backflow prevention assemblies required by the regulations of this chapter.~~

~~(3) Washington state certified backflow assembly testers:~~

~~(a) A backflow assembly tester shall become certified and maintain certification per department backflow assembly tester certification program guidelines.~~

~~(b) The department shall maintain a list of persons certified to test backflow prevention assemblies.)) (1) Applicability, purpose, and responsibility.~~

~~(a) All community water systems shall comply with the cross-connection control requirements specified in this section.~~

~~(b) All noncommunity water systems shall apply the principles and provisions of this section, including subsection (4)(b) of this section, to the extent possible to protect the public water system from contamination via cross-connections. Noncommunity systems that comply with subsection (4)(b) of this section and the provisions of WAC 51-46-0603 of the UPC (which addresses the installation of backflow preventers at points of water use within the potable water system) shall be considered in compliance with the requirements of this section.~~

~~(c) The purpose of the purveyor's cross-connection control program shall be to protect the public water system, as defined in WAC 246-290-020, from contamination via cross-connections.~~

~~(d) The purveyor's responsibility for cross-connection control shall begin at the water supply source, include all the public water treatment, storage, and distribution system, and end at the consumer's service connection, beginning at the downstream end of the purveyor's service pipe located on the public right-of-way or utility-held easement.~~

~~(e) Purveyors are not responsible for eliminating or controlling cross-connections beyond the consumer's service connection. Under chapter 19.27 RCW, the responsibility for cross-connection control within the property lines of the con-~~

sumer's premises falls under the jurisdiction of the local administrative authority, unless the local administrative authority is authorized to and has granted or delegated such responsibility to the purveyor by mutual agreement.

(2) General program requirements.

(a) The purveyor shall develop and implement a cross-connection control program that meets the requirements of this section, but may establish a more stringent program through such mechanisms as local ordinances, resolutions, codes, bylaws, or operating rules.

(b) Purveyors shall ensure that good engineering and public health protection practices are used in the development and implementation of cross-connection control programs. Department publications and the most recently published editions of references, such as, but not limited to, those listed below, may be used as guidance for cross-connection program development and implementation:

(i) Manual of Cross-Connection Control published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California (USC Manual);  
or

(ii) Cross-Connection Control Manual, Accepted Procedure and Practice published by the Pacific Northwest Section of the American Water Works Association (PNWS-AWWA Manual).

(c) A purveyor may implement the cross-connection control program, or any portion thereof, directly or by means of a contract with another agency or party acceptable to the department.

(d) The purveyor shall coordinate with the local administrative authority in all matters concerning cross-connection control within the property lines of the consumer's premises. The purveyor shall document and describe such coordination, including delineation of responsibilities, in the written cross-connection control program required in (e) of this subsection.

(e) The purveyor shall include the written cross-connection control program in the water system plan required under WAC 246-290-100 or the small water system management program required under WAC 246-290-105. The cross-connection control program shall include the minimum program elements described in subsection (3) of this section.

(f) The purveyor shall ensure that cross-connections between the distribution system and a consumer's premises are eliminated or controlled by the installation of an approved backflow preventer commensurate with the degree of hazard. This can be accomplished by implementation of a cross-connection program that relies on:

(i) Premises isolation as defined in WAC 246-290-010;  
or

(ii) Premises isolation and in-premises protection as defined in WAC 246-290-010.

(g) Purveyors with cross-connection control programs that rely both on premises isolation and in-premises protection:

(i) Shall comply with the premises isolation requirements specified in subsection (4)(b) of this section; and

(ii) May reduce premises isolation requirements and rely on in-premises protection for premises of the type not

addressed in subsection (4)(b) of this section, if the conditions in (h) of this subsection are met.

(h) Purveyors may rely on in-premises protection only when the following conditions are met:

(i) The in-premises backflow preventers provide a level of protection commensurate with the purveyor's assessed degree of hazard;

(ii) Backflow preventers which provide the in-premises backflow protection meet the definition of approved backflow preventers as described in WAC 246-290-010;

(iii) The approved backflow preventers are installed, inspected, tested (if applicable), maintained, and repaired in accordance with subsections (6) and (7) of this section;

(iv) Records of such backflow preventers are maintained in accordance with subsections (3)(j) and (8) of this section; and

(v) The purveyor has reasonable access to the consumer's premises to conduct an initial hazard evaluation and periodic reevaluations to determine whether the in-premises protection is adequate to protect the purveyor's distribution system.

(i) The purveyor shall take appropriate action within its authority if:

(i) A cross-connection exists that is not controlled commensurate to the degree of hazard assessed by the purveyor; or

(ii) A consumer fails to comply with the purveyor's requirements regarding the installation, inspection, testing, maintenance, or repair of approved backflow preventers required by this chapter.

(j) The purveyor's action shall be within its authority and may include, but is not limited to:

(i) Denying or discontinuing water service to a consumer's premises until the problem is corrected;

(ii) Requiring the consumer to install an approved backflow preventer for premises isolation commensurate with the degree of hazard; or

(iii) When other remedies are not sufficient or undertaken, the purveyor installing an approved backflow preventer for premises isolation commensurate with the degree of hazard.

(k) Purveyors denying or discontinuing water service to a consumer's premises because of the cross-connection problems shall notify the local administrative authority prior to taking such action except in the event of an emergency.

(l) The purveyor shall prohibit the intentional return of used water from beyond the consumer's service connection to the purveyor's distribution system. Such water would include, but is not limited to, water used for heating, cooling, or other purposes within the consumer's water system.

(3) Minimum elements of a cross-connection control program.

(a) To be acceptable to the department, the purveyor's cross-connection control program shall include the minimum elements identified in this subsection.

(b) Element 1: The purveyor shall adopt a local ordinance, resolution, code, bylaw, or other written legal instrument that:

(i) Establishes the purveyor's legal authority to implement a cross-connection control program;

(ii) Describes the operating policies and technical provisions of the purveyor's cross-connection control program; and

(iii) Describes the provisions used to ensure that consumers comply with the purveyor's cross-connection control requirements.

(c) Element 2: The purveyor shall develop and implement procedures and schedules for evaluating new and existing service connections to assess the degree of hazard posed by the consumer's premises to the purveyor's distribution system. At a minimum, the program shall meet the following:

(i) For new connections made on or after the effective date of these regulations, procedures shall ensure that an initial evaluation is conducted before service is provided;

(ii) For existing connections made prior to the effective date of these regulations, procedures shall ensure that an initial evaluation is conducted in accordance with a schedule acceptable to the department; and

(iii) For all service connections, once an initial evaluation has been conducted, procedures shall ensure that periodic reevaluations are conducted in accordance with a schedule acceptable to the department and whenever there is a change in the use of the premises.

(d) Element 3: The purveyor shall develop and implement procedures and schedules for ensuring that cross-connections are eliminated, or controlled by installation of approved backflow preventers, commensurate with the degree of hazard.

(i) The purveyor shall ensure that approved backflow preventers are installed at the following locations as applicable:

(A) At the consumer's service connection or other location acceptable to the purveyor, for facilities requiring premises isolation under subsection (4)(b) of this section;

(B) At the consumer's service connection or other location acceptable to the purveyor, when the purveyor implements a premises isolation program; or

(C) Within the consumer's premises, if premises isolation is not required under subsection (4)(b) of this section and the conditions specified in subsection (2)(h) of this section are met, when the purveyor implements a program that relies on in-premises protection.

(ii) The purveyor shall ensure that approved backflow preventers are installed in accordance with the following timeframes:

(A) For new connections (made on or after the effective date of these regulations), the following conditions shall be met before service is provided:

(I) The provisions of (d) of this subsection; and

(II) Satisfactory completion of a test by a BAT in accordance with subsection (7) of this section;

(B) For existing connections where the purveyor identifies a high health cross-connection hazard, the provisions of (d) of this subsection shall be met:

(I) Within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard; or

(II) In accordance with an alternate schedule acceptable to the purveyor;

(C) For existing connections where the purveyor identifies a low health cross-connection hazard, the provisions of

(d) of this subsection shall be met in accordance with a schedule acceptable to the purveyor.

(e) Element 4: The purveyor shall ensure that personnel, including at least one person certified as a CCS, are provided to develop and implement the cross-connection control program.

(f) Element 5: The purveyor shall develop and implement procedures to ensure that approved backflow preventers are inspected and/or tested (as applicable) in accordance with subsection (7) of this section.

(g) Element 6: The purveyor shall develop and implement a backflow prevention assembly testing quality control assurance program, including, but not limited to, documentation of tester certification and test kit calibration, and test reports and timeframes for submitting completed test reports that are acceptable to the department.

(h) Element 7: The purveyor shall develop and implement (when appropriate) procedures for responding to backflow incidents.

(i) Element 8: The purveyor shall develop and implement a program for educating the purveyor's consumers about cross-connection control.

(j) Element 9: The purveyor shall develop and maintain cross-connection control records including, but not limited to, the following:

(i) A master list of service connections and consumer's premises where the purveyor relies upon approved backflow preventers to protect the public water system from contamination through premises isolation and/or in-premises protection, the assessed hazard level of each, and the required backflow preventer(s);

(ii) Inventory information on:

(A) Approved air gaps installed in lieu of approved assemblies including exact air gap location, assessed degree of hazard, installation date, history of inspections, inspection results, and person conducting inspections;

(B) Approved backflow assemblies including exact assembly location, assembly description (type, manufacturer, model, size, and serial number), assessed degree of hazard, installation date, history of inspections, tests and repairs, test results, and person performing tests; and

(C) Approved AVBs used for irrigation system applications including: Location, description (manufacturer, model, and size), installation date, history of inspection(s), and person performing inspection(s).

(iii) Cross-connection program summary reports and backflow incident reports required under subsection (8) of this section.

(k) Element 10: Purveyors who distribute and/or have facilities that receive reclaimed water within their water service area shall meet any additional requirements imposed by the department under a permit issued in accordance with chapter 90.46 RCW.

(4) Approved backflow preventer selection.

(a) The purveyor shall ensure that a CCS:

(i) Assesses the degree of hazard posed by the consumer's plumbing system upon the purveyor's distribution system; and

(ii) Determines the appropriate method of backflow protection for premises isolation in accordance with Table 8.

TABLE 8  
APPROPRIATE METHODS OF BACKFLOW  
PROTECTION FOR PREMISES ISOLATION

Degree of Hazard	Application Condition	Appropriate Approved Backflow Preventer
High health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, or RPDA
Low health cross-connection hazard	Backsiphonage or backpressure backflow	AG, RPBA, RPDA, DCVA, or DCDA

(b) Premises isolation requirements.

(i) For the premises listed in Table 9 and others posing a similar or unknown degree of hazard, the purveyor shall ensure that an approved air gap or RPBA is installed for premises isolation.

(ii) If the purveyor's CCS determines that no hazard exists for a service connection with premises or plumbing system of the type listed in Table 9, and the purveyor requests and receives department concurrence, the requirements of (b)(i) of this subsection do not apply.

(iii) The purveyor shall document, on a case-by-case basis, the reasons for not applying the requirements of (b)(i) of this subsection to a service connection of the type listed in Table 9 and include such documentation in the cross-connection control program summary report required in subsection (8) of this section.

TABLE 9  
PREMISES OR SYSTEMS REQUIRING  
ISOLATION BY AG OR RPBA

- Agricultural (farms and dairies)
- Beverage bottling plants
- Car washes
- Chemical plants
- Commercial laundries and dry cleaners
- Facilities where both reclaimed water and potable water are provided
- Film processing facilities
- Food processing plants
- Hospitals, medical centers, nursing homes, veterinary, medical and dental clinics, blood plasma centers
- Premises with separate irrigation systems using the purveyor's water supply and with chemical addition\*
- Laboratories
- Metal plating industries
- Mortuaries
- Petroleum processing or storage plants
- Piers and docks
- Radioactive material processing plants or nuclear reactors\*
- Survey access denied or restricted
- Wastewater lift stations and pumping stations

PROPOSED

Wastewater treatment plants-Premises with an unapproved auxiliary water supply interconnected with the potable water supply

± For example, parks playgrounds, golf courses, cemeteries, estates, etc.

\* The purveyor shall accept RPBA's for these premises or systems only when used in combination with an in-plant approved air gap; otherwise, the purveyor shall require an approved air gap at the service connection.

(c) Backflow protection for single-family residences.

(i) For single-family residential service connections, the purveyor shall comply with the requirements of (b) of this subsection when applicable.

(ii) If the requirements of (b) of this subsection do not apply and the requirements specified in subsection (2)(h) of this section are met, the purveyor may rely on backflow protection provided at the point of hazard in accordance with WAC 51-46-0603 of the UPC for hazards such as, but not limited to:

- (A) Irrigation systems;
- (B) Swimming pools or spas;
- (C) Ponds; and
- (D) Boilers.

For example, the purveyor may accept an approved AVB on a residential irrigation system, if the AVB is properly installed in accordance with the UPC.

(d) Backflow protection for fire protection systems.

(i) Backflow protection is not required for residential flow-through or combination fire protection systems constructed of potable water piping and materials.

(ii) For service connections with fire protection systems other than flow-through or combination systems, the purveyor shall ensure that backflow protection consistent with WAC 51-46-0603 of the UPC is installed. The UPC requires minimum protection as follows:

(A) An RPBA or RPDA for fire protection systems with chemical addition or using unapproved auxiliary water supply; and

(B) A DCVA or DCDA for all other fire protection systems.

(iii) For new connections made on or after the effective date of these regulations, the purveyor shall ensure that backflow protection is installed before water service is provided.

(iv) For existing fire protection systems:

(A) With chemical addition or using unapproved auxiliary supplies, the purveyor shall ensure that backflow protection is installed within ninety days of the purveyor notifying the consumer of the high health cross-connection hazard or in accordance with an alternate schedule acceptable to the purveyor.

(B) Without chemical addition, without on-site storage, and using only the purveyor's water (i.e., no unapproved auxiliary supplies on or available to the premises), the purveyor shall ensure that backflow protection is installed in accordance with a schedule acceptable to the purveyor or when required by the agency administering the Uniform Building Code as adopted under chapter 19.27 RCW, whichever is sooner.

(C) When establishing backflow protection retrofitting schedules for fire protection systems to meet the requirements of (d)(iv)(B) of this subsection, the purveyor may consider factors such as, but not limited to, impacts of assembly installation on sprinkler performance, costs of retrofitting, and difficulty of assembly installation.

(e) Purveyors shall ensure that backflow preventers for premises isolation are installed commensurate with the degree of hazard (Table 8) for premises with one or more of the following characteristics:

(i) Premises with complex plumbing arrangements that make it impracticable to assess whether cross-connection hazards exist;

(ii) Premises having a repeated history of cross-connections being established or reestablished; or

(iii) Premises where cross-connection hazards are unavoidable or not correctable, such as, but not limited to, tall buildings.

(5) Approved backflow preventers.

(a) The purveyor shall ensure that all backflow prevention assemblies relied upon by the purveyor are models included on the current list of backflow prevention assemblies approved for use in Washington state. The current approved assemblies list is available from the department upon request.

(b) The purveyor may rely on backflow prevention assemblies that are testable but are not currently approved by the department, if the assemblies:

(i) Were included on the department and/or USC list of approved backflow prevention assemblies at the time of installation;

(ii) Have been properly maintained;

(iii) Are commensurate with the purveyor's assessed degree of hazard; and

(iv) Have been inspected and tested at least annually and have successfully passed the annual tests.

(c) The purveyor shall ensure that an unlisted backflow prevention assembly is replaced by an approved assembly commensurate with the degree of hazard, when the unlisted assembly:

(i) Does not meet the conditions specified in (b)(i) through (iv) of this subsection;

(ii) Is moved; or

(iii) Cannot be repaired using spare parts from the original manufacturer.

(d) The purveyor shall ensure that AVBs meet the definition of approved atmospheric vacuum breakers as described in WAC 246-290-010.

(6) Approved backflow preventer installation.

(a) The purveyor shall ensure that approved backflow preventers are installed in the orientation for which they are approved (if applicable).

(b) The purveyor shall ensure that approved backflow preventers are installed in a manner that:

(i) Facilitates their proper operation, maintenance, inspection, and/or in-line testing (as applicable) using standard installation procedures acceptable to the department such as those in the USC Manual or PNWS-AWWA Manual;

(ii) Ensures that the assembly will not become submerged due to weather-related conditions such as flooding; and

(iii) Ensures compliance with all applicable safety regulations.

(c) The purveyor shall ensure that approved backflow assemblies for premises isolation are installed at a location adjacent to the meter or property line or an alternate location acceptable to the purveyor.

(d) When premises isolation assemblies are installed at an alternate location acceptable to the purveyor, the purveyor shall ensure that there are no connections between the service connection at the meter or property line and the approved backflow assembly required for premises isolation.

(e) The purveyor shall ensure that bypass piping installed around any approved backflow preventer is equipped with an approved backflow preventer that:

(i) Affords at least the same level of protection as the approved backflow preventer that is being bypassed; and

(ii) Complies with all applicable requirements of this section.

(7) Approved backflow preventer inspection and testing.

(a) The purveyor shall ensure that:

(i) A CCS inspects backflow preventer installations to ensure that protection is provided commensurate with the assessed degree of hazard.

(ii) Either a BAT or CCS inspects:

(A) Air gaps installed in lieu of approved backflow prevention assemblies for compliance with the approved air gap definition; and

(B) Backflow prevention assemblies for correct installation and approval status.

(iii) A BAT tests approved backflow prevention assemblies for proper operation.

(b) The purveyor shall ensure that inspections and/or tests of approved air gaps and approved backflow assemblies are conducted:

(i) At the time of installation;

(ii) Annually after installation, or more frequently, if required by the purveyor for facilities that pose a high health cross-connection hazard or for assemblies that repeatedly fail;

(iii) After a backflow incident; and

(iv) After an assembly is repaired, reinstalled, or relocated or an air gap is replumbed.

(c) The purveyor shall ensure that inspections of AVBs installed on irrigation systems are conducted:

(i) At the time of installation;

(ii) After a backflow incident; and

(iii) After repair, reinstallation, or relocation.

(d) The purveyor shall ensure that approved backflow prevention assemblies are tested using procedures acceptable to the department, such as those specified in the most recently published edition of the USC Manual. When circumstances, such as, but not limited to, configuration or location of the assembly, preclude the use of USC test procedures, the purveyor may allow, on a case-by-case basis, the use of alternate (non-USC) test procedures acceptable to the department.

(e) The purveyor shall ensure that results of backflow prevention assembly inspections and tests are documented and reported in a manner acceptable to the purveyor.

(f) The purveyor shall ensure that an approved backflow prevention assembly or AVB, whenever found to be improperly installed, defective, not commensurate with the degree of hazard, or failing a test (if applicable) is properly reinstalled, repaired, overhauled, or replaced.

(g) The purveyor shall ensure that an approved air gap, whenever found to be altered or improperly installed, is properly replumbed or, if commensurate with the degree of hazard, is replaced by an approved RPBA.

(8) Recordkeeping and reporting.

(a) Purveyors shall keep cross-connection control records for the following timeframes:

(i) Records pertaining to the consumer's premises required in subsection (3)(j)(i) of this section shall be kept as long as the premises pose a cross-connection hazard to the purveyor's distribution system;

(ii) Records regarding inventory information required in subsection (3)(j)(ii) of this section shall be kept for five years or for the life of the approved backflow preventer whichever is shorter; and

(iii) Records regarding backflow incidents and annual summary reports required in subsection (3)(j)(iii) of this section shall be kept for five years.

(b) Purveyors may maintain cross-connection control records in original form or transfer data to tabular summaries.

(c) Purveyors may maintain records or data in any media, such as paper, film, or electronic format.

(d) The purveyor shall complete the cross-connection control program summary report annually. Report forms and guidance on completing the report are available from the department.

(e) The purveyor shall make all records and reports required in subsection (3)(j) of this section available to the department or its representative upon request.

(f) The purveyor shall notify the department, local administrative authority, and local health jurisdiction as soon as possible, but no later than the end of the next business day, when a backflow incident is known by the purveyor to have:

(i) Contaminated the purveyor's water system; or

(ii) Occurred within the premises of a consumer served by the water system.

(g) The purveyor shall:

(i) Document details of backflow incidents on a form acceptable to the department such as the backflow incident report form included in the most recent edition of the PNWS-AWWA Manual; and

(ii) Include all backflow incident report(s) in the annual cross-connection program summary report referenced in (d) of this subsection, unless otherwise requested by the department.

## NEW SECTION

**WAC 246-290-495 Public notification.** (1) Required notification. The purveyor shall notify the water system users when the system:

(a) Has an MCL violation of a primary standard as described under WAC 246-290-310;

(b) Fails to comply with:

(i) Treatment technique requirements under Part 6 of this chapter or 40 CFR 141.80(d);

(ii) Monitoring requirements under WAC 246-290-300, 246-290-664, 246-290-674, or 246-290-694;

(iii) Analytical requirements of WAC 246-290-638 or chapter 246-390 WAC;

(iv) A departmental order; or

(v) A variance or exemption schedule prescribed by the state board of health;

(c) Is identified as a source of waterborne disease outbreak as determined by the department;

(d) Is issued a category red operating permit;

(e) Is issued a departmental order; or

(f) Is operating under a variance or exemption.

(2) Content. Notices shall provide:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with subsection (4) of this section;

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

(f) The purveyor's name and phone number; and

(g) When appropriate, notices shall be bilingual or multilingual.

The purveyor may provide additional information to further explain the situation.

(3) Distribution.

(a) Purveyors of community and NTNC systems with violations of a primary MCL, treatment technique, or variance or exemption schedule shall provide:

(i) Newspaper notice to water system users as defined in (e) of this subsection, within fourteen days of violation;

(ii) Direct mail notice or hand delivery to all consumers served by the system within forty-five days of the violation. The department may waive the purveyor's mail or hand delivery if the violation is corrected within forty-five days. The waiver shall be in writing and made within the forty-five day period;

(iii) Notice to radio and television stations serving the area within seventy-two hours of violation of an acute coliform MCL under WAC 246-290-310 (2)(c), a nitrate MCL under WAC 246-290-310(3), occurrence of a waterborne disease outbreak or other acute violation as determined by the department; and

(iv) Repeat mail or hand delivery every three months until the violation is corrected.

(b) Purveyors of community and NTNC systems shall provide newspaper notice as defined in (e) of this subsection, to water system users within three months of the following:

(i) Violation of a monitoring requirement or testing procedure;

(ii) Receipt of a departmental order;

(iii) Receipt of a category red operating permit; or

(iv) Granting of a variance or exemption.

Purveyors shall also provide repeat notice by mail or hand delivery to all consumers served by the system every three months until the situation is corrected or for as long as the variance or exemption remains in effect.

(c) Purveyors of TNC systems shall post a notice or notify consumers by other methods authorized by the department within fourteen days of the following:

(i) Violation of a primary MCL;

(ii) Violation of a treatment technique requirement; or

(iii) Violation of a variance or exemption schedule. If the violation is acute, the department shall require posting within seventy-two hours.

(d) Purveyors of TNC systems shall post a notice or notify consumers by other methods authorized by the department within three months of the following:

(i) Violation of a monitoring requirement or testing procedure;

(ii) Receipt of a category red operating permit; or

(iii) Granting of a variance or exemption.

(e) "Newspaper notice," as used in this section, means publication in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the area. The purveyor may substitute a community or homeowner's association newsletter or similar periodical publication if the newsletter reaches all affected consumers within the specified time.

(f) The purveyor shall substitute a posted notice in the absence of a newspaper of general circulation or homeowner's association newsletter or similar periodical publication. The purveyor shall post the notice within the timeframe specified in this subsection.

(g) The purveyor shall place posted notices in conspicuous locations and present the notices in a manner making them easy to read. Notices shall remain posted until the violation is corrected or for as long as the variance or exemption remains in effect.

(h) The purveyor of a community or NTNC water system shall give a copy of the most recent public notice for all outstanding violations to all new billing units or new hookups before or at the time water service begins.

(i) The purveyor shall provide the department with a copy of the public notification at the time the purveyor notifies the public.

(4) Mandatory language.

(a) The purveyor shall provide specific health effects language in the notice when a violation involves:

(i) A violation of a primary organic or inorganic chemical or physical MCL;

(ii) A violation of a secondary fluoride MCL;

(iii) A violation of an acute coliform MCL;

(iv) A violation of a nonacute coliform MCL;

(v) A treatment technique requirement;

(vi) Granting or continuation of exemption or variance; or

(vii) Failure to comply with a variance or exemption schedule.

(b) The purveyor shall provide specific mandatory language in its notification when the purveyor receives a category red operating permit.

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(c) Required specific language is contained in department guidance.

(5) Procedure for notification of organic chemical and unregulated chemical sample results.

(a) Availability of results. After receipt of the first analysis results, the purveyor of a community or NTNC water system shall notify persons served by the system of the availability of the results and shall supply the name and telephone number of a contact person. Purveyors with surface water sources shall include a statement that additional monitoring will be conducted for three more quarters.

(i) The purveyor shall initiate notification within three months of the purveyors receipt of the first analysis results. This notification is only required one time.

(ii) Notification shall occur by any of the following methods:

(A) Inclusion in the first set of water bills issued after receipt of the results;

(B) Newspaper notice that shall run at least one day each month for three consecutive months;

(C) Direct mail;

(D) Posting for at least one week if an NTNC system; or

(E) Any other method approved by the department.

(iii) Within three months of receipt of analysis results, purveyors selling water to other public water systems shall provide copies of the analysis results to the purchasing system.

(iv) Within thirty days of receipt of analysis results, purveyors purchasing water shall make results available to their consumers. The purveyor's notification shall occur by the method outlined under (a)(ii) of this subsection.

(b) Consumer information.

(i) The purveyor shall provide consumer information within twenty-one days of receipt of confirmation sample results when:

(A) A regulated chemical is confirmed at a concentration greater than an MCL, and the level will not cause the running annual average to exceed the MCL; or

(B) The department determines that an unregulated chemical is confirmed at a level greater than an SAL.

(ii) Consumer information shall include:

(A) Name and level of chemical detected;

(B) Location where the chemical was detected;

(C) Any health effects that the chemical could cause at its present concentration;

(D) Plans for follow-up activities; and

(E) Phone number to call for further information.

(iii) Consumer information shall be distributed by any of the following methods:

(A) Notice placed in the major newspaper in the affected area;

(B) Direct mail to consumers;

(C) Posting for at least one week if an NTNC system; or

(D) Any other method approved by the department.

(6) Fluoride notification procedure.

When a primary or secondary MCL violation occurs or a variance or exemption is issued or a variance or exemption schedule is violated, the purveyor of a community water system shall send notice, including mandatory language, to:

(a) The department annually;

(b) Water system users annually; and

(c) New billing units added while the violation exists.

(7) When circumstances dictate the purveyor give a broader or more immediate notice to protect public health, the department may require the purveyor's notification by whatever means necessary.

(8) When the state board of health grants a public water system a waiver, the purveyor shall notify consumers and new billing units or new hookups before water service begins. The purveyor shall provide a notice annually and send a copy to the department.

(9) The department may give notice to the water system users as required by this section on behalf of the water purveyor. However, the purveyor remains responsible for ensuring the department's requirements are met.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-601 Purpose of surface water treatment.** (1) Part 6 of chapter 246-290 WAC establishes filtration and disinfection as treatment technique requirements for water systems using surface or GWI sources. The Part 6 treatment technique requirements are established in lieu of maximum contaminant levels (MCLs) for the following contaminants:

(a) *Giardia lamblia*;

(b) Viruses;

(c) Heterotrophic plate count bacteria;

(d) *Legionella*; and

(e) Turbidity.

(2) Turbidity MCLs (~~found in WAC 246-290-310 shall remain in effect for systems using surface or GWI sources until applicable Part 6 treatment technique requirements become effective. The effective dates are indicated in Tables 9, 12, 13, or 14, whichever is applicable~~) and sampling/analytical requirements shall be in accordance with 40 CFR 141.13 and 40 CFR 141.22.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-620 Applicability of surface water treatment requirements.** (1) The requirements of Part 6 of this chapter ((246-290 WAC)) apply to ((Group A)) water systems ((which)) that:

(a) Use surface sources or ground water sources under the direct influence of surface water (GWI); or

(b) Purchase surface or GWI water from an approved public water system or other entity acceptable to the department.

(2) The requirements of Part 6 of this chapter ((246-290 WAC)) do not apply to ((Group A)) water systems ((which)) that use unfiltered surface or GWI sources as emergency sources, ((#) provided the source is physically disconnected from the system at all times until it is needed, and the purveyor meets the following conditions:

(a) Has a department-approved emergency response plan; and

(b) Provides disinfection treatment (~~(which)~~) that meets the requirements under WAC 246-290-662 (2)(e).

(3) The requirements of WAC 246-290-640 apply to Group A systems that use sources potentially under the influence of surface water as determined by the department.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-630 General requirements.** (1) The purveyor shall ensure that treatment is provided for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of chapter 246-290 WAC.

(2) The purveyor shall install and properly operate water treatment processes to ensure at least:

(a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; and

(b) 99.99 percent (4 log) removal and/or inactivation of viruses.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first ~~(customer)~~ consumer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of chapter 246-290 WAC meet the requirements under chapter 70.119 RCW and chapter 246-292 WAC.

(6) The purveyor of a **Group A community** system serving water from a surface or GWI source to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either ~~(the)~~:

(a) ~~The~~ filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively; ~~(or)~~

(b) ~~The~~ criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692; or

(c) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a **Group A noncommunity** system serving water ~~(to the public before January 1, 1991)~~ from a surface or GWI source, shall ~~(install filtration and)~~ meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(8) The purveyor of a **Group A system** first serving water from a surface or GWI source to the public after December 31, 1990, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(9) ~~(The department shall provide notification to the purveyor of the requirement to install filtration.)~~ The purveyor of a system required to install filtration may choose to provide a limited alternative to filtration or abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved source. Purveyors that ~~(choose this option and)~~ develop alternate ground water sources or purchase water from a department-approved public water system using a ground water source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) ~~(Part 6 compliance options are summarized in Table 8.)~~

**Table 8**  
**COMPLIANCE OPTIONS FOR GROUP A SYSTEMS**  
**USING SURFACE OR GWI SOURCES**

SYSTEM TYPE	SURFACE WATER OPTIONS (system subject to Part 6)	ALTERNATE GROUND WATER SOURCE OPTIONS (system not subject to Part 6)
Community systems serving water to the public before January 1, 1991	<ul style="list-style-type: none"> <li>• Provide filtration and disinfection;</li> <li>• Remain unfiltered, meet all criteria to remain unfiltered, and provide disinfection; or</li> <li>• Purchase from a system using a surface or GWI source.</li> </ul>	Existing systems may abandon surface or GWI sources and develop alternate department-approved ground water sources.
All other Group A systems using surface or GWI sources	<ul style="list-style-type: none"> <li>• Provide filtration and disinfection; or</li> <li>• Purchase completely treated surface water or GWI water from an approved public water system.)</li> </ul>	Existing systems which develop ground water sources or purchase ground water from a department approved public water system shall not be subject to the requirements of Part 6, once the alternate source is approved by the department and is on line.

A purveyor that chooses to provide a limited alternative to filtration shall submit an application to the department that con-

tains the information necessary to determine whether the source can meet the criteria.

(11) If a limited alternative to filtration is provided, then the purveyor shall install and properly operate treatment processes to ensure greater removal and/or inactivation efficiencies of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern that would be achieved by the combination of filtration and chlorine disinfection.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-632 Treatment technique violations.**

(1) A treatment technique violation shall be considered a violation of a primary drinking water standard and in the case of an unfiltered system, may result in the purveyor of an unfiltered system being required to install filtration.

(2) A treatment technique violation occurs when a system using a surface or GWI source is identified by the department as the source of a waterborne disease outbreak or any of the following occur as applicable:

(a) The purveyor providing filtration delivers unfiltered water or fails to meet one or more of the following requirements ((on June 29, 1993, or thereafter)):

(i) Filtration treatment in accordance with WAC 246-290-660; or

(ii) Disinfection treatment in accordance with WAC 246-290-662.

(b) The purveyor required to install filtration:

(i) Fails to meet the interim disinfection requirements in accordance with WAC 246-290-672 or as otherwise directed by the department; or

(ii) Fails to install filtration or develop an alternate source by the applicable dates specified in WAC 246-290-670.

(c) The purveyor of an unfiltered surface water, or GWI source, meeting the criteria to remain unfiltered:

(i) Delivers water with a turbidity level exceeding 5.0 NTU measured at a point immediately prior to the point of primary disinfection; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-692 after the dates specified in WAC 246-290-686.

(d) The purveyor of an unfiltered source meeting the criteria to provide a limited alternative to filtration:

(i) Delivers water with a turbidity level exceeding 5.0 NTU measured at a point immediately prior to the point of primary disinfection; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-691.

(e) A purveyor supplies water from an unfiltered source that has not been previously approved by the department.

(f) A purveyor of a department approved unfiltered source that fails to meet the on-going criteria to remain unfiltered:

(i) Delivers water with a turbidity level exceeding 5.0 NTU measured at a point immediately prior to the point of primary disinfection; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-692.

(g) A purveyor of a department approved unfiltered source that fails to meet the criteria to provide a limited alternative to filtration:

(i) Delivers water with a turbidity level exceeding 5.0 NTU measured at a point immediately prior to the point of primary disinfection; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-691.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-634 Follow-up to treatment technique violations.** When a treatment technique violation occurs, the purveyor:

(1) Shall report to the department in accordance with:

(a) WAC 246-290-666 for purveyors providing filtration or required to filter;

(b) WAC 246-290-674 for purveyors installing filtration; or

(c) WAC 246-290-696 for purveyors ~~((not))~~ meeting the criteria to remain unfiltered or providing a limited alternative to filtration;

(2) Shall notify the public in accordance with WAC ~~((246-290-330))~~ 246-290-495;

(3) Shall determine the cause of the violation;

(4) Shall take action as directed by the department; and

(5) May be subject to enforcement under WAC 246-290-050.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-636 Determination of disinfectant contact time (T).** (1) The purveyor shall calculate T at peak hourly flow for each surface or GWI source.

(2) For pipelines, the purveyor shall calculate T by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe.

(3) For all other system components used for inactivation of *Giardia lamblia* cysts ((and virus inactivation)), viruses, and other microorganisms of public health concern, the purveyor shall use tracer studies or empirical methods to determine T.

(4) The purveyor shall use the T10 value determined by tracer studies or other methods acceptable to the department as T in all CT calculations.

~~(((a) For existing water treatment facilities, the purveyor shall ensure that the T10 value is determined by June 29, 1993; and~~

~~(b) For unfiltered systems, the purveyor shall ensure that the T10 value is determined before the purveyor begins conducting the monitoring under WAC 246-290-694 to demonstrate that the system meets the criteria to avoid filtration.))~~

(5) Tracer studies.

(a) The purveyor shall conduct field tracer studies on all system components with configurations (geometry and/or baffling) for which analogous contact times are not documented.

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(b) Before conducting tracer studies, the purveyor shall obtain the department's approval of a tracer study plan. The plan shall identify at a minimum:

- (i) How the purveyor will conduct the study;
- (ii) The tracer material to be used;
- (iii) Flow rates to be used; and
- (iv) The names, titles, and qualifications of the persons conducting the study.

(c) A professional engineer registered in the state of Washington shall direct the conduct of all tracer studies.

(d) Tracer studies shall be conducted in accordance with good engineering practices using methods acceptable to the department such as those described in ~~((the DOH SWTR Guidance Manual))~~ department guidance on surface water treatment.

(e) The department may require the purveyor to conduct additional tracer studies when:

- (i) Modifications impacting flow distribution or T are made; or
- (ii) Increases in flow exceed the conditions of the previous tracer studies.

(6) Empirical methods.

(a) Empirical methods may be used to calculate T10, if the purveyor demonstrates to the department's satisfaction that system components have configurations analogous to components on which tracer studies have been conducted and results have been documented.

(b) The purveyor shall submit to the department for review and approval engineering justification for determining T10 using empirical methods. As-built drawings of system components in their current configurations shall be submitted with the engineering justification.

(c) A professional engineer registered in the state of Washington shall prepare the engineering justification for determining T10 using empirical methods.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-638 Analytical requirements.** (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified shall mean:

- (a) A person certified under chapter 246-292 WAC;
  - (b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department; or
  - (c) A state or local health agency professional experienced in conducting these measurements.
- (2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods."

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

- (a) Collected and transported in accordance with department-approved methods; and
- (b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct such analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

- (i) Bench model turbidimeter; and
- (ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

- (i) Designed to meet the criteria in "standard methods"; and
- (ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

- (i) Calibrate turbidity equipment based upon a primary standard in the expected range of measurements; and
- (ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using a properly calibrated bench model turbidimeter.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment on-line within five working days of failure.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-640 Determination of GWI sources.**

(1) ~~((For Group A systems, the department shall notify the purveyor when a source has been identified as a potential GWI source.))~~ Until the department has made a source GWI determination, the purveyor shall monitor in accordance with the requirements for ground water sources in WAC 246-290-300 or as directed by the department and provide follow-up in accordance with WAC 246-290-320.

(2) The purveyor, after being notified by the department that one or more of the system sources have been classified as potential GWI, may elect to seek approval from the department to modify the potential GWI source to mitigate surface water influences prior to compliance with subsection (3) of this section, and if so, shall:

(a) Complete a project report, for departmental approval, that describes the proposed source-related modifications, including the schedule for their completion and an explanation of why the source should be reclassified upon completion of the source modifications; and

(b) Demonstrate compliance, if directed by the department, with the requirements of subsection (3) of this section upon completion of the source-related modifications.

(3) The purveyor using a source identified as a potential GWI shall provide to the department all information necessary to determine whether the source is under direct surface water influence. Information shall include, but not be limited to:

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(a) Site-specific source water quality data, including temperature, conductivity, and/or other appropriate parameters as determined by the department;

(b) Documentation of source construction characteristics;

(c) Documentation of hydrogeology;

(d) Distance to surface water; and

(e) Water quality results from nearby surface water(s) ((if requested)), including temperature, conductivity, and/or other appropriate parameters as determined by the department.

~~((3) Based on information provided by the purveyor, the department shall determine which ground water sources are under the direct influence of surface water and notify the purveyor of the source determination.))~~

(4) Upon a determination by the department that one or more potential GWI source(s) being used are in hydraulic connection to a surface water, the purveyor shall:

(a) Secure the services of a professional engineer to direct further evaluation and actions regarding the source;

(b) Provide disinfection treatment of the source in accordance with WAC 246-290-451; and

(c) Provide microscopic particulate analyses (MPA) results for review by the department based upon a sampling plan approved by the department.

(5) A purveyor notified by the department that one or more GWI sources are in use shall:

(a) Within ninety days of notification submit a project report to the department that includes an implementation schedule for compliance with the treatment techniques specified in Part 6 of this chapter;

(b) Notify consumers served by the system; and

(c) Comply with the applicable requirements of WAC 246-290-670.

(6) After completion of the requirements in subsection (3) of this section, the purveyor may modify a ((department-determined)) GWI source to ((eliminate)) mitigate direct surface influence. In such cases, the purveyor shall((, at a minimum)):

(a) ((Submit a proposed)) Include in a project report, for submittal to the department for approval, a description of the proposed approaches and schedule for source modification ((to the department for review and approval)); and

(b) ((Provide disinfection treatment and conduct monitoring and reporting as directed by the department to protect the health of consumers served by the water system until:

(i) Modification is complete; and

(ii) The department determines the source is no longer subject to direct surface influence.

(e)) Comply again with subsection ((2)) (3) of this section upon completion of source modifications to be considered for source reclassification.

((5)) (7) The department may reevaluate a ground water source for direct surface influence, if conditions impacting source classification have changed.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-650 Compliance requirements for filtered systems.** (1) In addition to the requirements of Parts 1 through 5 of chapter 246-290 WAC, Subpart B of Part 6 of chapter 246-290 WAC applies to purveyors of systems using surface or GWI sources and providing filtration, including:

(a) Systems with water treatment facilities ((which)) that produced water served to the public before January 1, 1991;

(b) Unfiltered systems installing filtration, once the new water treatment facilities are on-line; and

(c) New systems using surface or GWI sources. For the purpose of the Part 6 chapter 246-290 WAC requirements, new systems are defined as systems first serving water to the public after December 31, 1990.

(2) ((The purveyor shall be subject to the effective dates, compliance requirements and violations specified in Table 9.

(3)) The purveyor of a new system using a surface or GWI source shall comply with the requirements of Part 6 subparts A and B chapter 246-290 WAC and be subject to the treatment technique violations specified in WAC 246-290-632 beginning when the system first serves water to the public and thereafter.

((Table 9

**PART 6 COMPLIANCE REQUIREMENTS FOR SYSTEMS WITH EXISTING WATER TREATMENT FACILITIES**

REQUIREMENTS-EFFECTIVE FROM	APPLICABLE PART-6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity-MCL	Treatment-Technique
Date specified in written department notification through June 28, 1993	Subpart A Analytical, Subpart B Monitoring and Reporting requirements only	Still in effect	Not in effect yet
June 29, 1993 and thereafter	Subparts A and B	No longer in effect	In effect))

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-652 Filtration technology and design criteria for existing filtered systems.** (1) The purveyor shall treat all surface and GWI sources using one of the following filtration technologies unless another technology is acceptable to the department:

- (a) Conventional;
- (b) Direct;
- (c) Diatomaceous earth; or
- (d) Slow sand.

(2) Purveyors not using one of the filtration technologies in subsection (1) of this section or not complying with the design criteria specified in WAC 246-290-676 shall submit a project report to the department ((which demonstrate's)) that demonstrates to the department's satisfaction that the existing water treatment facility can be operated to reliably produce, by June 29, 1993, water meeting the operating and performance requirements of WAC 246-290-654 and 246-290-660,

respectively. The project report shall comply with the requirements of WAC 246-290-110.

(3) The purveyor shall make the demonstration required under subsection (2) of this section using the latest twelve months of operating data, results of special studies conducted to test the performance of the water treatment facility under adverse water quality conditions or other means acceptable to the department.

(4) For water treatment facilities currently unable to meet the performance and operation requirements, the project report shall specify the modifications needed to upgrade the facility. Purveyors upgrading existing water treatment facilities shall comply with the design and reliability requirements under WAC 246-290-676 and 246-290-678, respectively.

(5) The purveyor of a new system using a surface or GWI source shall be subject to the:

(a) Design and reliability requirements under WAC 246-290-676 and 246-290-678, respectively; and

(b) Operating criteria for new water treatment facilities under WAC 246-290-680.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-654 Treatment criteria for filtered systems.** (1) The purveyor shall operate filters such that maximum flow rates do not exceed those specified in Table 10. The purveyor may operate filters at higher flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2 log) removal of *Giardia lamblia* cysts and meets the turbidity performance requirements of Table 11.

**Table 10**  
FILTRATION OPERATION CRITERIA

FILTRATION TECHNOLOGY/MEDIA	MAXIMUM FILTRATION RATE (gpm/ft <sup>2</sup> )
Conventional, Direct and In-Line	
Gravity Filters with Single Media	3
Gravity Filters with Deep Bed, Dual or Mixed Media	6
Pressure Filters with Single Media	2
Pressure Filters with Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Diatomaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst removal by one of the following methods:

(a) Turbidity reduction method where source and filtered water turbidity measurements are made in accordance with WAC 246-290-664(2) and (3) respectively:

(i) When source turbidity is greater than or equal to 2.5 NTU, the purveyor shall achieve the turbidity performance requirements specified in WAC 246-290-660(1); or

(ii) When source turbidity is less than 2.5 NTU, the purveyor shall achieve:

(A) An ~~((80%))~~ eighty percent reduction in source turbidity based on an average of the daily turbidity reductions measured in a calendar month; or

(B) ~~((A))~~ An average daily filtered water turbidity less than or equal to 0.1 NTU~~((:))~~.

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of particles in the size range of five to fifteen microns (*Giardia lamblia* cyst-sized particles) as applicable~~((:))~~:

(A) 2.5 log reduction for systems using conventional filtration~~((:))~~; or

(B) 2.0 log reduction for systems using direct or in-line filtration~~((:))~~.

(c) Microscopic particulate analysis method. The purveyor shall:

(i) Use a protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cysts and/or *Giardia lamblia* cyst surrogate indicators as applicable~~((:))~~:

(A) 2.5 log reduction for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ensure continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing:

(i) How water delivered to the public will be continuously and adequately disinfected; and

(ii) The elements of an emergency notification plan to be implemented whenever the residual disinfectant concentration at entry to distribution falls below 0.2 mg/L for more than one hour.

(c) Implement such plan during an emergency affecting disinfection.

(5) Operations ~~((plan))~~ program.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations ~~((plan))~~ program and make it available to the department for review upon request.

(b) The ~~((plan))~~ program shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC ~~((246-290-410))~~ 246-290-105).

(c) The ~~((plan))~~ program shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations ~~((plan))~~ program.

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(e) The operations (~~plan~~) program shall include, but not be limited to, a description of:

- (i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);
- (ii) Procedures used to determine chemical dose rates;
- (iii) How and when each unit process is operated;
- (iv) Unit process equipment maintenance program;
- (v) Treatment plant performance monitoring program;
- (vi) Laboratory procedures;
- (vii) Records;
- (viii) Reliability features; and
- (ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations (~~plan~~) program is:

- (i) Readily available at the water treatment facility for use by operators and for department inspection;
- (ii) Consistent with department guidelines for operations procedures such as those described in (~~the DOH SWTR Guidance Manual and Planning Handbook~~) department guidance on surface water treatment and water system planning; and
- (iii) Updated as needed to reflect current water treatment facility operations.

(6) Pressure filters. Purveyors using pressure filters shall:

- (a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;
- (b) Maintain, and make available for department review, a written record of pressure filter inspections; and
- (c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-660 Filtration.** (1) Turbidity performance requirements.

(a) The purveyor shall ensure that the turbidity level of representative filtered water samples:

- (i) Complies with the performance standards in Table 11; and
- (ii) Never exceeds 5.0 NTU.

**Table 11**  
**TURBIDITY PERFORMANCE REQUIREMENTS**

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month
Conventional, Direct and In-line	0.50
Slow Sand	1.0
Diatomaceous Earth	1.0
Alternate Technology	( <del>4.0</del> ) <u>as determined by the department</u>

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0 NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will not endanger the health of consumers served by the system. As a condition of being allowed to produce filtered water with a turbidity exceeding 1.0 NTU, the purveyor may be required to monitor one or more parameters in addition to the parameters specified under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(2) *Giardia lamblia* and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

- (i) Existing filtration facilities based on periodic evaluations of performance and operation; and
- (ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.

(b) Conventional, direct, and in-line filtration.

(i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

Filtration Technology	Percent Removal Credit (log)	
	<i>Giardia</i>	Virus
Conventional	99.7 (2.5)	99 (2.0)
Direct and in-line	99 (2.0)	90 (1.0)

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

- (A) Turbidity performance requirements under subsection (1) of this section; and
- (B) Operations requirements of WAC 246-290-654.

(iii) The department may grant a higher level of *Giardia lamblia* and virus removal credit than listed under (b)(i) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(iv) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(v) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration (~~which~~) that:

- (A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section; or
- (B) Fails to meet the operating requirements under WAC 246-290-654.
- (c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and 99 percent (2 log) virus removal credit, if the system meets the department design requirements under WAC 246-

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290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternate filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst and virus removal credit for systems using alternate filtration technology based on results of product testing acceptable to the department.

(f) The purveyor granted no removal credit shall:

(i) Provide treatment in accordance with WAC 246-290-662 (2)(e); and

(ii) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:

(A) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and

(B) Identify the proposed schedule for implementation.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-662 Disinfection for filtered systems.**

(1) General requirements.

(a) The purveyor shall provide continuous disinfection to ensure that filtration and disinfection together achieve, at all times the system serves water to the public, at least the following:

(i) 99.9 percent (3 log) inactivation and removal of *Giardia lamblia* cysts; and

(ii) 99.99 percent (4 log) inactivation and/or removal of viruses.

(b) Where sources receive sewage discharges and/or agricultural runoff, purveyors may be required to provide greater levels of removal and inactivation of *Giardia lamblia* cysts and viruses to protect the health of consumers served by the system.

(c) Regardless of the removal credit granted for filtration, purveyors shall, at a minimum, provide continuous disinfection to achieve at least 68 percent (0.5 log) inactivation of *Giardia lamblia* cysts and 99 percent (2 log) inactivation of viruses.

(2) Establishing the level of inactivation.

(a) The department shall establish the level of disinfection (log inactivation) to be provided by the purveyor.

(b) The required level of inactivation shall be based on source quality and expected levels of *Giardia lamblia* cyst and virus removal achieved by the system's filtration process.

(c) Based on ~~((period))~~ periodic reviews, the department may adjust, as necessary, the level of disinfection the purveyor shall provide to protect the health of consumers served by the system.

~~(d) ((The purveyor using alternate filtration technology shall ensure that disinfection achieves at least the following at all times water is served to the public:~~

~~(i) 90 percent (1 log) inactivation of *Giardia lamblia* cysts when granted 99 percent (2 log) *Giardia lamblia* cyst removal credit, or 99.9 percent (3 log) inactivation of cysts when granted less than 99 percent (2 log) *Giardia lamblia* cyst removal credit; and~~

~~(ii) 99.9 percent (3 log) inactivation of viruses when granted 90 percent (1 log) virus removal credit, or 99.99 percent (4 log) inactivation of viruses when granted no virus removal credit.~~

~~(e))~~ Systems granted no *Giardia lamblia* cyst removal credit.

(i) Unless directed otherwise by the department, the purveyor of a system granted no *Giardia lamblia* cyst removal credit shall provide interim disinfection:

(A) To ensure compliance with the monthly coliform MCL under WAC 246-290-310;

(B) Achieve at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts; and

(C) Maintain a detectable residual disinfectant concentration, or an HPC level less than 500/ml, within the distribution system in accordance with subsection (6) of this section.

(ii) The purveyor shall comply with the interim disinfection requirements until the system can demonstrate to the department's satisfaction that it complies with the operating requirements and turbidity performance requirements under WAC 246-290-654 and 246-290-660(1), respectively.

(3) Determining the level of inactivation.

(a) Unless the department has approved a reduced CT monitoring schedule for the system, each day the system serves water to the public, the purveyor, using procedures and CT values acceptable to the department such as those presented in ~~((the DOH SWTR Guidance Manual))~~ department guidance of surface water treatment, shall determine:

(i) CT<sub>calc</sub> values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department.

(b) The department may allow a purveyor to determine the level of inactivation using lower CT values than those specified in (a) of this subsection, provided the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved.

(4) Determining compliance with the required level of inactivation.

(a) A purveyor shall be considered in compliance with the inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

(b) Failure to provide the required level of inactivation on more than one day in any calendar month shall be considered a treatment technique violation.

(5) Residual disinfectant concentration entering the distribution system.

(a) The purveyor shall ensure that all water entering the distribution system contains a residual disinfectant concen-

tration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than four hours on any day shall be considered a treatment technique violation.

(6) Residual disinfectant concentration within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least ((95)) ninety-five percent of the samples taken each calendar month.

(b) Water in the distribution system with an HPC less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-664 Monitoring for filtered systems.**

(1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of disinfectant application and before coagulant chemical addition; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to ((10)) ten percent of the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater up to a maximum of one sample per day.

(2) Source turbidity monitoring.

(a) The purveyor using conventional, direct, or in-line filtration shall measure source turbidity at least once per day on a representative sample collected before disinfection and coagulant addition.

(b) Grab sampling or continuous turbidity monitoring and recording may be used to meet the requirement specified in (a) of this subsection.

(c) Purveyors using continuous turbidity monitoring shall record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule.

(3) Filtered water turbidity monitoring.

(a) The purveyor shall:

(i) Continuously monitor turbidity on representative samples from each individual filter unit and of the system's combined filter effluent, prior to clearwell storage;

(ii) Record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule; and

(iii) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(b) Purveyors using slow sand filtration or an alternate filtration technology may reduce filtered water turbidity monitoring to one grab sample per day with departmental approval. Reduced turbidity monitoring shall be allowed only where the purveyor demonstrates to the department's satis-

faction that a reduction in monitoring will not endanger the health of consumers served by the water system.

(4) Monitoring the level of inactivation and removal.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation and removal of *Giardia lamblia* cysts and viruses achieved.

(b) The purveyor shall determine the total level of inactivation and removal based on:

(i) *Giardia lamblia* cyst and virus removal credit granted by the department for filtration; and

(ii) Level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(c) At least once per day, purveyors shall monitor the following to determine the level of inactivation achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(d) Each day during peak hourly flow (based on historical information), the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point shall be located before or at the first ((~~customer~~)) consumer.

(e) The department may reduce CT monitoring requirements for purveyors ((~~which~~)) that demonstrate to the department's satisfaction that the required levels of inactivation are consistently exceeded. Reduced CT monitoring shall only be allowed where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers.

(5) Monitoring the residual disinfectant concentration entering the distribution system.

(a) Systems serving more than thirty-three hundred ((~~>3300~~)) people per month.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less ((~~<3300~~)) people per month.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) Purveyors of **community** systems choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

<u>Population Served</u>	<u>Number/day</u>
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the grab samples at peak hourly flow; and

(C) The remaining samples evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) Purveyors of **noncommunity** systems choosing to take grab samples shall collect samples for disinfectant residual concentration entering the distribution system as directed by the department.

(iv) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, purveyors shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring residual disinfectant concentrations within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration at representative points within the distribution system on a daily basis or as otherwise approved by the department.

(b) At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-666 Reporting for filtered systems.** (1) The purveyor shall notify the department, as soon as possible, but no later than the end of the next business day, when:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of the combined filter effluent exceeds 5.0 NTU at any time;

(c) The residual disinfection concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within four hours; or

(d) An event occurs (~~which~~) **that** may affect the ability of the water treatment facility to produce drinking water (~~which~~) **that** complies with this chapter including, but not limited to:

- (i) Spills of hazardous materials in the watershed; and
- (ii) Treatment process failures.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-664 to the department. Monthly report forms shall be submitted within ten

days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water treatment facility operations information;

(b) Turbidity monitoring results. Continuous measurements shall be reported at equal intervals, at least every four hours, in accordance with a department-approved schedule;

(c) Disinfection monitoring information including:

(i) Level of inactivation achieved;

(ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(d) Total level of removal and inactivation; and

(e) A summary of water quality complaints received from consumers served by the water system.

(4) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-668 Watershed control.** (1) The purveyor shall, to the extent possible, exercise surveillance over conditions and activities in the watershed affecting source water quality. The purveyor shall develop and implement a department-approved watershed control program.

(2) The purveyor shall ensure that an evaluation of the watershed is completed at least every six years. Watershed evaluations shall be performed such that results of the survey are included in the purveyor's water system plan in accordance with WAC 246-290-100 or small water system management program in accordance with WAC (~~246-290-410~~) **246-290-105**, whichever is applicable.

(3) A professional engineer registered in the state of Washington shall direct the conduct of the watershed evaluation and develop a watershed evaluation report.

(4) The purveyor shall submit the report to the department within sixty days of completion of the watershed evaluation.

(5) The report shall describe the watershed, characterize the watershed hydrology, and discuss the purveyor's watershed control program. The report shall also describe:

(a) Conditions/activities in the watershed (~~which~~) **that** are adversely affecting source water quality;

(b) Changes in the watershed (~~which~~) **that** could adversely affect source water quality that have occurred since the last watershed evaluation;

(c) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(d) Recommendations for improved watershed control.

AMENDATORY SECTION (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-670 Compliance requirements for existing unfiltered systems installing filtration.** (1) The purveyor of an existing unfiltered system shall:

- (a) Install filtration ((by:
  - (i) ~~June 29, 1993, for systems notified by the department before December 30, 1991, to install filtration; or~~
  - (ii) within eighteen months after department notification ((, for systems notified by the department after December 30, 1991, to install filtration.)); and
- (b) Be subject to the ((effective dates;)) interim compliance requirements ((, and treatment technique violations specified in Table 12)) as determined by the department and in conformance with 40 CFR 141.13 and WAC 246-290-632.

(2) The purveyor under an enforcement action or compliance agreement ((which) that is dated prior to the effective date of Part 6 of chapter 246-290 WAC, shall adhere to the compliance schedule for installation of filtration established in the departmental order or bilateral compliance agreement in lieu of the dates specified in subsection (1) of this section.

((Place Illustration Here.))

(3) The purveyor required to install filtration shall submit an action plan and schedule to the department for review and approval. The plan shall:

- (a) Be submitted within ninety days of departmental notification; and
- (b) Document the purveyor's plan and implementation schedule to comply with one of the following:
  - (i) Subparts A and B of Part 6 of chapter 246-290 WAC, if continuing to use the surface or GWI source as a permanent source and installing filtration;
  - (ii) Subparts A and D of Part 6 of chapter 246-290 WAC, if abandoning the surface or GWI source and purchasing completely treated water from a department-approved public water system using surface or GWI water; or
  - (iii) All other applicable sections of this chapter, if abandoning the surface or GWI source and developing an alternate department-approved ground water source.

(4) Between written departmental notification of the filtration requirement and installation of filtration, the purveyor shall meet:

- (a) The interim disinfection requirements under WAC 246-290-672 or as otherwise directed by the department;
- (b) The interim monitoring and reporting requirements under WAC 246-290-674; and
- (c) All other applicable requirements of this chapter.

(5) The purveyor installing filtration shall ensure that when completed, the final treatment processes, consisting of filtration and disinfection, will comply with the requirements under WAC 246-290-660 and 246-290-662, respectively.

**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 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-672 Interim treatment requirements.** (1) Purveyors of existing unfiltered systems installing filtration shall provide interim disinfection treatment to:

- (a) Ensure compliance with the monthly coliform MCL under WAC 246-290-310;
- (b) Achieve ((at least 99 percent (2 log)) inactivation levels of *Giardia lamblia* cysts on a daily basis each month the system serves water to the public ((unless otherwise)) as directed by the department; and
- (c) Maintain a detectable residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, or combined chlorine in 95 percent or more of the samples taken each calendar month. Water in the distribution system with an HPC level less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

(2) Failure to provide the required level of inactivation in subsection (1)(b) of this section on more than one day in any calendar month shall be considered a treatment technique violation.

(3) The department may require the purveyor to provide higher levels of treatment than specified in subsection (1)(b) of this section when necessary to protect the health of consumers served by the public water system.

(4) Interim treatment requirements shall be met in accordance with a schedule acceptable to the department.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-674 Interim monitoring and reporting.** (1) Monitoring. Unless directed otherwise by the department, the purveyor of an existing unfiltered system installing filtration shall:

- (a) Conduct interim monitoring in accordance with ((WAC 246-290-300 and 246-290-320)) 40 CFR 141.22; ((and))
- (b) Measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat sample is collected in accordance with WAC 246-290-300(((2)))(3) or 246-290-320(2); and
- (c) Measure residual disinfection concentrations at entry to the distribution system on a daily basis, or as directed by the department.

(2) Reporting.

(a) The purveyor installing filtration shall report to the department as soon as possible, but no later than the end of the next business day, when:

- (i) A waterborne disease outbreak potentially attributable to the water system occurs;
- (ii) The turbidity of water delivered to the public exceeds 5.0 NTU; or
- (iii) The interim disinfection requirements under WAC 246-290-672 are not met.

(b) The purveyor shall report results of monitoring to the department. Monthly report forms shall be submitted within

ten days after the end of each month the system served water to the public.

(c) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(i) Water quality information, including results of monitoring in accordance with WAC 246-290-300 and 246-290-320;

(ii) Disinfection monitoring information;

(iii) A summary of water quality complaints received from consumers served by the system.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-676 Filtration technology and design criteria.** (1) General.

(a) The purveyor proposing to construct new water treatment facilities or to make additions to existing water treatment facilities for surface and GWI sources shall ensure that the facilities comply with the treatment, design, and reliability requirements of Part 6 of chapter 246-290 WAC.

(b) The purveyor shall submit an engineering report to the department describing how the treatment facilities will be designed to comply with the requirements specified in Subparts A, B, and C of Part 6 of chapter 246-290 WAC.

(2) Filtration technology.

(a) The purveyor shall select a filtration technology acceptable to the department using criteria such as those outlined in ~~((the DOH SWTR Guidance Manual))~~ department guidance on surface water treatment. The following filtration technologies are considered acceptable:

- (i) Conventional;
- (ii) Direct;
- (iii) Diatomaceous earth; and
- (iv) Slow sand.

(b) In addition to the technologies specified in subsection (1) of this section, alternate filtration technologies may be acceptable, if the purveyor demonstrates to the department's satisfaction all of the following:

(i) Through acceptable third party testing, that system components do not leach or otherwise add substances to the finished water that would violate drinking water standards ~~((or food and drug administration regulations))~~, or otherwise pose a threat to public health;

(ii) The technology's effectiveness in achieving at least 99 percent (2 log) removal of *Giardia lamblia* cysts or cyst surrogate particles. ~~((On a case-by-case basis, the department may allow, with adequate engineering justification, installation of an alternate filtration technology which achieves less than 99 percent (2 log) removal. Alternate technologies which achieve less than 1.5 log removal shall be considered unacceptable.))~~ The purveyor shall further demonstrate the technology's removal capability through research conducted:

(A) By a party acceptable to the department; and

(B) In accordance with protocol and standards acceptable to the department.

(iii) Through on-site pilot plant studies or other means, that the filtration technology:

(A) In combination with disinfection treatment consistently achieves 99.9 percent (3 log) removal and inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) removal and inactivation of viruses; and

(B) Meets the applicable turbidity performance requirements ~~((in Table 11))~~ as determined by the department for the specific treatment process being considered, but in no case to exceed 1.0 NTU for the finished water.

(3) Pilot studies.

(a) The purveyor shall ensure pilot studies are conducted for all proposed filtration facilities, except where waived based on engineering justification acceptable to the department.

(b) The purveyor shall obtain department approval for the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken.

(c) The pilot study plan shall identify at a minimum:

(i) Pilot filter design;

(ii) Water quality and operational parameters to be monitored;

(iii) Type of data to be collected, frequency of data collection, and length of pilot study; and

(iv) Pilot plant operator qualifications.

(d) The purveyor shall ensure that the pilot study is:

(i) Conducted to simulate proposed full-scale design conditions;

(ii) Conducted over a time period that will demonstrate the effectiveness and reliability of the proposed treatment system during changes in seasonal and climatic conditions; and

(iii) Designed and operated in accordance with good engineering practices and that ANSI/NSF standards 60 and 61 are considered.

(e) When the pilot study is complete, the purveyor shall submit a project report to the department for approval in accordance with WAC 246-290-110.

(4) Design criteria.

(a) The purveyor shall ensure that water treatment facilities for surface and GWI sources are designed and constructed in accordance with good engineering practices documented in references such as those identified in WAC 246-290-200.

(b) Filtration facilities.

(i) The purveyor shall ensure that all new filtration facilities and improvements to any existing filtration facilities (excluding disinfection) are designed to achieve at least:

(A) 99 percent (2 log) removal of *Giardia lamblia* cysts; and

(B) 90 percent (1 log) removal of viruses.

(ii) The purveyor proposing to use an alternate filtration technology ~~((which doesn't))~~ that does not meet the requirements of (b)(i)(B) of this subsection shall demonstrate to the department's satisfaction that the potential for viral contamination of the source is low. The purveyor shall base the demonstration on results of a watershed evaluation acceptable to the department.

(iii) The purveyor shall ensure that all new filtration facilities contain provisions for filtering to waste with appropriate measures for backflow prevention.

(c) ~~((Disinfection systems.~~

(ii) The purveyor shall ensure that disinfection systems for new filtration facilities (~~using other than alternate filtration technologies and~~) or improvements to existing disinfection facilities are designed to ~~(achieve at least:~~

(A) ~~90 percent (1 log) inactivation of *Giardia lamblia* cysts; and~~

~~(B) 99.9 percent (3 log) inactivation of viruses.~~

(ii) ~~The purveyor proposing to use an alternate filtration technology shall ensure that the disinfection system is designed to comply with the following requirements as applicable:~~

~~(A) If the department has rated the filtration technology as capable of achieving at least 99 percent (2 logs) removal of *Giardia lamblia* cysts, the purveyor shall ensure that the disinfection system provides at least 90 percent (1 log) inactivation of *Giardia lamblia* cysts; or~~

~~(B) If the department has rated the filtration technology as capable of achieving less than 99 percent (2 logs) removal of *Giardia lamblia* cysts, the purveyor shall ensure that the disinfection system provides at least 99.9 percent (3 logs) inactivation of *Giardia lamblia* cysts; and~~

~~(C) If the department has determined the filtration technology is not capable of removing viruses, the purveyor shall ensure that the disinfection system achieves at least 99.99 percent (4 log) inactivation of viruses)) meet the requirements of WAC 246-290-662.~~

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-678 Reliability for filtered systems.** (1) The purveyor shall ensure that reliability features are included in all water treatment facilities used to treat surface or GWI sources.

(2) Reliability features shall include but not be limited to:

(a) Alarm devices to provide warning of treatment process failures including coagulation, filtration, and disinfection. Alarm devices shall warn individuals responsible for taking corrective action and/or provide for automatic plant shutdown until corrective action can be taken;

(b) Standby replacement equipment available to assure continuous operation and control of coagulation, clarification, filtration and disinfection processes;

(c) Multiple filter units (~~which~~) that provide redundant capacity when filters are out of service for backwash or maintenance, except where waived based on engineering justification acceptable to the department.

(3) The department may accept alternatives to the requirements specified in subsection (2) of this section, if the purveyor demonstrates to the department's satisfaction that the proposed alternative will assure an equal degree of reliability.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-686 Compliance requirements for unfiltered systems.** (1) The purveyor using an unfiltered surface or GWI source shall comply with:

(a) Subparts A and D of Part 6 of chapter 246-290 WAC; and

(b) All other applicable sections of this chapter.

(2) The purveyor purchasing water from a system using a surface or GWI source shall comply with:

(a) The applicable requirements of Subpart A of Part 6 of chapter 246-290 WAC;

(b) The disinfection, monitoring and reporting requirements under WAC 246-290-692 (5)(b), 246-290-694 (6)(b) and 246-290-696(4) respectively when purchasing completely treated surface or GWI water; or

(c) The treatment technique, monitoring and reporting requirements (~~of Subpart D of Part 6 of chapter 246-290 WAC~~) as directed by the department when the purveyor is purchasing incompletely treated surface or GWI water.

(3) The purveyor using an unfiltered GWI source shall be subject to the effective dates, compliance requirements, and violations specified in(:

(a) ~~Table 13, when using an unfiltered surface source; or~~

(b) ~~Table 14, when using an unfiltered GWI source))~~ Table 12.

**(Table 13)**  
**COMPLIANCE REQUIREMENTS FOR**  
**SYSTEMS USING UNFILTERED SURFACE WATER SOURCES**

REQUIREMENTS EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
From January 1, 1991 through December 29, 1991))	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	Still in effect	Not in effect yet
Beginning December 30, 1991 and thereafter	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632))

**Table ((14)) 12**  
**COMPLIANCE REQUIREMENTS FOR**  
**SYSTEMS USING UNFILTERED GWI SOURCES**

REQUIREMENTS BECOME EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Six months after GWI determination	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	((Still in effect)) <u>Refer to 40 CFR 141.13 and 141.22</u>	Not in effect yet
Eighteen months after GWI determination	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

(4) Purveyors of **community** systems using surface water sources had the option to remain unfiltered if they dem-

PROPOSED

onstrated compliance with the department's criteria to remain unfiltered by December 30, 1991.

(5) A purveyor (~~(using a department determined)~~) that served water to the public before January 1, 1991, using a GWI source may have that source remain unfiltered, if, within eighteen months of GWI determination, the purveyor complies with Part 6 of this chapter ((246-290-WAC)) and ((in particular), the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(6) ~~((After the department makes an initial determination that a system may))~~ the purveyor with sources that are approved to remain unfiltered((, the purveyor)) shall comply with the source water quality and site-specific conditions under WAC 246-290-690 or 246-290-691 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(7) The purveyor shall install filtration when:

(a) The system fails to meet one or more of the source water quality and site-specific conditions under WAC 246-290-690 and 246-290-691; or

(b) The department determines that installation of filtration is necessary to protect the health of consumers served by the water system.

(8) ~~The ((department shall provide written notification to the purveyor of:~~

(a) A filtration requirement; and

~~(b) An initial determination that the system may remain unfiltered))~~ purveyor, in response to a written notification by the department, shall install filtration within eighteen months.

(9) The purveyor may comply with the requirements to install filtration by:

(a) Constructing a water treatment facility that is designed, operated, and maintained in accordance with Subparts A, B, and C of Part 6 of this chapter;

(b) Satisfying the source water quality and site-specific criteria specified in WAC 246-290-691 and constructing treatment facilities that are designed, operated, and maintained to provide a limited alternative to filtration in accordance with WAC 246-290-692; or

(c) Abandoning the surface water or GWI source, and:

~~((a))~~ (i) Developing an alternate, department-approved ground water source; or

~~((b))~~ (ii) Purchasing completely treated water from a department-approved public water system.

**AMENDATORY SECTION** (Amending Order 352B, filed 3/25/93, effective 4/25/93)

**WAC 246-290-690 Criteria to remain unfiltered.** (1) For a system not using the "limited alternative to filtration" option to remain unfiltered, the purveyor using a surface water or GWI source shall meet the source water quality and site-specific conditions under this section, as demonstrated through monitoring conducted in accordance with WAC 246-290-694.

(2) Source water quality conditions necessary to remain unfiltered.

(a) Coliform limits.

(i) The purveyor shall ensure that representative source water samples taken before the first point of disinfection have a fecal coliform density less than or equal to 20/100 ml in ~~((90))~~ ninety percent or more of all samples taken during the six previous calendar months the system served water to the public. Samples collected on days when source water turbidity exceeds 1.0 NTU shall be included when determining compliance with this requirement.

(ii) The purveyor shall submit a written report to the department if no source fecal coliform data has been submitted for days when source turbidity exceeded 1.0 NTU. The report shall document why sample results are not available and shall be submitted with the routine monitoring reports for the month in which the sample results are not available.

(b) Turbidity limits.

(i) The purveyor shall ensure that the turbidity level in representative source water samples taken ~~((immediately downstream from the intake and))~~ before primary disinfection does not exceed 5.0 NTU.

(ii) A system failing to meet the turbidity requirements in (b)(i) of this subsection may remain unfiltered, if:

(A) The purveyor demonstrates to the department's satisfaction that the most recent turbidity event was caused by unusual and unpredictable circumstances; and

(B) Including the most recent turbidity event, there have not been more than:

(I) Two turbidity events in the twelve previous calendar months the system served water to the public; or

(II) Five turbidity events in the one-hundred-twenty previous calendar months the system served water to the public.

(iii) The purveyor of a system experiencing a turbidity event shall submit a written report to the department documenting why the turbidity event(s) occurred. The purveyor shall submit the report with the routine monitoring reports for the month in which the turbidity event(s) occurred.

(iv) The purveyor of a system with alternate, department-approved sources or sufficient treated water storage may avoid a turbidity event by implementing operational adjustments to prevent water with a turbidity exceeding 5.0 NTU from being delivered to consumers.

(v) When an alternate source or treated water storage is used during periods when the turbidity of the surface or GWI source exceeds 5.0 NTU, the purveyor shall not put the surface or GWI source back on-line, until the source water turbidity is 5.0 NTU or less.

(3) Site-specific conditions to remain unfiltered.

(a) Level of inactivation.

(i) The purveyor shall ensure that the *Giardia lamblia* cyst and virus inactivation levels required under WAC 246-290-692(1) are met in at least eleven of the twelve previous calendar months that the system served water to the public.

(ii) A system failing to meet the inactivation requirements during two of the twelve previous calendar months that the system served water to the public may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that at least one of the failures was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report

with the routine monitoring reports for the month in which the failure occurred.

(b) Redundant disinfection components or automatic shut-off.

The purveyor shall ensure that the requirement for redundant disinfection system components or automatic shut-off of water to the distribution system under WAC 246-290-692(3) is met at all times the system serves water to the public.

(c) Disinfectant residual entering the distribution system.

(i) The purveyor shall ensure that the requirement for having a residual entering the distribution system under WAC 246-290-692(4) is met at all times the system serves water to the public.

(ii) A system failing to meet the disinfection requirement under (c)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by unusual and unpredictable circumstances.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(d) Disinfectant residuals within the distribution system.

(i) The purveyor shall ensure that the requirement for maintaining a residual within the distribution system under WAC 246-290-692(5) is met on an ongoing basis.

(ii) A system failing to meet the disinfection requirements under (d)(i) of this subsection may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the failure was caused by something other than a deficiency in source water treatment.

(iii) To make such a demonstration, the purveyor shall submit to the department a written report documenting the reasons for the failure. The purveyor shall submit the report with the routine monitoring reports for the month in which the failure occurred.

(e) Watershed control.

(i) The purveyor shall develop and implement a department-approved watershed control program.

(ii) The purveyor shall monitor, limit, and control all facilities and activities in the watershed affecting source quality to preclude degradation of the physical, chemical, microbiological (including viral), and radiological quality of the source. The purveyor shall demonstrate, through ownership and/or written agreements acceptable to the department, control of all human activities (~~which~~) that may adversely impact source quality.

(iii) (~~A department guideline, titled DOH SWTR Guidance Manual, is available to assist purveyors with development and implementation of a watershed control program.~~) At a minimum, the purveyor's watershed control program shall:

(A) Characterize the watershed hydrology and land ownership;

(B) Identify watershed characteristics and activities (~~which~~) that may adversely affect source water quality; and

(C) Monitor the occurrence of activities (~~which~~) that may adversely affect source water quality.

(iv) If the department determines significant changes have occurred in the watershed, the purveyor shall submit, within ninety days of notification, an updated watershed control program to the department for review and approval.

(v) The department may require an unfiltered system to conduct additional monitoring to demonstrate the adequacy of the watershed control program.

(vi) A purveyor shall be considered out of compliance when failing to:

(A) Have a department-approved watershed control program;

(B) Implement the watershed control program to the satisfaction of the department; or

(C) Conduct additional monitoring as directed by the department.

~~((vii) The purveyor using a GWI source may use a department approved wellhead protection program to meet the watershed control program requirements under (e) of this subsection with departmental approval.))~~

(f) On-site inspections.

(i) The department shall conduct on-site inspections to assess watershed control and disinfection treatment.

(ii) The department shall conduct annual inspections unless more frequent inspections are deemed necessary to protect the health of consumers served by the system.

(iii) For a system to remain unfiltered, the on-site inspection shall indicate to the department's satisfaction that the watershed control program and disinfection treatment comply with (e) of this subsection and WAC 246-290-692, respectively.

(iv) The purveyor with unsatisfactory on-site inspection results shall take action as directed by the department in accordance with a department-established schedule.

(g) Waterborne disease outbreak.

(i) To remain unfiltered, a system shall not have been identified by the department as the cause of a waterborne disease outbreak attributable to a failure in treatment of the surface or GWI source.

(ii) The purveyor of a system identified by the department as the cause of a waterborne disease outbreak may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that system facilities and/or operations have been sufficiently modified to prevent another waterborne disease outbreak.

(h) Total coliform MCL.

(i) For a system to remain unfiltered, the purveyor shall ensure that the MCL for total coliform under WAC 246-290-310 is met in at least eleven of the twelve previous calendar months the system served water to the public.

(ii) A system failing to meet the criteria in (i) of this subsection, may remain unfiltered, if the purveyor demonstrates to the department's satisfaction that the total coliform MCL violations were not caused by a deficiency in source water treatment.

(iii) The department shall determine the adequacy of source water treatment based on results of total coliform monitoring at the entry to the distribution system in accordance with WAC 246-290-694(2).

(i) THM MCL and monitoring.

For a system to remain unfiltered, the purveyor shall comply with the THM monitoring and MCL requirements under WAC 246-290-300 and 246-290-310, respectively.

(j) Laboratory services.

(i) For a system to remain unfiltered, the purveyor shall retain the services of the public health laboratory or another laboratory certified by the department to analyze samples for total and fecal coliform. Laboratory services shall be available on an as needed basis, seven days a week, including holidays. The purveyor shall identify in the annual comprehensive report required under WAC 246-290-696 the certified laboratory providing these services.

(ii) The department may waive this requirement, if the purveyor demonstrates to the department's satisfaction that an alternate, department-approved source is used when the turbidity of the surface or GWI source exceeds 1.0 NTU.

### NEW SECTION

**WAC 246-290-691 Criteria for unfiltered systems with a "limited alternative to filtration" to remain unfiltered.** (1) For a system providing a limited alternative to filtration, the purveyor using a surface water or GWI source shall meet the source quality and site-specific conditions under this section.

(2) Source water turbidity requirements.

(a) The purveyor shall ensure that the turbidity level in representative source water samples taken before primary disinfection does not exceed 5.0 NTU.

(b) A system with more than two turbidity events in the twelve previous calendar months the water was served to the public or more than five turbidity events in the one hundred twenty previous calendar months the water was served to the public shall expand the scope of its next annual comprehensive report required under WAC 246-290-696(6) to include:

- (i) A description of the event or events;
- (ii) A summary of previous turbidity events;
- (iii) A proposed plan of corrective action; and
- (iv) A schedule for implementing the action plan.

(3) Site-specific requirements.

(a) Level of inactivation.

(i) The purveyor shall ensure that the removal and/or inactivation levels required under WAC 246-290-630(11) are met in at least eleven of the twelve previous calendar months that the system served water to the public.

(ii) A system failing to meet the inactivation requirements in (a)(i) of this subsection in two or more months of the previous twelve calendar months the system served water to the public shall expand the scope of its annual comprehensive report required under WAC 246-290-696(6) to include:

- (A) A description of the failure(s);
  - (B) A summary of previous inactivation failures;
  - (C) A proposed plan of corrective action; and
  - (D) A schedule for implementing the action plan.
- (b) Watershed control.

(i) The watershed must not be allowed to be inhabited, except for those designated individuals and for those periods of time each year that would be directly associated with the protection of the watershed.

(ii) The purveyor shall develop and implement a department-approved watershed control program.

(iii) The purveyor shall monitor, limit, and control all facilities and activities in the watershed affecting source quality to preclude degradation of the physical, chemical, microbiological (including viral), and radiological quality of the source. The purveyor shall demonstrate, through ownership and/or written agreements acceptable to the department, control of all human activities that may adversely impact source quality.

(iv) At a minimum, the purveyor's watershed control program shall:

(A) Characterize the watershed hydrology and land ownership;

(B) Identify watershed characteristics and activities that may adversely affect source water quality; and

(C) Monitor the occurrence of activities that may adversely affect source water quality.

(v) If the department determines significant changes have occurred in the watershed, the purveyor shall submit, within ninety days of notification, an updated watershed control program to the department for review and approval.

(vi) The purveyor may be required to conduct additional monitoring to demonstrate the adequacy of the watershed control program.

(vii) A purveyor shall be considered out of compliance when failing to:

(A) Have a department-approved watershed control program;

(B) Implement the watershed control program to the satisfaction of the department;

(C) Conduct additional monitoring as directed by the department; or

(D) Prevent the human habitation of the watershed.

(c) On-site inspections.

(i) The purveyor shall submit to on-site inspections by the department to assess watershed control and disinfection treatment.

(ii) The purveyor shall submit to annual inspections by the department unless more frequent inspections are deemed necessary to protect the health of consumers served by the system.

(iii) The purveyor with unsatisfactory on-site inspection results shall take action as directed by the department in accordance with a department-established schedule.

(d) Waterborne disease outbreak.

(i) The system shall not be identified by the department as the cause of a waterborne disease outbreak attributable to a failure in treatment of the surface or GWI source.

(ii) A system identified by the department as the cause of a waterborne disease in (d)(i) of this subsection shall expand the scope of its annual comprehensive report required under WAC 246-290-696(6) to include:

(A) A description of the outbreak;

(B) A summary of previous waterborne disease outbreaks attributed to the system;

(C) A proposed plan of corrective action; and

(D) A schedule for implementing the action plan.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-692 Disinfection for unfiltered systems.** (1) General requirements.

(a) The purveyor without a limited alternative to filtration shall provide continuous disinfection treatment to ensure at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) inactivation of viruses at all times the system serves water to the public.

(b) The purveyor with a limited alternative to filtration shall provide residual disinfection treatment sufficient to ensure a residual concentration within the distribution system at all times.

(c) The ((department may require the)) purveyor may be required to provide greater levels of inactivation of *Giardia lamblia* cysts, other pathogenic microorganisms of public health concern, and viruses to protect the health of consumers.

((e)) (d) Failure to ((provide the required inactivation level on more than one day in any calendar month the system serves water to the public)) meet the inactivation level requirements of WAC 246-290-690 (3)(a) or 246-290-691 (3)(a) shall be considered a violation.

(2) Determining the level of inactivation.

(a) Each day the system without a limited alternative to filtration serves water to the public, the purveyor, using procedures and CT<sub>99.9</sub> values specified in 40 CFR 141.74, Vol. 54, No. 124, (published June 29, 1989, and copies of which are available from the department), shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department. For purposes of determining compliance with the inactivation requirements specified in subsection (1) of this section, no credit shall be granted for disinfection applied to a source water with a turbidity greater than 5.0 NTU.

(b) Each day the system with a limited alternative to filtration serves water to the public, the purveyor, using appropriate guidance, shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of health concern that would be greater than what would be expected from the combination of filtration plus chlorine disinfection.

(c) The purveyor shall be considered in compliance with the daily inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

((e)) (d) The purveyor of a system using a disinfectant ((other than chlorine)) or combination of disinfectants may use CT values lower than those specified in (a) of this subsection, if the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts ((and)), viruses, and, if providing a limited

alternative to filtration, any other pathogenic organisms of public health concern, can be achieved using the lower CT values.

((d)) (e) The purveyor of a system using preformed chloramines or adding ammonia to the water before chlorine shall demonstrate to the department's satisfaction that the system achieves at least 99.99 percent (4 log) inactivation of viruses.

(3) The purveyor using either unfiltered or "limited alternative to filtration" treated sources shall ensure that disinfection facilities provide either:

(a) Redundant components, including an auxiliary power supply with automatic start-up and alarm, to ensure continuous disinfection. Redundancy shall ensure that both the minimum inactivation requirements and the requirement for a 0.2 mg/L residual disinfectant concentration at entry to the distribution system are met at all times water is delivered to the distribution system; or

(b) Automatic shut-off of delivery of water to the distribution system when the residual disinfectant concentration in the water is less than 0.2 mg/L. Automatic shut-off shall be allowed only in systems where the purveyor demonstrates to the department's satisfaction that automatic shutoff will not endanger health or interfere with fire protection.

(4) Disinfectant residual entering the distribution system.

(a) The purveyor shall ensure that water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than four hours on any day shall be considered a treatment technique violation.

(5) Disinfectant residuals within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least ((95)) ninety-five percent of the samples taken each calendar month.

(b) The purveyor of a system ((which)) that purchases completely treated surface or GWI water as determined by the department shall comply with the requirements specified in (a) of this subsection.

(c) Water in the distribution system with an HPC level less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-694 Monitoring for unfiltered systems.** (1) Source coliform monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are representative and:

(i) Collected before the first point of disinfectant application; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) The purveyor shall ensure source samples are collected for fecal coliform analysis each week the system serves water to the public based on the following schedule:

Population Served	Minimum Number/week*
25 - 500	1
501 - 3,300	2
3,301 - 10,000	3
10,001 - 25,000	4
>25,000	5

\*Must be taken on separate days.

(c) Each day the system serves water to the public and the turbidity of the source water exceeds 1.0 NTU, the purveyor shall ensure one representative source water sample is collected before the first point of disinfectant application and analyzed for fecal coliform density. This sample shall count toward(s) the weekly source coliform sampling requirement.

(d) A purveyor shall not be considered in violation of (c) of this subsection, if the purveyor demonstrates to the department's satisfaction that, for valid logistical reasons outside the purveyor's control, the additional fecal coliform sample could not be analyzed within a timeframe acceptable to the department.

(2) Source coliform monitoring for systems with a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of primary disinfection; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to ten percent the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater, up to a maximum of one sample per day.

(3) Coliform monitoring at entry to distribution for systems without a limited alternative to filtration.

(a) The purveyor shall collect and have analyzed one coliform sample at the entry point to the distribution system each day that a routine or repeat coliform sample is collected within the distribution system under WAC 246-290-300~~((2))~~(3) or 246-290-320(2), respectively.

(b) The purveyor shall use the results of the coliform monitoring at entry to distribution along with inactivation ratio monitoring results to demonstrate the adequacy of source treatment.

~~((3))~~ (4) Source turbidity monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative source water samples before the first point of primary disinfectant application; and

(ii) In accordance with the analytical techniques under WAC 246-290-638.

(b) If source water turbidity is not the same as the turbidity of water delivered to consumers, the purveyor shall continuously monitor and record turbidity of water delivered.

~~((4))~~ (5) Source turbidity monitoring for systems with a limited alternative to filtration. The purveyor shall:

(a) Continuously monitor turbidity on representative source samples before the first point of primary disinfection application;

(b) Record continuous turbidity measurements at equal intervals, of at least four hours, in accordance with a department-approved sampling schedule; and

(c) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(6) Monitoring the level of inactivation.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts ~~((and)),~~ viruses, and, if providing a limited alternative to filtration, any other pathogenic organisms of health concern, achieved through disinfection.

(b) At least once per day, the purveyor shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(c) Each day during peak hourly flow, the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point must be before or at the first ~~((customer))~~ consumer.

~~((5))~~ (7) Monitoring the residual disinfectant concentration entering the distribution system for either unfiltered systems, or systems using a limited alternative to filtration.

(a) Systems serving more than thirty-three hundred ~~((>3300))~~ people.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less ~~((≤3300))~~ people.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) A purveyor choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

PROPOSED

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the grab samples at peak hourly flow based on historical flows for the system; and

(C) The remaining sample or samples at intervals evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, the purveyor shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

~~((6))~~ (8) Monitoring residual disinfectant concentration within the distribution system for either unfiltration systems, or systems using a limited alternative to filtration.

(a) The purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300~~((2))~~(3) or 246-290-320(2) or once per day, whichever is greater.

(b) The purveyor of a system ~~((which))~~ that purchases completely treated surface or GWI water as determined by the department shall comply with the requirements of (a) of this subsection or as otherwise directed by the department under WAC 246-290-300 ~~((1)(g))~~ (2)(c). At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300~~((2))~~(3) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

**AMENDATORY SECTION** (Amending WSR 94-14-001, filed 6/22/94, effective 7/23/94)

**WAC 246-290-696 Reporting for unfiltered systems.**

(1) The purveyor shall report to the department as soon as possible, but no later than the end of the next business day, when:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of water delivered to the public exceeds 5.0 NTU;

(c) The minimum level of inactivation required by the department is not met;

(d) The residual disinfectant concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within four hours; or

(e) The surface or GWI source is taken off-line due to an emergency.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-694 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water quality information, including the results of both:

(i) Source coliform monitoring; and

(ii) Source turbidity monitoring.

(b) Disinfection monitoring information, including:

(i) Level of inactivation achieved;

(ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(c) A summary of water quality complaints received from consumers served by the water system.

(4) The purveyor of a system ~~((which))~~ that purchases completely treated water shall:

(a) Report results of distribution system residual disinfectant concentration monitoring to the department using department-approved forms or format; and

(b) Submit forms to the department in accordance with subsection (2) of this section or as otherwise directed by the department.

(5) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

(6) Beginning in 1992, by October 10th of each year, the purveyor shall submit to the department an annual comprehensive report ~~((which))~~ that summarizes the:

(a) Effectiveness of the watershed control program and identifies, at a minimum, the following:

(i) Activities in the watershed ~~((which))~~ that are adversely affecting source water quality;

(ii) Changes in the watershed that have occurred within the previous year ~~((which))~~ that could adversely affect source water quality;

(iii) Activities expected to occur in the watershed in the future and how the activities will be monitored and controlled;

(iv) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(v) Special concerns about the watershed and how the concerns are being addressed;

(b) System's compliance with the criteria to remain unfiltered under WAC 246-290-690, or, when applicable, the criteria required if the system provides a limited alternative to filtration under WAC 246-290-691; and

(c) Significant changes in system design and/or operation ~~((which))~~ that have occurred within the previous year which impact the ability of the system to comply with the criteria to remain unfiltered, or, if applicable, the ability of the system to provide a limited alternative to filtration in accordance with WAC 246-290-692.

PROPOSED

(7) The purveyor of a system attempting to remain unfiltered or to remain with a limited alternative to filtration shall submit a *Filtration Decision Report* at the request of the department. The report shall:

(a) Provide the information ((needed)) by which the department ((to initially)) may determine whether a system continues to meet((s)) the criteria to remain unfiltered or, if applicable, the criteria allowing the provision of a limited alternative to filtration; and

(b) Be submitted ((by the deadline)) on a schedule as specified by the department.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- |             |  |
|-------------|--|
| 246-290-115 | Corrosion control recommendation report.         |
| 246-290-240 | Disinfection of facilities.                      |
| 246-290-330 | Public notification.                             |
| 246-290-410 | Small water system management program.           |
| 246-290-430 | Continuity of service.                           |
| 246-290-440 | Operations.                                      |
| 246-290-610 | Definitions relating to surface water treatment. |

**PROPOSED**



**WSR 98-20-079**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed October 6, 1998, 1:06 p.m.]

**Title of Rule:** Chapter 296-24 WAC, General safety and health standards.

**Subject of this Rule Making:** First-aid relating to chapter 296-56 WAC, Longshore, stevedore and related waterfront operations.

**Purpose:** State-initiated proposed amendments are made to delete a reference to chapter 296-56 WAC in WAC 296-24-06105, which exempts applicability of the general safety standard first aid requirements to longshore, stevedore and related waterfront industries. This exemption exists because first aid requirements are currently included in the vertical standard.

However, under a recent rule amendment proposal\* to the longshoring standard (chapter 296-56 WAC), the department proposed replacing existing first aid requirements in chapter 296-56 WAC with a reference to first aid requirements in the general safety standard. Due to an inadvertent oversight, the department did not propose deleting the exemption in chapter 296-24 WAC. It is necessary for the general standard exemption to be removed for first aid requirements to be applicable to longshoring industries once proposed amendments to chapter 296-56 WAC are adopted. If adoption occurred without removing the exemption, first aid requirements would not exist for industries covered by the longshoring standard.

Current general standard first aid requirements became effective on June 1, 1998. A small business economic impact statement was not required because the proposed rule reduced the overall economic burden on business and did not place more than minor economic impact on business. The current longshoring standard proposal also states a small business economic impact statement is not required because the changes "... correct typographical errors, and change language without changing its effect."

An expedited adoption proposal is appropriate in this situation because it merely corrects a filing oversight to an earlier proposal, which corrected typographical errors and changed language without changing its effect. RCW 34.05.356 (1)(c) allows an agency to file an expedited adoption proposal when "the proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect."

(Note: No public comments relating to the proposed chapter 296-56 WAC first aid amendments were received at or following the September 22, 1998, public hearing.)

Alternatives to filing an expedited adoption proposal are to:

- File an emergency adoption to remove the exemption from the general standard on the same day the longshoring standard amendments become effective. This would ensure worker safety and health protection on an interim basis only. Because an emergency adoption is not a permanent adoption, the Administrative Procedure Act (chapter 34.05

RCW) requires the department initiate the normal promulgation process (a lengthy legal process) to permanently amend the rule. This action would delay the effective date of the current longshoring standard proposal since it would be necessary for both adoptions to become effective on the same day to ensure worker safety and health protection.

- Delay adoption of the current longshoring standard proposal until the exemption is removed, which would require initiation of the normal promulgation process to permanently remove the exemption from the general standard. Delaying adoption would be necessary because both adoptions must become effective on the same day to ensure worker safety and health protection. This alternative would also delay adoption of federally-initiated amendments to the longshoring standard the department is legally required to adopt under the WISHA Act (chapter 49.17 RCW).
- Withdraw the previously proposed first aid amendments to chapter 296-56 WAC and repropose amendments to both standards at a later date. This alternative would require the department initiate the normal promulgation process to permanently amend the standards, which would delay adoption for several months.

\*See Washington State Register 98-17-079, dated September 2, 1998.

Statutory Authority for Adoption: RCW 49.17.040.

Statute Being Implemented: RCW 49.17.010, [49.17].050, [49.17].060.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, Washington, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

#### 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 Selwyn Walters, Department of Labor and Industries, Office of the Legislative Liaison.

son, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY November 21, 1998.

October 6, 1998  
 Gary Moore  
 Director

**AMENDATORY SECTION** (Amending WSR 98-06-061, filed 3/2/98, effective 6/1/98)

**WAC 296-24-06105 What workplaces does this rule apply to?** This rule applies to all workplaces, except for the ones listed below. They are, instead covered by separate individual rules (vertical standards):

Rule Title	Chapter
• Agriculture	296-307 WAC
• Compressed Air Work	296-36 WAC
• Construction	296-155 WAC
• Fire Fighters	296-305 WAC
• Logging	296-54 WAC
• Longshoring/Stevedoring	296-56 WAC
• Sawmills	296-78 WAC
• Shipbuilding and Repairing	296-304 WAC

**WSR 98-20-082**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**  
 [Filed October 6, 1998, 1:33 p.m.]

Title of Rule: Amendatory section WAC 458-18-220 Refunds—Rate of interest.

Purpose: To update rule so it reflects the rate of interest for auction year 1998 that will be included when property taxes paid during 1999 are refunded.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070.

Statute Being Implemented: RCW 84.69.100.

Summary: The rates of interest set forth in this rule are used when property taxes are refunded. The rates of interest are listed according to the year in which the property taxes are paid.

Reasons Supporting Proposal: RCW 84.69.100 requires interest to be included when property taxes are refunded. This statute also requires the department to adopt the rate of interest by rule.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA, (360) 753-5503.

Name of Proponent: Department of Revenue, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 84.69.100 directs interest to be paid when property taxes are refunded. WAC 458-18-220 sets forth the rate of interest on a yearly basis and is used by county officials to calculate the total amount of property tax and interest to be refunded to the taxpayer.

Proposal Changes the Following Existing Rules: This proposed rule amends the current version of WAC 458-18-220. The amendments to this rule specify the rate of interest to be paid when taxes paid in 1999 are refunded in accordance with RCW 84.69.100.

**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 Peri Maxey, Department of Revenue, P.O. Box 47471, Olympia, WA 98504-7471, fax (360) 586-7602, AND RECEIVED BY December 5, 1998.

October 6, 1998

Russell W. Brubaker  
 Assistant Director  
 Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 98-01-177, filed 12/23/97, effective 1/1/98)

**WAC 458-18-220 Refunds—Rate of interest.** The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%

EXPEDITED ADOPTION

Year tax paid	Auction Year	Rate
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
<u>1999</u>	<u>1998</u>	<u>5.06%</u>

**WSR 98-20-083**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**  
 [Filed October 6, 1998, 1:36 p.m.]

Title of Rule: Amendatory section WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

Purpose: To provide county assessors with the rate of interest and property tax component to be used in valuing farm and agricultural land classified under chapter 84.34 RCW during assessment year 1999.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, 84.34.360.

Statute Being Implemented: RCW 84.34.065.

Summary: The amendments to this rule update the interest rate and the property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW.

Reasons Supporting Proposal: RCW 84.34.065 requires the department to annually determine a rate of interest and property tax component and to publish a rule containing these determinations by January 1st each year.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA, (360) 753-5503.

Name of Proponent: Department of Revenue, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 458-30-262 provides county assessors with information that will be used in assessment year 1999 to value land classified as farm and agricultural land under chapter 84.34 RCW. This rule must be updated annually to reflect the changes in the interest rate and property tax component used by the county assessors to determine the value of classified farm and agricultural land during the upcoming assessment year.

Proposal Changes the Following Existing Rules: This proposed rule amends the current version of WAC 458-30-262. The amendments to this rule relate to assessment year 1999 and change the interest rate and the property tax component. These figures will be used to value farm and agricultural land classified under chapter 84.34 RCW during assessment year 1999.

**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 Peri Maxey, Department of Revenue, P.O. Box 47471, Olympia, WA 98504-7471, fax (360) 586-7602, AND RECEIVED BY December 5, 1998.

October 6, 1998  
 Russell W. Brubaker  
 Assistant Director  
 Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 98-01-178, filed 12/23/97, effective 1/1/98)

**WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.** For assessment year ~~((1998))~~ 1999, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ~~((9.3))~~ 9.38 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	<del>((4.7))</del> <u>1.46</u>	Lewis	1.22
Asotin	<del>((5.6))</del> <u>1.45</u>	Lincoln	<del>((4.9))</del> <u>1.50</u>
Benton	<del>((5.0))</del> <u>1.53</u>	Mason	<del>((4.20))</del> <u>1.26</u>
Chelan	<del>((3.2))</del> <u>1.31</u>	Okanogan	1.39
Clallam	<del>((2.4))</del> <u>1.21</u>	Pacific	<del>((1.28))</del> <u>1.23</u>
Clark	<del>((3.9))</del> <u>1.34</u>	Pend Oreille	1.28
Columbia	<del>((4.9))</del> <u>1.33</u>	Pierce	1.59
Cowlitz	<del>((2.1))</del> <u>1.18</u>	San Juan	<del>((0.79))</del> <u>0.81</u>
Douglas	<del>((4.1))</del> <u>1.35</u>	Skagit	1.30
Ferry	<del>((2.1))</del> <u>1.25</u>	Skamania	<del>((0.8))</del> <u>1.07</u>
Franklin	<del>((5.5))</del> <u>1.54</u>	Snohomish	<del>((3.9))</del> <u>1.38</u>
Garfield	<del>((4.6))</del> <u>1.69</u>	Spokane	<del>((4.55))</del> <u>1.50</u>
Grant	<del>((4.6))</del> <u>1.50</u>	Stevens	<del>((4.12))</del> <u>1.16</u>
Grays Harbor	<del>((3.4))</del> <u>1.27</u>	Thurston	<del>((5.3))</del> <u>1.49</u>
Island	<del>((0.0))</del> <u>0.99</u>	Wahkiakum	<del>((4.17))</del> <u>1.13</u>
Jefferson	<del>((4.7))</del> <u>1.19</u>	Walla Walla	<del>((4.48))</del> <u>1.46</u>
King	<del>((3.8))</del> <u>1.30</u>	Whatcom	<del>((2.8))</del> <u>1.27</u>
Kitsap	<del>((4.5))</del> <u>1.40</u>	Whitman	<del>((4.69))</del> <u>1.44</u>
Kittitas	<del>((4.6))</del> <u>1.05</u>	Yakima	<del>((4.38))</del> <u>1.36</u>
Klickitat	<del>((2.3))</del> <u>1.14</u>		

**EXPEDITED ADOPTION**

WSR 98-20-084
EXPEDITED ADOPTION
DEPARTMENT OF REVENUE

[Filed October 6, 1998, 1:38 p.m.]

Title of Rule: Amendatory section WAC 458-30-590
Rates of inflation.

Purpose: To provide a rate of inflation that is used by county officials to calculate interest on deferred property taxes in certain circumstances.

Statutory Authority for Adoption: RCW 84.34.360.

Statute Being Implemented: RCW 84.34.310.

Summary: Special benefit assessments on farm and agricultural or timber land classified under chapter 84.34 RCW may be deferred by the land owner. If the land owner has chosen to defer this type of assessment and the classified land is subsequently removed or withdrawn from classification under chapter 84.34 RCW, the deferred special benefit assessment becomes due and payable with interest. This rule provides the rate of inflation that is used to calculate the interest to be added to the deferred assessment and the sum of these amounts equals the total amount due.

Reasons Supporting Proposal: RCW 84.34.310(6) authorizes the department to determine the rate of inflation and to adopt this rate by rule prior to January 1st each year.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA, (360) 753-5503.

Name of Proponent: Department of Revenue, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: No comments or recommendations are submitted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendatory rule is necessary to update the rate of inflation table to include 1998. The rate of inflation is used when land classified as farm and agricultural or timber land under chapter 84.34 RCW is removed or withdrawn from classification and the special benefit assessments relating to this land have been deferred by the land owner. This rate is used to calculate a rate of interest that is added to the amount of assessment deferred and the total amount due.

Proposal Changes the Following Existing Rules: This proposed rule amends the current version of WAC 458-30-590. The proposed rule adds the rate of inflation for 1998.

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 Peri Maxey, Department of Revenue, P.O. Box 47471, Olympia, WA 98504-7471, fax (360) 586-7602, AND RECEIVED BY December 5, 1998.

October 6, 1998

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 98-01-179, filed 12/23/97, effective 1/1/98)

WAC 458-30-590 Rates of inflation. (1) Introduction. This section sets forth the rates of inflation discussed in WAC 458-30-550.

(2) Rates of inflation. The rates of inflation to be used for calculating the interest as required by WAC 458-30-550 are as follows:

Table with 4 columns: YEAR, PERCENT, YEAR, PERCENT. Rows include years 1976 through 1998 with corresponding inflation rates.

WSR 98-20-101

EXPEDITED ADOPTION

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter R 98-19—Filed October 7, 1998, 11:10 a.m.]

Title of Rule: Risk-based surplus (RBS) formula and instructions for fraternal benefit societies.

Purpose: To revise the RBS formula and bring it into accord with the formula developed by the National Association of Insurance Commissioners.

Statutory Authority for Adoption: RCW 48.02.060, 48.36A.100, 48.36A.290.

Statute Being Implemented: RCW 48.36A.100, 48.36A.290.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, Lacey, Washington, (360) 407-0537; Implementation and Enforcement: John Woodall, Lacey, Washington, (360) 407-0535.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

EXPEDITED ADOPTION

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The risk-based surplus formula in the past has been based upon the formula adopted by the National Fraternal Congress of America. The National Association of Insurance Commissioners has recently adopted the use of the risk-based capital formula for life insurers as the formula to use for fraternal benefit societies. The proposed rule will amend the existing rule to adopt the use of the NAIC risk based capital formula and instructions as the formula and instructions for the risk-based surplus of fraternal benefit societies.

The change in formulas will provide the adequate protections for Washington state consumers while allowing for increased uniformity for the carriers.

**Proposal Changes the Following Existing Rules:** The proposal would amend WAC 284-36A-010 and 284-36A-020.

The proposal would repeal WAC 284-36A-025.

#### 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 Kacy Brandeberry, Office of the Insurance Commissioner, P.O. Box 40256, Olympia, WA 98504-0256, e-mail Kacyb@oic.wa.gov, fax (360) 407-0186, AND RECEIVED BY December 5, 1998.

October 7, 1998

Greg J. Scully

Chief Deputy Commissioner

**AMENDATORY SECTION** (Amending Matter R 98-03, filed 4/6/98, effective 5/7/98)

**WAC 284-36A-010 Definitions.** (1) "Adjusted RBS report" means an RBS report which has been adjusted by the commissioner in accordance with WAC 284-36A-020(4).

(2) "AVR" means asset valuation reserve.

(3) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

(4) "Fraternal benefit society" is defined at RCW 48.36A.010.

(5) "NAIC" means the National Association of Insurance Commissioners.

(6) "Negative trend" means, with respect to a fraternal benefit society, negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBS instructions.

(7) "RBC" means risk-based capital.

(8) "RBS" means risk-based surplus.

(9) "RBS instructions" means the ((RBS)) RBC report including risk-based capital instructions adopted, by the NAIC((, except where specifically amended in WAC 284-36A-020 and 284-36A-025)).

(10) "RBS level" means a fraternal benefit society's society action level RBS, regulatory action level RBS, authorized control level RBS, or mandatory control level RBS where:

(a) "Society action level RBS" means, with respect to a fraternal benefit society, the product of 2.0 and its authorized control level RBS;

(b) "Regulatory action level RBS" means the product of 1.5 and its authorized control level RBS;

(c) "Authorized control level RBS" means the number determined under the risk-based surplus formula in accordance with the RBS instructions;

(d) "Mandatory control level RBS" means the product of .70 and the authorized control level RBS.

(11) "RBS plan" means a comprehensive financial plan containing the elements specified in WAC 284-36A-040(2). If the commissioner rejects the RBS plan, and it is revised by the fraternal benefit society, with or without the commissioner's recommendation, the plan shall be called the "revised RBS plan."

(12) "RBS report" means the report required in WAC 284-36A-050 and 284-36A-020.

(13) "Total adjusted surplus" means the sum of:

(a) A fraternal benefit society's statutory surplus as determined in accordance with statutory accounting applicable to the annual financial statement required to be filed under RCW 48.36A.260; and

(b) Other items, if any, as the RBS instructions may provide.

**AMENDATORY SECTION** (Amending Matter R 98-03, filed 4/6/98, effective 5/7/98)

**WAC 284-36A-020 Report of RBS level—Formula for determining level—Inaccurate reports adjusted by commissioner.** (1) On or prior to the annual filing date, which is hereby established as ((April)) March 1, every fraternal benefit society authorized to transact insurance business in this state, shall prepare and submit to the commissioner a report of its RBS level as of the end of the calendar year just ended, in a form and containing all information required by the RBS instructions.

(2) The RBS of a fraternal benefit society shall be determined in accordance with the formula set forth in the RBS instructions. The formula shall take into account and may adjust for the covariance between:

(a) The risk with respect to the assets of the fraternal benefit society;

(b) The risk of adverse insurance experience with respect to the liabilities and obligations of the fraternal benefit society;

(c) The interest rate risk with respect to the business of the fraternal benefit society; and

(d) All other business risks and other relevant risks as are set forth in the RBS instructions, determined in each case by applying the factors in the manner set forth in the RBS instructions.

(3) An excess of surplus over the amount produced by the RBS requirements and the formulas, schedules, and instructions under this chapter is desirable in the insurance business of fraternal benefit societies. Accordingly, fraternal benefit societies should seek to maintain unimpaired surplus above the RBS level required. Additional unimpaired surplus is used and useful in the insurance business of fraternal benefit societies and helps to secure a fraternal benefit society against various risks inherent in, or affecting, the insurance business of fraternal benefit societies and not accounted for or only partially measured by the RBS requirements.

(4) If a fraternal benefit society files an RBS report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBS report to correct the inaccuracy and shall notify the fraternal benefit society of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBS report as so adjusted is referred to as an "adjusted RBS report."

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-36A-025	Risk-based surplus (RBS) financial standard formula.
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**WSR 98-19-147**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[General Order No. R-450, Docket No. UT-970325—Filed September 23, 1998, 11:49 a.m.]

In the matter of adopting WAC 480-120-540 relating to intrastate carrier access charge reform.

**STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 98-11-082, filed with the code reviser on May 19, 1998. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, and 80.36.140.

**STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

**DATE OF ADOPTION:** The commission adopted this rule on June 25, 1998.

**CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** The rule conforms Washington's telecommunications access charge system with state and federal laws encouraging competition. The rule will convert a pricing structure that retards competition to one designed to support emerging competition without favoring any class of participants. Ultimately this will enable greater customer choice throughout the state of Washington.

**REFERENCE TO AFFECTED RULES:** This rule adopts the following section of the Washington Administrative Code (WAC):

WAC 480-120-540 Terminating access charges.

**PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a preproposal statement of inquiry (CR-101) on October 22, 1997, at WSR 97-21-153.

**ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons that the commission was considering entering a rule making on access charge reform and the Cost of Universal Service. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), providing notice to all registered telecommunications companies, and by providing notice to the commission's list of telecommunications attorneys.

Pursuant to the notice, the commission convened a workshop on Tuesday, January 13, 1998. The commission followed that workshop with January 21, 1998, notice of opportunity to file comments on the potential approaches to access charge reform and how each might affect companies, customers, and small businesses. A notice dated March 13, 1998, provided an opportunity to file reply comments and an opportunity to respond to commission staff's revised proposal. Seven parties responded to the CR-101, sixty-four individuals attended the workshop, eleven parties responded to the

January notice, and twelve parties responded to the March notice.

Commission staff recruited representatives of several small telephone companies, a large telephone company, public counsel, a few small business associations, and some chambers of commerce to serve on a small business economic impact statement study group. Commission staff served a small business economic impact statement questionnaire on all local exchange companies to gain more information and a broader perspective regarding the proportionate cost impacts of the rule on small businesses. Twenty-four companies responded to the questionnaire. The results are summarized in the final small business economic impact statement (SBEIS). This information and the participation of the committee members led to the mitigations that the commission adopted.

**NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on May 19, 1998, at WSR 98-11-082. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-11-082 on Thursday, June 25, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

**COMMENTERS (WRITTEN COMMENTS):** The commission received written comments from AT&T Communications of the Pacific Northwest, Inc. ("AT&T"), the United States Department of Defense and all Federal Executive Agencies ("DOD/FEA"), GTE Northwest Incorporated (GTE-NW), the Independent Business Association ("IBA"), MCI Telecommunications Corporation ("MCI"), the public counsel section of the Washington Attorney General and the American Association of Retired Persons ("PC/AARP"), Sprint Corporation on behalf of Sprint Communications Company LP and United Telephone Company of the Northwest ("Sprint"), Teleport Communications Group/TCG Seattle ("TCG"), Telecommunications Ratepayers for Cost-based and Equitable Rates ("TRACER"), U S WEST Communications, Inc. (USWC or U S WEST), the Washington Independent Telephone Association ("WITA"), and WorldCom, Inc. ("WorldCom").

Based on the comments and on all interaction with the public, commission staff suggested revised and clarified language, called the "clarification" in this order, without changing the intent or ultimate effect of the proposed rule. Staff distributed clarification to the commenting parties and other interested persons on the commission's list for this proceeding on June 17, 1998.

**RULE-MAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, on Thursday, June 25, 1998, before Chairwoman Anne Levinson, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission heard oral comments from Tim Zawislak and Glenn Blackmon, representing commission staff; Tom Vogel, representing GTE; Robert Snyder, representing Whidbey Telephone Company; Tim Peters, representing Electric Lightwave; Arne (Skip) Haynes, representing the Rainier Group (including Mashell Telecom and Rainier Cable); Theresa Jensen and Lisa Anderl, representing U S

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WEST Communications; Barb Young, representing Sprint/United; Rick Vitzthum, representing Kalama and Tenino Telephone Companies; Rick Finnigan, representing the Washington Independent Telephone Association; Joe Fabor, representing TCG; Tony Meinhardt, representing the Independent Business Association; Bob Munoz, representing WorldCom; and Simon ffitich, representing public counsel.

#### **I. BACKGROUND INFORMATION - PRIOR TO DISCUSSION OF COMMENTS:**

Access charge reform has been on the "to-do" list of every interest and industry segment in telecommunications for many years. Broad consensus exists that access charges pose a problem and should be reformed. This consensus about the existence of a problem, however, is not accompanied by agreement as to solution.

This section describes access charges, identifies problems created by the existing access charge structure of, and describes the operation of the rule.

##### **A. What are Access Charges?**

Access charges are payments that long distance companies ("interexchange carriers" or "IXCs") make to local exchange companies ("LECs"). IXCs pay LECs for access to the local exchange network. IXCs pay LECs at both the originating and terminating end of each long distance call.

Access to a local company's network is a monopoly service. The alternative would be for each company to build its own separate network connecting each of its customers. That is fundamentally at odds with the concept of a public switched network, in which every customer can call every other customer, even if they buy service from different phone companies.

The access service that IXCs buy from LECs is the same service that LECs buy from each other when they share a common local calling area. For local service it is called "interconnection" or "call termination." Regardless of where a call is coming from or going to, however, the service is the same.

A significant portion of the total cost of operating the local telephone network is recovered in access charges. Access charges paid by IXCs (and ultimately their customers) account for almost 20% of total retail revenues in this state, or about \$18 per customer per month. It is important to remember that individual customers pay significantly more or less, and individual companies receive significantly different proportions of their total revenues from access charges.

Access charges are paid by IXCs, rather than by end use customers. While it is clear that IXCs must pass these through to their consumers in their long distance rates, the fact that they are paid in the first instance by IXCs affects the discussion of access charge reform.

##### **B. Whose Interests are at Stake in Access Charge Reform?**

**1. Customers** - Customers pay both local and long distance rates. An overall decrease in access charges could put pressure on the potential need for an increase to local rates. A revenue neutral restructure within the area of access charges — in which reductions in access charges are offset by other increases — will not impact the overall body of customers directly, depending on when and how long distance providers

pass through potential savings and local exchange companies seek alternative revenue. Depending on resulting rate structures, the effect on individual customers may vary depending on the customers' relative use of long distance services.

**2. Incumbent LECs** - Companies such as U S WEST Communications, GTE Northwest, PTI Communications (now CenturyTel) today provide local service to nearly all business and residential customers. Their rates are regulated by the commission and must be fair, just, reasonable, and sufficient. A decrease in access charges will result in either a decrease in their overall profits (which must remain "sufficient") or an offsetting increase in other rates, or some combination of the two. All LECs are not alike in their reliance on access charges; small rural companies tend to get a higher proportion of their revenues from access charges than do larger companies serving more densely populated areas. The larger LECs also provide toll service, and as payers of access charges they have some common interests with IXCs.

**3. Facilities-based CLECs** ("competitive LECs" or "CLECs") - Companies such as Electric Lightwave, TCG, MFS, Nextlink, and MCImetro provide local service in Seattle and Spokane. Their rates are filed with, but generally not regulated by the commission. These companies generally pay and are paid for local access or "interconnection" with other LECs in the same local area. In some cases, CLECs gained entry into the telecommunications business by enabling customers with high long distance usage to bypass the access charges of incumbent LECs. Reducing access charges could make CLECs less attractive to customers, because the gains from bypassing access charges are reduced.

**4. Reseller CLECs** - Some CLECs plan to resell incumbent LEC services, perhaps combining local telephone service with other services. Resellers buy service from the incumbent at a discount off the prices paid by retail customers. All the access charges paid by an IXC serving a resale customer go to the incumbent LEC; the resale discount does not apply to access charges (access charges are considered a wholesale service, with toll being the retail service).

**5. IXCs** ("interexchange carriers" or "IXCs") - Companies such as AT&T, MCI, Sprint, and WorldCom provide long distance service and buy access service from LECs. Their intrastate rates are filed with, but generally not regulated by the commission. Most IXCs are also CLECs or plan to become CLECs. Any decrease in access charges will accrue in the first instance to the IXCs. The extent to which IXCs will pass those decreases through to retail customers depends on the effectiveness of competition among IXCs and the way in which the charges are reformed.

**6. Federal Communications Commission ("FCC")** - The FCC regulates interstate telephone rates, including access charges collected by LECs for calls between states. Current (old) Washington intrastate access charges are modeled on the FCC's interstate access charges.

##### **C. What Problems Does the Current Structure Cause?**

From the perspective of incumbent LECs, the economic problem is that access charges are priced so high above economic cost that they present a very attractive bypass target. Bypass is not new. Larger customers today routinely buy

"special access" on a flat monthly basis, instead of the per-minute rates paid by smaller customers. The potential for bypass increases greatly with the requirement that incumbent LECs offer unbundled network elements to CLECs.

High access charges also create an artificial distinction between "local" and "toll" service that is not based on differences in cost. Toll calls originally were priced higher because they cost more; that difference has largely dissolved. Access charges were created when the toll and local parts of the business were separated, and the purpose was to have toll calls contribute to the cost of the local network. Today a "local" call simply is a call that — with regulatory permission — is not required to pay access charges, and a "toll" call is one that does pay access charges.

Another problem with access charges is that they create misleading price signals. Almost all the costs of providing service are incurred whether or not a customer makes any long distance calls. Customers limit long distance calling because of the price, but in economic terms this is false economy. Recovering the same costs in the monthly flat rate would resolve this "problem" because customers are less sensitive to price in deciding whether to subscribe to basic local service.

Access charge structure also raises concerns about fair competition. In addition to providing local service, some LECs provide some long distance services. Regulators must guard against LECs setting their long distance prices too low, because LECs do not pay access charges to themselves. Were access priced at cost, this "imputation" of access charges in LEC toll prices (and the role of regulators in keeping prices high) would be unnecessary.

The new rule, as adopted in this order, is the result of a careful consideration of the problems and issues explained above. The new rule balances the interests of every type of company and customer to arrive at a new rate design in which customer choice begins to take the place of monopoly regulation. Monopoly regulation safeguards are retained (for example, rate-base rate-of-return regulation), while transitioning to a more competitive, market-based system.

The rule allows for a revenue-neutral implementation that will maintain the status quo for universal service support while identifying cost-based terminating charges in parity with local interconnection service. This will provide the launching pad for companies to offer customers more options and choices between and among services and providers. The mechanism will be flexible enough to facilitate transition to a cost-based and more competitively neutral form of universal service funding while universal service issues begin to become resolved later this year through Docket No. UT-980311(a), potential legislative action early in 1999, and ongoing national efforts regarding this issue.

## II. SUMMARY OF WRITTEN AND ORAL COMMENTS AND COMMISSION RESPONSE:

The comments can be categorized under the following general topics: A. "Universal Service," B. "Competition," C. "Revenue," D. "Cost," E. "Rate Design," F. "Legal Authority," and G. "Other Proposals." The related issues brought up by each commenter have been grouped together and are discussed in more detail under each general topic as outlined below. The commission addresses each issue and explains

how the new rule is consistent with the public interest (including economic theory, law, and public policy).

### A. Universal Service

#### 1. Universal Service and Access Charge Reform Linkage

Almost every ILEC commented on the necessity to link any changes in access charges to the express implementation of a new universal service fund, advocating full replacement of any and all lost access revenues as a result of this rule. The IBA also joined in this position to some extent.

The IXC's, public counsel/AARP, and to some extent other more competitive oriented parties argue the opposite. As public counsel/AARP states at page 2 of its June 8, 1998, comments, "A fundamental corollary of these principles is that universal service funding is not a "make whole" for access reform."

There is some logic and reason to both arguments, and the commission adopts the staff-proposed "clarification" amendments to address both concerns to some extent. However, as the cost of universal service is revealed and explicitly recovered through the terminating rate additive or a future competitively neutral fund, the remaining base terminating access charge rate will be expected to be in parity with local interconnection and/or TSLRIC<sup>1</sup> cost as outlined in subsection (1) of the rule. We emphasize that a cost-based system is superior to revenue replacement without justification. One cannot make the assumption that all rates are currently based on "cost." If that were true, there would be no need for explicit recovery of implicit "subsidies" or for support. We address the "subsidy" and "cost" issues in more detail below under Section D. Cost.

<sup>1</sup>TSLRIC stands for "total service long run incremental costs."

To move forward with the rule at this time, and to mitigate adverse effects, we adopt the staff-proposed implementation guidelines for revenue-neutral filings on an interim basis as policies to guide implementation of the rule until universal service costs are determined. After that it will be expected that any contribution above cost not allowed by the rule will be recovered first from originating access charges. If a company chooses to raise any other rates, such as local exchange service, it should be prepared to justify that increase with all of the necessary and normal rate case and cost support justification. The commission makes it very clear that the rule allows a revenue neutral increase without otherwise-applicable reviews only when the increase is applied to originating access charges. All other increases will be subject to applicable earnings reviews.

#### 2. Impact on Rural Companies and Customers

Most of the ILECs and the IBA commented that the rule could cause adverse impacts on rural companies and local customers. Public counsel/AARP stated concerns about unwarranted local rate increases for all customers, including rural customers. ILECs argued that the rule would cause them to lose terminating revenues and that they might not be able to recover the lost revenues through originating access charges because of the effects of competition.

The rule does not remove any of the normal protections that rate-base, rate-of-return regulated rural telephone companies enjoy. The rule as clarified extends a revenue neutral

opportunity for all companies including rural companies to recover lost revenues caused by reductions in terminating access charges. In addition, many rural companies already receive and will continue to receive explicit universal service funding to help keep local rates affordable for rural customers. It is important that the companies use these funds for their intended purpose.

If any company is not being fully compensated for its services under the pertinent standards, it may file a general rate case with the commission at any time. In addition, if any company is providing service to high cost customers and is not being compensated sufficiently it has the opportunity to reveal the cost and what it believes is the necessary subsidy in Docket No. UT-980311(a) in which all ILECs in the state of Washington are already participating.

The Washington state legislature and the federal Congress have both mandated the development of a competitive and open telecommunications market with a diversity of providers and of services. Both also require that universal service be preserved at affordable rates. This is not an either/or proposition. The law is clear. We must do both. This rule will enhance competition and protect universal service, in the interim, as universal service issues are ultimately resolved. We can not delay one for the other.

Considering the protections in the rule, the protections of rate-base rate-of-return regulation, and the protections that will result from universal service inquiries, neither rural companies nor rural customers are under any unreasonable risk. Competition will benefit consumers in the long run, and companies successful at satisfying customers' demands will also reap rewards in the years to come.

### 3. Neutral and Nondiscriminatory Funding of Universal Service

Both ILECs and IXCs argued that the rule would not be competitively neutral nor nondiscriminatory as to universal service collection and distribution.

The companies' fears are not well grounded. First, supporting universal service implicitly through access charges and other "above cost" prices is less competitively neutral and nondiscriminatory than the result of this rule. The rule makes progress toward a more competitively neutral, nondiscriminatory, and cost-based system. Terminating access is just the first element, the most obvious anticompetitive rate design. We explain the "subsidy" issue in greater detail below under **Section D. Cost**.

The rule prescribes an equitable standard for pricing terminating access charges that does not put any company at an undue advantage or disadvantage. It also allows for companies to provide services to customers at the most efficient and cost-based levels possible. However, it is also flexible enough to accommodate markups sufficient for companies to earn a profit, and therefore allows flexibility in originating access and other prices. Although the rule prescribes a method for pricing the bottleneck of terminating access, it relies on the market and each company's discretion to price more competitive services - which will allow customers to be the ultimate regulator - rather than the commission prescribing every price in every situation. Examples of how this pricing

flexibility will work are explained in **Section E. Rate Design**.

By pricing terminating access in parity with local interconnection we are also taking a step toward undoing the practice of extracting all explicit universal service support from toll providers and ultimately long distance customers. This parity will provide the basis, under current commission authority, for spreading the universal service support burden more broadly and among more telecommunications companies than presently exists.

This rule may not be a perfect solution, but it moves forward on a procompetitive, fair, and equitable solution to the problems expressed by the parties commenting on this issue, and it does fit within our current statutory authority. If the legislature approves a more competitively neutral and broader-based funding mechanism (or grants the authority to the commission to do so), we will be in a better position to recommend what needs to be done and how much it will cost. However, if the legislature chooses to be more cautious, we believe the system established in the rule is a good one.

### 4. Dialing Parity (Rural Customers as Less Economically Attractive Customers)

The rural ILECs brought up an issue during the adoption hearing. To the extent the rule causes originating access rates to rise in rural areas, these companies assert that toll providers will find rural customers less attractive to serve and may not market or volunteer to participate in a 2-pick system for equal access to interexchange carriers, that is, dialing parity for both interLATA and intraLATA toll calling. Dialing parity was mandated by the federal Telecommunications Act of 1996 and FCC orders implementing it. The ILECs argue that their access rates will likely exceed the current market toll rates, and therefore toll service will become unprofitable in rural areas for toll providers.

There are adequate protections to ensure that rural customers continue to receive toll service. In fact, it is likely that toll services in several rural areas have in the past been operated at unprofitable levels, yet customers have had service. RCW 80.36.183 continues to authorize the commission to retain jurisdiction over statewide average toll rates. The Telecommunications Act of 1996 at 47 U.S.C. Section 254(g) requires interexchange carriers to charge no higher rates in rural and high-cost areas than in urban areas within a state, and between states. The FCC's orders implementing this section also reinforce these toll averaging principles (see, FCC 96-424, released October 31, 1996). RCW 80.36.190 provides similar protections. Finally, the Obligation to Serve under RCW 80.36.090 "Service to be furnished on demand," applies to all registered telecommunications companies including interexchange carriers.

#### B. Competition

##### 1. "Innovative New Products and Services"

Many of the ILECs and Rainier Cable argue that the rule will not result in the offering of innovative new products and services. They argue that nothing in the record would lead one to believe that anything good will result from the rule. MCI, on the other hand, and to some extent other parties, foresee many opportunities as a result of the new rule.

Commission staff's November 6, 1997, memo regarding GTE-NW's Optional Local Calling Plans (OLCP) is one example of what may occur as a result of this rule. It will make it easier and more affordable to implement such plans - and other companies may wish to follow this model or create other options for consumers as a result of this rule. As Sprint/United notes in its comments, "It is true that the current level of access rates can make it difficult to pass imputation for such plans." In addition new technologies such as internet telephony and personal communications services (PCS) use the local interconnection services of the ILECS.

The parity proposed in this rule would remove one of the primary disadvantages previously placed on IXCs offering toll services, and one of the primary challenges impacting ILECs offering broader local calling areas. Especially in the local calling area example the new rule will enable ILECs to purchase local interconnection termination-type services "off the shelf" of other ILECs rather than spending months and years in negotiations and/or arbitrations and litigation.

There is more than ample information in this rule making file and in observations of the marketplace that this rule will enable innovative new services and products. We cannot mandate innovation but we can allow it to occur, and the rule encourages it by permitting companies to offer larger local (toll-free) calling areas without the high cost of terminating access.

## 2. Artificial Distortions

GTE-NW, Mashell Telecom, Rainier Cable, Sprint/United, U S WEST and WITA argued that the rule would provide perverse incentives and artificial distortions in the marketplace. They argue that implicit universal service and an unlevel playing field will put them at a disadvantage in a competitive market. They argue that prescriptive regulation has no basis in a competitive market (and in the next instance recommend mandatory flat rated primary interexchange carrier charges, or PICCs). They argue that the commission should allow terminating access the same (upward pricing flexibility and/or above-cost treatment that less-monopolistic services are afforded under the rule.

The Department of Defense and all Federal Executive Agencies, on the other hand, argue that the rule will actually remove artificial distortions that have been embedded in the current system and will remove perverse incentives and allow customers more choices and better services, at potential savings due to better price signals that will be more cost-based than ever before. DOD/FEA also recommend that the rule be used as "a model for the nation" due to the statewide, progressive, and proactive restructuring that will occur as a result of the rule.

The rule will remove artificial distortions in the market and provide incentives that will further the goal of promoting fair and efficient competition.

## 3. Competitive Neutrality

The ILECs and the IBA argue that the rule will not create a level, competitive playing field and will disadvantage ILECs.

MCI, on the other hand, argues that the rule will perpetuate the current system of placing all of the burden of supporting the ILECs' rural and high-cost areas on the IXCs. AT&T and MCI, respectively, argue that revenue replace-

ment without cost justification is equivalent to institutionalizing, "an unwarranted and discriminatory tax for Washington's ratepayers," and "inequitable subsidy passthroughs." Public counsel is in accord.

The rule prescribes an equitable basis for pricing terminating access charges. No matter who the local exchange company may be, the result will be the same - the rule requires parity with local interconnection. All companies will have an opportunity to benefit from the availability of this policy. No company is unfairly prejudiced by this rule.

## 4. Small/Large Company Distinctions Within the Rule

Sprint/United and WITA would redefine a small company to be any rural company as defined in the Telecommunications Act, which would include every ILEC in Washington except USWC and GTE-NW.

Whidbey Telephone Company requested that when defining a small company within the rule that the commission consider using a definition such as 20,000 or fewer access lines, or by using the provision in RCW 80.04.530 that allows reduced reporting requirements for companies serving less than two percent of the state's access lines, or approximately 50,000 lines.

The definition in RCW 19.85.020, based on fifty or fewer employees, best reflects the legislature's intent with regard to the mitigations provided for the benefit of small businesses. To increase the threshold to include several larger companies, as the proposals by Sprint/United, Whidbey, and WITA would do, would have the effect of diluting the benefits of the mitigations to the very companies that need them the most. For these reasons we retain the definition outlined in the Regulatory Fairness Act in RCW 19.85.020. To the extent that any company is unique or needs an exception to this aspect of the rule it will have the opportunity to petition for waiver as provided under WAC 480-120-011. We also note that we did make changes from the noticed rule to mitigate its effect and reduce regulatory burdens on all companies, where feasible.

## C. Revenue

### 1. Originating Bypass (Lost Revenue)

Every ILEC argued that "mandating" originating access charge rate increases would price them out of the market and cause reduced revenues due to competition from other companies or tariff shopping within each company's own service offerings (see also **E. Rate Design** under the heading, "4. Interstate Tariff Arbitrage," below). The ILECs argued that shifting "implicit subsidies" from the less competitive service of terminating access to the more competitive service of originating access would place a large percentage of their revenues "at risk."

DOD/FEA responded that greater competition and more customer choice is exactly what is needed for consumers to see any benefits.

The commission adopts Commissioner Gillis' comment on this subject. He clearly explained during the adoption hearing, that "we are either going to have competition or we are not," — we can't have it both ways.

The rule and the implementation process accepted as mitigation allow companies to continue to collect current ter-

minating access charges on an interim basis. Today's implicit support and "subsidies" then will be replaced by tomorrow's explicit recognition of "cost" and any necessary support or subsidy which is clearly justified through the universal service proceeding. Companies may then shift charges to increases to originating access charges to the extent they wish to avoid an earnings review.

The opportunity to increase originating access charges without an earnings review is not a mandate, but an opportunity to exercise choice. To the extent any company wishes or perceives the need to raise any other rates (especially those that are currently below "cost") it always retains the right and opportunity to file for a general rate case. The commission can not provide an unfettered opportunity for other rate increases due to its responsibility to prohibit noncompetitive services from subsidizing competitive services (see RCW 80.36.300 and 47 U.S.C. 254(g)), and its responsibility to assure that rates are fair, just, reasonable, sufficient, and in the public interest.

The shift to originating access charges without a critical review is supported because the same class of customers, namely IXC's, pay access charges (both originating and terminating), and IXC's will continue to pay access charges. This adjustment to the rate design within access charges will be revenue neutral in the aggregate and will allow both the local and toll markets to become more competitive. Competition does not always result in a loss of revenue. Revenues will be a function of satisfying customer demand rather than monopolizing a bottleneck service.

## 2. Earnings Review

Public counsel/AARP recommended at the adoption hearing that the commission give the companies a clear indication that requests to increase local rates, or other rates than originating access, would not be entertained without an earnings review.

The language within the rule at subsection (6) will protect commenters' interest in guarding against unwarranted local rate increases. By giving the companies the opportunity to raise originating access rates we have allowed revenue-neutral filings. The commission will continue in its responsibility to ensure that rates are fair, just, reasonable, sufficient, and in the public interest as this rule and other changes in the industry occur. Earnings reviews will continue to be one of the tools at the commission's disposal in deciding whether to allow regulated companies to increase rates.

### D. Cost

#### 1. Implicit "Subsidy"

Most ILECs commented either in writing and/or orally at the adoption hearing that all implicit "subsidies," from switched access charges at least, must be identified and replaced with explicit support.

AT&T references previous comments in which it argues that, "For U S WEST and GTE, no high cost support should be provided if the statewide average earnings show that support is not needed to advance universal service objectives," and, "At least for the foreseeable future, and until GTE and U S WEST meet their obligations (e.g. 47 U.S.C. Sections 251 and 252) as required by the Act and local markets are irreversibly open to robust and widespread competition, U S

WEST and GTE will not be able to demonstrate any need for high cost support."

We expect that the necessary level of explicit universal service support will be determined as a result of Docket No. UT-980311(a). We expect that the arguments surrounding the definition and levels of implicit "subsidies" may be answered at that point. The extent that any of the difference between the cost of terminating access and its current price includes any implicit "subsidy" (or support) towards the preservation of affordable universal service is not at issue here.

Until companies have had the opportunity in Docket No. UT-980311(a) to show that they are serving high-cost areas requiring universal service support, it is reasonable consistent with the staff-suggested mitigation approach to allow companies to bifurcate the existing terminating access rates into two elements: (a) a cost-based or interconnection-based terminating rate, and (b) a residual temporary universal service increment. This allows the companies to hold their total terminating access rates at current levels pending the resolution of universal service issues.

Based on the decision and determinations made in UT-980311(a) the subsidy necessary to maintain universal service for each company involved should be known. Then, the interim (residual) temporary universal service increment will be eliminated and replaced with a commission-authorized increment (consistent with subsection (3) of the rule). The commission authorized increment may be *more than* or *less than* the temporary interim residual increment allowed prior to the commission's decision regarding the cost of universal service.

Finally, at either stage companies may merely shift responsibility for reduced terminating access revenues to originating access charges, under section (6) of the rule.

The rule will take effect sixty days after it is published in the Washington State Register. This provides companies with thirty days to prepare and file compliance tariffs and provides the commission with thirty days to review those tariffs. This timing and implementation recognizes the linkage between access charges and universal service while continuing to make progress on both issues. We have found the "terminating access charge" rule to be in the public interest and we will deal with implicit subsidies, if any, through the adjudication in the universal service proceeding that is currently underway.

#### 2. Loop Cost (Direct vs. Shared)

GTE-NW argues that the fixed cost of the loop should be attributed to the service that "causes" the cost to be incurred. It argues that the loop is a direct cost of local service and should not be "arbitrarily allocated" to anything else (such as access charges). It also argues that if the commission continues to view the loop cost as a shared cost, the issues of access charge reform and removal of implicit subsidies becomes a very diluted issue.

Sprint/United, U S WEST, and WITA mention and/or concur in GTE-NW's analysis to various extent. All of these parties recognize loop cost recovery as an important piece of the challenges involving access charge reform and universal service.

Public counsel/AARP and TRACER, on the other hand, make convincing arguments that the loop has been and will

continue to be a shared cost. As public counsel/AARP state, "The telecommunications network should be treated as an integrated, multi product enterprise delivering a wide range of services. All services should be required to pay for all facilities that they utilize. Recovery of a share of joint and common costs is not a subsidy. The loop is a shared cost."

The commission again reaffirms its finding from Docket No. UT-950200, on page 85 of the Fifteenth Supplemental Order (April 11, 1996), that loop costs are shared and should be matched with all of the revenues derived from the use of the loop. As the Fifteenth Supplemental Order states:

"Based on the decision in U-85-23, one should not expect local service to be expected to cover 100% of loop costs, because some loop costs had been assigned to other services. The issue here is much broader and should not be controlled by the assignment provided for in U-85-23."

The same analysis is true for all telecommunications companies that this rule will apply to. In the order quoted above we began a shift away from a one-size-fits-all approach to one more flexible that takes each company's circumstances and the necessary public policy into consideration when determining rate design (as we are in this rule making) and rate levels (as we would with any rate proposal). The prescription made in this rule making regarding terminating access charges allows us to be more flexible on the originating side where competition has an opportunity to develop. The more customer choice and competition between and among services and providers, the more flexibility we will be able to ensure and the less oversight we may exercise without slighting our statutory responsibilities to protect the public interest.

### 3. "Below-Cost" Terminating

Mashell Telecom argued that the commission's rule would price terminating access charges for some companies "below-cost." Mr. Haynes explained this during the adoption hearing by stating, "If it (the loop) is a common cost to originating then it's a common cost to terminating." He asserted that not assigning shared cost to terminating access would result in a price for that service which would be "below-cost."

U S WEST Communications argued that the commission's rule may allow competitive companies to file below-cost terminating rates because of the ability to concur in another company's tariff (and forego performance of a cost study) as anticipated by subsection (5) of the rule.

The commission believes that the concerns of both Mashell and U S WEST are misplaced. First, terminating access charges will not be "below-cost" because local interconnection services will not be "below-cost." Second, "below-cost" should be defined as anything below the price floor of Total Service Long Run Incremental Cost (TSLRIC). The rule prices terminating access charges above cost (e.g. above the price floor of TSLRIC). Subsection (2) goes on to state the allowable treatment of shared costs. The rule does not prescribe any amount of shared costs to be "allocated" to originating access, but the rule does allow for a company to propose recovery of shared (loop) costs through originating access. Even subsection (6) does not require recovery of shared (loop) costs through originating access - it merely allows companies to do so if they wish to remain revenue neutral. We believe this policy will allow prudent recovery

of costs while allowing companies to price closer to cost (the price floor) in order to respond to competition by lowering prices to consumers.

U S WEST's argument is without merit because terminating access charges will be based on local interconnection services which are currently undergoing a generic cost and pricing proceeding in Docket No. UT-960369, et al. Once costs and prices are determined in that proceeding the issue of cost will have been thoroughly flushed out. Additionally, as U S WEST has argued in this proceeding and in others, the CLECs tend to compete in the low-cost urban and densely populated business areas. The commission finds that CLECs' costs are probably lower than the ILECs they are likely to concur in. However if U S WEST believes its competitors are pricing any service "below-cost" it continues to have the right to file a complaint with this commission, and CLECs may do the same with ILECs. The rule is reasonable, is consistent with current economic theory and public policy, and will promote competition by pricing a vital bottleneck element closer to cost.

### 4. Small Business Economic Impact Statement (SBEIS) - Issues

Kalama/Tenino, Mashell, and WITA all complained that the small business economic impact statement's (SBEIS) representations are inaccurate and that the proposed mitigations are inadequate.

The commission finds that the May 11, 1998, final version of the SBEIS (including appendices) accurately and adequately reflects and addresses small business circumstances and concerns. Commission staff estimates vary from company suggestions, but commission staff suggestions are credible and reflect experience with companies' actual costs and opportunities in this industry. Every ILEC including the small companies have the opportunity in the universal service Docket No. UT-980311(a) to identify the cost of universal service in high-cost and rural areas.

To the extent these companies feel that "implicit subsidies" may be transferred from terminating to originating access, these companies have the right and the opportunity in that docket to file cost justification, benchmark support, and recommend the level of explicit support required in order to ensure that prices in rural and high-cost areas are reasonably comparable to those in urban areas. This universal service cost justification opportunity is also a means of mitigation available to small telecommunications companies who feel that implicit support for high-cost areas will put them at a disadvantage in a competitive environment. These companies may make their case with respect to alleged "lost revenues" and the high-cost nature of providing service in their areas, and the commission will decide based on the merits in Docket No. UT-980311(a) what level of funding is appropriate from universal service subsidies vs. the other revenues realized from the panoply of services offered by each company.

### 5. Small Company Concurrence in Another Small Company Tariff

Whidbey Telephone Company argued at the adoption hearing that a small company identified in subsection (5) should be able to concur in the terminating access rate of another small company for greater representatives of the underlying costs among these companies.

The commission agrees with Whidbey on this issue and has revised the rule in subsection (5) to address this concern.

### E. Rate Design

#### 1. Originating Access Charges Need Not Be Equal to Terminating Access Charges

GTE-NW and USWC (with the concurrence of other ILECs) argue generally that a "minute is a minute" and that terminating access should be priced at the same level as originating access, because it provides essentially the same functions. The companies argue that originating and terminating access should be priced at the same level; and that if both are reduced, the lost revenues should be recovered through the universal service fund as replacement of an implicit subsidy. Sprint/United and other ILECs advocate, that some of the lost revenues should be recovered through universal service funding and some through the mandated implementation of a uniform flat rated primary interexchange carrier charge (or PICC, pronounced "pixie").

AT&T and MCI argue a similar point but urge that both originating and terminating access be priced at cost (or the price floor), with little regard or concern for any revenue loss that local companies might incur.

WorldCom recommends allowing a difference between originating and terminating access charges (now allowed under the rule in subsection (2)), and monitoring whether or not originating access charges fall as a result of competition and market-based pricing, as it would like to see happen. If originating access charge reductions are not experienced, WorldCom would recommend that the commission take prescriptive action when necessary.

The rule is simple and straightforward about this issue. The rule prescribes a rate design for terminating access charges. The rule allows originating access charges to be the same as terminating access charges, if companies choose to price that way. The rule also allows companies to price originating access charges to recover additional contribution and to price those charges higher than cost in order to allow companies to manage their revenue streams and compete where necessary. The commission agrees with WorldCom that competition may, or may not, reduce originating access charges.

The commission, however, does not see a need to prescribe reductions to originating access charges. It is sufficient that we prescribe only the rate design for terminating access and allow competition and customer choices (*i.e.*, "the Market") to determine the sustainability of originating access charges. As circumstances warrant, companies will reevaluate their own rate structures and price levels, which is to be expected in a more competitive environment. We remain open to dealing with individual company responses and proposals on a case-by-case basis given the underlying circumstances of each. Terminating access is the only change that we must mandate in order to allow competition to move forward at this time.

#### 2. Pricing Flexibility (vs. Prescription)

We have discussed at some length the comments of the parties and the response of the commission regarding this issue (see sections C. Revenue and D. Cost for that discussion). We adopt Commissioner Hemstad's comment during

the adoption hearing, expressing the desire to be open to whatever pricing flexibility is appropriate in the newly emerging competitive market. Glenn Blackmon, Ph.D., Assistant Director of Telecommunications authored a short paper outlining options that he distributed at the time of the adoption hearing, which is included in the rule-making file and which we have considered in making our decision.

In addition, the commission refers the parties to prior commission orders relating to this issue, especially Docket No. UT-950200 15th Supplemental Order, and Docket No. UT-941464, *et al.*, 4th Supplemental Order.

#### 3. Local Rate Increase Risk

The ILECs cautioned the commission on the potential risk of proposals to increase local residential rates, especially in rural areas where competition (or customer choice) may not exist.

The IBA echoed the ILECs concerns with an interest in protecting small businesses from local rate increases that may be proposed as an unintended consequence of this rule.

Public counsel/AARP also cautioned the commission that rate rebalancing (*i.e.* proposing to lower competitive services' rates but to increase bottleneck services' rates, such as raising local rates in order to lower originating access charges) is, "not an imaginary threat ... ILECs have consistently argued that access reform must be accomplished through rate rebalancing."

The commission understands the parties' positions and the concerns stated about this rule by the incumbent companies, who fear the potential loss to competition of the benefits they now draw from their monopoly or near-monopoly status. We protect incumbent local companies by allowing an initial two-part terminating rate filing; we protect incumbent local companies by allowing the uncritical acceptance of revenue neutral filings, and we protect incumbent local companies by continuing to provide rate base-rate of return regulation in which their rates may continue to be set in a way to afford them the opportunity to earn an appropriate return.

This rule, in conjunction with other commission activities such as universal service reform and implementation of local competition, will help to keep all rates lower than they otherwise would be without this rule. As Commissioner Gillis remarked during the adoption hearing, "... what we're trying to do is to create a competitive environment where there is a fair playing field that companies will compete and produce lower prices, better service quality, and innovation."

#### 4. Interstate Tariff Arbitrage

Sprint/United, U S WEST, and WITA (including other concurring ILECs) argue that to the extent lowering terminating access charges causes intrastate originating access charges to rise, IXC customers may falsify information in order to purchase the same services out of each ILEC's interstate tariff where the same service may be less expensive. This is generally the bypass argument that is described above under section C. Revenue, within a company's own jurisdictional tariffs. Rather than losing a customer and associated revenue to a competitor, the ILECs argue here that they may lose revenue if the customer purchases its interstate services at a lower price.

To the extent customers shop for a better deal it is in their interest to do so. Regulated companies will need to become

more competitive. In this instance, however, falsifying information is not shopping. We do not have jurisdiction or control over the ILECs interstate tariffs. The FCC has jurisdiction, but the ILECs themselves do have the ability to propose changes to them. To the extent that ILECs need to adjust rate designs other than intrastate terminating access charges, they may do so. The commission has only offered a revenue neutral opportunity to increase or restructure intrastate originating access charges. If an ILEC needs to lower other intrastate prices or increase interstate prices to better reflect cost recovery and market conditions the commission recommends that ILECs make those proposals to the respective jurisdictions with such reasonable justification as each circumstance warrants.

#### F. Legal Authority and Process

U S WEST raised several points that it presented as legal impediments to the commission taking the actions contemplated by the adoption of the rule through rule making, rather than by using adjudicative processes. First, U S WEST asserts that the proposed rule violates procedural due process rights of U S WEST and others, and is in excess of the commission's authority to adopt rules because the proposed rule as published in the CR-102 does not authorize all companies subject to the rule to propose a revenue neutral filing.

The rule adopted (as amended at subsection (6) prior to its adoption) does allow all companies subject to the rule to propose a revenue neutral filing, thus these concerns are avoided. This change addresses the legal concerns expressed by U S WEST at pages 2-4, 9-10, and page 11 of its June 12, 1998, comments.

U S WEST also noted in its comments that the commission has traditionally set rates for a company only after a notice and opportunity for a hearing, and entry of an order setting rates. U S WEST asserts that the commission, by adoption of this rule, is setting rates for companies without using this traditional process. The company refers to the process the commission used when it adopted rules setting the maximum charges for alternative operator service companies to charge customers, noting that the commission did not take the position that the operation of the rule superseded the effective tariffs on file. WITA notes a similar concern, referring to the process the commission used in the proceedings under Docket No. U-85-23, *et al.*, and also notes that the commission cannot compel a tariff filing through adoption of a rule.

The commission is not setting explicit rates for any individual company by adoption of this rule, nor determining the cost support and sufficiency of the information presented by any company in support of a tariff or rate filing. By adoption of this rule, the commission is prescribing a rate design that will require most, if not all, companies, to file revisions to their approved tariffs in order to have tariffs on file that comply with the rule. The commission sees no difference in the process being used here and that used in the AOS rule situation: If companies do not voluntarily file revised tariffs that comply with these rules, the commission will need to institute complaints against the noncomplying tariffs. Because the rule allows for revenue-neutral filing by all companies, no rate reduction is mandated by the rule, and there is no loss of

revenues as a result of the rule, versus the potential (speculated) impact of market forces.

Simply because the commission in the past has used a different process such as a generic proceeding with many companies participating in an adjudicative setting does not bind the commission to use the same process in every case. The rule-making process is designed to be open to all persons, not simply companies that may have a particularized interest in the subject of the rule making or the funds to support participation in an adjudicative process. The rule-making process allows broader participation than does an adjudicative setting. Case law in this state at the least encourages that agencies proceed by rule making, rather than application of a policy to a particular regulated party, when the policies the agency is implementing apply generally to members of the regulated industry. RCW 34.05.010(16), which defines a "rule," also suggests that the rule-making process is preferable to an adjudicative proceeding when many parties are potentially affected.

We note that, consistent with the commission's position, U S WEST states that the commission may establish prospective rate designs by rule. In this rule-making proceeding, the commission is not establishing rate levels, but is directing a form of rate design, with direction about the types of costs that may be included in which rates. However the rule does not, for example, mandate that a particular company's rate for terminating access charges be set at any specific rate level expressed in dollars or cents. Under our rule, each company may reasonably justify its own unique rate within the stated parameters.

#### G. Other Proposals

##### 1. Sprint Proposal

Sprint proposed that the commission reduce access charges to interstate levels and replace lost revenues with increases from a state universal service fund and a flat rated PICC assessed on originating IXC's.

The rule we adopt is consistent in principle with Sprint's proposal. Sprint would have the commission mandate a PICC for all ILECs. Sprint would have the commission decide the level of universal service funding in this docket rather than in the universal service docket. Subsections (2) and (6) of the adopted rule allow flexibility for each ILEC to propose a PICC or other charge on originating access. The rule permits a flexible approach that will allow ILECs the opportunity to respond to market conditions on the originating side. The only mandated access charge rate design is on terminating access because it is the least susceptible to competition and customer choice. The commission will deal with the cost of universal service and the associated level of necessary funding in the universal service Docket No. UT-980311. Therefore, the commission rejects Sprint's proposal.

##### 2. WITA Proposal

WITA's proposal is similar to the Sprint/United proposal discussed above, and is rejected for the same reasons.

##### 3. U S WEST Proposal (Subsection (3) Universal Service)

U S WEST would have the commission rewrite the rule to address U S WEST's legal authority issues.

The commission rejects this proposal for the reasons explained in section F. **Legal Authority**, and for all of the economic and public policy reason stated throughout this order. U S WEST's proposal would undermine the commission's investigation of the cost of universal service in UT-980311(a) by mandating a permanent revenue replacement mechanism that would be in direct opposition to the Legislature's directive and the national movement as reflected in actions of Congress, FCC, NARUC, Joint Boards, etc., toward basing universal service funding on the cost of providing basic service in high-cost areas.

#### H. SUMMARY OF REASONS FOR CHANGES TO NOTICED LANGUAGE:

Subsection (1) includes the clarifying amendment that "comparable local interconnection service" applies in each exchange in order to allow companies who compete to charge terminating access in parity with the applicable local interconnection agreement in each exchange, which may vary dependent upon which incumbent is interconnected with). This amendment was offered and advocated by TCG and ELI. We adopt it for the reasons advocated in its support.

Subsection (2) contains the previous definition of "cost" from subsection (1) of the noticed language, and clarifies that the cost of the local loop may be recovered through originating access but not terminating access. This amendment was necessary to clarify the rule's intention, as pointed out in the written comments of public counsel, TRACER, and GTE-NW. The reasons are also described throughout the text of this order.

Subsection (3) remains unchanged except for adding the word "any" to the phrase, "recover any costs for support of universal ...." This clarification illustrates the commission's intention that not all universal support be recovered from interexchange carriers and their customers. The amendment will allow the costs for support of universal service to be allocated among all intrastate use, both toll and local, if necessary. This change is consistent with our decision that terminating access service should be in parity with local interconnection service. This amendment follows the written comments of AT&T and MCI, and is explained in greater detail above. The change allows the greatest degree of competitive neutrality that we can provide, given our current authority<sup>2</sup>

<sup>2</sup>Although this allows the commission to move forward, we remain mindful of the legislature's review and any potential legislative action that might occur in the next session.

This revision meets the intent of the original rule to create a placeholder for a comprehensive universal service funding program, which will be addressed in the commission's universal service study directed by the legislature and possible future legislation. The rule, with this amendment, enables us to move forward with procompetitive actions that are necessary to remove barriers to entry and to reduce anticompetitive and discriminatory rate structures.

Subsection (5) was amended expressly to exempt competitively classified carriers from the requirement of filing cost studies (consistent with reducing expensive regulatory burdens on effectively competitive companies). This section is relevant to competitive local companies only if all their

local traffic is exchanged on a "bill and keep" basis; companies with explicit local interconnection rates would still be required to structure terminating access service at the interconnection levels. This amendment is consistent with the intention of the original rule and reduces regulatory burdens where effective competition exists. TCG and ELI commented in writing and orally, respectively in support of such a change.

Subsection (5) has also been amended to allow small businesses the opportunity to concur in the approved terminating rate of another small business. This revision will reduce regulatory burdens on small businesses and may be more representative than the original rule would have been. The commission adopted this amendment to address concerns that Whidbey Telephone Company stated at the adoption hearing. This issue is also discussed in more detail above.

Subsection (6) extends the revenue-neutral mitigation opportunity to all local exchange companies. This substantially reduces the regulatory burden of the rule on all companies. Any company will be permitted to implement the rule without reducing its revenues, as long as it meets the requirements of the rule (that is, it does not seek to shift terminating access revenues to any service other than originating access). The commission will not require companies to meet an "earnings test" to shift revenues in this manner. The commission adopted this amendment to address written comments, and also to clarify and confirm the commission's intentions regarding the rule. The provision meets both the concerns of incumbent local exchange companies that their revenues could be impaired by the rule, and the concerns of public counsel and TRACER for protection against unwarranted local rate increase requests.

This amendment is a means to mitigate concerns of incumbent telecommunications companies. We wish to implement with as little disruption as possible the policies adopted through this rule making - promoting competition, protecting captive customers against bottleneck economic power, allowing greater pricing flexibility to those that seek it where warranted, and eliminating discrimination and anti-competitive rate structures as promptly as possible. This revision is consistent with the original rule and facilitates the reduction of regulatory burdens where effective competition has an opportunity to develop. It also provides greater predictability for customers and guidance for telecommunications companies.

We agree with public counsel and TRACER, and believe that this revision meets the intent of the original rule and reduces regulatory burdens where effective competition has an opportunity to develop - it also provides greater predictability for customers and guidance for the companies.

#### III. IMPLEMENTATION

The commission heard commission staff's comments regarding implementation of the rule during a time in which information continues to be gathered that may bear on the ultimate rates structure that may result. The commission adopts the commission staff recommendation, presented at the time of adoption, as set out in this section as the commission's policy statement regarding the implementation of the rule.

The rule provides for explicit recovery of universal service costs that have been determined by the commission, but such costs have not yet been determined for some companies. The commission is investigating the costs of universal service in Docket UT-980311(a). Some companies may wish to wait for the results of that investigation, which is scheduled to conclude late this year, before making any major shift in its terminating and originating access revenues. Commission staff would support, and the commission would accept, an interim compliance filing that leaves existing terminating revenues in place if it:

- (a) Includes a cost-based terminating rate consistent with subsection (1) of the rule,
- (b) Includes an interim universal service rate that recovers the residual amount of terminating revenues,
- (c) Commits the company to revise the interim universal service rate to reflect the commission's decision in Docket UT-980311(a) within thirty days after the final order in that docket, and
- (d) Is otherwise consistent with the requirements of this rule and in the public interest.

**IV. ADOPTION OF THE TERMINATING ACCESS CHARGE RULE:**

**COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission adopted the proposed rule with the changes described and discussed in the text of this order. The adopted rule is set out in Appendix A of this order.

**STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the commission determines that WAC 480-120-540 should be adopted to read as set forth in Appendix A, as rule of the Washington Utilities and Transportation Commission, to take effect on the sixty-first day after the distribution date of the issue of the Washington State Register in which it appears.

This effective date is at least six weeks longer than the normal effective date of rules adopted pursuant to RCW 34.05.380(2), to allow companies time to prepare the necessary tariff filings needed in order to comply fully with the rule. Taking effect sixty days after publication of the rule will allow the companies ample time to prepare their filings and file them thirty days prior to the effective date of the rule. This timing will allow the companies' tariffs to become effective coincident with the effective date of the new rule.

Other phases of implementation are clear from the rule or other provisions of this order.

**ORDER**

THE COMMISSION ORDERS That:

1. WAC 480-120-540, as set forth in Appendix A, is adopted as a rule of the Washington Utilities and Transportation Commission, to take effect on the sixty-first day after the distribution date of the issue of the Washington State Register in which it appears.
2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts commission staff memoranda, presented when the commission considered filing a pre-proposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal, in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption, as required by RCW 34.05.025.

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.

DATED at Olympia, Washington, and effective this 23rd day of August 1998.

Washington Utilities and Transportation Commission  
 Anne Levinson, Chair  
 Richard Hemstad, Commissioner  
 William R. Gillis, Commissioner

**NEW SECTION**

**WAC 480-120-540 Terminating access charges.** (1) Except for any universal service rate allowed pursuant to subsection (3) of this section, the rates charged by a local exchange company for terminating access shall not exceed the lowest rate charged by the local exchange company for the comparable local interconnection service (in each exchange), such as end office switching or tandem switching. If a local exchange company does not provide local interconnection service (or does so under a bill and keep arrangement), the rates charged for terminating access shall not exceed the cost of the terminating access service being provided.

(2) The cost of the terminating access shall be determined based on the total service long-run incremental cost of terminating access service plus a reasonable contribution to common or overhead costs. Local loop costs are considered "shared" or "joint" costs and shall not be included in the cost of terminating access. However, nothing in this rule prohibits recovery of local loop costs through originating access charges (including switched, special, and dedicated as defined in subsection (4)(a) of this section).

(3) If a local exchange company is authorized by the commission to recover any costs for support of universal access to basic telecommunications service through access charges, it shall recover such costs as an additional, explicit universal service rate element applied to terminating access service.

PERMANENT

(4) Definitions.

(a) "Access charge" means a rate charged by a local exchange carrier to an interexchange carrier for the origination, transport, or termination of a call to or from a customer of the local exchange carrier. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

(b) "Terminating access service" includes transport only to the extent that the transport service is bundled to the end office or tandem switching service. Dedicated transport unbundled from switching services is not subject to subsection (1) of this section.

(c) "Bill and keep" (also known as "mutual traffic exchange" or "payment in kind") is a compensation mechanism where traffic is exchanged among companies on a reciprocal basis. Each company terminates the traffic originating from other companies in exchange for the right to terminate its traffic on that company's network.

(5) The requirement of subsection (1) of this section that any terminating rate be based on cost shall not apply to any local exchange company that is a small business, or to any local exchange company that is competitively classified, if it concurs in the terminating rate of any local exchange company that has filed a terminating rate that complies with the requirements of subsection (1) of this section. For the purposes of this subsection, "small business" has the same meaning as it does in RCW 19.85.020.

(6) Any local exchange company that is required to lower its terminating access rates to comply with this rule may file tariffs or price lists (as appropriate) to increase or restructure its originating access charges. The commission will approve the revision as long as it is consistent with this rule, in the public interest and the net effect is not an increase in revenues.

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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 24, 1998

Clarence C. Gillis

Deputy Director

**AMENDATORY SECTION** (Amending WSR 97-16-073, filed 8/4/97, effective 9/4/97)

**WAC 326-30-041 Annual goals.** The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, ((1997)) 1998, through June 30, ((1998)) 1999,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE
Professional Services	10% MBE	4% WBE

**WSR 98-20-013**

**PERMANENT RULES**

**LOTTERY COMMISSION**

[Filed September 25, 1998, 10:19 a.m.]

Date of Adoption: September 18, 1998.

Purpose: Provides for credit checks of retailers applying for instant scratch ticket licenses. Revises provisions regarding retailer credit. Moves retailer credit criteria provisions from chapters 315-30 to 315-04 WAC. Provides for reporting retailer credit history to credit bureaus or other credit organizations.

Citation of Existing Rules Affected by this Order: Repealing WAC 315-30-090; and amending WAC 315-30-080, 315-04-090, and 315-04-130.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 98-16-078 on August 5, 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 2, Amended 3, Repealed 1.

**WSR 98-20-005**

**PERMANENT RULES**

**OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

[Filed September 24, 1998, 3:25 p.m.]

Date of Adoption: September 24, 1998.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting and procurement.

Citation of Existing Rules Affected by this Order: Amending WAC 326-30-041 Annual goals.

Statutory Authority for Adoption: RCW 39.19.030(7).

Adopted under notice filed as WSR 98-17-082 on August 18, 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.

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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: Thirty-one days after filing.

September 24, 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((f)), 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.

(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 98-20-019**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**

[Filed September 25, 1998, 1:57 p.m.]

Date of Adoption: September 24, 1998.

Purpose: To implement SEPA rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 236-11-020, 236-11-040, 236-11-070,  
 236-11-090 and 236-11-120; and amending WAC  
 236-11-010, 236-11-050, 236-11-080, 236-11-100, and  
 236-11-110.

Statutory Authority for Adoption: RCW 43.21C.120.

Adopted under notice filed as WSR 98-07-110 on March  
 18, 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 Nongov-  
 ernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Ini-  
 tiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify,  
 Streamline, or Reform Agency Procedures: New 0,  
 Amended 5, Repealed 5.

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: Thirty-one days after filing.

September 24, 1998

Grant L. Fredricks

Deputy Director

**AMENDATORY SECTION** (Amending WSR 84-20-015  
 (Order 84-02), filed 9/25/84)

**WAC 236-11-010 Authority, scope and coverage of  
 this chapter.** (1) This chapter is promulgated pursuant to  
 RCW 43.21C.120.

(2) Compliance with the rules of this chapter shall con-  
 stitute procedural compliance with SEPA for an "action" as  
 defined in WAC 197-11-704.

(3) The rules of this chapter contain no sections relating  
 to the notice/statute of limitations provisions of chapter  
 43.21C RCW. To utilize these provisions, the department of  
 general administration shall follow the statutory language  
 and any applicable regulations of the department of ecology.

**AMENDATORY SECTION** (Amending WSR 84-20-015  
 (Order 84-02), filed 9/25/84)

**WAC 236-11-050 Applications for exemptions within  
 the department of general administration.** Each "action"  
 ((as defined in Part Eight, WAC 197-11-704,)) of the depart-  
 ment shall have a form completed and retained in the appli-  
 cant's division files. This form shall show the action and

exemption decision, exempt or otherwise, and be signed by  
 the department of general administration representative mak-  
 ing that decision. This form shall also show any threshold  
 decision, including determinations of nonsignificance and  
 significance, signed by the department representative. Addi-  
 tionally, copies of the threshold determination shall be  
 included in the file. ((A copy of this completed form shall be  
 submitted to the division of facilities planning for review and  
 approval or disapproval.))

**AMENDATORY SECTION** (Amending WSR 84-20-015  
 (Order 84-02), filed 9/25/84)

**WAC 236-11-080 Public notice requirements.** (1) The  
 department shall give public notice when issuing a DNS  
 under WAC 197-11-340, ((or)) DS and scoping notice under  
 WAC 197-11-360, or a draft EIS under WAC 197-11-455.

(2) The department may require an applicant to perform  
 the public notice requirement at its expense.

(3) The department shall use one or more of the follow-  
 ing methods of public notice, taking into consideration the  
 geographic area affected by the proposal, the size and com-  
 plexity of the proposal, public interest expressed in the pro-  
 posal, and whether the proposal is a project or regulation:

(a) Mailing to public or private persons or groups who  
 have expressed interest in the proposal, in a certain type of  
 proposal, or proposals in the geographic area in which the  
 proposal is located;

(b) Publication in a newspaper of general circulation in  
 the area in which the proposal will be implemented; and/or

(c) Posting the property, for site-specific proposals.

**AMENDATORY SECTION** (Amending WSR 84-20-015  
 (Order 84-02), filed 9/25/84)

**WAC 236-11-100 Policies and procedures for condi-  
 tioning or denying permits or other approvals.** (1)(a) It is  
 department of general administration policy to avoid or miti-  
 gate adverse environmental impacts which may result from  
 the department's decisions.

(b) The department shall use all practicable means, con-  
 sistent with other essential considerations of state policy, to  
 improve and coordinate plans, functions, programs, and  
 resources so that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as  
 trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington, safe, healthful,  
 productive, and aesthetically and culturally pleasing sur-  
 roundings;

(iii) Attain the widest range of beneficial uses of the  
 environment without degradation, risk to health or safety, or  
 other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural  
 aspects of our national heritage;

(v) Maintain, wherever possible, an environment which  
 supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource  
 use which will permit high standards of living and a wide  
 sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department shall develop plans and programs to economically house state government activities so as to provide maximum services to the people of Washington consistent with (b) of this subsection.

(2) Supplementary implementing instructions and procedures to the policies contained in this section are contained in department of general administration policies and procedures(~~(chapter 7, section 3)~~).

(3) The department responsible official may:

(a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(4) The procedures in WAC 197-11-660 must be followed when conditioning or denying permits or other approvals.

**AMENDATORY SECTION** (Amending WSR 84-20-015 (Order 84-02), filed 9/25/84)

**WAC 236-11-110 Designation of responsible official.**

(1) Within the department of general administration the ultimate responsible official is the director.

(2) The director may designate (~~(division of facilities planning is)~~) the responsible official for overall direction and control of environmental reviews within the department of general administration and the designated division shall maintain all records pertaining to SEPA related decision making processes (~~(the department SEPA information center)~~). The division of capitol facilities shall maintain copies of all determinations of nonsignificance filed, determinations of significance filed, and copies of all Environmental Impact Studies prepared by the agency, excluding drafts, for a period of six years. The division of engineering and architectural services shall also maintain current SEPA statutes and administrative codes; current directives and regulations; department SEPA policies, procedures, and correspondence; and blank forms for determinations, environmental checklists, and others as required.

(3) When the department of general administration is the lead agency, the operational responsibility for determining if the department's involvement is an "action" and if the department's "action" is "exempt" shall be controlled by the designated division (~~(of facilities planning)~~).

(4) The designated division (~~(of facilities planning)~~) shall review and agree or disagree with all project or program exemptions, environmental checklists and determinations of nonsignificance or significance initiated within the department. In the event that there is disagreement with the initiator of the project, the decision of the responsible official, designated division (~~(of facilities planning)~~), shall be final.

(5) The department's responsibilities as consulted agency will be coordinated by the designated division (~~(of facilities~~

planning)). When the department of general administration is responding as the consulted agency to a draft EIS, DNS, or DS; and when specific contents of an EIS impacts a particular division of the department of general administration, then that EIS will be sent to the affected division director for review and response. The affected division's response comments and/or recommendation will then be incorporated into the overall department response and sent to the department of general administration responsible official for final approval.

(6) Any decision of the responsible official, designated division (~~(of facilities planning)~~), shall be final until such time as it is superseded by the director, department of general administration.

(7) The final threshold determination of final EIS of the responsible official may be appealed to the Director of the Department of General Administration within thirty days of notice of such determination or final EIS.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 236-11-020	Scope and coverage of this chapter.
WAC 236-11-040	Integration of SEPA procedures with other governmental operations.
WAC 236-11-070	Facility acquisition.
WAC 236-11-090	EIS decision levels.
WAC 236-11-120	SEPA information center.

**WSR 98-20-022**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed September 25, 1998, 2:34 p.m.]

Date of Adoption: September 25, 1998.

Purpose: To implement RCW 74.09.520 (3)(b) which requires that the plans of care for Medicaid personal care (MPC) clients be reviewed by a registered nurse. This rule enhances the services that a registered nurse can perform on behalf of a MPC or a community options program entry (COPES) client. This rule also ensures this service will not duplicate services which can be provided by another health care provider.

Citation of Existing Rules Affected by this Order: Amending WAC 388-15-194.

Statutory Authority for Adoption: RCW 74.09.520, 74.08.090.

Adopted under notice filed as WSR 98-16-092 on August 5, 1998.

Changes Other than Editing from Proposed to Adopted Version: Deleted the detailed description of tasks the nurse

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may perform. The frequency and scope of the nursing services will be based on individual client need using critical indicators approved by each division as appropriate. The new language reinforced that this nursing service will not duplicate services which the client is receiving from some other resource. The new language also clarifies that registered nurses performing this role will not provide skilled treatment except in the event of an emergency, the need for any skilled medical or nursing treatment will be referred to a health care provider, a home health agency or to a contracted delegating nurse.

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 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.

September 25, 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 services.** (1) A registered nurse will review the plan of care for all Medicaid personal care clients.

(2) Upon department or designee referral, a registered nurse ~~((shall visit))~~ will consult about or visit a community options program entry system client ~~((and))~~ or a Medicaid personal care client ~~((one time per year or more often))~~ to perform a nursing service which may include the following activities:

(a) ~~((Review the personal care task delivery portion of the client's service plan))~~ Nursing assessment/reassessment;

(b) ~~((Evaluate the effectiveness of the personal care task delivery portion of the client's service plan))~~ Instruction to care providers and clients;

(c) Care coordination;

(d) Evaluation.

~~((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

(c) Have a provider who requires training.)

(3) The frequency and scope of the nursing service will be based on individual client need and will be provided as outlined in a nursing service design developed in coordination with each area agency on aging. Each design will include critical indicators of the need for the nursing service and must be approved by the following divisions as appropriate: aging and adult services administration, developmental disabilities, children's administration and mental health.

(4) This nursing service will not be provided if activities duplicate services that the client is receiving from some other resource. Coordination and/or referrals to appropriate health care providers will occur as necessary.

(5) The registered nurse ~~((shall document the result of the nurse's oversight visit on the department-prescribed form))~~ providing this service will not perform skilled treatment except in the event of an emergency. The need for any skilled medical or nursing treatments will be referred to a health care provider, a home health agency or a contracted delegating nurse.

(6) The registered nurse must document the result of the nursing service provided on a department-approved form. The registered nurse provides a copy to the staff who has case management responsibility.

#### WSR 98-20-023

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed September 25, 1998, 2:42 p.m., effective October 1, 1998]

Date of Adoption: September 25, 1998.

Purpose: In 1998, the legislature passed E2SHB 2935 that amended chapter 74.46 RCW. The bill changed the title of chapter 74.46 RCW and the method for determining Medicaid rates for nursing facilities. Formerly known as "The Nursing Home Auditing and Cost Reimbursement Act of 1980," the new title of chapter 74.46 RCW is "The Nursing Facility Medicaid Payment System." In response to E2SHB 2935, the Office of Rates Management (ORM) proposed changes to chapter 388-96 WAC to implement the new system for setting nursing facility Medicaid rates. In addition, to comply with the principles of regulatory reform, ORM repealed sixty-one sections of chapter 388-96 WAC for being redundant or unnecessary.

Citation of Existing Rules Affected by this Order: See Reviser's Note following.

Statutory Authority for Adoption: See Reviser's Note following.

Adopted under notice filed as WSR 98-15-141 on July 22, 1998.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's Note following.

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 22, Amended 22, 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 62.

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 22, Amended 22, Repealed 62.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Under RCW 34.05.380(3)(a) an earlier effective date than thirty-one days from filing is permissible if such action is required by the state or federal Constitution, a statute, or court order. E2SHB 2935 amending chapter 74.46 RCW passed and signed in April of 1998 requires a new Medicaid nursing facility payment system be in effect October 1, 1998. The changes to chapter 388-96 WAC implement the new Medicaid nursing facility payment system.

Effective Date of Rule: October 1, 1998

September 25, 1998

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 98-22 issue of the Register.

**WSR 98-20-025  
PERMANENT RULES  
PUGET SOUND**

**AIR POLLUTION CONTROL AGENCY**

[Filed September 25, 1998, 3:16 p.m., effective November 1, 1998]

Date of Adoption: September 10, 1998.

Purpose: To adjust fees for registration and operating permits in order to cover the costs of administering these programs.

Citation of Existing Rules Affected by this Order: Amending Reg. I - Sections 5.07 and 7.07.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 98-16-086 on August 5, 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 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: November 1, 1998.

September 24, 1998

James L. 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 thresholds, by the primary Standard Industrial Classification (SIC) of the source:

~~((6))~~ (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 PM<sub>10</sub> when the PM<sub>10</sub> 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.

<del>((carbon monoxide (CO) emissions</del> . . . . .	25
<del>facility combined total of all toxic air contaminant (TAC) emissions</del> . . . . .	6
<del>any single toxic air contaminant (TAC) emissions</del> . . . . .	2
<del>nitrogen oxide (NOx) emissions</del> . . . . .	25
<del>particulate matter (PM<sub>10</sub>) emissions</del> . . . . .	25
<del>sulfur oxide (SOx) emissions</del> . . . . .	25
<del>volatile organic compounds (VOC) emissions</del> . . . . .	25
<del>.....</del>	<del>(\$1,500))</del>

~~((5))~~ (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.

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((carbon monoxide (CO) emissions .....	50	2035	Pickled Fruits & Vegetables, Vegetable Sauces & Seasonings, and Salad Dressings
facility combined total of all hazardous air pollutant (HAP) emissions .....	12	2077	Animal and Marine Fats and Oils
any single hazardous air pollutant (HAP) emissions .....	5	2099	Food Preparations
nitrogen oxide (NOx) emissions .....	50	2491	Wood Preserving
particulate matter (PM <sub>10</sub> ) emissions .....	50	2834	Pharmaceutical Preparations
sulfur oxide (SOx) emissions .....	50	2842	Specialty Cleaning, Polishing, and Sanitation Preparations
volatile organic compounds (VOC) emissions .....	50	2873	Nitrogenous Fertilizers
.....	(\$2,500))	2875	Fertilizers, Mixing Only
		2893	Printing Ink
((+)) (3) Automobile body repair and painting (SIC= 7532) .....	(((\$200))	2951	Asphalt Paving Mixtures and Blocks
without EnviroStar rating of 4 or 5 stars .....	\$250	2952	Asphalt Felts and Coatings
with EnviroStar rating of 4 or 5 stars (as certified at the time of annual fee payment) .....	\$50	3061	Molded, Extruded, and Lathe-Cut Mechanical Rubber Goods
((2)) (4) Dry-cleaning plants, except rug cleaning (SIC= 7216) .....	(((\$130))	3211	Flat Glass
without refrigerated condenser .....	\$500	3241	Cement, Hydraulic
with refrigerated condenser ..	\$150	3272	Concrete Products, except Block and Brick
((3)) (5) Gasoline service stations with ((more than 1 tank .....	\$300))	3273	Ready-Mix Concrete
gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:		3275	Gypsum Products
(i) more than 1,200,000 gallons .....	\$400	3291	Abrasive Products
(ii) 840,001 to 1,200,000 gallons in Kitsap County .....	\$250	3292	Asbestos Products
(iii) 600,001 to 1,200,000 gallons in King, Pierce, or Snohomish County .....	\$250	3295	Minerals and Earths, Ground or Otherwise Treated
(iv) 600,001 to 840,000 gallons in Kitsap County .....	\$150	3299	Nonmetallic Mineral Products
(v) 200,000 to 600,000 gallons ..	\$150	3312	Steel Works, Blast Furnaces, and Rolling Mills
(vi) less than 200,000 gallons ....	\$100	3315	Steel Wiredrawing and Steel Nails and Spikes
((4) Gasoline service stations with 1 tank .....	\$150))	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
1422 Crushed and Broken Limestone			
1429 Crushed and Broken Stone			
1442 Construction Sand and Gravel			
1446 Industrial Sand			
1611 Highway and Street Construction			

((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:

PERMANENT

(( ..... \$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	3441	Fabricated Structural Metal
1459	Clay, Ceramic, and Refractory Minerals	3443	Fabricated Plate Work
1521	General Contractor - Single-Family Homes	3444	Sheet Metal Work
1629	Heavy Construction	3446	Architectural and Ornamental Metal Work
1731	Electrical Work	3449	Miscellaneous Structural Metal Work
2013	Sausages and Other Prepared Meat Products	3463	Nonferrous Forgings
2032	Canned Specialties	3469	Metal Stampings
2041	Flour and Other Grain Mill Products	3483	Ammunition, except for Small Arms
2045	Prepared Flour Mixes and Doughs	3496	Miscellaneous Fabricated Wire Products
2047	Dog and Cat Food	3498	Fabricated Pipe and Pipe Fittings
2048	Prepared Feeds and Feed Ingredients for Animals and Fowls, except Dogs and Cats	3499	Fabricated Metal Products
2052	Cookies and Crackers	3545	Cutting Tools, Machine Tool Accessories, and Machinists' Precision Measuring Devices
2082	Malt Beverages	3556	Food Products Machinery
2086	Bottled and Canned Soft Drinks and Carbonated Water	3567	Industrial Process Furnaces and Ovens
2091	Canned and Cured Fish and Seafoods	3571	Electronic Computers
2095	Roasted Coffee	3629	Electrical Industrial Apparatus
2096	Potato Chips, Corn Chips, and Similar Snacks	3639	Household Appliances
2098	Macaroni, Spaghetti, Vermicelli, and Noodles	3648	Lighting Equipment
2421	Sawmills and Planing Mills	3663	Radio & Television Broadcasting and Communications Equipment
2426	Hardwood Dimension and Flooring Mills	3672	Printed Circuit Boards
2429	Special Product Sawmills	3691	Storage Batteries
2431	Millwork	3713	Truck and Bus Bodies
2434	Wood Kitchen Cabinets	3721	Aircraft
2439	Structural Wood Members	3728	Aircraft Parts and Auxiliary Equipment
2441	Nailed and Lock-Corner Wood Boxes and Shook	3743	Railroad Equipment
2448	Wood Pallets and Skids	3823	Industrial Instruments for Measurement, Display, and Control of Process Variables; and Related Products
2452	Prefabricated Wood Buildings and Components	3873	Watches, Clocks, Clockwork Operated Devices, and Parts
2493	Reconstituted Wood Products	4173	Terminal and Service Facilities for Motor Vehicle Passenger Transportation
2631	Paperboard Mills	4212	Local Trucking without Storage
2652	Setup Paperboard Boxes	4222	Refrigerated Warehousing and Storage
2653	Corrugated and Solid Fiber Boxes	4491	Marine Cargo Handling
2657	Folded Paperboard Boxes	4492	Towing and Tugboat Services
2671	Packaging Paper and Plastics Film, Coated and Laminated	4512	Air Transportation, Scheduled
2675	Die-Cut Paper and Paperboard and Cardboard	4581	Airports, Flying Fields, and Airport Terminal Services
2711	Newspapers: Publishing, or Publishing and Printing	4952	Sewerage Systems, (Pump Stations)
2721	Periodicals: Publishing, or Publishing and Printing	4961	Steam and Air-Conditioning Supply
2731	Books: Publishing, or Publishing and Printing	5032	Brick, Stone, and Related Construction Materials
2752	Commercial Printing, Lithographic	5039	Construction Materials
2759	Commercial Printing	5051	Metals Service Centers and Offices
2819	Industrial Inorganic Chemicals	5065	Electronic Parts and Equipment
2821	Plastic Materials, Synthetic Resins, and Non-vulcanizable Elastomers	5093	Scrap and Waste Materials
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products	5162	Plastics Materials and Basic Forms and Shapes
2869	Industrial Organic Chemicals	5171	Petroleum Bulk Stations and Terminals
3089	Plastics Products	5172	Petroleum and Petroleum Products Wholesalers, except Bulk Stations and Terminals
3271	Concrete Block and Brick	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))

~~((9))~~ (8) All ~~((9))~~ other sources, ~~((other than))~~ not listed above in Sections (1) through (7) ~~((8))~~, requiring registration under Section 5.03, shall be charged an annual registration fee of \$250.

(( ..... \$250))

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
- ~~3721 Aircraft~~
- ~~3728 Aircraft Parts and Auxiliary Equipment~~
- 9711 National Security

..... \$((18,000))  
21,000

(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
- ..... \$((3,000))
- 3,500

~~((Operating permit sources with the following SIC codes:~~

- ~~3721 Aircraft, or~~
- ~~3728 Aircraft Parts and Auxiliary Equipment with employee population:~~

8,000 or greater .....	\$18,000
1,000 through 7,999 .....	\$6,000
less than 1,000 .....	\$3,000))

(iii) Operating permit sources with a SIC code other than listed above ..... \$((6,000)) 7,000

~~((2) Additional Emission Fees: -~~

<del>1996 CO emission fee<sup>1</sup> .....</del>	<del>\$10/ton</del>
<del>1996 TAC emission fee<sup>2</sup> .....</del>	<del>\$10/ton</del>
<del>1996 NOx, PM<sub>10</sub>, or SOx emission fee<sup>3</sup> .....</del>	<del>\$30/ton</del>
<del>1996 VOC emission fee<sup>4</sup> .....</del>	<del>\$30/ton</del>
<del>Continuous emission monitor fee<sup>5</sup> -</del>	<del>\$1,500/monitor</del>

<sup>1</sup>~~Required only when CO emissions equal or exceed 25 tons in 1996.~~

<sup>2</sup>~~Required only when individual TAC emissions equal or exceed 2 tons in 1996 or when total facility TAC emissions exceed 6 tons in 1996.~~

<sup>3</sup>~~Required only when NOx, PM<sub>10</sub>, or SOx emissions equal or exceed 25 tons in 1996.~~

<sup>4</sup>~~Required only when VOC emissions equal or exceed 25 tons in 1996.~~

<sup>5</sup>~~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 PM<sub>10</sub> when the PM<sub>10</sub> 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 ~~((a))~~ Agency shall, on a source-by-source basis, levy the following ~~((surecharges))~~ fees:

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(1) for the issuance, reissuance, or renewal of an operating permit, a ~~((surecharge))~~ 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.

**WSR 98-20-026**  
**PERMANENT RULES**  
**PUGET SOUND**

**AIR POLLUTION CONTROL AGENCY**

[Filed September 25, 1998, 3:18 p.m., effective November 1, 1998]

Date of Adoption: September 10, 1998.

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 NES-HAPs.

Citation of Existing Rules Affected by this Order: Amending Reg. I - Sections 3.11, 5.03, 5.05, 6.11, and 7.09; and Reg. III - Section 2.02.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 98-16-085 on August 5, 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 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: November 1, 1998.

September 24, 1998

James L. 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 .....	<del>((100))</del> <u>25</u>
nitrogen oxides .....	<del>((40))</del> <u>25</u>
sulfur dioxide .....	<del>((40))</del> <u>25</u>
particulate matter (PM <sub>10</sub> ) .....	25
<del>((fine))</del> particulate matter (PM <del>((10))</del> <sub>2.5</sub> ) . . .	<del>((15))</del> <u>25</u>
volatile organic compounds (VOC) .....	<del>((40))</del> <u>25</u>
<del>((lead</del> .....	0-6
fluorides .....	3
sulfuric acid mist .....	7
hydrogen sulfide (H <sub>2</sub> S) .....	10
total reduced sulfur (including H <sub>2</sub> S) .....	10))
<u>facility-combined total of all toxic air contaminants (TAC) .....</u>	<u>6</u>
<u>any single toxic air contaminant (TAC) .....</u>	<u>2</u>

~~((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

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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;

((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 vinyl ester 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, ~~((of))~~ 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 <sub>10</sub> ) emissions . . . . .	25
<u>particulate matter (PM<sub>2.5</sub>) 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 Con-

struction 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 ~~((of))~~ 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 <sub>10</sub> ) emissions . . . . .	25
<u>particulate matter (PM<sub>2.5</sub>) 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. 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;

PERMANENT

(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 98-20-028**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed September 28, 1998, 10:24 a.m.]

Date of Adoption: September 25, 1998.

Purpose: Amend WAC 460-60A-025 to grant the administrator the authority to require quarterly reports of certain issuers. Repeal WAC 460-60A-040 through 460-60A-055. WAC 460-60A-025 is overly broad as currently written. Quarterly reports are only necessary in certain circumstances, which the administrator may decide on a case-by-case basis. The sections to be repealed required reports that are no longer necessary for the division to accomplish its regulatory mission.

Citation of Existing Rules Affected by this Order: Repealing WAC 460-60A-040 through 460-60A-055; and amending WAC 460-60A-025.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 98-17-060 on August 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 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 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 4.

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 4.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

September 25, 1998

John L. Bley

Director

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-60A-025 Quarterly reports required of certain issuers.** ~~((Quarterly reports will be submitted by all issuers who register by qualification and by those issuers who are filing pursuant to the Regulation A Exemption of the Federal Security Act. Copies of quarterly report forms are available upon request. Such reports are required only during the term of the offering.))~~ As a condition to registration pursuant to RCW 21.20.180 or 21.20.210, the administrator may require an issuer, whose securities are being offered and sold directly by or for its own account, to file quarterly reports during the term of the offering on a form specified by the administrator. Each filing shall be accompanied by the fee required by RCW 21.20.340 (5)(b).

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 460-60A-040	Reports after termination of public offerings.
WAC 460-60A-045	Annual reporting requirements of RCW 21.20.740.
WAC 460-60A-050	Contents of reports under RCW 21.20.740.
WAC 460-60A-055	Reports maintained—Time period required.

#### **WSR 98-20-039**

**PERMANENT RULES**

#### **DEPARTMENT OF LICENSING**

[Filed September 30, 1998, 8:48 a.m.]

Date of Adoption: September 30, 1998.

Purpose: Review of current rules governing vehicle dealers and manufacturers in accordance with Governor Gary Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-66-156, 308-66-196 and 308-66-205; and amending WAC 308-66-110, 308-66-120, 308-66-140, 308-66-145, 308-66-152, 308-66-155, 308-66-157, 308-66-

160, 308-66-170, 308-66-195, 308-66-210, 308-66-211, 308-66-212, 308-66-214, 308-66-227, and 308-66-240.

Statutory Authority for Adoption: RCW 46.70.160.

Adopted under notice filed as WSR 98-16-007 on July 24, 1998.

Changes Other than Editing from Proposed to Adopted Version: No amendments are to be made to WAC 308-66-190 at this time.

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 16, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, Repealed 3.

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 16, Repealed 3.

Effective Date of Rule: Thirty-one days after filing.

September 30, 1998

John Swannack

Deputy 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.

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.
- (5) 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 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 RCW 46.70.180(4).

**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 noncorporate 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 308-66-156                      Guaranteed title.
- WAC 308-66-196                      Possession of custom documents.
- WAC 308-66-205                      Vehicle odometer disclosure.

**WSR 98-20-044  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Health and Rehabilitative Services Administration)  
[Filed September 30, 1998, 1:33 p.m., effective October 7, 1998]

Date of Adoption: September 30, 1998.

Purpose: Chapter 216, Laws of 1998 (SSB 6751) requires the Division of Developmental Disabilities (DDD) to establish rules to implement the following:

- 1. Provide information and outreach to all applicants and eligible DDD persons and their families of all services provided by DDD, including residential habilitation centers (RHC);

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2. Eligibility criteria and process for offering eligible adults the choice of admission into available vacancies in the RHCs or alternative community services.

Citation of Existing Rules Affected by this Order: Amending WAC 275-27-020, 275-27-023, 275-27-040, 275-27-050, and 275-27-230.

Statutory Authority for Adoption: RCW 74.12A.030 and 71A.16.030.

Adopted under notice filed as WSR 98-16-091 on August 5, 1998.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 275-27-020 (1)(f) Definition of "best interest" has been changed to the following: "Provide the least-restrictive setting that best meets the person's medical and personal needs."

2. WAC 275-27-202(16) Clarified this definition by changing "or" to "and/or" i.e. "*RHC means a state-operated facility certified to provide ICF/MR and/or nursing facility level of care ...*"

3. WAC 275-27-230 (4)(f) Changed the cost of community services from 75% to 70% of the RHC daily rate.

4. WAC 275-27-230(5) Added the phrase "*and will not jeopardize federal funds*" to the end of the sentence.

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 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 5, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: These rules need to be effective when the emergency rules expire on October 7, 1998.

Effective Date of Rule: October 7, 1998.

September 30, 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))~~ Provide 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 and/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 ~~((homes))~~ 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 biannually 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.

**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 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 and allowable within the rules governing the use of federal funds.

(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.

#### WSR 98-20-045

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

(Filed September 30, 1998, 1:37 p.m.)

Date of Adoption: September 30, 1998.

Purpose: To establish rules allowing "clean card program" whereby employers who hire workers on a rotating basis can substitute random drug testing for repetitive pre-employment testing and be eligible for certification in the worker compensation drug-free workplace discount program.

Citation of Existing Rules Affected by this Order: Amending WAC 440-26-010 and 440-26-210.

Statutory Authority for Adoption: RCW 49.82.130.

Adopted under notice filed as WSR 98-17-066 on August 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, 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 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 30, 1998

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

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**AMENDATORY SECTION** (Amending WSR 96-16-015, filed 7/25/96, effective 8/25/96)

**WAC 440-26-010 Definitions.** Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

((1)) (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

((2)) (2) "Alcohol test" means a chemical, biological, or physical instrumental analysis administered for the purpose of determining the presence or absence of alcohol within an individual's body systems.

((3)) (3) "Clean card program" means a drug-free workplace program which allows employers with rotating groups of employees an alternative method of participating in the drug-free workplace discount program. In addition to the other requirements of this chapter, clean card programs require random testing instead of repetitive pre-employment testing.

((4)) (4) "Department" means the department of social and health services, division of alcohol and substance abuse.

((4)) (5) "Drug" means amphetamines, cannabinoids, cocaine, phencyclidine (PCP), methadone, methaqualone, opiates, barbiturates, benzodiazepines, propoxyphene, or a metabolite of any such substances.

((5)) (6) "Drug test" means a chemical, biological, or physical instrumental analysis administered on a specimen sample for the purpose of determining the presence or absence of a drug or its metabolites within the sample.

((6)) (7) "Drug-free workplace program" means a set of workplace-based policies and procedures designed to reduce workplace involvement with alcohol and other drugs, and increase safety, productivity, and worker health. For the purpose of these regulations, "drug-free workplace program" is synonymous with "substance abuse testing program" as used in chapter 127, Laws of 1996.

((7)) (8) "Employee" means a person who is employed for salary, wages, or other remuneration by an employer.

((8)) (9) "Employee assistance program" means a program designed to assist in the identification and resolution of job performance problems associated with employees impaired by personal concerns. A minimum level of core services must include: Consultation and professional, confidential, appropriate, and timely problem assessment services; short-term problem resolution; referrals for appropriate diagnosis, treatment, and assistance; follow-up and monitoring; employee education; and supervisory training. Any employee assistance program under this chapter must contain a two-year employee follow-up and monitoring component.

((9)) (10) "Employer" means an employer subject to Title 51 RCW but does not include the state or any department, agency, or instrumentality of the state; any county; any city; any school district or educational service district; any municipal corporation, or any self-insured employer.

((10)) (11) "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result and occurring from without, and such physical conditions as result therefrom.

((11)) (12) "Job applicant" means a person who has applied for employment with an employer and has been offered employment conditioned upon successfully passing a drug test and may have begun work pending the results of the drug test.

((12)) (13) "L & I" means the department of labor and industries.

((13)) (14) "Last-chance agreement" means a notice to an employee who is referred to the employee assistance program due to a verified positive alcohol or drug test or for violating an alcohol or drug-related employer rule that states the terms and conditions of continued employment with which the employee must comply.

((14)) (15) "Random testing" means a method of selecting employees for alcohol or drug testing through a scientifically valid method, such as computer-based generation of employee identification numbers, in which each employee has an equal chance of being chosen each time selections are made. Random testing is sometimes called "lottery" testing.

((15)) (16) "Random testing pool" means the total of all employees of the employers in a clean card program.

((16)) (17) "Rehabilitation program" means a chemical dependency treatment program approved by the department that is capable of providing expert identification, assessment, and treatment of employee drug or alcohol abuse in a confidential and timely service. Any rehabilitation program under this chapter must contain the capacity to provide a two-year continuing care component.

((17)) (18) "Substance abuse test" or "test" means a chemical, biological, or physical instrumental analysis administered on a specimen sample for the purpose of determining the presence or absence of a drug or its metabolites in a urine sample or of alcohol within a breath sample.

((18)) (19) "Verified positive test result" means a confirmed positive test result obtained by a laboratory meeting the standards specified in this chapter that has been reviewed and verified by a medical review officer in accordance with medical review officer guidelines promulgated by the United States Department of Health and Human Services.

((19)) (20) "Workers' compensation premium" means the medical aid fund premium and the accident fund premium under Title 51 RCW.

**AMENDATORY SECTION** (Amending WSR 96-16-015, filed 7/25/96, effective 8/25/96)

**WAC 440-26-210 Program requirements—Substance abuse testing.** (1) To be certified for the worker compensation premium discount, an employer shall provide a drug-free workplace program that includes substance abuse testing. In conducting substance abuse testing the program shall:

(a) Require all job applicants not enrolled in a clean card program as described in WAC 440-26-215 to submit to a drug test after extending a conditional offer of employment. The employer may use a refusal to submit to a drug test or a verified positive test as a basis for not hiring the job applicant.

(b) Investigate each workplace injury that results in a worker needing off-site medical attention and require an

employee to submit to drug and alcohol tests if the employer reasonably believes the employee has caused or contributed to an injury which resulted in the need for off-site medical attention. An employer need not require that an employee submit to drug and alcohol tests if a supervisor, trained in accordance with WAC 440-26-230, reasonably believes that the injury was due to the inexperience of the employee or due to a defective or unsafe product or working condition, or other circumstances beyond the control of the employee. Under this chapter, a first-time verified positive test result may not be used as a sole basis to terminate an employee's employment. However, nothing in this section prohibits an employee from being terminated for reasons other than the positive test result.

(c) Require employees referred to the employee assistance program as a result of a verified positive drug or alcohol test or an alcohol or drug-related incident in violation of employer rules to submit to drug and alcohol testing in conjunction with any recommended rehabilitation program. If the employee assistance program determines that the employee does not require treatment services, the employee shall still be required to participate in follow-up testing. However, if an employee voluntarily enters an employee assistance program, without a verified positive drug or alcohol test or a violation of any drug or alcohol related employer rule, follow-up testing is not required. If follow-up testing is conducted, the employer shall ensure the frequency of the testing is at least four times a year for a two-year period after completion of the rehabilitation program and advance notice of the testing date may not be given. A verified positive follow-up test result shall normally require termination of employment.

(2) This section does not prohibit an employer from conducting other drug or alcohol testing, such as upon reasonable suspicion or a random basis, although neither reasonable suspicion nor random testing is required under this chapter.

(3) Laboratory analysis of drug specimens, both initial and confirmatory, must be performed by laboratories approved either by the substance abuse and mental health administration, or the College of American Pathologists under the Forensic Urine Drug Testing program (FUDT).

(4) Specimen collection and substance abuse testing under this section must be performed in accordance with regulations and procedures approved by the United States Department of Health and Human Services and/or the United States Department of Transportation Regulations(~~(-including)) as described in 49 C.F.R. Sec. 382.305 (1994). These regulations and procedures include:~~)

(a) Cutoff levels(;) for alcohol and drug testing(;) and

(b) Controlled substances for which testing must ((include testing for)) be done: marijuana, cocaine, amphetamines, opiates, and phencyclidine.

Employers may test for any drug listed in WAC 440-26-010(4). Employers certified through a clean card program must also comply with department of transportation regulations regarding the selection process for random testing and conduct a minimum fifty percent annual random testing rate for controlled substances as described in 49 C.F.R. Sec. 382.305 (1994).

(5) Within five working days after receipt of a verified positive test result from the laboratory, an employer shall inform an employee or job applicant in writing of the positive test result, the consequences of the result, and the options available to the employee or job applicant, and shall furnish to the employee or job applicant, upon request, a copy of the test result.

(6) An employer shall pay the cost of all drug or alcohol tests that the employer requires of employees and job applicants under this chapter.

(7) An employee or job applicant shall pay the cost of additional tests not required by the employer.

#### NEW SECTION

#### **WAC 440-26-215 Program requirements—How employers get certified through a clean card program.**

Employers wishing to be certified for the drug-free workplace discount program through a clean card program must observe the application procedures in WAC 440-26-100. They must submit application materials to the department which include:

(1) A signed application form which contains an assurance of the employer's involvement in a clean card program;

(2) A statement that the employer's policy has been negotiated with employee unions where applicable; and

(3) A policy statement which, in addition to the other requirements of WAC 440-26-200, also includes:

(a) A requirement that:

(i) New employees either verify status in the clean card program, or submit to a pre-employment test; and

(ii) All company employees be subject to random testing.

(b) A description of the major provisions of the employer's clean card program.

**WSR 98-20-047**

**PERMANENT RULES**

**DEPARTMENT OF**

**RETIREMENT SYSTEMS**

[Filed September 30, 1998, 4:10 p.m.]

Date of Adoption: September 30, 1998.

Purpose: To amend the department's rules implementing the deferred compensation plan codified in chapter 41.50 RCW in order to make those rules consistent with the 1998 amendments to chapter 41.50 RCW and the 1997 amendments to the Internal Revenue Code (IRC).

Citation of Existing Rules Affected by this Order: Amending WAC 415-512-015 through 415-512-030, 415-512-050 through 415-512-080, 415-512-090 through 415-512-110, 415-524-010, 415-544-010, 415-548-010, and 415-560-010.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 98-15-098 on July 17, 1998.

Changes Other than Editing from Proposed to Adopted Version: After the proposed version was filed, the IRS issued

proposed revenue procedure 98-41 which contained model deferred compensation plan language drafted to conform to the 1997 IRC amendments. The model language is added to the adopted version.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 9, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, 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.

September 30, 1998

John Charles

Director

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-015 Plan to plan transfers.** (1) Transfers to the plan following a change in employment. If a participant was formerly a participant in an eligible ~~((state))~~ deferred compensation plan (within the meaning of Section 457 of the code and ~~((the))~~ its regulations ~~((thereunder))~~, ~~((and if such a plan))~~ which permits the direct transfer of the participant's interest ~~((therein))~~ to ~~((the))~~ another plan, then the transferee plan shall accept assets representing the value of such interest ~~((provided))~~. However, the department may require in its sole discretion that some or all of such interest be transferred in cash or its equivalent. Such amount shall be held, accounted for, administered, and otherwise treated in the same manner as compensation deferred by the participant under the plan except that:

(a) Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.

(b) Such amount shall remain subject to, and shall be administered in accordance with, any irrevocable elections made under the transferor plan with respect to such amount.

(2) Transfers from the plan following a change in employment. The only rollovers or transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.

If a participant, prior to making a final election under WAC 415-512-090(2) regarding the method of payment, accepts employment with an employer who offers an eligible Section 457 plan, and the participant becomes a participant in that plan, then accumulated deferrals may, at the election of the participant and after written notice to the department, be

transferred to the other plan, provided that plan provides for the acceptance of such transfers.

(3) Transfers by employees of participating political subdivisions. Transfers of funds by an employee of a participating political subdivision are allowed to and from other IRC Section 457 plans maintained by the political subdivision, but only if the other plan also allows transfers to and from its plan and the participant has not made an irrevocable payout election relating to either plan.

(4) Application for transfer. If the conditions in subsection ~~((s))~~ (1) ~~((and))~~, (2), or (3) of this section are met and the participant wishes to transfer his/her account, he/she shall complete ~~((any))~~ an application form and/or other documents as may be required by the department.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-020 Deferral ~~((limitation))~~ limit.** (1) Except as provided in WAC 415-512-030, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of seven thousand five hundred dollars, adjusted for the calendar year to reflect cost-of-living increases in accordance with Sections 457 (e)(15) and 415(d) of the Internal Revenue Code (dollar deferral limit) or thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code; and

(b) By any amount:

(i) Excluded from gross income under Section 402 (e)(3) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;

(ii) For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or

(iii) Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and

(c) By any amount the participant contributes to any other Section 457 of the Internal Revenue Code plan (relating to deferred compensation plan(s)) during the taxable year.

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not

include an amount payable by the employer that is excludable from the employee's gross income under:

- (a) Section 457 of the Internal Revenue Code;
- (b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code organizations or public schools);
- (c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);
- (d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);
- (e) Section 402 (e)(3) or 402 (h)(1)(B) or 402(k) of the Internal Revenue Code (relating to simplified employee pensions);
- (f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or
- (g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on state earnings statements must be reduced by:

- (a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and
- (b) Any Section 125 of the Internal Revenue Code contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-030 Catch-up provision.** For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) Fifteen thousand dollars for the taxable year, reduced in the same manner as the ~~((seven thousand five hundred))~~ deferral limit is reduced in WAC 415-512-020(1); or

(2) The sum of:

(a) The ~~((limitations))~~ limits established for purposes of WAC 415-512-020 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the ~~((limitation))~~ limit established under WAC 415-512-020 for taxable years before the taxable year as has not theretofore been used under WAC 415-512-020 or 415-512-030. A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum ~~((limitation))~~ limit (as established under WAC 415-512-020).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapters 415-501 through 415-568 WAC, means the range of ages:

Ending not later than age seventy and one-half; and

Beginning not earlier than the earliest age at which the participant has the right to retire under a state authorized pension for which the participant is eligible without consent of the state and under which the participant will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in a state authorized pension plan.

This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-050 Modification of deferral or investment option(s).** A participant may change his/her deferral or investment option(s) ~~((not more than four times in any calendar year))~~ by executing a participation agreement. Changes in the amount of deferral must equal at least ten dollars or more per month. (Beneficiaries entitled to receive accumulated deferrals may also change investment options ~~((not more than four times per year)).~~)

~~((An increase (or an increase and a change in investment option(s) which are effective the same date) shall not be counted as a change. Only a decrease in the amount of deferral, a transfer, or a change in investment option(s) not accompanied by an increase, shall be counted as a change.~~

~~Any combination of a decrease, a transfer, or a change in investment option(s) effective the same date, shall be considered one change.~~

A change (whether counted as such or not) shall be effective for any calendar month only if the participant signs a new participation agreement and it is approved by the department or its designee before the beginning of that calendar month. All participation agreements indicating changes in investment option(s) must be filed with the department no later than fifteen days prior to the established pay date for which the change will occur. The department reserves the right to defer the effective date of any change.) A change in the deferral amount shall be effective for any calendar month only if the participant signs a new participation agreement prior to the earning period for which the change is requested. All participation agreements indicating changes in investment option(s) and transfer request forms indicating a transfer from one investment option to another must be filed with the department no later than twelve days prior to the established pay date for which the change will occur.

During the payout process, the department may periodically liquidate mutual fund shares in amounts necessary to meet distribution requirements for a six-month period.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-070 Suspension and reinstatement of deferrals. Suspension.** A participant may at any time direct that deferrals under the participant's participation agreement

cease by completing the proper form and filing it with the department no later than the last day of the payroll period prior to the payroll period during which the deferrals are to cease; however, accumulated deferrals shall only be paid as provided in WAC 415-512-080 through 415-512-110.

**Reinstatement.** A participant who has directed the cessation of deferrals as part of an unforeseeable emergency payment request may resume deferrals ~~((for any calendar month commencing no))~~ by executing a new participation agreement to defer compensation. The deferrals cannot resume sooner than six months after ((such)) deferrals ceased ((by executing a new participation agreement to defer compensation)). Deferrals will begin the month immediately following the month that the participation agreement is signed. The six-month waiting period shall not apply to participants who are on leave without pay as discussed in WAC 415-528-010.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-075 Investment options.** Each participant shall designate on his/her participation agreement the investment option(s) in which he/she wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the ~~((employee retirement benefits board, in its sole discretion))~~ state investment board after consultation with the employee retirement benefits board.

The ~~((employee retirement benefits))~~ state investment board may make available as options for investment:

- (1) A fixed rate investment or pool of investments including deposits with a credit union, savings and loan association, mutual savings bank and fixed annuities;
- (2) Specified mutual fund shares, shares of an investment company, or variable annuities; or
- (3) Fixed or variable life insurance, or other options permitted by law ~~((and selected by the employee retirement benefits board)).~~ In the event that a selected investment option experiences a loss, the participant's benefits payable hereunder shall likewise reflect a loss, rather than income, for the period.

Nothing in this section shall require the ~~((employer))~~ state investment board to invest any amount in the investments selected ~~((and whether or not the employer so invests, no participant shall have any right, title, or interest in the amounts deferred or assets so invested)).~~ The state investment board may open, change or close investment options according to its investment policy.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-080 Designation of beneficiaries.** Each participant shall have the right to designate a beneficiary or beneficiaries to receive accumulated deferrals in the event of the participant's death. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may

change his/her beneficiary designation at any time by filing a change of beneficiary form with the department. A participant may also change his/her beneficiary designation by completing the beneficiary designation portion of a participation agreement form.

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named ~~((and who is under the age of eighteen))~~ as a beneficiary.

(2) His or her estate.

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide ~~((the name of the trust and the date it was established))~~ a copy of the trust document and the name, address, and telephone number of the current trustee, and the tax identification number.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

**AMENDATORY SECTION** (Amending WSR 97-05-009, filed 2/7/97, effective 3/10/97)

**WAC 415-512-090 Elections regarding distribution.** Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when his/her payout will begin and the payout period.

(1) Election ~~((regarding time of payment))~~ preconditions and irrevocability. Except as otherwise provided in WAC 415-512-110(8) the election regarding the date when payment will begin shall be made when a participant separates from service (or dies having separated from service and having previously elected when payment will begin).

Once made, the election regarding when payout will begin is irrevocable except as described in subsection (2) of this section as to the participant or beneficiary making the election, unless:

(a) The participant or beneficiary, more than thirty days prior to the elected date payment is to begin, elects to postpone the original date. Only one such postponement is allowed; or

(b) The participant, after separating from service is again hired by the employer and, before the originally elected date payment is to begin, reenrolls in the plan.

~~((The))~~ (2) If a participant has elected, under subsection (1)(a) of this section, to defer the commencement of distributions beyond the first permissible payout date, then the participant may make an additional election to further defer the commencement of distributions, provided that the election is filed before distributions actually begin and the later commencement date meets the required distribution commencement date provisions of Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code. A participant may not make more than one such additional deferral election after the first permissible payout date.

For purposes of the preceding paragraph, the "first permissible payout date" is the earliest date on which the plan permits payments to begin after separation from service, dis-

regarding payments to a participant who has an unforeseeable emergency or attains age seventy and one-half, or under the in-service distribution provisions of the plan.

(3) Timing of election ((regarding when payment will begin:)).

(a) ~~((By))~~ A participant who separates from service other than by reason of death, must ((be made not)) make an election no later than sixty days after separation from service. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110;

(b) ~~((By))~~ A beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must ((be made not)) make an election no later than sixty days after the participant's death. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(i) A court-appointed guardian; or

(ii) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, following the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian.

A transfer may be made only for one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the payout period and when the payout will begin under this section.

~~((2))~~ (4) Election regarding method of payment. The participant (or beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the

participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than thirty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 415-512-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant and payout will be suspended following the participant's death until the beneficiary either makes a payout period election or begins receiving payment as provided in subsection ~~((4))~~ (6) of this section. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

~~((3))~~ (5) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the department. Only a court-appointed guardian may elect between a monthly and a lump sum benefit on behalf of the minor.

~~((4))~~ (6) Consequences in absence of a timely election regarding time of payment. Absent a timely election regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars or, if the accumulated deferrals are twenty-five thousand dollars or more, in ~~((equal))~~ monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

~~((5))~~ (7) Effects of certain employment changes. Transfers from the plan are allowed in the circumstances described in WAC 415-512-015(2).

~~((6))~~ (8) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection ~~((4))~~ (6) of this section.

~~((7))~~ (9) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-512-110(3).

## NEW SECTION

**WAC 415-512-095 Domestic relations orders.** (1) Domestic relation orders, which establish a right of the non-participant to a portion of a participant's account after the participant separates from service, will be honored at the discretion of the department:

(a) Only if the plan participant is eligible for, or is in actual payout status; and

(b) Based upon the capabilities of the deferred compensation program recordkeeping system.

(2) The plan will honor domestic relation orders by either:

(a) Recognizing that there is a lien against the plan's assets (provided the order establishes a fixed or determinable future amount to be paid); or

(b) Establishing a separate account for the nonparticipant spouse.

**AMENDATORY SECTION** (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

**WAC 415-512-110 Distribution of deferrals.** (1) General rule. Assuming a timely election is allowed and has been made pursuant to WAC 415-512-090, payment will be made in at least annual, substantially nonincreasing amounts. Payments are also subject to the limitations in subsections (2) through ~~((5))~~ (8) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire interest prior to the ~~((latest))~~ later of:

(i) The April 1st immediately following the close of the calendar year in which the participant attains age seventy and one-half; or

(ii) The April 1st immediately following the close of the calendar year in which the participant separates from service with the employer; or

(b) Begin receiving his/her interest not later than the time specified in (a) of this subsection and receive it over a period not longer than ~~((either))~~ one of the following:

(i) The life of the participant;

(ii) The life of the participant and a beneficiary designated by the participant;

(iii) The life expectancy of the participant; or

(iv) The life expectancy of the participant and a designated beneficiary.

Payment must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code. ~~((Provided, that until tables are issued by the Secretary of the Treasury, if provision is made for the payment of a portion of the benefits to a beneficiary, the amount payable to the participant actuarially must exceed two-thirds of the maximum amount payable to the participant had no provision been made for payments to the beneficiary (determined as of the commencement of the distribution):))~~

Once payments to a participant begin, the participant may accelerate the payment schedule only in the event of an unforeseeable emergency (and subject to the provisions of WAC 415-524-010 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then payout must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

(i) To an organization, estate or trust, then payment will be payable in a lump sum on the twenty-fifth day of the second month following the participant's death;

(ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then payment must be made within five years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (3)(b);

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then payment must be made within fifteen years of the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for . . . . . (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC 415-512-090 (3)(b);

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then payment must begin prior to the April 1st immediately following the ~~((later))~~ later of the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service ~~((and))~~. Payment may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company. ~~((Where payment is being made over the joint lives of the participant and the participant's surviving spouse, the life expectancy of the participant and the participant's surviving spouse may be recalculated annually:))~~

(5) Except as provided in subsection (6) of this section, periodic payments made by the department must be at least fifty dollars per month if paid monthly, and six hundred dollars per year, if paid annually.

(6) An annuity may be purchased from an insurance company that has a contract with the department. The minimum amount to purchase a monthly annuity is one hundred thousand dollars. The minimum amount for an annuity paid quarterly is twenty-five thousand dollars.

(7) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with

the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.

(8) Voluntary in-service distribution: A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

(a) The total amount payable to the participant under the plan does not exceed five thousand dollars (or the dollar limit under Section 411 (a)(1) of the Internal Revenue Code, if greater);

(b) The participant has not previously received an in-service distribution of the total amount payable to the participant under the plan;

(c) No amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

(d) The participant elects to receive the distribution.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-548-010 Plan assets. ((All amounts of compensation deferred under the plan, all property and rights to property (including rights as a beneficiary of a contract providing life insurance protection) purchased with such amounts, and all income attributable to such amounts, property or rights to property shall remain (until paid or made available to the participant or the participant's beneficiary or beneficiaries under the plan) solely the property and rights of the employer, (without being restricted to the benefits under the plan) and shall be subject only to the claims of general creditors of the employer.)) Despite any contrary provision of the plan, in accordance with Section 457(g) of the Internal Revenue Code, all compensation deferred under the plan, all property and rights purchased with such compensation, and all income attributable to such compensation, property, or rights shall be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan shall be established under the laws of Washington.

All amounts of compensation deferred under the plan shall be transferred to a trust established under the plan within a period that is not longer than is reasonable for the proper administration of the accounts of participants. Under RCW 41.50.780(4) the state investment board is made trustee of state deferred compensation plan assets.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-544-010 Accumulated deferrals not assignable. ((It is agreed that neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the employer shall have no further liability hereunder, nor shall any unpaid accumulated

deferrals be subject to attachment, garnishment or execution; or be transferable by operation of law in event of bankruptcy, insolvency, except to the extent otherwise required by law.)) Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to sell, assign, transfer, commute, or otherwise convey the right to receive any payments under the plan. These payments and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law. In the event of any attempt to assign or transfer, the state investment board and the department will have no liability.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-560-010 Investment responsibility. ((The employer and department may, but are not required to, invest funds held pursuant to participation agreements between participants and the employer in accordance with the requests made by each participant. The department shall retain the right to approve or disapprove such investment requests. Any)) Action by the ((department in investing funds,)) state investment board as plan trustee or by the department ((or employee retirement benefits board approving of any such investment of funds, shall)) as plan administrator will not be considered ((to be either)) an endorsement or guarantee of any investment ((nor shall it)). Such action will not be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-524-010 Unforeseeable emergency. (1) Payout request. Notwithstanding any other provisions in plan chapters 415-501 through 415-568 WAC, in the event of an unforeseeable emergency, a participant (or a beneficiary entitled to accumulated deferrals) may request the department to pay out all or a portion of accumulated deferrals. If the application for payment is approved by the department, payment will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(b) Loss of the participant's property due to casualty, or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment shall not be made to the extent that such hardship is or may be relieved;

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

(2) Applications for review. All applications for review of decisions on requests for pay out of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

**WSR 98-20-052  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-206—Filed October 1, 1998, 11:58 a.m.]

Date of Adoption: September 25, 1998.

Purpose: Amend buy-back rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-95-013, 220-95-018, 220-95-022, 220-95-027, and 220-95-032.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 98-14-096 on June 30, 1998; and WSR 98-17-098 on August 19, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-95-022 (3)(b)(vi) amended to read, "Including only and all angler permits ..."

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 5, 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: Thirty-one days after filing.

September 28, 1998

Larry Peck  
Acting Director

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

**WAC 220-95-013 (~~(1995)~~ 1998 Salmon (~~(disaster relief)~~) license buy-back program established—Fund allocation—Expiration.** (1) The National Marine Fisheries Service (NMFS) has designated the department as the administering agency for distribution of (~~(Northwest Emergency Assistance Plan)~~) Magnuson-Stevens Fisheries Conservation and Management Act (the act) funds to buy back salmon licenses from commercial license holders who (~~(are)) have been affected by reductions in salmon fishing (~~(needed to conserve Columbia River threatened and endangered salmon stocks. The state of Washington in consultation with the National Marine Fisheries Service believes the program should be designed to purchase licenses from fisheries that are dependent on chinook and coho salmon and are affected by the Endangered Species Act)~~) caused by winter flooding in Washington state.~~ The department hereby designates (~~(this program)~~) the fund distribution as the (~~(1995)~~) 1998 salmon (~~(disaster relief)~~) license buy-back program (program). The licenses eligible to participate in the program are salmon charter, salmon delivery, salmon troll, salmon gill net, salmon purse seine and salmon reef net.

(2) The (~~(rules provided for in this chapter implement the provisions of the Northwest Emergency Assistance Plan as published in the Federal Register, and appeals as to which fishery license holders may apply for relief and the maximum level of monetary relief offered are to be made to the National Marine Fisheries Service))~~ goal of the program is to provide economic relief to Washington commercial salmon fishers, and to reduce the number of Washington commercial salmon licenses. To accomplish this, the department is proposing a two-step process, first an open purchase of licenses for a fixed sum (Phase One), then, if any funds remain available, an income-based purchase plan (Phase Two).

(3) (~~(The department allocates the available federal funding for the program to the following categories in the following amounts:))~~ The department will allocate the \$4,670,000 available under Section 312(a) as follows:

(a) Program administration - \$123,000.

(b) Salmon charter - \$152,000.

(c) Salmon troll and salmon delivery - \$750,000.

(d) Willapa-Columbia River and Grays Harbor-Columbia River gill net - \$840,000.

(e) Puget Sound salmon gill net - \$2,040,000.

(f) Salmon purse seine - \$660,000.

(g) Reef net - \$105,000.

<del>((a))</del>	<del>Salmon troll licenses and salmon delivery licenses</del>	<del>\$1,700,000.00</del>
(b)	Willapa Harbor-Columbia River and Grays Harbor-Columbia River gill net licenses	\$1,700,000.00
(e)	Salmon charter licenses	\$ 300,000.00
(d)	Program administration	\$ 300,000.00))

Program administration funds that will not be used will be reallocated to license purchases.

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(4) The program expires (~~(March 31, 1996, or)~~) upon the distribution of all available funds (~~(, whichever occurs first)~~).

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

**WAC 220-95-018 Program eligibility.** Only persons meeting the following criteria are eligible to participate in the program.

~~(1) ((The person participated in the coastal, Columbia River, Grays Harbor or Willapa Bay commercial salmon fisheries and had income derived from one of those fisheries in at least one year during the period 1986 through 1991 and has not participated nor will participate in a Northwest Emergency Assistance Plan jobs program; and~~

~~(2)) For phase one applicants, the person possessed or was eligible to possess in 1997 one of the ((following)) Washington state salmon ((fishery licenses in 1994:~~

~~(a) Salmon troll license (RCW 75.28.110 (1)(f));~~

~~(b) Salmon delivery license (RCW 75.28.113);~~

~~(c) Salmon gill net Grays Harbor Columbia River (RCW 75.28.110 (1)(a));~~

~~(d) Salmon gill net Willapa Bay Columbia River (RCW 75.28.110 (1)(e));~~

~~(e) Salmon charter (RCW 75.28.095 (1)(b)); and~~

~~(3) The person incurred an uninsured loss computed under the federal plan requirements as follows: The maximum amount of uninsured loss under the program is the difference between the highest gross income derived from designated salmon fishing activity (including incidental catch provided that some salmon are included within the catch) during any calendar year 1986 through 1991 (the base year), less the sum of the least amount of gross income derived from salmon fishing activities during any calendar year from 1992 through 1994, plus any federal unemployment compensation received during that year, plus any federally funded training received during that year (the comparison year). The maximum amount payable under the program is 2.25 times the uninsured loss, but not to exceed \$100,000.00 to any individual for all payments received from the program. For purposes of calculating income, the license holder must and may only use income from salmon fisheries in the coastal waters of Washington, Oregon, and California, the waters of Grays Harbor and Willapa Bay, and the waters of the Columbia River)) fishing licenses issued pursuant to RCW 75.28.110 or 75.28.113 or a salmon charter license issued pursuant to RCW 75.28.095, and is eligible to possess the same license in 1998.~~

~~(2) For phase two applicants:~~

~~(a) The person possessed or was eligible to possess in 1997 one of the Washington state salmon fishing licenses issued pursuant to RCW 75.28.110 or 75.28.113 or a salmon charter license issued pursuant to RCW 75.28.095 and is eligible to possess the same license in 1998, and had income derived under the license from 1986 through 1991;~~

~~(b) The person had a salmon income loss greater than \$0, computed as follows:~~

~~The salmon income loss under the program is the difference between the highest gross income derived from Washington state and offshore salmon fishing activity (including~~

incidental catch provided that some salmon are shown on the fish receiving ticket documenting the catch) during any calendar year 1986 through 1991 (the base year), less the sum of the least amount of gross income derived from the same salmon fishing activity during any calendar year from 1992 through 1997 (the comparison year), multiplied by 2.5. For purposes of calculating income, the license holder must and may only use income from salmon fisheries in the coastal waters of Washington, the waters of Grays Harbor, Willapa Bay, and the Columbia River, and waters of Puget Sound easterly of the Bonilla-Tatoosh Line. Income that was used in calculating uninsured loss in the 1995 salmon disaster relief license buy-back program or salmon decline impact in the 1996 Washington salmon license buy-out program may not be used to calculate salmon income loss in the 1998 program if the license offered in either the 1995 or 1996 program was purchased and retired.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

**WAC 220-95-022 Program application.** (1) A ((license holder)) person may make only one offer per license ((during an offer period)) per phase under the program.

(2) ((An offer to sell a license must be made on department forms and must be received by the department's licensing division during the period 8:30 a.m., March 29 through 4:30 p.m., May 12, 1995.

(3)) Income used in the calculation of offers that are accepted may not be used in the calculation of any other offer.

~~((4) The license holder may offer the license for any amount up to the maximum allowable under the program.~~

~~(5)) (3) Phase one applications:~~

~~(a) Phase one applications must be submitted to the department's licensing division on a department offer form. A completed offer form must contain the following information:~~

~~The applicant's name, Social Security number, mailing address during the offer period, telephone number (if applicable), and the license type and license number being offered;~~

~~(b) The offer amounts for phase one are:~~

~~(i) Salmon troll and salmon delivery: \$7,500.~~

~~(ii) Grays Harbor-Columbia and Willapa Bay-Columbia gill net: \$10,000.~~

~~(iii) Puget Sound gill net: \$12,000.~~

~~(iv) Reef net: \$15,000.~~

~~(v) Salmon purse seine: \$30,000.~~

~~(vi) Salmon charter: \$1,000 per angler permit not to exceed \$10,000, and including only and all angler permits that were on the license as of August 1, 1998.~~

~~(c) Phase one applications will be accepted October 26, 1998, through 4:30 p.m., October 30, 1998. Any application received before October 26, 1998, will be treated as being received on October 26, 1998, for purposes of prioritizing the applications. Any amounts remaining in the area and gear category from phase one will be used in phase two, unless the department deems that there are insufficient funds remaining to conduct a phase two plan.~~

~~(4) Phase two applications:~~

(a) Phase two applications must be made on department forms and must be received by the department's licensing division between November 16, 1998, and 4:30 p.m., November 30, 1998.

(b) The licensee may offer the license for any amount up to the salmon income loss incurred under the license or \$75,000, whichever is the lesser amount.

(c) An offer is not made unless a complete offer is received by the department. In order for an offer to be complete, the following must be received:

~~((a))~~ (i) A complete offer sheet, showing:

~~((i))~~ (A) The applicant's name, Social Security number, mailing address during the offer period and telephone number (if applicable);

~~((ii))~~ (B) The license type and license number that is being offered;

~~((iii))~~ (C) The offer amount;

~~((iv))~~ (D) The base year income (1986-1991);

~~((v))~~ (E) The comparison year income (1992-~~(1994, including federal unemployment funds and the amount of any federally funded training received)~~ 1997); and

~~((vi) The amount of uninsured loss;)~~ (F) The offer ratio, defined as the offer amount divided by the salmon income loss.

~~((b))~~ (j) Salmon income supporting documents(-

~~(i) For salmon troll, salmon delivery and gill net license fishing activity, the only acceptable supporting documents) other than salmon charter are defined as official state fish receiving tickets documenting landings under a Washington license, (official state fish landing receipts;) or computer generated landing lists that have been certified by ~~(a state agency)~~ the department or the Pacific States Marine Fisheries Commission to be true and correct copies of Washington or Columbia River landings. All landings count in calculation of base and comparison year incomes.~~

~~((ii))~~ (jii) For salmon charter license fishing activity, acceptable supporting documents are trip tickets identifying the species targeted, the number of anglers, and the date of the trip or, if such tickets are unavailable, the department will accept a letter of endorsement from a charterboat association or charterboat booking office indicating salmon fishing was a major component of earnings, and, if such a letter is provided, will review the total income of the applicant for the base and comparison years.

~~((e))~~ NOTE: Commercial salmon licensee applicants who submitted complete offers in the 1996 Washington salmon license buy-out program need not resubmit supporting documents for offers based on the same base and comparison years if all landings are from Washington state. Such persons must submit a new offer sheet to participate in the 1998 program, but the offer amount may differ from the 1996 offer amount, provided it does not exceed the 1998 program limits.

(iv) Records disclosure authorization that allows the department to receive copies of the applicant's Internal Revenue Service returns for the base and comparison years ~~(are required from salmon charter license applicants who use income other than that shown on trip tickets and may be required for salmon troll, salmon delivery, and gill net license~~

~~applicants claiming a percentage of income shown on fish tickets.~~

~~(d) A signed permission form that allows the department to receive copies of the applicant's Internal Revenue Service returns for the base and comparison years;)~~ and to receive landing information from the Pacific States Marine Fisheries Commission~~(, and the states of Oregon and California).~~

~~((e))~~ (v) A signed statement certifying that all information provided is true and correct.

(vi) A completed 1998 license application if the person has not already renewed for 1998 the license offered for sale. If the applicant is not reached on the ranked offers, the 1998 license fee will be required within 30 days of notification.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

**WAC 220-95-027 Ranking of offers.** ~~((1) Incomplete offers will be returned.~~

~~(2) Complete offers will be verified prior to ranking.~~

~~(3) Ranking of complete offers will occur at the close of the offer period and offers will be ranked within the following three categories:~~

~~(a) Salmon troll and salmon delivery licenses.~~

~~(b) Willapa Bay Columbia River and Grays Harbor Columbia River gill net licenses.~~

~~(c) Salmon charter licenses.~~

~~(4) Ranking will be established in ascending order from the lowest offer to the highest offer in each license category.~~

~~(5) In the event of a tie, the offer of the person with the highest uninsured loss will be accepted.)~~ Phase two offers will be ranked by the offer ratio, beginning with the lowest ratio.

AMENDATORY SECTION (Amending Order 95-20, filed 3/3/95, effective 4/3/95)

**WAC 220-95-032 Offer acceptance—Acknowledgment—Retirement of licenses.** (1) ~~((Offers will be accepted in rank order, beginning with the lowest offer.~~

~~(2))~~ Phase one. The department will accept applications for phase one on a first come, first serve basis. Applicants will be prioritized on the basis of the date the application was received by the department. Phase one applicants may apply in person at the department licensing office in Olympia, by FAX to the license office at (360) 902-2925, or by mail to Fish and Wildlife Licensing, 600 Capitol Way North, Olympia, Washington 98501-1091. If insufficient funds are remaining to process all applications received on a given day, a random drawing will be made of that day's applicants to determine which applications will be accepted to participate in the program.

(2) Phase two. The department will accept applications for phase two in rank order, beginning with the lowest offer ratio. In the event of a tie between identical offer ratios, the lowest offer amount will be given preference.

(3) The department will notify license holders that it has accepted a license offer by sending an acceptance and acknowledgment to the license holder by registered mail to the address provided on the offer form or offer sheet. The

acknowledgment must be signed and returned to the department ~~((and must be received by the license division at or before 4:30 p.m. on June 14, 1995. Any acknowledgment received after that date))~~ within ten days of the date of the mailing of the acceptance. Any acknowledgment received after the 10-day period is void and the acceptance is withdrawn.

~~((3) If the license being offered has been issued for 1995,))~~ (4) The department will tender the amount of the offer upon ~~((return of the license card))~~ receipt of a valid acknowledgment.

~~((4) If the license being offered has not been issued for 1995, the department will tender the amount of the offer upon receipt of a valid acknowledgment.))~~ (5) Persons who sell a license in phase two of the program cannot purchase or operate a commercial license listed in RCW 75.28.110 or 75.28.113 or a salmon charter license listed in RCW 75.28.095 for ten years, beginning January 1, 1999, except that persons may operate such a license if the license was owned or operated by that person in 1997.

**WSR 98-20-061**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed October 2, 1998, 9:43 a.m.]

Date of Adoption: September 18, 1998.

Purpose: WAC 308-12-025 informs applicants for examination and subsequent license as an architect of the requirements set forth in RCW 18.08.350. This amendment adds the information concerning the structured intern training program adopted by the board. WAC 308-12-115 defines terms used in chapter 18.08 RCW and chapter 308-12 WAC. This amendment adds the definition of intern.

Citation of Existing Rules Affected by this Order: Amending WAC 308-12-025 and 308-12-115.

Statutory Authority for Adoption: RCW 18.08.340.

Adopted under notice filed as WSR 98-14-043 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 2, 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: Thirty-one days after filing.  
September 29, 1998  
Jon M. Clark  
Acting Administrator

AMENDATORY SECTION (Amending WSR 97-03-121, filed 1/21/97, effective 2/21/97)

**WAC 308-12-025 Application for examination.** (1) The application to begin the examination process must be submitted on forms approved by the board, accompanied by academic and/or practical experience verification to document eligibility under the provisions of RCW 18.08.350.

(2) The board has adopted the National Council of Architectural Registration Boards (NCARB) intern development training program (IDP training requirement) as the board approved structured intern training program. Completion of the training requirements of the intern development program must be validated by the NCARB in a council training record sent to the board office. Completion of the training requirements of the IDP is the equivalent of three years of practical work experience.

(3) Applications for the examination must be accompanied by the application fee for the examination as established by the director and published in chapter 308-12 WAC, architect fees. The application fee to begin the examination process will not be refunded.

~~((3) On subsequent attempts examinees may retake any divisions offered not passed on previous attempts.))~~

AMENDATORY SECTION (Amending WSR 91-12-061, filed 6/5/91, effective 7/6/91)

**WAC 308-12-115 Definitions.** (1) Accredited architectural degree—A professional degree received from the current list of accredited schools of architecture as published by the National Architectural Accrediting Board.

(2) Practical architectural work experience—Practical work experience performing activities involved in the practice of architecture, as defined in RCW 18.08.320, under the direct supervision of an architect. The board may approve similar practical work experience for full or partial credit and will accept intern development program experience as defined in the IDP training guidelines.

(3) Intern development program (IDP)—~~((An))~~ A structured internship training program designed to provide a ((formal means of evaluating training, to recognize the intern architects' professional development by compiling a continuing, comprehensive record of their internship training and to ensure intern architects of a range of exposures that will help qualify them to take the professional examination)) profession-wide, comprehensive program that contributes to the development of competent architects. IDP consists of training requirements that must be satisfied in order to complete the program. The National Council of Architectural Registration Boards (NCARB) maintains and validates the continuing, comprehensive record of internship training.

(4) Supervision—The word "supervision" in RCW 18.08.320 means the periodic observation of materials and

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work in progress or completed work to observe the general compliance with plans, specifications, and design and planning concepts, and does not include responsibility for the superintendence of construction processes, site conditions, operations equipment, personnel, maintenance of a safe place to work, or any safety in, on, or about the site of the work.

(5) Principal—The word "principal" as used herein shall mean an architect who is registered in this state; who is a shareholder, if the practice is through a professional service corporation; or a partner if the practice is through a partnership; or the proprietor if the practice is through a proprietorship; or the designated architect of a stock corporation; and is the person in charge of the architectural practice, either alone or in concert with others who qualify as herein described.

(6) Direct supervision—The phrase, "under the direct supervision of an architect" as used in connection with architectural work experience for qualification and eligibility for the examination shall refer to any of the following conditions or situations.

(a) The supervising architect is an employer who is knowledgeable of the performance and competence of the applicant.

(b) The supervising architect works for the same employer as the applicant, and is either the direct superior of the applicant, or a co-worker knowledgeable and responsible for the efforts of the applicant.

(7) Design-build—A means of providing design and construction services in which a single entity is responsible for both services.

**WSR 98-20-067**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed October 2, 1998, 3:53 p.m.]

Date of Adoption: October 1, 1998.

Purpose: Provide increased access to physician services in areas with high population to physician ratios.

Statutory Authority for Adoption: Chapter 70.185 RCW.

Adopted under notice filed as WSR 98-15-154 on July 22, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-562-010: insert new (6) definition - "sponsorship" means a request by the department on behalf of a health care facility to federal immigration authorities to grant a visa waiver for the purposes of recruiting and retaining physicians. WAC 246-562-120 (4)(b) following "greatest number of physicians" add "relative to population." These changes are intended to clarify the meaning of the rule as published.

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 14, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, 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 14, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

October 1, 1998  
 K. Van Gorkom  
 Acting Secretary

**Chapter 246-562 WAC**

**PHYSICIAN VISA WAIVERS**

NEW SECTION

**WAC 246-562-010 Definitions.** The following definitions shall apply in the interpretation and implementation of these rules.

(1) "Applicant" means a health care facility that seeks to employ a physician and is requesting state sponsorship or concurrence of a visa waiver.

(2) "Department" means the department of health.

(3) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application which contains all terms and conditions of employment, including, but not limited to, the salary, benefits and any other consideration owing under the agreement.

(4) "Health care facility" means an entity with an active Washington state business license doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of medical care.

(5) "Physician" means the foreign physician, named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

(6) "Sponsorship" means a request by the department on behalf of a health care facility to federal immigration authorities to grant a visa waiver for the purpose of recruiting and retaining physicians.

(7) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his/her home country for a two-year period following medical residency training.

(8) "Vacancy" means a full-time physician practice opportunity that is based on a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

NEW SECTION

**WAC 246-562-020 Authority to sponsor visa waivers.** (1) The department of health may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an

**PERMANENT**

option provided in federal law, 8 U.S.C. Sec. 1184(l) and 22 C.F.R. 514.44(e). This option allows the department of health to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may also concur in sponsorship proposed by federal agencies, including the United States Department of Agriculture. The department will apply the same criteria to concurrence requests as it applies to applications for state sponsorship.

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated shortage areas for health care facilities that have long standing vacancies;

(b) To improve access to physician services for communities and specific under-served populations that are having difficulty finding primary care physician services;

(c) To serve Washington communities who have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for primary health care services.

(4) The department may only sponsor or concur in a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in chapter 246-562 WAC.

(5) The department will limit its activities:

(a) Prior to submission of an application, the department may provide information on preparing a complete application;

(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;

(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single year, a health care facility will not be granted more than two sponsorships in any one designated shortage area served.

#### NEW SECTION

**WAC 246-562-040 Principles that will be applied to the visa waiver program.** (1) The visa waiver program is considered a secondary source for recruiting qualified physicians. It is not a substitute for broad recruiting efforts for graduates from U.S. medical schools.

(2) Sponsorship may be offered to health care facilities that can provide evidence of sustained active recruitment for the vacancy in the practice location with a physician who has specific needed skills.

(3) Sponsorship is intended to support introduction of physicians into practice settings that promote continuation of the practice beyond the initial contract period.

(4) Sponsorship will be for an employment situation where there is community support and a collegial professional environment.

(5) The visa waiver program will be used to assist health care facilities that provide care to all residents of the federally designated under-served area. When a federal designation is for an under-served population, the health care facility must provide care to the under-served population.

(6) Sponsorship is available to health care facilities that can document the provision of needed services, regardless of public or private ownership.

#### NEW SECTION

**WAC 246-562-050 Review criteria.** Applicants and physicians must meet the criteria established in 8 U.S.C. 1184(l) and 22 C.F.R. Sec. 514.44(e) which are incorporated by reference. Copies of these provisions may be requested from the department by writing to the Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

The criteria set out in chapter 246-562 WAC must also be met.

#### NEW SECTION

**WAC 246-562-060 Criteria for applicants.** (1) Applicants must be existing health care facilities licensed to do business in Washington state. The applicant must provide medical care for a minimum of twelve months prior to submitting a visa waiver application to the department.

(2) Applicants may be for-profit, nonprofit, or government organizations.

(3) Except for state institutional and correctional facilities designated as federal shortage areas, the applicant must:

(a) Currently serve Medicare clients; Medicaid clients; low-income clients, such as subsidized basic health plan enrollees; uninsured clients; and the population of the federal designation.

(b) Demonstrate that during the twelve months prior to submitting the application, the health care facility was providing a minimum of ten percent of the applicant's total patient visits to Medicaid clients, and/or other low-income clients.

(4) Applicants must have been actively recruiting to fill the practice vacancy from among qualified physicians who are graduates of United States medical schools. Active recruitment must be for a period of not less than six months prior to submitting a visa waiver application to the department.

(5) Applicants must have a signed employment contract with the physician. The employment contract:

(a) Must meet state and federal requirements;

(b) Must not prevent the physician from providing medical services in the designated shortage area after the term of employment.

(6) Applicants must pay the physician at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment opportunity or the prevailing wage level for the position in the area of employment, whichever is higher.

(7) If the applicant has previously requested sponsorship of a physician, WAC 246-562-130 will apply.

(8) If the applicant is not a publicly funded provider, additional criteria apply. Publicly funded providers include, but are not limited to, public hospital districts or community health centers. The applicant must provide a letter from each of the publicly funded providers serving the federally designated shortage area. The letter must:

- (a) Describe a mutually supportive relationship;
- (b) Confirm that the proposed addition of a physician will benefit the federally designated shortage area;
- (c) Explain how the applicant, through call coverage, referral, or other mechanism will contribute to meeting the local needs.

(9) Applicants must notify the department of the physician's start-date of employment and of any changes in the physician's employment status during the initial three years of employment.

(10) Applicants must submit status reports to the department every six months, with required supporting documentation, during the initial three-year term of employment.

(11) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

#### NEW SECTION

**WAC 246-562-070 Criteria for the proposed practice location to be served by the physician.** (1) The proposed practice location must be located in:

- (a) A federally designated primary care health professional shortage area(s); or
- (b) A federally designated mental health professional shortage area(s) for psychiatrists; or
- (c) A federally designated whole-county medically under-served area(s); or
- (d) A combination of federally designated areas.

(2) If the federal designation is based on a specific population, the health care facility must serve the designated population.

(3) If the practice location is in both a population designation area and a medically under-served area, the designated population must be served.

(4) May be an existing practice location or a new practice location for the health care facility named in the visa waiver application. If a new practice location is planned, additional criteria apply. New practice locations must:

- (a) Have the legal, financial, and organizational structure necessary to provide a stable practice environment, and must provide a business plan that supports this information;
- (b) Support a full-time physician practice;
- (c) Have written referral plans that describe how patients using the new primary care location will be connected to existing secondary and tertiary care if needed.

#### NEW SECTION

**WAC 246-562-080 Criteria for the physician.** (1) The physician must not have a J-1 visa waiver pending for any other employment offer.

(2) Physicians must have the qualifications described in recruitment efforts for a specific vacancy.

(3) The physician must provide direct patient care and be trained only in the following five primary care areas:

- (a) Family practice; or
- (b) General internal medicine; or
- (c) Pediatrics; or
- (d) Obstetrics and gynecology; or
- (e) Psychiatry.

(4) Physicians must have an active Washington state medical license, unless unusual circumstances delay licensing. If the application for a Washington state medical license has been received by the Washington state medical quality assurance commission four or more weeks prior to submission of the visa waiver application, the applicant may substitute a copy of the license application and request an exception.

(5) Physicians must have at least one recommendation from their residency program that:

- (a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and
- (b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities.

(6) The physician must comply with all provisions of the employment contract.

#### NEW SECTION

**WAC 246-562-090 Application form.** (1) Physician visa waiver program application forms are available and may be requested from: Washington State Department of Health, Office of Community and Rural Health, Visa Waiver Program, PO Box 47834, Olympia, WA 98504-7834.

(2) Applications must be completed in their entirety, addressing all state and federal requirements, and must include all required documents as specified in the application form.

#### NEW SECTION

**WAC 246-562-100 Criteria applied to federally designated facilities.** Local, state, or federal institutions that are federally designated with a facility designation may request state sponsorship. Physician services may be limited to the population of the institution. All other state and federal requirements must be met.

#### NEW SECTION

**WAC 246-562-110 Concurrence with United States Department of Agriculture or other federal waiver requests.** Concurrence with federal waiver requests will be offered to applicants who:

- (1) Submit an application with a written request for a letter of concurrence;
- (2) Meet all federal requirements; and
- (3) Meet all state requirements.

#### NEW SECTION

##### **WAC 246-562-120 Department review and action.**

- (1) The department will review applications for completeness in date order received.
- (2) Applications must be mailed, sent by commercial carrier, or delivered in person. Applications may not be sent by telefax, or electronically.
- (3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.
- (4) Should multiple applications arrive at the department on the same day, the department will rank those applications according to the following criteria:
  - (a) Federally designated shortage facilities will rank first.
  - (b) Those applicants serving shortage areas that require the greatest number of physicians relative to population to remove them from federal shortage status will rank second.
  - (c) Publicly funded employers, such as public hospital districts and community health centers, who have an obligation to provide care to under-served populations will rank third.
  - (d) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.
  - (e) If a ranked order cannot be determined by using the criteria in (a) through (d) of this subsection, then applications will be ranked based on random selection.
- (5) The department will review applications within ten working days of receipt of the application to determine if the application is complete.
- (6) The department will return incomplete applications to the applicant, and provide a written explanation of missing items.
- (7) Incomplete applications may be resubmitted with additional required information. Resubmitted applications will be considered new applications and will be reviewed in date order received on resubmission.
- (8) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to requests for concurrence.
- (9) The department will return sponsorship applications to applicants who have had two approved sponsorships in the current year for the shortage area.
- (10) If the Washington state medical license is pending at the time the application is submitted to the department, the department may:
  - (a) Sponsor or concur;
  - (b) Hold the application in order received; or
  - (c) Return the application as incomplete.
- (11) The department will review complete applications against the criteria specified in chapter 246-562 WAC.

- (12) The department may:
  - (a) Request additional clarifying information;
  - (b) Verify information presented;
  - (c) Investigate financial status of the applicant.
- (13) The department will notify the applicant in writing of action taken. If the decision is to decline sponsorship, the department will provide an explanation of how the application failed to meet the stated criterion or criteria.
- (14) The department may deny a visa waiver request or, prior to USIA approval, may withdraw a visa waiver recommendation for cause, which shall include the following:
  - (a) The application is not consistent with state and/or federal criteria;
  - (b) Fraud;
  - (c) Misrepresentation;
  - (d) False statements;
  - (e) Misleading statements; or
  - (f) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials.
- (15) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received.

#### NEW SECTION

**WAC 246-562-130 Eligibility for future participation in the visa waiver program.** (1) Health care facilities may be denied future participation in the state visa waiver program if:

- (a) The required six-month reports are not submitted in a complete and timely manner.
  - (b) A sponsored physician does not serve the designated shortage area and/or shortage population for the full three years of employment.
  - (c) A sponsored physician does not remain employed by the applicant for the full three years of employment.
- (2) A health care facility may request a determination of eligibility prior to submitting an application. The department will review the situation upon receipt of a written request.

#### NEW SECTION

**WAC 246-562-140 Department's responsibility to report to the United States Information Agency.** (1) The department may report to the United States Information Agency if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

- (2) The department may report to the United States Information Agency if the physician is determined to have left employment in the federally designated area.

#### NEW SECTION

**WAC 246-562-150 Appeal process.** (1) The applicant or physician may appeal the following department decisions:

- (a) To deny or withdraw a visa waiver sponsorship;
- (b) To deny or withdraw a sponsorship concurrence;

(c) Determination that the applicant or physician is out of compliance with this chapter; or

(d) Determination that the applicant is not eligible for future participation in the visa waiver program.

(2) The appeal process is governed by the Administrative Procedure Act (chapter 34.05 RCW), chapter 246-10 WAC, and this chapter.

(3) To initiate an appeal, the applicant must file a written request for an adjudicative proceeding within twenty-eight days of receipt of the department's decision.

(4) The request shall be mailed, by a method showing proof of receipt, to the Adjudicative Clerk Office, PO Box 47879, 2413 Pacific Avenue, Olympia, WA 98504-7879.

(5) The request must contain:

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

(b) The grounds for contesting the department's decision; and

(c) A copy of the department's decision.

### WSR 98-20-068

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

(Board of Denture Technology)

[Filed October 2, 1998, 3:59 p.m.]

Date of Adoption: August 14, 1998.

Purpose: To regulate the profession of denturism.

Citation of Existing Rules Affected by this Order:  
Amending chapter 246-812 WAC.

Statutory Authority for Adoption: RCW 18.30.070(3).

Adopted under notice filed as WSR 98-14-124 on July 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 35, 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 35, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

September 11, 1998

J. Eric Hansen, Chair  
Board of Denture Technology

## DENTURISTS

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-001 Purpose.** The purpose of these rules is to further clarify and define chapter 18.30 RCW, Denturists.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-010 Definitions.** The following terms are so defined for the purposes of this chapter:

"**Acquired immunodeficiency syndrome**" or "**AIDS**" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

"**Approval**" and "**accreditation**" are used interchangeably with reference to sanctioning of courses.

"**Board**" means the state board of denture technology, whose address is:

Department of Health  
Health Profession Quality Assurance Division  
Board of Denture Technology  
1112 SE Quince Street, PO Box 47867  
Olympia, WA 98504-7867

"**Denture technology**" for the purposes of application under RCW 18.30.090(3) is defined, at a minimum, as the making, constructing, altering, reproducing or repairing of a denture.

"**Five years employment in denture technology**" is defined as working a minimum of twenty hours per week during five of the last ten years.

"**Office on AIDS**" means that section within the department of health with jurisdiction over public health matters as defined in chapter 70.24 RCW.

"**4,000 Hours practical work experience in denture technology**" is defined and taken as a whole, which must have occurred within the past five years of date of application.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-015 Adjudicative proceedings—Procedural rules.** Adjudicative proceedings are conducted pursuant to the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-10 WAC, including subsequent amendments.

### LICENSURE—APPLICATION AND ELIGIBILITY REQUIREMENTS

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-101 Purpose.** The purpose of WAC 246-812-101 through 246-812-170 is to establish guidelines

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on eligibility, and set forth the procedures for application to receive a license for the practice of denturism. By statute, the eligibility and application criterion are established in RCW 18.30.090.

**READOPTED SECTION** (Readopting WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-812-120 Denturist licensure—Initial eligibility and application requirements.** To be eligible for Washington state denturist licensure, the applicant shall complete an application and shall include written documentation to meet eligibility criteria. Each applicant shall provide:

(1) A signed, notarized application and required fee. (Refer to WAC 246-812-990 for fee schedule.)

(2) Proof that they meet the basic eligibility requirements identified in RCW 18.30.090, documented by the signed, notarized affidavit processed as part of the application.

(3) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(4) Photograph. A recent photograph, signed and dated, shall be attached to the application.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-125 Denturist licensure—Endorsement.** For the purposes of endorsement as provided in RCW 18.30.090 (1)(a) licensing authorities shall be determined to be substantially equivalent that meet the following criteria:

(1) Written examination - applicants must have successfully completed a written examination which included testing in the areas of:

- (a) Oral pathology;
- (b) Head and oral anatomy and physiology;
- (c) Dental laboratory technology;

Additionally, the examination must include four of the following test categories:

- (d) Partial denture construction and design;
- (e) Microbiology;
- (f) Clinical dental technology;
- (g) Clinical jurisprudence;
- (h) Asepsis;
- (i) Medical emergencies;
- (j) Cardiopulmonary resuscitation.

(2) Practical examination - applicants must have successfully completed a clinical examination.

**AMENDATORY SECTION** (Amending WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-130 Denturist licensure—Training course approval.** For the purposes of eligibility as defined in RCW 18.30.090 (3)(b), ((secretary)) board approval will be given to any course(s) that consists of course work at an accredited institution in each and all of the following areas:

- (1) Head and oral anatomy and physiology;
- (2) Oral pathology;
- (3) Partial denture construction and design;
- (4) Microbiology;

- (5) Clinical dental technology;
- (6) Dental laboratory technology;
- (7) Clinical jurisprudence;
- (8) Asepsis;
- (9) Medical emergencies;
- (10) Cardiopulmonary resuscitation.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-150 Examination—Content and scores.** An applicant seeking licensure in Washington by examination must successfully complete a written and practical examination as specified in RCW 18.30.100. In order to be licensed, an applicant shall be required to obtain an overall passing score of seventy percent on the written examination and an overall score of seventy percent on the practical examination.

**AMENDATORY SECTION** (Amending WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-155 Denturist examination scores.** An applicant must pass all sections of the written examination and the practical demonstration of skills within three attempts. After three failures the applicant must petition the ((secretary)) board for permission to take any further examination. The ((secretary)) board shall have complete discretion regarding such petition and the conditions under which further examination permission may be granted.

**READOPTED SECTION** (Readopting WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-812-160 Expired license.** (1) If the license has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for more than three years, the practitioner must:

- (a) Successfully pass the examination as provided in RCW 18.25.040;
- (b) Meet the requirements of chapter 246-12 WAC, Part 2.

**READOPTED SECTION** (Readopting WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-812-161 Inactive credential.** A practitioner may obtain an inactive credential. Refer to the requirements of chapter 246-12 WAC, Part 4.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-170 License renewal form.** A license shall not be renewed until the applicant has submitted completed renewal forms and the full amount of the renewal fee, including any penalty fee for late renewal of the license.

**PRACTICE STANDARDS**

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-301 Purpose.** The purpose of WAC 246-812-201 through 246-812-460 is to provide standards to guide denturists in the conduct of their practice.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-320 Maintenance and retention of patient records.** Any denturist who treats patients in the state of Washington shall maintain complete treatment records regarding patients treated. These records shall include, but shall not be limited to, treatment plans, patient charts, patient histories, correspondence, financial data and billing. These records shall be retained by the denturist for five years in an orderly, accessible file and shall be readily available for inspection by the secretary or its authorized representative. Copies of records may be forwarded to a second party upon the patient's or authorized agent's written request. In such cases, office records shall state the date on which the records were released, method forwarded and to whom, and the reason for the release. A reasonable fee may be charged the patient to cover mailing and clerical costs.

In offices where more than one denturist is performing the services, the records must specify the denturist who performed the services.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-330 Privileged communications.** A denturist shall not, without the consent of the patient, reveal any information acquired in attending such patient, which was necessary to enable the denturist to treat the patient. This shall not apply to the release of information in an official proceeding where the release of information may be compelled by law.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-340 Patient abandonment.** The denturist shall always be free to accept or reject a particular patient, bearing in mind that whenever possible a denturist shall respond to any reasonable request for his/her services in the interest of public health and welfare.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-350 License display—Notification of address.** Every person who engages in the practice of denturism in this state shall display their license, at all times, in a conspicuous place within their office. Whenever requested, they shall exhibit their license to the secretary or the secre-

tary's authorized agent. Every licensee shall notify the secretary of the address or addresses, including changes, where the licensee shall engage in the practice of denturism.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-360 Identification of new dentures.** Every complete upper and lower denture and removable partial denture fabricated by a denturist licensed under the provisions of chapter 18.30 RCW, or fabricated pursuant to the denturist's work order or under the denturist's direction or supervision, shall be marked with the name of the patient for whom the denture is intended. The markings shall be done during fabrication and shall be permanent, legible, and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the denturist fabricating the denture. If, in the professional judgment of the denturist, this identification is not practical, identification shall be provided as follows:

(1) The initials of the patient may be shown alone, if use of the patient's name is impracticable; or

(2) The identification marks may be omitted in their entirety if none of the forms of identification specified in subsection (1) of this section is practicable, clinically safe, or the patient declines.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-390 Improper billing practices.** The following acts shall constitute grounds for which disciplinary action may be taken:

(1) Rebating or offering to rebate to an insured any payment to the licensee by the third-party payor of the insured for services or treatments rendered under the insured's policy.

(2) Submitting to any third-party payor a claim for a service or treatment at a greater or an inflated fee or charge other than the usual fee the licensee charges for that service or treatment when rendered without third-party reimbursement.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-400 Denturist associations or societies.** The president or chief executive officer of any denturist association or society within this state shall report to the secretary when an association or society determines that a denturist has committed unprofessional conduct or that a denturist may not be able to practice denturism with reasonable skill and safety to patients as the result of any mental or physical condition and constitutes an apparent risk to the public health, safety, or welfare. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-410 Insurance carriers.** The executive officer of every insurer, licensed under Title 48 RCW operating in the state of Washington, shall report to the secretary any evidence that a dentist has charged fees for dentist services not actually provided, or has otherwise committed unprofessional conduct.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-420 Professional liability carriers.** Every institution or organization providing professional liability insurance directly or indirectly to dentists shall send the secretary a complete report of any malpractice settlement, award or payment over five thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured dentist's incompetence or negligence in the practice of dentistry. Such institution or organization shall also report the payment of three or more claims during a year as the result of alleged incompetence or negligence in the practice of dentistry regardless of the dollar amount of the payment.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-430 Courts.** The secretary requests the assistance of all clerks of trial courts within the state to report, to the secretary, all professional malpractice judgments and all criminal convictions of licensed dentists, other than for minor traffic violations.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-440 State and federal agencies.** The secretary requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a dentist has been judged to have demonstrated incompetence or negligence in the practice of dentistry, or has otherwise committed unprofessional conduct; or whose practice is impaired as a result of a mental, physical or chemical condition, to report to the secretary all professional malpractice judgments and decisions.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-450 Professional standards review organizations.** Unless prohibited by federal or state law, every professional standards review organization operating within the state of Washington shall report to the secretary any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice their profession with rea-

sonable skill and safety to consumers as a result of a mental or physical condition.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-460 Board conflict of interest.** Members of the board shall not participate in a disciplinary case where their participation presents a conflict of interest or creates an appearance of a conflict of interest.

## INFECTION CONTROL

**AMENDATORY SECTION** (Amending WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-501 Purpose.** The purpose of WAC 246-812-501 through 246-812-520 is to establish requirements for infection control in dentist offices to protect the health and well-being of the people of the state of Washington. For purposes of infection control, all dentist staff members and all patients shall be considered potential carriers of communicable diseases. Infection control procedures are required to prevent disease transmission from patient to dentist and staff, dentist and staff to patient, and from patient to patient. Every dentist is required to comply with the applicable standard of care in effect at the time of treatment. At a minimum, the dentist must comply with the requirements defined in WAC ((246-812-620 and 246-812-630)) 246-812-520.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-510 Definitions.** The following definitions pertain to WAC 246-812-501 through 246-812-520.

**"Communicable diseases"** means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water or air.

**"Decontamination"** means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

**"Direct care staff"** are the dentist staff who directly provide dentist care to patients.

**"Sterilize"** means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-520 Use of barriers and sterilization techniques.** The use of barriers and sterilization techniques is the primary means of assuring that there is the least possible chance of the transmission of communicable diseases from

denturist and staff to patients, from patient to patient and from patient to denturist and staff. To prevent patient to patient cross contamination, instruments and supplies contaminated or likely to be contaminated with blood or saliva and touched during treatment must be sterilized between patients or discarded except as otherwise set forth below. Surfaces and equipment which are likely to be contaminated with blood or saliva and touched during treatment must be decontaminated or covered with a barrier which is discarded and replaced between patients except as otherwise set forth below:

(1) Denturists shall comply with the following barrier techniques:

(a) Gloves shall be used by the denturist and direct care staff during treatment which involves intraoral procedures or contact with items potentially contaminated with the patient's bodily fluids. Fresh gloves shall be used for every intraoral patient contact. Gloves shall not be washed or reused for any purpose. The same pair of gloves shall not be used, removed, and reused for the same patient at the same visit or for any other purpose. Gloves that have been used for denturist treatment shall not be reused for any nondenturist purpose.

(b) Masks shall be worn by the denturist and direct care staff when splatter or aerosol is likely.

(c) Unless effective surface decontamination methods are used, protective barriers shall be placed over areas which are likely to be touched during treatment, not removable to be sterilized, and likely to be contaminated by blood or saliva. These procedures must be followed between each patient. These include but are not limited to:

- (i) Delivery unit;
- (ii) Chair controls (not including foot controls);
- (iii) Light handles;
- (iv) Head rest;
- (v) Instrument trays;
- (vi) Treatment area and laboratory countertops/benches.

(d) Protective eyewear shields shall be worn by the denturist and direct care staff and provided to all patients during times when splatter or aerosol is expected.

(2) Denturists shall comply with the following sterilization requirements:

(a) Every denturist office shall have the capability to ultrasonically clean and sterilize contaminated items by autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide, where adequate ventilation is provided. Sterilizers shall be tested by a biological spore test on at least a weekly basis. In the event of a positive biological spore test, the denturist shall take immediate remedial action to ensure the objectives of (a) of this subsection are accomplished. Documentation shall be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation shall be maintained for a period of at least five years.

(b) The following items shall be sterilized by an appropriate autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide sterilization method between patients:

- (i) Hand instruments;
- (ii) Air-water syringe tips;

(iii) High volume evacuator tips;

(iv) Nose cone sleeves;

(v) Metal impression trays.

(c) Gross debris shall be removed from items prior to sterilization. Ultrasonic disinfectant solution cleaning shall be used whenever possible.

(d) Nondisposable items used in patient care which cannot be autoclaved, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide sterilized shall be immersed and ultrasonically cleaned in a chemical sterilant. If such a technique is used, the solution shall be approved by the Environmental Protection Agency and used in accordance with the manufacturer's directions for sterilization.

(e) Items such as impressions contaminated with blood or saliva shall be thoroughly rinsed, appropriately disinfected, placed in and transported to the denturist laboratory in an appropriate case containment device that is properly sealed and separately labeled.

(f) In the laboratory: Ragwheels shall be sterilized or disinfected; patient pumice shall be discarded after each use; and, patient burrs and stones shall be sterilized or disinfected.

## SUBSTANCE ABUSE MONITORING

READOPTED SECTION (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-601 Purpose.** The secretary recognizes the need to establish a means of proactively providing early recognition and treatment options for denturists whose competency may be impaired due to the abuse of drugs or alcohol. The secretary intends that such denturists be treated and their treatment monitored so that they can return to or continue to practice their profession in a way which safeguards the public. To accomplish this the secretary shall approve voluntary substance abuse monitoring programs and shall refer denturists impaired by substance abuse to approved programs as an alternative to instituting disciplinary proceedings as defined in RCW 18.130.160.

READOPTED SECTION (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-610 Definitions.** The following general terms are defined within the context used in this chapter:

"Aftercare" is that period of time after intensive treatment that provides the denturist and the denturist's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.

"Approved substance abuse monitoring program" or "approved monitoring program" is a program the secretary has determined meets the requirements of the law and the criteria established by the secretary in WAC 246-812-620 which enters into a contract with denturists who have substance abuse problems regarding the required components of the denturist's recovery activity and oversees the denturist's compliance with these requirements. Substance abuse moni-

toring programs do not provide evaluation or treatment to participating denturists.

"**Approved treatment facility**" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(2) or 69.54.030 to provide intensive alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out-of-state must be equivalent to the standards required for approval under RCW 70.96A.020(2) or 69.54.030.

"**Contract**" is a comprehensive, structured agreement between the recovering denturist and the approved monitoring program stipulating the denturist's consent to comply with the monitoring program and its required components of the denturist's recovery activity.

"**Health care professional**" is an individual who is licensed, certified, or registered in Washington to engage in the delivery of health care to patients.

"**Random drug screens**" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person being tested.

"**Substance abuse**" means the impairment, as determined by the secretary, of a denturist's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

"**Support group**" is a group of health care professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced health care professional facilitator in which denturists may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.

"**Twelve-step groups**" are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, a peer group association, and self-help.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-620 Approval of substance abuse monitoring programs.** The secretary shall approve the monitoring program(s) which shall participate in the substance abuse monitoring program. A monitoring program approved by the secretary may be contracted with an entity outside the department but within the state, out-of-state, or a separate structure within the department.

(1) The approved monitoring program shall not provide evaluation or treatment to the participating denturist.

(2) The approved monitoring program staff must have the qualifications and knowledge of both substance abuse and the practice of denturism as defined in this chapter to be able to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Support groups;

- (e) The denturist work environment; and
- (f) The ability of the denturist to practice with reasonable skill and safety.

(3) The approved monitoring program shall enter into a contract with the denturist and the secretary to oversee the denturist's compliance with the requirements of the program.

(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.

(5) The approved monitoring program staff shall recommend, on an individual basis, whether a denturist shall be prohibited from engaging in the practice of denturism for a period of time and restrictions, if any, on the denturist's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program shall be responsible for providing feedback to the denturist as to whether treatment progress is acceptable.

(8) The approved monitoring program shall report to the secretary any denturist who fails to comply with the requirements of the monitoring program.

(9) The approved monitoring program shall receive from the secretary guidelines on treatment, monitoring, and limitations on the practice of denturism for those participating in the program.

**READOPTED SECTION** (Readopting WSR 95-22-062, filed 10/30/95, effective 11/30/95)

**WAC 246-812-630 Participation in approved substance abuse monitoring program.** (1) In lieu of disciplinary action, the denturist may accept secretary referral into the approved substance abuse monitoring program.

(a) The denturist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation shall be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The denturist shall enter into a contract with the secretary and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The denturist shall undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The denturist shall agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.

(iii) The denturist must complete the prescribed aftercare program of the intensive treatment facility, which may include individual and/or group psychotherapy.

(iv) The treatment counselor(s) shall provide reports to the approved monitoring program at specified intervals. Reports shall include treatment, prognosis, and goals.

(v) The denturist shall submit to random drug screening as specified by the approved monitoring program.

(vi) The dentist shall attend support groups facilitated by a health care professional and/or twelve-step group meetings as specified by the contract.

(vii) The dentist shall comply with specified employment conditions and restrictions as defined by the contract.

(viii) The dentist shall sign a waiver allowing the approved monitoring program to release information to the secretary if the dentist does not comply with the requirements of this contract.

(c) The dentist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.

(d) The dentist may be subject to disciplinary action under RCW 18.130.160, if the dentist does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A dentist who is not being investigated by the secretary or subject to current disciplinary action or currently being monitored by the secretary for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the secretary. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the secretary if they meet the requirements of the approved monitoring program as defined in subsection (1) of this section.

(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsection (1) of this section. Records held by the secretary under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

**FEES**

**READOPTED SECTION** (Readopting WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-812-990 Denturist fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$ 1,000.00
Examination	1,500.00
Reexamination, written	500.00
Reexamination, practical	500.00
License renewal	2,750.00
Late renewal penalty	300.00
Expired license reissuance	300.00

Title of Fee	Fee
Inactive license renewal	1,500.00
Expired inactive license reissuance	300.00
Duplicate license	15.00
Certification of license	25.00
Multiple location licenses	50.00

**READOPTED SECTION** (Readopting WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-812-995 Conversion to a birthday renewal cycle.** (1) The biennial license renewal date is changed to coincide with the practitioner's birthday.

(2) Renewal fees will be prorated during the transition period while renewal dates are changed to coincide with the practitioner's birthday.

(3) After the initial conversion to a staggered system, practitioners will renew their license every other year on their birthday at the current renewal rate.

**WSR 98-20-085  
PERMANENT RULES  
DEPARTMENT OF REVENUE**

[Filed October 6, 1998, 1:44 p.m.]

Date of Adoption: October 6, 1998.

Purpose: 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.s.), and to correct an incorrect tax rate for sales of syrup and an incorrect statutory citation.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-255 Carbonated beverage and syrup tax.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 98-16-018 on July 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 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.

October 6, 1998

Russell W. Brubaker  
Assistant Director

PERMANENT

**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(±) .....  
(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~~

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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.

(b) (~~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.~~)

(c) ~~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(-)") 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 98-20-102

### PERMANENT RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-4—Filed October 7, 1998, 11:13 a.m.]

Date of Adoption: October 7, 1998.

Purpose: To increase the effectiveness and update the regulatory scheme of chapter 284-24 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 284-24-015, 284-24-060, 284-24-065, 284-24-070, 284-24-080, and 284-24-100.

Statutory Authority for Adoption: RCW 48.02.060, 48.19.080, 48.19.370.

Other Authority: RCW 48.19.020.

Adopted under notice filed as WSR 98-13-092 on June 16, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-24-062 (2)(b) was changed to include

"or has purchased loss cost services from a rating organization." This change should help clarify the section.

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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 6, 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.

October 7, 1998

Greg J. Scully

Chief Deputy Commissioner

## NEW SECTION

**WAC 284-24-005 Transmittal form required.** Each rate filing submitted by an insurer shall be submitted with the filing transmittal form prescribed by and available from the commissioner. The insurer shall complete the form in its entirety before it submits the filing.

**AMENDATORY SECTION** (Amending Order R 90-5, filed 6/14/90, effective 7/15/90)

**WAC 284-24-015 Statistical plans and designation of statistical agents.** ~~((Pursuant to))~~ Under the provisions of RCW 48.19.370, the insurance commissioner has adopted the following statistical plans for the recording and reporting of loss and expense experience, and ~~((hereby))~~ designates the particular organizations, or their successors, as statistical agents to assist the commissioner in the gathering and compilation of experience for the classes of business stated.

(1) The statistical plans of the Insurance Services Office, Inc. with respect to the following kinds of insurance:

- ~~(a) ((Fire and allied lines,~~
- ~~(b) Automobile physical damage,~~
- ~~(c) Automobile liability,~~
- ~~(d) General liability,~~
- ~~(e) Burglary,~~
- ~~(f) Glass,~~
- ~~(g) Boiler and machinery,~~
- ~~(h) Inland marine,~~
- ~~(i) Homeowners, comprehensive dwelling and dwelling policy program,~~
- ~~(j) Commercial multiperil,~~
- ~~(k) Businessowners, and~~
- ~~(l) Professional liability.))~~ Aircraft hull,
- (b) Aircraft liability,
- (c) Boiler and machinery,

(d) Burglary and theft,

(e) Businessowners,

(f) Commercial automobile liability,

(g) Commercial automobile no-fault,

(h) Commercial automobile physical damage,

(i) Commercial earthquake,

(j) Commercial fire and allied lines,

(k) Commercial inland marine,

(l) Commercial multiperil,

(m) Dwelling fire and allied lines,

(n) Farm, farmowners, and ranchowners,

(o) Fidelity and forgery,

(p) General liability,

(q) Glass,

(r) Homeowners, tenants, and condominiums,

(s) Mobile homes,

(t) Personal automobile liability,

(u) Personal automobile no-fault,

(v) Personal automobile physical damage,

(w) Personal earthquake,

(x) Personal inland marine,

(y) Personal liability,

(z) Personal theft and residence glass, and

(aa) Professional liability, including medical professional liability.

(2) The statistical plans of the National Association of Independent Insurers with respect to:

- (a) Burglary,
- (b) Businessowners,
- (c) Crop hail,
- (d) Farmowners,
- (e) Fidelity and surety,
- (f) Fire and allied lines,
- (g) General liability,
- (h) Glass,
- (i) Inland marine,
- (j) Malpractice and professional liability,
- (k) Personal lines (homeowners and dwelling fire),
- (l) Commercial multiperil,
- (m) Automobile liability, and
- (n) Automobile physical damage.

(3) The statistical plans of the American Association of Insurance Services with respect to:

- (a) Homeowners,
- (b) Farmowners,
- (c) Mobile homeowners,
- (d) Inland marine,
- (e) Farm fire,
- (f) Dwelling fire,
- (g) Commercial fire,
- (h) General liability,
- (i) Burglary,
- (j) Glass,
- (k) Commercial multiperil,
- (l) Manufacturers output, ~~((and))~~
- (m) Businessowners,
- (n) Automobile,
- (o) Boatowners, and
- (p) Artisans.

(4) The statistical plan of the Surety Association of America with respect to fidelity, surety and forgery.

(5) The statistical plan of the National Crop Insurance Services with respect to hail insurance on growing crops and windstorm (when accompanied by hail) insurance on growing crops.

(6) The statistical plan of the Factory Mutual Service Bureau with respect to property insurance.

(7) The statistical plan of the Mill and Elevator Rating Bureau with respect to property insurance.

(8) The statistical plan of ~~((the))~~ American Nuclear ~~((Insurance Rating Bureau))~~ Insurers with respect to nuclear physical damage insurance.

(9) The statistical plans of National Independent Statistical Service with respect to the following kinds of insurance:

(a) Automobile liability.

(b) Automobile physical damage.

(c) Boiler and machinery.

(d) Burglary.

(e) Businessowners.

(f) Commercial multiperil.

(g) Farmowners.

(h) Fidelity and surety.

(i) Fire and allied lines.

(j) General liability.

(k) Glass.

(l) Homeowner, mobile home, and dwelling policies.

(m) Inland marine, and

(n) Malpractice and professional liability.

Experience filed by individual carriers is to be kept confidential by these statistical agents and only the consolidated experience will be available as public information.

AMENDATORY SECTION (Amending WSR 94-20-059, filed 9/30/94, effective 10/31/94)

WAC 284-24-060 ((Modification)) Suspension of filing requirements. ((1) Pursuant to) Under RCW 48.19.080, ~~((the commissioner rules and hereby orders that))~~ the rate filing requirements ~~((set forth))~~ in chapter 48.19 RCW are ~~((modified so that:~~

~~(a) No filings with respect to rates pertaining)) suspended with respect to surplus line coverages. Insurers do not need to file rates with respect to surplus line coverages placed in this state ((pursuant to)) under chapter 48.15 RCW ((need be made, hereby confirming the longstanding practice in this state; and~~

~~(b) Rating organizations may make reference filings of prospective loss costs. Such filings shall contain the statistical data and supporting information for all calculations and assumptions underlying the prospective loss costs, but need not provide the information required by RCW 48.19.040 (2)(b) and (c). Filings of prospective loss costs must be approved by the commissioner prior to use by any insurer as a reference document. A member or subscribing insurer must file a loss cost adjustment and obtain the commissioner's approval prior to use of rates based on prospective loss costs.~~

~~A member or subscribing insurer of a rating organization may use rates based on prospective loss costs filed by such an organization and approved by the commissioner as a refer-~~

~~ence document without complying with the requirements of RCW 48.19.040 if:~~

~~(i) The insurer has an approved loss cost adjustment on file with the commissioner and proposes no changes to it; and~~

~~(ii) The insurer will begin using the prospective loss costs on the date proposed by the rating organization and approved by the commissioner.~~

~~(2) For purposes of this section, the following definitions apply:~~

~~(a) "Rating organization" means an organization licensed pursuant to RCW 48.19.180.~~

~~(b) "Member or subscribing insurer" means an insurer that has granted filing authority to a rating organization pursuant to RCW 48.19.050.~~

~~(c) "Prospective loss cost" means that portion of a rate that provides only for losses and loss adjustment expense and does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.~~

~~(d) "Loss cost adjustment" means a factor by which prospective loss costs are multiplied to obtain final rates. It takes into account:~~

~~(i) Operating expenses;~~

~~(ii) Underwriting profit (or loss) and contingencies;~~

~~(iii) Investment income;~~

~~(iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;~~

~~(v) Variations in loss experience unique to the insurer making the filing;~~

~~(vi) The effect of the timing difference on the prospective loss costs in those instances in which an insurer elects to begin using prospective loss costs on a date other than that proposed by the rating organization and approved by the commissioner; and~~

~~(vii) Other relevant factors, if any.~~

~~(e) "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, prior to any application of individual risk variations as permitted by WAC 284-24-100, and does not include minimum premiums or supplementary rating information.~~

~~(f) "Supplementary rating information" means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, and any other similar information needed to determine the applicable premium for an insured. It includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities).~~

## NEW SECTION

WAC 284-24-062 Modification of filing requirements—Loss cost filings. (1) Under RCW 48.19.080, the rate filing requirements in chapter 48.19 RCW are modified as follows:

(a) Rating organizations may make reference filings of prospective loss costs. The filings shall contain the statistical

data and supporting information for all calculations and assumptions underlying the prospective loss costs, but do not need to provide the information required by RCW 48.19.040 (2)(b) and (c). Filings of prospective loss costs must be approved by the commissioner prior to use by any insurer as a reference document.

(b) To use rates based on loss costs, a member or subscribing insurer of a rating organization must make a loss cost adjustment filing, which is subject to the provisions of RCW 48.19.040 and/or RCW 48.19.043. The filing shall include the following forms, completed in their entirety, prescribed by and available from the commissioner:

(i) A Washington Reference Filing Adoption Form;

(ii) For each loss cost adjustment, a Washington Summary of Supporting Information Form; and

(iii) For each loss cost adjustment with which an expense constant is used, a Washington Expense Constant Supplement.

(c) A member or subscribing insurer of a rating organization may use rates based on prospective loss costs filed by the rating organization and approved by the commissioner as a reference document without complying with the requirements of RCW 48.19.040 and 48.19.043 if:

(i) The insurer has an approved loss cost adjustment on file with the commissioner and proposes no changes to it; and

(ii) The insurer will begin using the prospective loss costs on the date proposed by the rating organization and approved by the commissioner.

(d) Once they have been approved and have become effective, the latest prospective loss costs filed by a rating organization are considered to supersede all earlier loss cost filings by that rating organization. Insurers are not permitted to make loss cost adjustment filings using prospective loss costs that have been superseded.

(2) For purposes of this section, the following definitions apply:

(a) "Rating organization" means an organization licensed under RCW 48.19.180.

(b) "Member or subscribing insurer" means an insurer that has granted filing authority to a rating organization under RCW 48.19.050 or has purchased loss cost services from a rating organization.

(c) "Prospective loss cost" means that portion of a rate that provides only for losses and loss adjustment expenses and does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(d) "Loss cost adjustment" means a factor by which prospective loss costs are multiplied to obtain final rates. It takes into account:

(i) Operating expenses;

(ii) Underwriting profit (or loss) and contingencies;

(iii) Investment income;

(iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;

(v) Variations in loss experience unique to the insurer making the filing; and

(vi) Other relevant factors, if any.

(e) "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, prior to any application of individual risk variations as permitted by WAC 284-24-100, and does not include minimum premiums or supplementary rating information.

(f) "Supplementary rating information" means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, and any other similar information needed to determine the applicable premium for an insured. It includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities.

**AMENDATORY SECTION** (Amending Order R 90-13, filed 12/17/90, effective 1/17/91)

**WAC 284-24-065 Demonstration that rates satisfy the requirements of RCW 48.19.020.** (1) RCW 48.19.020 requires that premium rates for insurance shall not be excessive, inadequate, or unfairly discriminatory. A rate is reasonable and not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer. Such costs include claims, claim settlement expenses, operational and administrative expenses, and the cost of capital. When an insurer or rating organization files rates with the commissioner, it must demonstrate how it has accounted for each of these costs, so that the commissioner can determine whether the proposed rates satisfy the requirements of RCW 48.19.020.

(2) An insurer filing rates must demonstrate that it has accounted for the cost of capital by showing that its expected after-tax return on equity is consistent with its expected cost of capital. A rating organization filing rates must demonstrate that it has accounted for the cost of capital by showing that its members' or subscribers' expected after-tax return on equity is consistent with their expected cost of capital. An insurer or rating organization may establish the expected cost of capital by citing:

(a) Data pertaining to historical after-tax returns on equity for the property-casualty insurance industry as a whole; or

(b) Data pertaining to historical after-tax returns on equity for insurers writing coverages involving a similar level of risk; or

(c) Data pertaining to historical after-tax returns on equity for other industries involving a similar level of risk; or

(d) In the case of a stock insurer, data pertaining to the after-tax return on equity necessary to attract and retain investors; or

(e) In the case of a mutual or reciprocal insurer, data pertaining to the after-tax return on equity necessary to maintain policyholders' surplus adequate to support the insurer's business.

(3) For the purposes of this section, equity shall customarily be computed under generally accepted accounting principles. However, at the rate filer's option, insurers' statutory surplus as regards policyholders may be used instead. The

equity assigned to the writing of a particular coverage in this state shall be determined by making a reasonable allocation of total equity by coverage and by state. Allocation of equity by coverage may involve a recognition of the differences in the level of risk by coverage.

(4) The expected after-tax return shall include:

(a) Expected underwriting profit or loss; and

(b) Expected investment income, including, but not limited to, investment income on assets corresponding to unearned premium reserves, loss and loss adjustment expense reserves, and statutory surplus as regards policyholders; and

(c) Other expected income, at the filer's option; and

(d) Expected federal income taxes arising from (a), (b), and (c) of this subsection, including, but not limited to, taxes due to the revenue offset, reserve discounting, and alternative minimum tax provisions of the Tax Reform Act of 1986.

(5) Due to the variability of expected realized and unrealized capital gains and taxes thereon, the commissioner will not require that these items be included in the expected after-tax return for ratemaking purposes.

(6) Expected after-tax return on equity shall be determined as the annualized rate of return arising from policies to be written in the period during which the filing is expected to be in effect. The calculations involved should follow from the methods used in preparing the filing.

(7) In lieu of allocating its equity as prescribed by subsection (3) of this section, an insurer may establish a target operating ratio applicable to all coverages. For the purposes of this section, "operating ratio" is the sum of after-tax underwriting profit (or loss) and after-tax investment income on assets corresponding to unearned premium reserves and loss and loss adjustment expense reserves, divided by premium. The insurer must show that its target operating ratio corresponds to an expected after-tax return on equity that is consistent with its cost of capital, in accordance with subsection (2) of this section. Although investment income on assets corresponding to policyholders' surplus is not included in the calculation of an operating ratio, this component of investment income must be considered in establishing the target operating ratio, because it must be included in the expected after-tax return on equity, in accordance with subsection (4) of this section.

(8) For liability insurance, if the increased limits factors include risk loads, the proportion of the expected premium (net of expenses) arising from the risk loads for all policy limits shall be included in the expected underwriting profit or loss.

(9) So that the commissioner may more easily determine whether rates satisfy the requirements of RCW 48.19.020:

(a) The use of the word "indicated" in a rate filing to describe a rate or rate change shall be limited to situations in which:

(i) The insurer or rating organization making the filing has taken into account all of the factors listed in RCW 48.19.030 (3)(a) through (f); and

(ii) The rate or rate change labeled "indicated" corresponds to an expected after-tax return on equity which is supported as required by subsection (2) of this section.

(b) A rate filing must contain an explanation of any material difference between an indicated rate or rate change and a proposed rate or rate change.

(10) Filings of supplementary rating information, as defined by WAC ((284-24-060)) 284-24-062 (2)(f), are exempt from the requirements of this section. However, if package modification factors are not supported by data showing the relationship between package and monoline loss experience and expenses, the requirements of this section apply to filings of package modification factors.

~~((11) The requirements of this section shall apply to all rate filings received by the commissioner after April 30, 1991.)~~

AMENDATORY SECTION (Amending Order R 82-1, filed 3/1/82)

WAC 284-24-070 ((Suspension)) Modification of filing requirements—((("A" rating)) Refer-to-company rating. (1) ~~((Pursuant to)) Under RCW 48.19.080, the ((commissioner rules and hereby orders that the casualty)) insurance rate filing requirements ((set forth)) in chapter 48.19 RCW are ((suspended)) modified as to classes of policies for which the insurer has no rate, guide rate, range of rates or rating rule except as described in subsection (2) of this section. These classes may include:~~

(a) ~~((Covering risks in a)) A class((;)) in which risks are so different from each other that no ((single manual)) rate or range of rates could be representative of all((;));~~

(b) ~~((Covering risks of a classification)) A class that does not develop enough loss experience to warrant any ((credit-ability)) credibility for ratemaking purposes((; or)); and~~

(c) ~~((Covering risks that involve)) Policies involving a new product or coverage ((as to)) for which there is no appropriate analogy to similar exposures for ratemaking purposes.~~

(2) ~~((A rate filing for such classes of policies)) Every rating rule for such classes of policies shall be included in an appropriate rate manual and filed with the commissioner. Such a rating rule shall consist only of a notation((; in an appropriate rate manual,)) of the symbol "(a)" ((following the description of the risk, which symbol shall indicate that the risk cannot practicably be filed with the commissioner and that such risk)) or a statement that risks in the class shall be submitted to the insurer for rating.~~

(3) The insurer's rating of ((such)) a refer-to-company risk shall be based on a documented underwriting analysis of:

(a) Specific definable loss potential characteristics,

(b) Analogy to similar exposures, and

(c) Available loss frequency and severity data.

(4) Examples of appropriate ~~((("a" rated)) refer-to-company~~ risks include but are not limited to:

(a) Manufacturing and construction risks, such as:

(i) Ammunition manufacturing,

(ii) Dam construction,

(iii) Irrigation works operation, and

(iv) Logging railroad—operation and maintenance.

(b) Owners, landlord and tenants risks, such as:

(i) Amusement devices, designed for small children

only, not otherwise classified (NOC),

(ii) Christmas tree lots—open air,

- (iii) Bleachers or grandstands,
- (iv) Dude ranches,
- (v) Firing ranges—indoor,
- (vi) Parks or playgrounds, and
- (vii) Zoos.
- (c) Product risks, such as:
  - (i) Aircraft or aircraft parts manufacturing,
  - (ii) Ball or roller bearing manufacturing,
  - (iii) Chemical manufacturing—household—NOC,
  - (iv) Discontinued operations—products,
  - (v) Electronic component manufacturing,
  - (vi) Firearms manufacturing—over .50 caliber
  - (vii) Instrument manufacturing—NOC,
  - (viii) Levee construction,
  - (ix) Machinery or machinery parts manufacturing,
  - (x) Pharmaceutical or surgical goods manufacturing,
  - (xi) Products—NOC,
  - (xii) Sign manufacturing—NOC,
  - (xiii) Tank manufacturing—metal—not pressurized,
  - (xiv) Textile coating or impregnating,
  - (xv) Tool manufacturing—hand type—powered,
  - (xvi) Valves manufacturing,
  - (xvii) Wheels manufacturing,
  - (xviii) Wire goods manufacturing—NOC, and
  - (xix) Wood products manufacturing—NOC.

(5) Insurers writing (~~("a-rated")~~) risks(~~("")~~) subject to this regulation shall maintain separate documentation, including loss experience, on each risk written and shall be prepared to provide such documentation to the insurance commissioner upon request.

**AMENDATORY SECTION** (Amending Order R 86-7, filed 11/26/86)

**WAC 284-24-080 Rate filings required for certain inland marine risks.** RCW 48.19.030 and 48.19.070 recognize that certain inland marine risks are by general custom of the business not written according to manual rates or rating plans. The following inland marine classes of risks are, however, by general custom of the business written according to manual rates or rating plans, and, therefore, manual rates or rating plans applicable to the following (~~("such")~~) risks shall be filed with the commissioner (~~("and may be used only after approval except as otherwise permitted by WAC 284-24-060 (1)(b))~~):

- (1) Accounts receivable and valuable papers and records,
- (2) Agricultural machinery, farm equipment and live-stock floaters,
- (3) Bicycle floater,
- (4) Cameras,
- (5) Camera and musical instrument dealers,
- (6) Equipment dealers,
- (7) Hardware and implement dealers floater,
- (8) Implement dealers stock floater,
- (9) Fine arts (private collections),
- (10) First class mail,
- (11) Floor plan,
- (12) Furriers' block,
- (13) Furriers' customers,
- (14) Garment contractors,

- (15) Golfer's equipment floater,
- (16) Musical instruments,
- (17) Negative film floater,
- (18) Neon signs,
- (19) Personal articles floater,
- (20) Personal effects,
- (21) Personal furs or fur floater,
- (22) Personal jewelry or jewelry floater,
- (23) Personal property floater,
- (24) Physicians' and surgeons' equipment floater,
- (25) Registered mail,
- (26) Silverware floater,
- (27) Stamp and coin collection floater,
- (28) Theatrical floater,
- (29) Tourist baggage,
- (30) Travel baggage (issued in combination with accident and sickness insurance),
- (31) Wedding presents, and
- (32) Boatowners' and/or boats (~~("under")~~) twenty-(seven) six feet and under in length that are used for pleasure.

**AMENDATORY SECTION** (Amending Order R 90-5, filed 6/14/90, effective 7/15/90)

**WAC 284-24-100 Standards for schedule rating plans(~~("noncomplying filings ineffective")~~).** (~~("Pursuant to RCW 48.19.120, and to effectuate the provisions of RCW 48.19.030, the commissioner finds that existing schedule rating plans permit excessive credits or debits, commonly resulting in discrimination against insureds or inadequate premiums, and, for that reason, fail to meet the requirements of chapter 48.19 RCW. Therefore, no filing of a schedule rating plan shall be effective or accepted after January 1, 1986, unless it meets the following standards:"))~~

(1) A schedule rating plan shall apply only to those classes of insurance (monoline or packaged) commonly known as commercial vehicle, commercial general casualty, commercial inland marine, commercial fidelity, surety, commercial crime, and commercial property.

(2) A schedule rating plan shall provide for no more than a twenty-five percent credit (reduction) or debit (charge)(~~("excluding any expense adjustment permitted by a lawfully filed and approved expense adjustment plan")~~). A schedule rating plan shall not be combined with other rating plans or rating rules in such a way that the schedule rating affects the premium by more than twenty-five percent.

(3) Any expense modification rule which does not prescribe specific credits or debits for particular situations is considered to be similar to schedule rating. In such a case, the combined effect of schedule and expense modifications shall not exceed twenty-five percent.

(4) If an expense modification plan prescribes specific credits for particular situations (such as various premium size ranges or commission levels), the credits or debits are not included in the twenty-five percent schedule rating maximum.

(5) A schedule rating plan must provide for an objective analysis by the insurer of the risk and be based on specific

factual information supporting the rating. Items such as the following may be considered:

- (a) Management capacity for loss control and risk improvement, including financial and operating performance.
- (b) Condition and upkeep of premises and equipment.
- (c) Location of risk and suitability of occupancy.
- (d) Quality of fire and police protection.
- (e) Employee training, selection, supervision, or similar elements.
- (f) Type of equipment.
- (g) Safety programming.
- (h) Construction features and maintenance.
- (i) Classification variances, including differences from average hazards.

~~((4))~~ ~~A plan must provide that when~~ (6) If a risk is rated below average (debited) under a schedule rating plan, an insured or applicant, upon timely request, will be advised by the insurer of the factors which resulted in the adverse rating so that the insured or applicant will be fairly apprised of any corrective action that might be appropriate with respect to the insurance risk.

~~((5))~~ (7) A schedule rating plan shall be administered equitably and applied fairly to every eligible risk which an insurer elects to insure. Records supporting the development of individual risk modifications shall be retained by the insurer for a minimum of three years or until the conclusion of the next regular examination conducted by the insurance department of its domicile, whichever is later, and made available at all reasonable times for the commissioner's examination. ~~((Such))~~ The records must include copies of all documentation used in making each particular determination, even though a credit or debit may not result.

**NEW SECTION**

**WAC 284-24-110 Effect of changes to zip code boundaries.** An insurer shall not change an insured's rates solely because the insured's zip code has been changed by the United States Postal Service. This section shall not be construed to prohibit insurers from using zip codes to define rating territories. However, the zip code boundaries in effect at the time an insurer makes a rate filing defining the territories shall determine the physical boundaries of these territories. These boundaries can be changed only by the insurer's subsequent rate filings.

**WSR 98-20-109  
PERMANENT RULES  
BOARD OF  
INDUSTRIAL INSURANCE APPEALS**

[Filed October 7, 1998, 11:59 a.m.]

Date of Adoption: October 7, 1998.

Purpose: To revise the board's rules of practice by amending WAC 263-12-010, 263-12-015, 263-12-01501, 263-12-020, 263-12-175, and 263-12-180.

Citation of Existing Rules Affected by this Order: Amending WAC 263-12-010, 263-12-015, 263-12-01501, 263-12-020, 263-12-175, and 263-12-180.

Statutory Authority for Adoption: RCW 51.52.020.

Adopted under notice filed as WSR 98-18-086 on September 2, 1998.

Changes Other than Editing from Proposed to Adopted Version: The words "person employed by the employer or employed by a firm" were deleted from proposed WAC 263-12-020 (3)(b). The sentence now reads, "An employer may be represented by an employee. An employer may also be represented by a firm or firms that contracts with the employer to handle all matters pertaining to industrial insurance."

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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, 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.

October 7, 1998  
Thomas E. Egan  
Chairperson

**AMENDATORY SECTION** (Amending WSR 91-13-038, filed 6/14/91, effective 7/15/91)

**WAC 263-12-010 Function and jurisdiction.** It is the function of the board as an agency to review, hold hearings on, and decide appeals filed from final orders, decisions or awards of the department of labor and industries. The jurisdiction of the board extends to:

- (1) Appeals arising under the Industrial Insurance Act (Title 51 RCW);
- (2) Appeals arising under the Crime Victims Compensation Act (chapter 7.68 RCW);
- (3) Appeals arising under the Washington Industrial Safety and Health Act (chapter 49.17 RCW);
- (4) Appeals from assessments issued under the Worker and Community Right to Know Act (chapter 49.70 RCW);
- (5) Appeals arising under chapter 49.26 RCW concerning the denial, suspension or revocation of certificates involving asbestos projects; ~~(and)~~
- (6) Appeals arising under chapter 49.22 RCW concerning safety procedures in late night retail establishments~~(-);~~ and

PERMANENT

(7) Appeals arising under RCW 41.26.048 concerning the death of a law enforcement officer or firefighter in the course of employment.

**AMENDATORY SECTION** (Amending WSR 95-02-065, filed 1/3/95, effective 2/3/95)

**WAC 263-12-015 Administration and organization.**

(1) **Composition of the board.** The board is an independent agency of the state of Washington composed of three members appointed by the governor. One member is a representative of workers, one member is a representative of employers, and the chairperson, who must be an active member of the Washington State Bar, is the representative of the public.

(2) **Location of the board.** The headquarters, and principal office of the board, is located at 2430 Chandler Ct. S.W., PO Box 42401, in Olympia, Washington 98504-2401.

(3) **Customary office hours.** The customary office hours of the board shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

(4) **Formal board meetings.** The board shall meet in formal session at its headquarters in Olympia, Washington at 9 a.m. on the first Tuesday of each month, and at such other times and places as the board may deem necessary, subject to 24-hour notice as required by law.

**(5) Staff organization.**

(a) The board's headquarters in Olympia is staffed with executive, administrative and clerical personnel.

(b) The board has a staff of industrial appeals judges who travel throughout the state in the performance of their duties and who have their offices in Olympia and in other areas of the state as is deemed necessary for efficient and cost effective handling of agency business.

(c) The office of the executive secretary of the board is located at the headquarters and principal office of the board.

~~((6) **Communications with the board.** All written communications by parties pertaining to a particular case, including notices of appeal, applications, notices of appearance, briefs, memoranda, motions, requests, or petitions for review, shall be filed with the board at its headquarters in Olympia, Washington. All correspondence and written communications filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances written communications shall be directed to the executive secretary of the board. Any written communications with the board concerning an appeal should reference the docket number which was assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be furnished to all other parties or their representatives of record, and the original shall demonstrate compliance with this requirement. All written communications with the board shall be on paper 8 1/2" x 11" in size.))~~

**AMENDATORY SECTION** (Amending WSR 91-13-038, filed 6/14/91, effective 7/15/91)

**WAC 263-12-01501 ((Filing)) Communications and filing with the board.** (1) ~~((Filing generally. Unless otherwise provided by statute or these rules any written communication may be filed with the board personally, by mail, or by telephone facsimile.))~~ **Communications with the board.** (a) **Where to file.** All written communications by parties pertaining to a particular case, including notices of appeal, applications, notices of appearance, briefs, memoranda, motions, requests, or petitions for review, shall be filed with the board at its headquarters in Olympia, Washington.

(b) **Methods of filing.** Unless otherwise provided by statute or these rules any written communication may be filed with the board personally, by mail, or by telephone facsimile.

~~((2))~~ (i) **Filing personally.** The filing of a written communication with the board personally is perfected by delivering the written communication to an employee of the board at the board's headquarters in Olympia during customary office hours.

~~((3))~~ (ii) **Filing by mail.** The filing of a written communication with the board is perfected by mail when the written communication is deposited in the United States mail, properly addressed to the board's headquarters in Olympia and with postage prepaid. Where a statute or rule imposes a time limitation for filing the written communication, the party filing the same should include a certification demonstrating the date filing was perfected as provided under this subsection. Unless evidence is presented to the contrary, the date of the United States postal service postmark shall be presumed to be the date the written communication was mailed to the board.

~~((4))~~ (iii) **Filing by telephone facsimile.** ~~((a))~~ (A) The filing of a written communication with the board by telephone facsimile is perfected when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment in Olympia. The hours of operation of the board's telephone facsimile equipment are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. If a transmission of a written communication commences after these hours of operation the written communication shall be deemed filed on the next succeeding business day.

~~((b))~~ (B) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission.

~~((c))~~ (C) No written communication should exceed fifteen pages in length, exclusive of the cover page required by this rule.

~~((d))~~ (D) The party attempting to file the written communication by telephone facsimile bears the risk that the written communication will not be legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board.

~~((e))~~ (E) The board may require a party to file an original of any document previously filed by telephone facsimile.

(c) Sending written communication. All correspondence or written communication filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances, written communications shall be directed to the executive secretary of the board.

(d) Form requirements. Any written communications with the board concerning an appeal should reference the docket number which was assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be furnished to all other parties or their representatives of record, and the original shall demonstrate compliance with this requirement. All written communications with the board shall be on paper 8 1/2" x 11" in size.

AMENDATORY SECTION (Amending WSR 91-13-038, filed 6/14/91, effective 7/15/91)

**WAC 263-12-020** Appearances of parties before the board. (1) Who may appear.

(a) ~~((In an appeal by an employee or employee representative under the Washington Industrial Safety and Health Act, the cited employer may enter an appearance as prescribed in subsection (2) below and shall thereafter be deemed a party to the appeal.))~~ Any party to any appeal may appear before the board at any conference or hearing held in such appeal, either on the party's own behalf or by an attorney at law or other authorized representative of the party's choosing.

(b) ~~((In an appeal by an employer, under the Washington Industrial Safety and Health Act, an employee or employee representative may enter an appearance as prescribed in subsection (2) below, and shall thereafter be deemed a party to the appeal.))~~ Appeals under the Washington Safety and Health Act.

(i) In an appeal by an employee or employee representative under the Washington Industrial Safety and Health Act, the cited employer may enter an appearance as prescribed in subsection (2) below and will be deemed a party to the appeal.

(ii) In an appeal by an employer, under the Washington Industrial Safety and Health Act, an employee or employee representative may enter an appearance as prescribed in subsection (2) below, and will be deemed a party to the appeal.

(c) ~~((Any party to any appeal may appear before the board at any conference or hearing held in such appeal, either on the party's own behalf or by an attorney at law or other authorized representative of the party's choosing.))~~ Where the party appears representing himself or herself, he or she may be accompanied, both at conference and at hearing, by a lay person of his or her choosing who shall be permitted to accompany the party into the conference or hearing room and with whom he or she can confer during such procedures.

(d) ~~((Where the party appears representing himself or herself, he or she may be accompanied, both at conference and at hearing, by a lay person of his or her choosing who shall be permitted to accompany the party into the conference~~

~~or hearing room and with whom he or she can confer during such procedures.))~~ Although the industrial appeals judge may not advocate for either party, all parties who appear either at conferences or hearings are entitled to the assistance of the industrial appeals judge presiding over the proceeding. Such assistance shall be given in a fair and impartial manner consistent with the industrial appeals judge's responsibilities to the end that all parties are informed of the procedure which is to be followed and the issues which are involved in the proceedings. Any party who appears representing himself or herself shall be advised by the industrial appeals judge of the burden of proof required to establish a right to the relief being sought.

~~((e))~~ ~~All parties who appear either at conferences or hearings are entitled to the assistance of the industrial appeals judge presiding over the proceeding. Such assistance shall be given in a fair and impartial manner consistent with the industrial appeals judge's responsibilities to the end that all parties clearly understand the procedure which is to be followed and the issues which are involved in the proceedings. Any party who appears representing himself or herself shall be carefully advised by the industrial appeals judge of the burden of proof required to establish a right to the relief being sought.))~~

(2) ~~((Manner of))~~ How to make an appearance.

(a) Appearances shall be made either by:

(i) Filing a written notice of appearance with the board containing the name of the party to be represented, and the name and address of the representative; or by

(ii) Appearing at the time and place of a conference or hearing on the appeal, and notifying the industrial appeals judge ~~((conducting the same))~~ of the party to be represented, and the name and address of the representative.

(b) The appearing party shall furnish ~~((C))~~ copies of every written notice of appearance ~~((shall be furnished by the appearing party))~~ to all other parties or their representatives of record at the time the original notice is filed with the board.

(c) The board shall serve ~~((A))~~ all notices and orders ~~((shall be served by the board upon such))~~ on each representative ~~((in addition to the))~~ and each party represented. Service upon the representative shall constitute service upon the party. Where more than one individual associated with a firm, or organization, including the office of the attorney general, has made an appearance, service under this subsection shall be satisfied by serving the individual who filed the notice of appeal, or who last filed a written notice of appearance or, if no notice of appeal or written notice of appearance has been filed on behalf of the party, the individual who last appeared at any proceeding concerning the appeal.

(3) ~~((No formal admission to practice.))~~ Lay Representation. Duly authorized lay representatives ~~((shall))~~ may be permitted to appear in proceedings before the board without a formal request or admission to practice before the board so long as the lay representative does not charge a fee or is otherwise compensated for the representation except as provided below:

(a) A worker or beneficiary may be represented by a person employed by the worker's labor union whose duties include handling industrial insurance matters for the union. Lay persons may not represent workers before the board in

return for remuneration received from the worker or from the worker's receipt of benefits under this act.

(b) An employer may be represented by an employee. An employer may also be represented by a firm or firms that contracts with the employer to handle matters pertaining to industrial insurance.

(c) Paralegals supervised by an attorney licensed in the state of Washington to practice law may represent any party appealing before the board.

(4) **Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately ((se)) notify the board and all parties of record in writing. The notice of withdrawal shall comply with the rules applicable to notices of withdrawal filed with the superior court in civil cases. Withdrawal shall be subject to approval by the industrial appeals judge or the executive secretary. Any substitution of an attorney or representative shall be accomplished by written notification to the board and to all parties of record together with the written consent of the prior attorney or representative. If such consent cannot be obtained, a written statement of the reason therefor shall be supplied.

(5) **Conduct.** ((a)) All persons appearing as counsel or representatives in proceedings before the board or before its industrial appeals judges shall conform to the standards of ethical conduct required of attorneys before the courts of the state of Washington.

(a) Industrial Appeals Judge. If any such person does not conform to such standard, the industrial appeals judge presiding over the ((proceeding shall)) appeal, at his or her discretion and depending on all the circumstances, may take the following action:

(i) admonish or reprimand such person, or

(ii) exclude such person from further participation in the proceedings and adjourn the same, or

(iii) certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100, or

(iv) report the matter to the board((, which may,)).

(b) The board. ((i)) In its discretion, either upon referral by an industrial appeals judge as stated above or on its own motion, after information comes to light that establishes to the board a question regarding a persons ethical conduct and fitness to practice before the board, and after notice and hearing, may take appropriate disciplinary action including, but not limited to((-):

(i) a letter of reprimand,

(ii) refusal to permit such person to appear in a representative capacity in any proceeding before the board or its industrial appeals judges, or

(iii) certification of the record to the superior court for contempt proceedings as provided in RCW 51.52.100.

If the circumstances require, the board may take action as described above prior to notice and hearing if the conduct or fitness of the person appearing before the Board requires immediate action in order to preserve the orderly disposition of the appeal or appeals.

((b)) (c) **Proceedings.** If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after

having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the industrial appeals judge shall, at his or her discretion and depending on all the circumstances((-):

(i) admonish or reprimand such person, or

(ii) exclude such person from further participation in the proceedings and adjourn the same, or

(iii) certify the facts to the appropriate superior court for contempt proceedings as provided in RCW 51.52.100, or

(iv) report the matter to the board((, which may, in its discretion, after notice and hearing, take appropriate disciplinary action including, but not limited to, a letter of reprimand, refusal to permit such person to appear in a representative capacity in any proceeding before the board or its industrial appeals judges, or certification of the record to the superior court for contempt proceedings as provided in RCW 51.52.100)) for action consistent with (b) above.

**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 11, filed 1/18/82)

**WAC 263-12-175 Computation of time.** The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal state holiday, and then it is also excluded. ((and the next succeeding business day included.))

**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 20, filed 1/10/86)

**WAC 263-12-180 Petitions for declaratory ruling.** (1) Right to petition for declaratory ruling. As prescribed by RCW ((34.04.080)) 34.05.240, any interested party may petition the board for a declaratory ruling with regard to the board's policies, procedures, and rules.

(2) Form of petition. The form of the petition for a declaratory ruling shall generally adhere to the following:

(a) ((At the top of the)) On the first page shall appear the wording ("Before the board of industrial insurance appeals, state of Washington." On the left side of the page before the foregoing the following caption shall be set out:)) "In the matter of the petition of (name of petitioning party) for a declaratory ruling."

((Opposite the foregoing caption shall appear the word "petition.")

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the ((state of))

facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the ~~((prayer of))~~ relief sought by the petitioner. ~~((The petition shall be subscribed and verified in the manner prescribed in these rules.))~~ The petition shall be signed by the petitioner or its representative and contain a statement that the person signing the petition has read it and that to the best of his or her knowledge or information and belief the contents thereof are true.

~~((e) The original and two legible copies shall be filed with the board. Petitions shall be on white paper, 8 1/2" x 11" in size.))~~

(3) Consideration of petition. The entire board shall consider the petition, and within a reasonable time shall:

- (a) Issue a non-binding declaratory ruling; or
- (b) Notify the ~~((person))~~ petitioner that no declaratory ruling is to be issued; or

(c) Set a reasonable time and place for a hearing or for submission of written evidence on the matter, and give reasonable notification to the ~~((person))~~ petitioner of the time and place for such hearing or submission, and of the issues involved.

(4) Disposition of petition. If a hearing is held or evidence is submitted, the board shall, within a reasonable time:

- (a) Issue a binding declaratory ruling; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the ~~((person))~~ petitioner that no declaratory ruling is to be issued.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 98-20-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-200—Filed September 24, 1998, 2:01 p.m., effective September 25, 1998, 6:01 p.m.]

Date of Adoption: September 23, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-32-05100I.

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 closes the treaty commercial fishery one day early. The impacts to Snake River wild fall chinook were approaching the total allowable under the Endangered Species Act and the treaty tribes elected to be conservative with their fishery. This regulation is consistent with action of the Columbia River Compact on September 22, 1998. 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 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 Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: September 25, 1998, 6:01 p.m.

September 23, 1998

Larry W. Peck

Acting Director

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. September 25, 1998:

WAC 220-32-05100I Columbia River salmon seasons above Bonneville. (98-196)

**WSR 98-20-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-205—Filed September 24, 1998, 2:04 p.m., effective September 25, 1998, 8:00 a.m.]

Date of Adoption: September 24, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-88A-08000U; and amending WAC 220-88A-080.

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 implement the 1998 state/tribal Puget Sound shrimp harvest management plan and meet all allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for a sharing of catch between treaty and non-treaty shrimp fishers. 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: September 25, 1998, 8:00 a.m.

September 25 [24], 1998

Larry W. Peck

Acting Director

**NEW SECTION**

**WAC 220-88A-08000V Emerging commercial—Fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear.** Notwithstanding the provisions of WAC 220-88A-080:

(1) Effective 8:00 a.m. September 25, 1998, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes with shellfish beam trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 20B, 23B, 25A, 25B and all waters of Marine Fish-Shellfish Management and Catch Reporting Area 23A east of

a line projected true north from the lighthouse on Dungeness spit.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. September 25, 1998:

WAC 220-88A-08000U Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear. (98-128)

**WSR 98-20-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-201—Filed September 24, 1998, 2:08 p.m., effective September 25, 1998, 12:01 a.m.]

Date of Adoption: September 24, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-31000Z, 220-57-31900S, and 232-28-61900Y; and amending WAC 220-57-310, 220-57-319, and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 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: Early coho returns to the Lewis and Kalama rivers are projected to be sufficient to provide early coho escapement to all tributaries as well as providing some fish for the expected shortfall in late coho returns. There are harvestable numbers of coho available in these rivers. Fall chinook returns to the Kalama River are sufficient for hatchery broodstock needs as well as providing fish for natural escapement. The closure for trout was in place to protect salmon, and is not needed during open salmon fishing. 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 3.

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: September 25, 1998, 12:01 a.m.  
September 24, 1998

Larry W. Peck  
Acting Director

### NEW SECTION

**WAC 220-57-31000Z Kalama River.** Notwithstanding the provisions of WAC 220-57-310, in those waters of the Kalama River from boundary markers at the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery:

a) Open to fishing for salmon from September 25, 1998 through December 31, 1998.

b) Daily limit six salmon no more than two may be adults, except release chum salmon, and coho with adipose fins, and release chinook greater than twenty-eight inches in length during the period October 1 through December 31, 1998 upstream from the natural gas pipeline.

c) Minimum size: 12 inches.

d) From the natural gas pipeline crossing to the deadline at the intake to the lower salmon hatchery is restricted to fly fishing only through October 31, 1998.

e) That portion of the river from 200 feet upstream of the Department of Fish and Wildlife temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling during the time the Department of Fish and Wildlife temporary rack is in place.

f) All Species - night closure and non-buoyant lure restriction from the mouth to 200 feet above the WDFW temporary rack immediately through October 31, 1998.

### NEW SECTION

**WAC 220-57-31900S Lewis River.** Notwithstanding the provisions of WAC 220-57-319, in those waters of the Lewis River from boundary markers at the mouth upstream to the overhead power lines downstream from Merwin Dam:

a) Open to fishing for coho from September 25, 1998 through December 31, 1998.

b) Daily limit six salmon no more than two may be adults, except release chum salmon, chinook salmon, and coho with adipose fins.

c) Minimum size: 12 inches.

d) Fishing from boats is prohibited from Johnson Creek upstream to Colvin Creek, from September 25 through November 15, 1998.

e) All Species - night closure and non-buoyant lure restriction from the lower Cedar Creek concrete boat ramp upstream to the deadline below Merwin Dam, immediately through October 31, 1998.

f) From Colvin Creek upstream to the overhead powerlines below Merwin Dam it is unlawful to fish for salmon October 1 through December 31, 1998.

g) It is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy,

and corkline located at the mouth of the Lewis River Salmon Hatchery fishway.

**NEW SECTION**

**WAC 232-28-61900Y Exceptions to statewide rules.**

Notwithstanding the provisions of WAC 232-28-619:

**Kalama River:** Effective September 25 through October 15, 1998, in those waters of the Kalama River from boundary markers at the mouth upstream to 200 feet above the WDFW temporary rack, it is lawful to fish for trout. Daily limit is two trout, minimum size is 14 inches. Wild steelhead and wild cutthroat must be released. That portion of the river from 200 feet upstream of the Department of Fish and Wildlife temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to trout angling during the time the Department of Fish and Wildlife temporary rack is in place. All Species - night closure and non-buoyant lure restriction from the mouth to 200 feet above the WDFW temporary rack immediately through October 31, 1998.

**Lewis River:** Effective September 25 through November 15, 1998, in those waters of the Lewis River from Johnson Creek upstream to Colvin Creek, it is lawful to fish for trout. Daily limit is two trout, minimum size is 12 inches. Wild steelhead and wild cutthroat must be released. Fishing from boats is prohibited from Johnson Creek upstream to Colvin Creek, from September 25 through November 15, 1998. All Species - night closure and non-buoyant lure restriction from the lower Cedar Creek concrete boat ramp upstream to the deadline below Merwin Dam, immediately through October 31, 1998. It is unlawful to take, fish for or possess trout taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery fishway.

**REPEALER**

The following sections of the Washington Administrative code are repealed effective 11:59 p.m. December 31, 1998:

- WAC 220-57-31000Z      Kalama River.
- WAC 220-57-31900S      Lewis River.
- WAC 232-28-61900Y      Exceptions to statewide rules

**WSR 98-20-004  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-203—Filed September 24, 1998, 2:11 p.m.]

Date of Adoption: September 24, 1998.

Purpose: Commercial fishing regulations.

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 initial setting of crab gear is a fishing activity associated with the effort to fish for crab. Once gear is set, whether baited or unbaited, it is capable of taking crab, and any operation of such gear is fishing. Historically, many crab fishers on the coast have set gear using vessels other than the vessels that will harvest and land the crab (designated vessels), and this practice has been intermittently permitted in Puget Sound. A recent interpretation of the initial setting of crab gear as fishing for crab has implied that use of nondesignated vessels for the initial setting of crab gear is illegal. This has generated substantial uncertainty in the crab fisheries, and has created a disorderly fishery. Additionally, there are safety concerns if smaller vessels overload to set gear at the opening of the crab seasons. Lastly, not allowing initial setting of gear by nondesignated vessels eliminates equity of initial opportunity between large vessel fishers and small vessel fishers. This rule allows nondesignated vessels to initially set gear during the coastal "soak" period, and during the first forty-eight hours of the coastal and Puget Sound crab fisheries. This rule is intended to eliminate a disorderly fishery and to reduce safety concerns and inequity between fishers, thus providing for the economic well-being of the industry. The department finds that the above orderly fishery, safety, and equity concerns should be addressed, and are the basis for adopting this emergency rule. There is insufficient time to adopt permanent rules as the Puget Sound crab fishery begins on October first and the coastal season on December first.

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: Immediately.

September 24, 1998

Larry W. Peck

Acting Director

**NEW SECTION**

**WAC 220-52-04700A Crab pot gear setting.** Dungeness crab pots may be deployed between 8:00 a.m. November 28th and 11:59 p.m. December 2nd in coastal, Grays Harbor, Willapa Bay or Columbia River waters, and between 8:00

**EMERGENCY**

a.m. October 1st and 7:59 a.m. October 3rd in Puget Sound waters on behalf of a licensed crab fisher from a vessel not designated on his or her Puget Sound or Coastal Dungeness crab license provided deployment of the pots is under the supervision, permission, or control of the licensed fisher.

**WSR 98-20-010**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**

[Filed September 25, 1998, 8:36 a.m.]

Date of Adoption: September 22, 1998.

Purpose: To modify forest practices rules that define type 2 and 3 waters in WAC 222-16-030, and define requirements for the Forest Practices Board manual.

Citation of Existing Rules Affected by this Order: Amending WAC 222-12-090 and 222-16-030.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 RCW.

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; and 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 Forest Practices Board and the Department of Ecology find good cause for an emergency to modify the water typing rules. This document organizes and summarizes information presented to and discussed by the board in public meetings.

The reasons for findings are as follows:

New data has shown that the physical characteristics of streams, as defined in the current forest practices rules, are no longer accurate. Accurate water typing is critical to public resource protection. This emergency rule updates those physical characteristics based on current knowledge so that appropriate resource protection can be provided to fish habitat and water quality.

This emergency rule establishes presumptions for determining fish use in the absence of field verification and is necessary during permanent rule making updating the water type rules and associated riparian protection. Because water typing triggers riparian protection through the forest practices rules, watershed analysis, and some local land use decisions, the definitions used to determine water types must reflect current knowledge about fish use and habitat. Due to significant field verification of water types and research, more is known today about fish distribution and the physical characteristics of fish habitat than was known when the existing water type definitions were written (see WAC 222-16-030). In addition, the 303(d) water quality and actual and potential ESA listings cause increased pressure on the forest practices regulation system that will result in increased cost and com-

plexities for all participants. If the water typing system isn't upgraded immediately, it will contribute to potential listings and increase the associated burdens of such listings.

In August 1994, the Point-No-Point Treaty Council published a report, Stream Typing Errors in Washington Water Type Maps for Watersheds of Hood Canal and the Southwest Olympic Peninsula. Simultaneously, the Quinault Indian Nation and the Department of Fish and Wildlife were also reviewing water types in the southwest part of the Olympic Peninsula. Data from these studies indicated that seventy-two percent of the type 4 streams were actually type 2 or 3 streams. In addition, projects funded by the United States Fish and Wildlife Service with cooperation from some western Cascade landowners and Washington trout have also resulted in significant upgrades.

The intent of the Forest Practices Act is to meet water quality standards under the Clean Water Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. The number of water bodies included on the Department of Ecology's 303(d) water quality limited list has increased and now includes many forested streams. Numerous fish stocks are being considered for listing under the Endangered Species Act. The state has water quality antidegradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest. Water quality standards cannot be met if inaccurate stream typing information is used in assessing the impacts of forest practices.

The public has a strong interest in protecting public resources, including water, and fish, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices near water are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, public resources, including the habitat of threatened and endangered species, could be significantly impacted by forest practices because of incorrect water typing.

The Forest Practices Board and Department of Ecology maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, Department of Natural Resources at (360) 902-1412 or Doug Rushton, Department of Ecology at (360) 407-6180 if you would like to inspect these files.

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 2, 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.

September 25, 1998  
Kaleen Cottingham  
Deputy Commissioner  
for Jennifer M. Belcher  
Commissioner of Public Lands

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-12-090 Forest practices board manual.**

When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fish and wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

- (1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.
- (2) **The standard methods** for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.
- (3) **A chart** for establishing recommended permanent culvert sizes and associated data.
- (4) **Guidelines** for clearing slash and debris from Type 4 and 5 Waters.
- (5) **Guidelines** for landing location and construction.
- (6) **Guidelines** for determining acceptable stocking levels.
- (7) **Guidelines** for calculating average widths of riparian management zones.
- (8) **Guidelines** for wetland delineation.
- (9) **Guidelines** for wetland replacement or substitution.
- (10) A list of nonnative wetland plant species.
- (11) **The standard methodology**, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC. The department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.
- (12) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).
- (13) **Guidelines for determining fish use for the purpose of typing waters** under WAC 222-16-030.
- (14) **Survey protocol for marbled murrelets.** The Pacific seabird survey protocol in effect March 1, 1997, shall

be used when surveying for marbled murrelets in a stand. Surveys conducted before the effective date of this rule are valid if they were conducted in substantial compliance with generally accepted survey protocols in effect at the beginning of the season in which they were conducted.

(15) The department shall, in consultation with the department of fish and wildlife, develop **platform protocols** for use by applicants in estimating the number of platforms, and by the department in reviewing and classifying forest practices under WAC 222-16-050. These protocols shall include:

(a) A sampling method to determine platforms per acre in the field;

(b) A method to predict the number of platforms per acre based on information measurable from typical forest inventories. The method shall be derived from regression models or other accepted statistical methodology, and incorporate the best available data; and

(c) Other methods determined to be reliable by the department, in consultation with the department of fish and wildlife.

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-16-030 Water typing system.** \*The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes shall classify streams, lakes and ponds and prepare stream classification maps showing the location of Type 1, 2, 3 and 4 Waters within the various forested areas of the state. Such maps shall be available for public inspection at region offices of the department. The waters will be classified using the following criteria. If a dispute arises concerning a water type the department shall make available informal conferences, which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

\* (1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

\* (2) **"Type 2 Water"** shall mean segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 100 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet and tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery:

(c) Are within a federal, state, local, or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

~~((e))~~ (d) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater in width between the ordinary high-water marks and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

~~((d))~~ (e) Are used by salmonids for off-channel habitat. These areas are critical to the maintenance of optimum survival of juvenile salmonids. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a stream bearing salmonids and accessible during some period of the year; and

(ii) The off-channel water must be accessible to juvenile salmonids through a drainage with less than a 5% gradient.

\*(3) "Type 3 Water" shall mean segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight fish, wildlife, and human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by significant numbers of anadromous or resident game fish for spawning, rearing or migration. Guidelines for determining fish use are described in the Forest Practices Board Manual. If fish use has not been determined:

(i) Waters having the following characteristics are presumed to have significant anadromous or resident game fish use:

~~((d))~~ (A) Stream segments having a defined channel of ((5)) 2 feet or greater in width between the ordinary high-water marks in Western Washington; or 3 feet or greater in width between the ordinary high-water marks in Eastern Washington; and having a gradient ((of less than 12)) 16 percent ((and not upstream of a falls of more than 10 vertical feet)) or less;

(B) Stream segments having a defined channel of 2 feet or greater in width between the ordinary high-water marks in Western Washington; or 3 feet or greater in width between the ordinary high-water marks in Eastern Washington; and having a gradient greater than 16 percent and less than or equal to 20 percent; and having greater than 50 acres in contributing basin size in Western Washington; or greater than 175 acres in contributing basin size in Eastern Washington based on hydrographic boundaries;

(ii) The department shall waive or modify the characteristics in (i) above where:

(A) Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting anadromous or resident game fish;

(B) Snowmelt streams have short flow cycles that do not support successful life history phases of anadromous or resident game fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

(C) Sufficient information about a geographic region is available to support a departure from the characteristics in (i), as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

~~((d))~~ (iii) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to an anadromous fish stream.

~~((e) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:~~

~~(i) Stream segments having a defined channel of 10 feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cubic feet per second; and a gradient of less than 12 percent.~~

~~((d))~~ (iv) For resident game fish ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water; or

~~((d))~~ (c) Are highly significant for protection of downstream water quality. Tributaries which contribute greater than 20 percent of the flow to a Type 1 or 2 Water are presumed to be significant for 1,500 feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than 50 percent of their drainage area at the point of confluence, whichever is less.

\*(4) "Type 4 Water" classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than 2 feet in width between the ordinary high-water marks. Their significance lies in their influence on water quality downstream in Type 1, 2, and 3 Waters. These may be perennial or intermittent.

\*(5) "Type 5 Water" classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; including

streams with or without well-defined channels, areas of perennial or intermittent seepage, ponds, natural sinks and drainageways having short periods of spring or storm runoff.

\* (6) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Resident game fish" means game fish as described in the Washington game code that spend their life cycle in fresh water. Steelhead, searun cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

(d) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(g) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps.

(h) "Intermittent streams" means those segments of streams that normally go dry.

**WSR 98-20-011**  
**EMERGENCY RULES**  
**FOREST PRACTICES BOARD**

[Filed September 25, 1998, 8:40 a.m.]

Date of Adoption: September 22, 1998.

Purpose: To modify forest practices rules to provide greater protection for threatened and endangered salmonids that have been listed by the federal government. This is a procedural rule that classifies forest practices in mapped areas as Class IV-Special, requiring additional environmental review.

Citation of Existing Rules Affected by this Order: Amending WAC 222-10-040, 222-16-010, 222-16-050, 222-16-080, 222-24-050 and 222-30-040; and new sections WAC 222-16-088, 222-10-020, and 222-10-043.

Statutory Authority for Adoption: RCW 76.09.040, [76.09.]050, and chapter 34.05 RCW.

Other Authority: Chapter 43.21C RCW.

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; and 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 Forest Practices Board and the Department of Ecology find good cause for an emergency for salmonids. This document organizes and summarizes information presented to and discussed by the board in public meetings. The reasons for this finding are as follows:

**1. SALMONID NEEDS.**

**Biology:** Salmonids have several life history phases which include spawning, rearing and migration. Fertilized salmonid eggs require sediment-free and cool water in order to incubate and hatch. Once the eggs hatch, the juvenile salmonids require rearing habitat which includes forage, clean cool water, and cover provided by rocks, banks and large woody debris. Finally, salmonids need to be able to have stream passage at all life history stages.

**Factors Limiting Salmonid Habitat:** In order to provide cool, clean water and habitat that includes pools, clean gravel and stable channels, the following habitat requirements are necessary in order to provide for healthy salmonids: Shade, stable stream banks, large woody debris, and fish passage.

**Shade and Stream Temperature.** Shade is needed to provide cool water temperatures. To achieve this, trees along the riparian zones of fish-bearing streams and along contributing nonfish bearing streams must be retained to assure that the solar radiation does not heat the streams to a point that limits the productivity, or in some severe cases, the mortality of salmonids. High temperatures can also block or delay fish migration.

The current state water quality standard for stream temperature is intended to fully protect salmonids. Shade must be retained, in order to keep water temperatures below 16° centigrade.

Other factors can increase temperature such as sediment deposition and resultant stream widening. Shade removal in nonfish bearing streams can also contribute to downstream temperature increases in fish-bearing waters. Shade removal can also impact cold groundwater sources and microclimate.

**Stream Bank Stability and Forest Roads.** Fine sediment in spawning gravel reduces the survival of salmonid eggs. Sediment can also limit the ability for juvenile and adult salmonids to feed. Stream bank instability is a major contributor of sediment to streams. Stability of stream banks is necessary to this as a source of sediment (if banks are disturbed they can introduce sediment). Forest roads can also contribute sediment laden water to streams from ditches and water crossings. Roads can also change hydrologic regime of the stream causing higher peak flows which can cause more sedimentation.

**Large Woody Debris.** Rearing or juvenile salmonids need pools and cover for refuge and desired feeding condi-

tions. Stream morphology that contains adequate pools requires large woody debris (LWD) on a continuous basis. The LWD provides structure in the streams for the formation of pools and cover. It also moderates the movement of sediment. Trees from the adjacent riparian stand are an important source of large LWD.

**Fish Passage.** Adult fish need to move upstream to access spawning areas. Juvenile fish need to move upstream and downstream to find desirable feeding conditions or take refuge from undesirable environmental conditions. Forest road stream crossings often block fish passage.

**Summary.** The literature indicates that in order to protect bank stability, a thirty-foot buffer is recommended. In addition, to achieve 95% recruitment of the key piece wood, (wood that is large enough to start the forming of log jams indexed by stream size) approximately one hundred foot buffer is required. Additional buffers may be needed to account for areas that have high susceptibility to windthrow, provide additional large woody debris (LWD) recruitment, unstable slopes protection, protection of seeps, springs and stream associated wetlands. Other functions include microclimate (air temperature and humidity, etc.).

## 2. ENDANGERED SPECIES ACT LISTINGS AND THE FOREST PRACTICES ACT.

The Endangered Species Act (ESA) was enacted to conserve threatened and endangered species and the ecosystems upon which they depend. Four ESA listings have occurred in the last year. In August of 1997, Upper Columbia steelhead was listed as endangered and the Snake River Steelhead were listed as threatened. In March of 1998, the Lower Columbia steelhead was listed as threatened. Finally, in June 1998, the Columbia River bull trout was listed as threatened. (Note: The Forest Practices Board is in the process of establishing findings for the bull trout listing. They anticipate having this discussion at their November 10, 1998 meeting.)

ESA listings lead to "take" being prohibited. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in any such conduct. "Harm" can include significant habitat modification or degradation. In addition, the listing itself is indicative of the need to provide protection of the habitat required by these species to assure recovery of the species and protection from harm.

A governmental agency can be responsible for a take if it authorizes the activity that exacts a taking. In a March 1998 decision, the United States Court of Appeals for the First Circuit ordered a Massachusetts agency to prevent the taking of the Northern Right Whale, an endangered species. The court found whales could be harmed from entanglement in fishing gear from commercial fishing activities authorized by agency regulations. The court found the state licensed the commercial fishing in a manner likely to cause harm, even though its actions were only an indirect cause. Thus, the Forest Practices Board and the Department of Ecology could be vulnerable for take if permits continue to be approved without consideration of listed species protected from harm. Actions to enforce the ESA could be brought by the federal government or other third parties.

The ESA requires federal agencies to examine the impact of their actions on protected species. The Washington Forest Practices Board has been working with the United

States Fish and Wildlife Service (USFWS) to have the existing state forest practice rules for the northern spotted owl recognized as part of a proposed federal rule providing protection of that species under the ESA. The USFWS has consulted with the National Marine Fisheries Service (NMFS) regarding how the anadromous (listed and proposed to be listed) fish may be impacted by the proposed federal rule. In a letter dated September 16, 1998, NMFS has concluded that the existing state forest practice rules "do not leave adequate riparian buffers to provide the important ecosystem functions necessary to support the biological requirements of anadromous salmonids." NMFS has indicated that "any further degradation of habitat conditions that reduces essential habitat functions may have a significant impact, which poses an unacceptable risk to the survival and recovery" of certain salmonid evolutionarily significant units (ESUs), including the Upper Columbia Steelhead addressed in the emergency rule.

Oregon had developed a plan to protect salmonids which was relied on by NMFS in its decision not to list certain species of salmonids as threatened. The Oregon plan was based largely on future actions and voluntary efforts. In June 1998, a federal court rejected this decision as inadequate to prevent endangerment to salmonids under the ESA. In Washington, the forest practice rules also rely on voluntary efforts. The watershed analysis process (chapter 222-22 WAC) is entirely voluntary. Voluntary efforts are not adequate to prevent endangerment to already listed salmonids. Emergency action is necessary because of the state's obligation to comply with the ESA. This emerging and unexpected development makes it clear that the existing rules are not adequate and the species are in jeopardy.

## 3. CONTINUING TO APPROVE FOREST PRACTICES PERMITS IN LISTED AREAS.

**Forest Practices Applications in Listed Areas:** The listed areas of the state contain nearly 6 million acres of non-federal land, of which about 2.2 million acres are state and private forest land covered by the current forest practice rules. Most of the habitat that salmonids seek for spawning and rearing are in the forested areas of the state. This portion of the habitat continues to be critical to the survival and well-being of these species.

When the ESA listings occurred, there were approximately 823 forest practices applications/notifications already approved in the listed areas. Since operations under these permits may have some impact on salmonid habitat, these applicants were sent letters notifying them of the listings. If they had questions, the letter said they should contact National Marine Fisheries Service directly for clarification whether their operations may cause a concern for listed steelhead.

Since the listings, one hundred twenty applications/notifications have been approved within two hundred feet of a listed salmonid water. These permits contain a note to applicants warning them that this state permit does not necessarily meet federal law under the ESA.

The department estimates that an additional 1,700 to 1,800 applications will be approved between now and when a permanent rule might be adopted and become effective (estimated to be July 1, 2000). Since permits are effective for a

two-year period, applications approved prior to a new permanent rule taking effect in 2000 would be valid until 2002. Thus, nearly four years from now, some salmonid habitat would still be at risk absent an emergency rule.

The Forest Practices Act (chapter 76.09 RCW) requires protection of public resources. In order to protect these listed salmonids, the habitat associated with spawning, rearing and migration needs to be protected.

**Current Forest Practices Rules Inadequate for Listed Salmonids:** Current and newly-approved forest practice operations conducted under the existing rules could cause additional harm to ESA-listed salmonids because continued harvests in riparian areas would decrease shade, bank stability, and large woody debris, and continued road construction in these areas would also impact salmonid habitat. Specific impacts are categorized as follows:

**Shade and Stream Temperature.** Under the current forest practice rules, shade is required to meet current temperature criteria at 16 or 18 degrees centigrade. Currently, it is likely that shade is not fully provided on Type 3 streams because landowners only have to seek shade as far as the maximum width riparian management zone (RMZ). The maximum width RMZs for Type 3 streams are currently fifty feet on streams greater than five feet wide and twenty-five feet on streams that are less than five feet wide.

An additional factor where current rules are inadequate for meeting temperature requirements involves removal of shade in nonfish-bearing waters which contribute to the temperature of fish-bearing waters downstream. This removal of shade elevates the water temperature which then cumulatively elevates temperatures downstream.

**Stream Bank Stability and Forest Roads.** Under the current rules, bank stability may be protected. On the westside of the state, the protection only extends to twenty-five feet. On the eastside, the recommended protection is thirty feet. However, if shade is provided (meeting current shade rule) and leave tree requirements are met, additional tree removal that would provide bank stability is also possible.

Roads are currently covered by the current rules, however, existing information would lead us to believe that standards need to be upgraded and that roads are out of compliance with existing rules as much as half the time as documented in the 1991 Compliance Report prepared by Timber, Fish and Wildlife's Field Implementation Committee. Preliminary findings from an on-going internal audit by the Department of Natural Resources also show that construction of roads in certain areas of the state indicate that the minimum standards are not adequate to protect public resources.

**Large Woody Debris.** Under the current rules, large woody debris is provided at a minimal level in the current RMZ requirements. Leave trees are required within the current RMZs. However, the number required to be left is not based on the ability to improve this LWD function over time so that there is both near- and long-term continuous large woody debris recruitment. Nor are current rules sufficiently designed to assure that the correct size and amount of large woody debris can be provided. If a comparison of the current rules is made with the target identified in the habitat section above, the current rules can be assumed to be deficient for large woody debris.

**Summary.** Given the above information, current forest practices rules are deficient, particularly in providing LWD, adequate shade on small streams (including nonfish-bearing waters), bank stability and road contributions of sediment.

#### 4. PROTECTING PUBLIC RESOURCES AND CLASS IV-SPECIAL CLASSIFICATION.

The public has a strong interest in protecting public resources, including water, fish, and wildlife, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices in the salmonid listed areas are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, habitat of these threatened and endangered species could be significantly impacted by forest practices.

The Forest Practices Act requires that forest practices which have the potential for a substantial impact on the environment be classified as Class IV so that they receive additional environmental review under the State Environmental Policy Act (chapter 43.21C RCW). SEPA recognizes the critical importance of restoring and maintaining environmental quality to the public welfare and the importance of full disclosure of adverse environmental impacts caused by agency actions. The Forest Practices Board is obligated under the law to identify those forest practices that have potential for substantial impact on the environment and classify them as Class IV-Special so that additional SEPA review is conducted. If there is the potential for damage to the habitat of a state or federal listed species, then there is potential for substantial impact on the environment. An emergency rule would not necessarily prohibit harvest; it would require additional review to evaluate environmental impacts. This process includes public notice and a public comment period.

As described above, certain forest practices in the salmonid listed areas have the potential for impact on listed salmonids. This impact is substantial because of the number of forest practices in the listed areas and because the current rules are inadequate. Absent permanent rules that adequately prevent these impacts, RCW 76.09.050 and SEPA require the emergency rule change in classification.

#### 5. STATE WATER QUALITY REQUIREMENTS.

The intent of the Forest Practices Act is to meet water quality standards under the Water Pollution Control Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. Temperature increases attributed to forestry activities cause 303(d) listings. In 1996, streams with elevated temperatures comprised the largest group on the entire 303(d) list. Temperature limits in the water quality standards are intended to fully protect in-stream beneficial uses by preventing any decrease in salmonid health or reproductive success. This goal is consistent with the state water quality anti-degradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality;

and the activity has been found to be in the overriding public interest.

#### 6. RULE MAKING FILES.

The Forest Practices Board and Department of Ecology maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, Department of Natural Resources at (360) 902-1412 or Doug Rushton, Department of Ecology at (360) 407-6180 if you would like to inspect these files.

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 6, 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.

September 25, 1998

Kaleen Cottingham

Deputy Commissioner

for Jennifer M. Belcher

Commissioner of Public Lands

#### NEW SECTION

**WAC 222-10-020 \*SEPA policies for certain forest practices within 200 feet of a Type 1 Water.** The following policies shall apply to Class IV-Special forest practices, within the salmonid listed areas map in WAC 222-16-088, involving construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas within 200 feet of Type 1 Waters.

\*(1) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit to the department additional information prepared by a qualified expert on: Whether the proposed activity is within the channel migration zone of the Type 1 Water; whether the proposed activity has the potential for accelerating erosional and depositional processes of the Type 1 Water; whether the proposal will have an impact on salmonid spawning, rearing, or migration habitat; and whether the proposal will adversely impact a threatened or endangered species. (See WAC 222-10-043.) In addition, the report must identify specific mitigation measures designed to reduce the impacts to avoid any probable significant adverse impacts identified above.

\*(2) The department will evaluate the proposal in consultation with the department of ecology, the department of

fish and wildlife, local government, and affected Indian tribes. If the proposal is likely to cause significant adverse impacts to salmonid spawning, rearing, or migration habitat, accelerate erosional and depositional processes of the Type 1 Water, or cause significant adverse impacts to a threatened or endangered species, then it is likely to have a probable significant adverse impact on the environment. If the department determines, in consultation with the department of fish and wildlife, that the impacts can be mitigated or that the threatened and endangered species is not likely to occur because of a significant long-term passage barrier such as a dam or waterfall, then the proposal is not likely to have a probable significant adverse impact on the environment.

\*(3) If a local permit is required, then the local government is lead agency and the department shall forward the additional information, the environmental checklist, and the forest practices application to the local government for completing SEPA. (See WAC 222-20-040(4).)

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-10-040 \*Class IV-Special threatened and endangered species SEPA policies.** In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

\*(1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected landowners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the department does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

\*(2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival or recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

\*(3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.

\*(4) The department shall consider the species-specific policies in WAC 222-10-041 (~~and~~) northern spotted owls, WAC 222-10-042 marbled murrelets, and WAC 222-10-043 salmonids when reviewing and evaluating SEPA documents and the impacts of forest practices.

#### NEW SECTION

**WAC 222-10-043 \*Salmonids.** The following policies shall apply to Class IV-Special forest practices, within the salmonid listed areas map in WAC 222-16-088, if the forest practices may cause adverse impacts to salmonids.

\*(1) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the

applicant must submit to the department additional information prepared by a qualified expert that includes: An evaluation of the channel condition; information on how the proposal will provide for bank stability, sediment and mass wasting attenuation, adequate shade, near and long-term large woody debris recruitment, and protection from windthrow. In addition, the report must identify specific mitigation measures designed to reduce the impacts to avoid any probable significant adverse impacts identified above.

\* (2) Roads, skid trails, or yarding corridors may not occupy or disturb more than 10 percent of the soil in the riparian management zone unless the landowner submits mitigation measures that provide equivalent replacement of habitat.

\* (3) Harvesting, road construction, aerial applications of pesticides, or site preparation that is likely to cause significant adverse impacts to salmonid spawning, rearing, or migration habitat are likely to have a probable significant adverse impact on the environment except when the department determines, in consultation with the department of fish and wildlife, that the impacts can be mitigated.

\* (4) The department shall consult with the department of fish and wildlife, the department of ecology, affected Indian tribes, and other interested parties to determine if the proposal will maintain a fully functioning riparian management zone. To meet this goal, the department will review whether the forest practices reasonably would be expected, directly or indirectly, to: Increase protection from sediment and mass wasting impacts; maintain bank stability; maintain shade; maintain near or long-term large woody debris that is key-piece size or larger and indexed to the size of the channel; and, protect riparian functions from windthrow in site-specific circumstances. If the above functions are not adequately provided, then the forest practice is likely to have a probable significant adverse impact on the environment. If the department determines, in consultation with the department of fish and wildlife, that the impacts can be mitigated or that the threatened and endangered species is not likely to occur because of a significant long-term passage barrier such as a dam or waterfall, then the proposal is not likely to have a probable significant adverse impact on the environment.

**AMENDATORY SECTION** (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

**WAC 222-16-010 General definitions.\*** Unless otherwise required by context, as used in these regulations:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Columbia River Gorge National Scenic Area or CRGNSA**" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"**CRGNSA special management area**" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"**CRGNSA special management area guidelines**" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"**Commercial tree species**" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"**Completion of harvest**" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably

hinder such site preparation or rehabilitation of adjoining lands.

**"Constructed wetlands"** means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

**"Contamination"** means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

**"Conversion option harvest plan"** means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

**"Conversion to a use other than commercial timber operation"** shall mean a bona fide conversion to an active use which is incompatible with timber growing.

**"Cooperative habitat enhancement agreement (CHEA)"** see WAC 222-16-105.

**"Critical habitat (federal)"** means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

**"Critical nesting season"** means for marbled murrelets - April 1 to August 31.

**"Critical wildlife habitat (state)"** means those habitats designated by the board in accordance with WAC 222-16-080.

**"Cultural resources"** means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

**"Cumulative effects"** means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

**"Daily peak activity"** means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

**"Debris"** means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

**"Demographic support"** means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

**"Department"** means the department of natural resources.

**"Dispersal habitat"** see WAC 222-16-085(2).

**"Dispersal support"** means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of

higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

**"Eastern Washington"** means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

**"End hauling"** means the removal and transportation of excavated material, pit or quarry overburden, or landing or

road cut material from the excavation site to a deposit site not adjacent to the point of removal.

**"Erodible soils"** means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

**"Even-aged harvest methods"** means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

**"Fen"** means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

**"Fertilizers"** means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

**"Fill"** means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

**"Flood level - 50 year."** For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative

features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

**"Forest land"** means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

**"Forest land owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

**"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

**"Forest trees"** excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

**"Green recruitment trees"** means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

**"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

**"Historic site"** includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

**"Identified watershed processes"** means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

**"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

**"Interdisciplinary team"** (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

**"Islands"** means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

**"Limits of construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

**"Load bearing portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

**"Local government entity"** means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

**"Low impact harvest"** means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

**"Marbled murrelet detection area"** means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.

**"Marbled murrelet nesting platform"** means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

**"Median home range circle"** means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwa-

ter/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

**"Merchantable stand of timber"** means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

**"Northern spotted owl site center"** means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

**"Notice to comply"** means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

**"Occupied marbled murrelet site"** means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or
- (c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- (d) Birds calling from a stationary location within the area; or
- (e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(4) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(5) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial

cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Qualified expert" means a person qualified for level 2 certification in the watershed analysis process, plus having at least 3 additional years of experience in the evaluation of relevant problems in forested lands.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

**"Salmonid listed areas"** means the geographic areas as mapped in WAC 222-16-088. Detailed maps are available from the department at its regional offices.

**"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

**"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

**"Shorelines of the state"** shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

**"Side casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

**"Site preparation"** means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

**"Skid trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

**"Slash"** means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

**"SOSEA goals"** means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

**"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

**"Spotted owl dispersal habitat"** see WAC 222-16-085(2).

**"Spotted owl special emphasis areas (SOSEA)"** means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

**"Stop work order"** means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

**"Sub-mature habitat"** see WAC 222-16-085 (1)(b).

**"Suitable marbled murrelet habitat"** means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest

structure) to the forested area in which the nesting platforms occur.

**"Suitable spotted owl habitat"** see WAC 222-16-085(1).

**"Threatened or endangered species"** means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

**"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

**"Water bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

**"Watershed administrative unit (WAU)"** means an area shown on the map specified in WAC 222-22-020(1).

**"Watershed analysis"** means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

**"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

**"Western Washington"** means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

**"Wetland"** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

**"Wetland functions"** include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

**"Wetland management zone"** means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

**"Wildlife"** means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

**"Wildlife reserve trees"** means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

**AMENDATORY SECTION** (Amending WSR 98-07-047, filed 3/13/98, effective 5/1/98)

**WAC 222-16-050 Classes of forest practices.** There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices regulations.

(1) "**Class IV - special.**" Application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

\*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as:

(i) Critical wildlife habitat (state) of threatened or endangered species; or

(ii) Critical habitat (federal) of threatened or endangered species except those excluded by the board under WAC 222-16-080(3).

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF

within any developed park recreation area and park managed salvage of merchantable forest products.

\*(d) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on slide prone areas as defined in WAC 222-24-020(6) and field verified by the department, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, when such slide prone areas occur on an uninterrupted slope above water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or capital improvement of the state or its political subdivisions where there is potential for a substantial debris flow or mass failure to cause significant impact to public resources.

\*(e) Timber harvest in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, on slide prone areas, field verified by the department, where soils, geologic structure, and local hydrology indicate that canopy removal has the potential for increasing slope instability, when such areas occur on an uninterrupted slope above any water typed pursuant to WAC 222-16-030, Type A or Type B Wetland, or a capital improvement of the state or its political subdivisions where there is a potential for a substantial debris flow or mass failure to cause significant impact to public resources.

(f) Timber harvest, in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation, as high avalanche hazard.

(g) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

\*(h) Forest practices subject to a watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

\*(i) Filling or draining of more than 0.5 acre of a wetland.

\*(j) Construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas within 200 feet of a Type 1 Water within the areas on the salmonid listed map in WAC 222-16-088. Road construction means any new road construction, reconstruction, or road maintenance activity that is not a Class I forest practice.

(2) "**Class IV - general.**" Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency

determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050.)

(3) "**Class I.**" Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

\*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (ii) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

\*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(d) Construction of less than 600 feet of road on a side-slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the riparian management zone of a Type 2 or Type 3 Water, the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

\*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

\*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type

1 Water, the riparian management zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water, a wetland management zone, a wetland, or the CRGNSA special management area.

\*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

\*(p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type 1 Water or the riparian management zone of a Type 2 or 3 Water, the ordinary high-water mark of a Type 4 Water or flowing Type 5 Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on active and inactive roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "**Class II.**" Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: *Provided*, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 75.20.100) or is within a "shorelines of the state," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal.

\* (c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

\* (d) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

Salvage of logging residue.

\* (e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type 2 or 3 Water, within the ordinary high-water mark of a Type 4 Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW 75.20.100).

\* (b) Those within the shorelines of the state other than those in a Class I forest practice.

\* (c) Aerial application of insecticides, except where classified as a Class IV forest practice.

\* (d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

\* (e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

\* (f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

\* (h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters or Type A or B Wetlands.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

\* (n) Any filling of wetlands, except where classified as Class IV forest practices.

\* (o) Harvesting, site preparation or aerial application of pesticides within 200 feet of a Type 1, 2, or 3 Water, or road construction within 200 feet of a Type 2 or 3 Water, within the areas on the salmonid listed map in WAC 222-16-088.

**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.** (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site

preparation within 0.25 mile of an individual occurrence, documented by the department of fish and wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of fish and wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical wildlife habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

\*(k) Salmonids - harvesting, road construction, aerial applications of pesticides, or site preparation, within the areas on the salmonid listed map in WAC 222-16-088, within 100 feet of a type 1, 2, or 3 water. Road construction means any new road construction, reconstruction, or road maintenance activity that is not a Class I forest practice.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

Marbled murrelet critical habitat 50 C.F.R. §17.95(b), 61 Fed. Reg. 26256 as a result of provisions of the state's marbled murrelet rule.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the

listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or a "no-take let-

ter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

(b) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105.

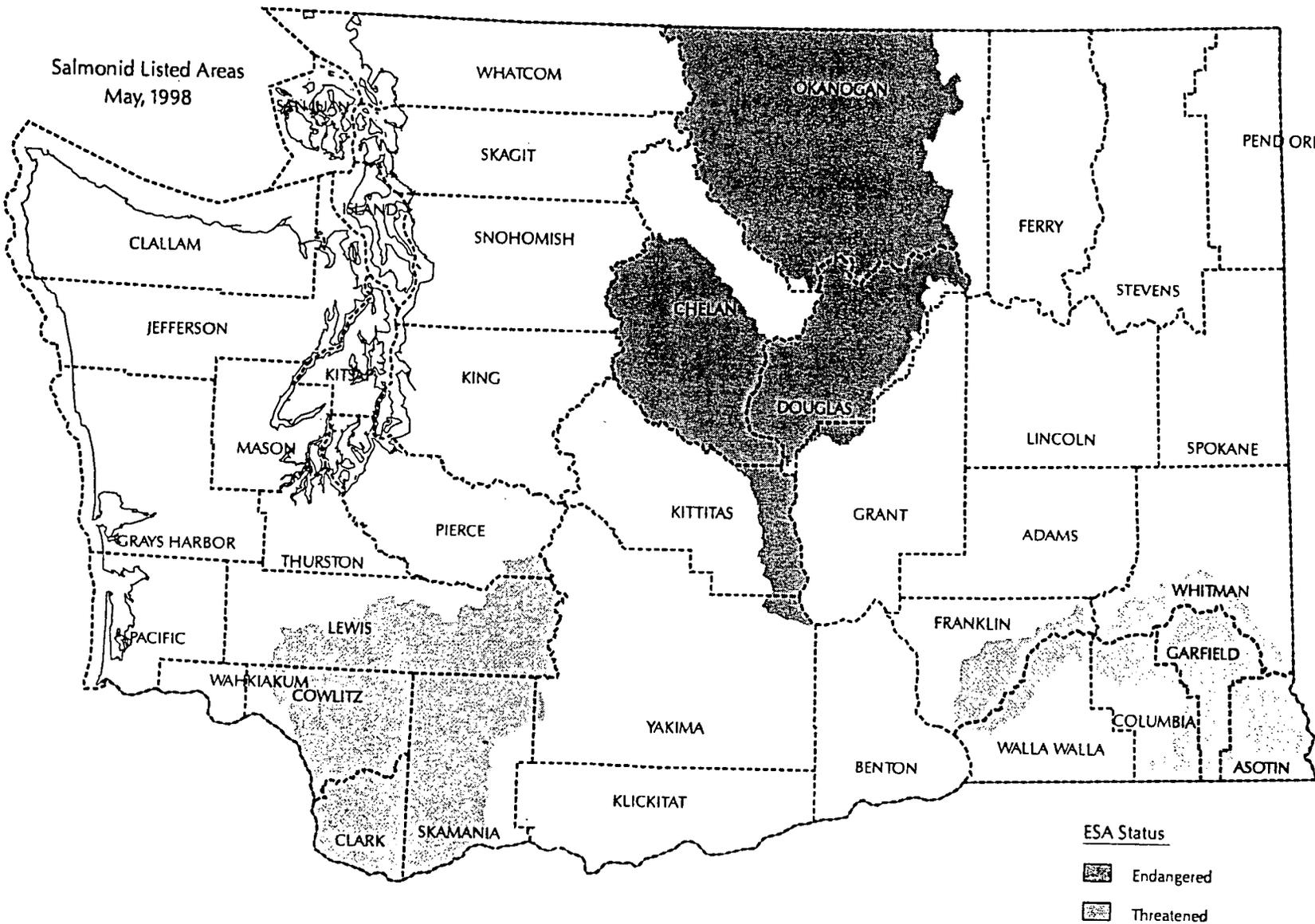
In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

NEW SECTION

WAC 222-16-088 \*Salmonid listed areas.



**AMENDATORY SECTION** (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

**WAC 222-24-050 Road maintenance. \*(1) Road maintenance and abandonment plan.**

(a) The department will identify priorities for road maintenance and abandonment plans by watershed administrative unit by region using information such as the Lower Columbia Steelhead Conservation Initiative. The department shall choose priority WAUs every spring and fall.

(b) Landowners with 500 acres or more of ownership within the areas on the salmonid listed map in WAC 222-16-088 and in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC, must submit within 90 days after notification in the spring or by June 30 after notification in the fall by the department, for department approval, a road maintenance and abandonment plan for those drainages or road systems, within the identified watershed administrative units, that are active or will be active within two years. This subsection does not apply to landowners with an approved habitat conservation plan that has specific provisions for road maintenance.

(c) Landowners with less than 500 acres within the areas on the salmonid listed map in WAC 222-16-088 and in a watershed administrative unit that has not undergone a watershed analysis under chapter 222-22 WAC must submit a road maintenance and abandonment plan covering their entire ownership within the priority WAUs as per (a) of this subsection to the department prior to or concurrently with a forest practice notification or application for proposed road or harvest activities. Once approved, the landowner should attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications.

(d) Landowners not within areas on the salmonid listed map in WAC 222-16-088, when notified by the department, shall submit a plan for road maintenance and abandonment for those drainages or road systems the department determines based on physical evidence to have a potential to damage public resources.

~~((The))~~ (e) All road maintenance and abandonment plans ~~((is))~~ are subject to annual review. The plan must pay particular attention to those road segments that block fish passage or have the potential to deliver water or sediment to any typed water, and shall include:

- (i) Ownership maps showing the road or road system;
- (ii) Road status, whether active, inactive, orphan, abandoned or planned for abandonment;
- (iii) Maintenance schedule and priorities for the year; and
- (iv) Plan for further maintenance and reconstruction beyond the current year for repair of extensive damage.

~~((b))~~ (f) The plan shall be submitted to the department region office on or before June 30, 1988, and each June 30th thereafter unless the department agrees that no further plans are necessary.

~~((e))~~ (g) The department will review the plan annually with the landowner to determine whether it will be effective and is being implemented.

~~((d))~~ (h) Such plans shall also be reviewed with departments of ecology, fish and wildlife, ~~((and))~~ affected Indian tribes, and interested parties, any of whom may request the department to hold an informal conference with the landowner.

(NOTE: The road maintenance and abandonment training manual and other materials made available by the department can be used for guidance in developing road maintenance and abandonment plans.)

\***(2) Active roads.** An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the surface and the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

\***(3) Inactive roads.** An inactive road is a forest road on which commercial hauling is discontinued for 1 or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion or interrupt water movement within wetlands; and

(b) Thereafter, except as provided in (c) of this subsection, the landowner shall clear or repair ditches or culverts which he/she knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the act, for damage occurring from a condition brought about by public use, unless he/she fails to make repairs as directed by a notice to comply.

\***(4) Additional culverts/maintenance.** If the department determines based on physical evidence that the above maintenance has been or will be inadequate to protect public resources and that additional measures will provide adequate protection it shall require the landowner or operator to either elect to:

(a) Install additional or larger culverts or other drainage improvements as deemed necessary by the department; or

(b) Agree to an additional road maintenance program. Such improvements in drainage or maintenance may be required only after a field inspection and opportunity for an informal conference.

\***(5) Abandoned roads.** An abandoned road is a forest road which the forest landowner has abandoned in accordance with procedures of (a) through (e) of this subsection.

Roads are exempt from maintenance only after (e) of this subsection is completed:

(a) Roads are outslopped, water barred, or otherwise left in a condition suitable to control erosion and maintain water movement within wetlands; and

(b) Ditches are left in a suitable condition to reduce erosion; and

(c) The road is blocked so that four wheel highway vehicles can not pass the point of closure at the time of abandonment; and

(d) Bridges, culverts, and fills on all waters are removed, except where the department determines other measures would provide adequate protection to public resources.

(e) The department shall determine whether the road has been abandoned according to procedures of this subsection. If the department determines the road is properly abandoned, it shall within thirty days notify the landowner in writing that the road is officially abandoned.

**\* (6) Brush control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 or 5 Water or Type A or B Wetlands. Refer to WAC 222-38-020 for additional information.

**\* (7) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above 55 degrees F and during the season when there is a minimal chance of rain for the next 48 hours. Use of waste oil is subject to RCW 70.95I.060(5).

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020.

**AMENDATORY SECTION** (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

**WAC 222-30-040 Shade requirements to maintain stream temperature.** \*(1) Determination of adequate shade. The temperature prediction method in subsections (2) and (3) of this section shall be used to determine appropriate shade levels for flowing Type 1, 2, and 3 Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

**\* (2) Temperature prediction method.**

(a) In addition to the riparian management zone requirements, leave trees shall be retained in riparian management zones on flowing Type 1, 2, and 3 Waters (~~as provided by~~),

(b) Leave trees shall also be retained as needed within the first 50 feet horizontal distance from the ordinary high water mark along the first 500 feet of flowing Type 4 or 5 Waters above Type 1, 2, and 3 Waters in the salmonid listed

areas map in WAC 222-16-088. This provision, however, does not apply to landowners with an approved habitat conservation plan that has specific provisions for salmonids.

(c) The temperature prediction method is described in the board manual (~~which~~) and it includes the following considerations:

~~((a))~~ (i) Minimum shade retention requirements; and

~~((b))~~ (ii) Regional water temperature characteristics; and

~~((c))~~ (iii) Elevation; and

~~((d))~~ (iv) Temperature criteria defined for stream classes in chapter 173-201A WAC.

\* (3) Leave tree requirements for shade. The method described in subsection (2) of this section shall be used to establish the minimum shade cover based on site specific characteristics. When site specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(4) **Waivers.** The department may waive or modify the shade requirements where:

(a) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or

(b) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(c) The temperature method indicates that additional shade will not affect stream temperature.

**WSR 98-20-017  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-202—Filed September 25, 1998, 1:39 p.m., effective September 29, 1998, 12:01 a.m.]

Date of Adoption: September 25, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500S; and amending WAC 220-32-055.

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 numbers of fall chinook and coho are available for tribal harvest in the Klicitat River. Season is consistent with state/tribal management plans. Matches state regulations with tribal regulations. 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: September 29, 1998, 12:01 a.m.  
September 25, 1998

Larry W. Peck  
Acting Director

### NEW SECTION

**WAC 220-32-05500S Columbia River tributaries - Subsistence** Notwithstanding the provisions of WAC 220-32-055, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence or commercial purposes from the Klickitat River except under the following provisions:

**Open:** Noon Tuesdays to 6:00 p.m. Saturdays weekly from September 29 through December 19, 1998.

**Area:** In those waters of the Klickitat River from the site of the former Swinging Bridge upstream to Fishway #5, provided that fishing is not allowed within 25 feet of the entrance to any fishway.

**Gear:** Fishing may be conducted with dipnets, setbag nets, or hook and line with bait or lures. Snagging of fish is prohibited. All other gears shall be unlawful.

**Other:** Only chinook and coho salmon taken within the fishing area described above may be sold. Steelhead may not be sold. All fish must be sold within one mile of the Klickitat Falls fishing area.

### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. December 19, 1998:

WAC 220-32-05500S Columbia River tributaries—  
Subsistence.

**WSR 98-20-018**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-204—Filed September 25, 1998, 1:42 p.m.; effective September 27, 1998, 12:01 a.m.]

Date of Adoption: September 25, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-47-905.

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: Consistent with United States/Canada agreements to reduce impacts to Thompson River-origin coho, scheduled coho-directed openings in Areas 7 and 7A were canceled and coho may not be retained during chum-directed reef net fisheries. Chum are expected to be available to Area 7/7A reef net fishery at this time, and openings are consistent with United States/Canada Treaty Chum Annex. Openings in Area 6D provide opportunity to harvest the nontreaty allocation of coho salmon destined for the Dungeness River per the preseason schedule. Openings in Area 7B provide opportunity to harvest the nontreaty allocation of coho salmon destined for the Nooksack-Samish region, per the preseason schedule. Openings in Area 8D provide opportunity to harvest the nontreaty allocation of coho destined for the Tulalip hatchery per the preseason schedule. Opening in Area 9A provides opportunity to harvest the nontreaty allocation of coho salmon destined for the Hood Canal region of origin per the preseason schedule. Openings in Area 12A provide opportunity to selectively harvest the nontreaty allocation of coho salmon destined for the Quilcene national fish hatchery while reducing impacts to summer chum. Beach seine gear specifications are defined in WAC 220-47-427(6). These openings and the purse seine chinook nonretention requirement are consistent with agreements reached during the Pacific Fishery Management Council - North of Falcon preseason process.

All other Puget Sound areas are closed to prevent overharvest of local salmon stocks.

An emergency exists in that there is insufficient time to promulgate permanent rules before the fish have been removed from the fishing grounds.

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: September 27, 1998, 12:01 a.m.

September 25, 1998

Larry W. Peck  
Acting Director

EMERGENCY

NEW SECTION

**WAC 220-47-906 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective 12:01 a.m. Sunday September 27, 1998 until further notice, it is unlawful to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following open periods and mesh and area restrictions:

- \* **AREA 6D** - Skiff gillnets using 5-inch minimum mesh may fish 7:00 a.m. to 7:00 p.m. daily:  
Monday September 28, 1998 through Friday October 2, 1998  
Monday October 5, 1998 through Friday October 9, 1998  
Monday October 12, 1998 through Friday October 16, 1998  
Monday October 19, 1998 through Friday October 23, 1998  
Fishers may not retain chinook or chum salmon taken in Area 6D.
- \* **AREAS 7 AND 7A** - Reef nets may fish from 7:00 a.m. to 7:00 p.m. daily Sunday September 27, 1998 through Saturday November 14, 1998.
- \* **AREA 7B** - Gillnets using 5-inch minimum mesh and purse seines using the 5-inch strip may fish until 11:59 p.m. Saturday October 24, 1998.
- \* **AREA 8D** - Purse seines using the 5-inch strip may fish from 7:00 a.m. to 7:00 p.m. daily, Tuesday September 29, 1998 through Friday October 2, 1998, Monday October 5, 1998 through Thursday October 8, 1998, and Tuesday October 13, 1998 through Friday October 16, 1998. Gillnets using 5-inch minimum mesh may fish from 6:00 p.m. to 8:00 a.m. nightly, beginning Monday September 28, 1998, Tuesday September 29, 1998, Wednesday September 30, 1998, Thursday October 1, 1998, Monday October 5, 1998, Tuesday October 6, 1998, Wednesday October 7, 1998, Thursday October 8, 1998, Monday October 12, 1998, Tuesday October 13, 1998, Wednesday October 14, 1998, and Thursday October 15, 1998.
- \* **AREA 9A** - Gillnets using 5-inch minimum mesh may fish until 4:00 p.m. Saturday October 31, 1998.
- \* **AREA 12A** - Holders of Quilcene Bay salmon beach seines Experimental Fishery Permits may fish 7:00 a.m. to 7:00 p.m. daily:  
Monday September 28, 1998 through Friday October 2, 1998  
Monday October 5, 1998 through Friday October 9, 1998  
All provisions of WAC 220-47-427 apply. Beach seines may not retain chum salmon.
- \* Areas 4B, 5, 6, 6A, 6B, 6C, 7C, 7D, 7E, 8, 8A, 9, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K, all freshwater areas, and exclusion zones provided for in WAC 220-47-307 - Closed.

- \* Purse seines may not retain chinook salmon.
- \* Reef nets may not retain chinook or coho salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. Sunday September 27, 1998:

WAC 220-47-905 Puget Sound all-citizen commercial salmon fishery. (98-195)

**WSR 98-20-020****EMERGENCY RULES****DEPARTMENT OF ECOLOGY**

[Order 98-22—Filed September 25, 1998, 2:17 p.m.]

Date of Adoption: September 24, 1998.

Purpose: To adopt by reference modifications to the forest practices rules to provide more protection for federally listed threatened and endangered salmonids within the upper and lower Columbia and Snake River systems. This rule classifies forest practices in mapped areas as Class IV-Special, requiring additional environmental review. Includes revisions of type 2 and 3 streams that were mistyped and had been included in previous emergency rules.

Citation of Existing Rules Affected by this Order: Amending chapter 173-202 WAC.

Statutory Authority for Adoption: RCW 90.48.420 and 76.09.040.

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: For stream typing, data shows many streams were mistyped and this emergency rule would correct those errors and provide protection commensurate with resource values and based on current information. Typing of streams affects protection measures. Salmonid part will provide additional protection through environmental review of salmonid species listed as threatened or endangered by the National Marine Fisheries Service. This action will help manage forestry activities that might negatively impact listed fish.

**SALMONIDS:** The Forest Practices Board and the Department of Ecology find good cause for an emergency rule to protect salmonids. This document organizes and summarizes information presented to and discussed by the board, and discussed in public meetings. It is an attachment to ecology's "findings" in their rule-making order (A.O.98-22). The reasons for this finding are as follows:

**1. SALMONID NEEDS**

**Biology:** Salmonids have several life history phases which include spawning, rearing and migration. Fertilized

salmonid eggs require sediment-free and cool water in order to incubate and hatch. Once the eggs hatch, the juvenile salmonids require rearing habitat which includes forage, clean cool water, and cover provided by rocks, banks and large woody debris. Finally, salmonids need to be able to have stream passage at all life history stages.

**Factors Limiting Salmonid Habitat:** In order to provide cool, clean water and habitat that includes pools, clean gravel and stable channels, the following habitat requirements are necessary in order to provide for healthy salmonids: Shade, stable stream banks, large woody debris, and fish passage.

**Shade and Stream Temperature.** Shade is needed to provide cool water temperatures. To achieve this, trees along the riparian zones of fish-bearing streams and along contributing nonfish bearing streams must be retained to assure that the solar radiation does not heat the streams to a point that limits the productivity, or in some severe cases, the mortality of salmonids. High temperatures can also block or delay fish migration.

The current state water quality standard for stream temperature is intended to fully protect salmonids. Shade must be retained, in order to keep water temperatures below 16° centigrade.

Other factors can increase temperature such as sediment deposition and resultant stream widening. Shade removal in nonfish bearing streams can also contribute to downstream temperature increases in fish-bearing waters. Shade removal can also impact cold groundwater sources and microclimate.

**Stream Bank Stability and Forest Roads.** Fine sediment in spawning gravel reduces the survival of salmonid eggs. Sediment can also limit the ability for juvenile and adult salmonids to feed. Stream bank instability is a major contributor of sediment to streams. Stability of stream banks is necessary to this as a source of sediment (if banks are disturbed they can introduce sediment). Forest roads can also contribute sediment laden water to streams from ditches and water crossings. Roads can also change hydrologic regime of the stream causing higher peak flows which can cause more sedimentation.

**Large Woody Debris.** Rearing or juvenile salmonids need pools and cover for refuge and desired feeding conditions. Stream morphology that contains adequate pools requires large woody debris (LWD) on a continuous basis. The LWD provides structure in the streams for the formation of pools and cover. It also moderates the movement of sediment. Trees from the adjacent riparian stand are an important source of large LWD.

**Fish Passage.** Adult fish need to move upstream to access spawning areas. Juvenile fish need to move upstream and downstream to find desirable feeding conditions or take refuge from undesirable environmental conditions. Forest road stream crossings often block fish passage.

**Summary.** The literature indicates that in order to protect bank stability, a thirty-foot buffer is recommended. In addition, to achieve 95% recruitment of the key piece wood, (wood that is large enough to start the forming of log jams indexed by stream size) approximately one hundred foot buffer is required. Additional buffers may be needed to account for areas that have high susceptibility to windthrow,

provide additional large woody debris (LWD) recruitment, unstable slopes protection, protection of seeps, springs and stream associated wetlands. Other functions include microclimate (air temperature and humidity, etc.).

## 2. ENDANGERED SPECIES ACT LISTINGS AND THE FOREST PRACTICES ACT.

The Endangered Species Act (ESA) was enacted to conserve threatened and endangered species and the ecosystems upon which they depend. Four ESA listings have occurred in the last year. In August of 1997, Upper Columbia steelhead was listed as endangered and the Snake River Steelhead were listed as threatened. In March of 1998, the Lower Columbia steelhead was listed as threatened. Finally, in June 1998, the Columbia River bull trout was listed as threatened. (Note: The Forest Practices Board is in the process of establishing findings for the bull trout listing. They anticipate having this discussion at their November 10, 1998 meeting.)

ESA listings lead to "take" being prohibited. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in any such conduct. "Harm" can include significant habitat modification or degradation. In addition, the listing itself is indicative of the need to provide protection of the habitat required by these species to assure recovery of the species and protection from harm.

A governmental agency can be responsible for a take if it authorizes the activity that exacts a taking. In a March 1998 decision, the United States Court of Appeals for the First Circuit ordered a Massachusetts agency to prevent the taking of the Northern Right Whale, an endangered species. The court found whales could be harmed from entanglement in fishing gear from commercial fishing activities authorized by agency regulations. The court found the state licensed the commercial fishing in a manner likely to cause harm, even though its actions were only an indirect cause. Thus, the Forest Practices Board and the Department of Ecology could be vulnerable for take if permits continue to be approved without consideration of listed species protected from harm. Actions to enforce the ESA could be brought by the federal government or other third parties.

The ESA requires federal agencies to examine the impact of their actions on protected species. The Washington Forest Practices Board has been working with the United States Fish and Wildlife Service (USFWS) to have the existing state forest practice rules for the northern spotted owl recognized as part of a proposed federal rule providing protection of that species under the ESA. The USFWS has consulted with the National Marine Fisheries Service (NMFS) regarding how the anadromous (listed and proposed to be listed) fish may be impacted by the proposed federal rule. In a letter dated September 16, 1998, NMFS has concluded that the existing state forest practice rules "do not leave adequate riparian buffers to provide the important ecosystem functions necessary to support the biological requirements of anadromous salmonids." NMFS has indicated that "any further degradation of habitat conditions that reduces essential habitat functions may have a significant impact, which poses an unacceptable risk to the survival and recovery" of certain salmonid evolutionarily significant units (ESUs), including the Upper Columbia Steelhead addressed in the emergency rule.

Oregon had developed a plan to protect salmonids which was relied on by NMFS in its decision not to list certain species of salmonids as threatened. The Oregon plan was based largely on future actions and voluntary efforts. In June 1998, a federal court rejected this decision as inadequate to prevent endangerment to salmonids under the ESA. In Washington, the forest practice rules also rely on voluntary efforts. The watershed analysis process (chapter 222-22 WAC) is entirely voluntary. Voluntary efforts are not adequate to prevent endangerment to already listed salmonids. Emergency action is necessary because of the state's obligation to comply with the ESA. This emerging and unexpected development makes it clear that the existing rules are not adequate and the species are in jeopardy.

### 3. CONTINUING TO APPROVE FOREST PRACTICES PERMITS IN LISTED AREAS.

**Forest Practices Applications in Listed Areas:** The listed areas of the state contain nearly 6 million acres of non-federal land, of which about 2.2 million acres are state and private forest land covered by the current forest practice rules. Most of the habitat that salmonids seek for spawning and rearing are in the forested areas of the state. This portion of the habitat continues to be critical to the survival and well-being of these species.

When the ESA listings occurred, there were approximately 823 forest practices applications/notifications already approved in the listed areas. Since operations under these permits may have some impact on salmonid habitat, these applicants were sent letters notifying them of the listings. If they had questions, the letter said they should contact National Marine Fisheries Service directly for clarification whether their operations may cause a concern for listed steelhead.

Since the listings, one hundred twenty applications/notifications have been approved within two hundred feet of a listed salmonid water. These permits contain a note to applicants warning them that this state permit does not necessarily meet federal law under the ESA.

The department estimates that an additional 1,700 to 1,800 applications will be approved between now and when a permanent rule might be adopted and become effective (estimated to be July 1, 2000). Since permits are effective for a two-year period, applications approved prior to a new permanent rule taking effect in 2000 would be valid until 2002. Thus, nearly four years from now, some salmonid habitat would still be at risk absent an emergency rule.

The Forest Practices Act (chapter 76.09 RCW) requires protection of public resources. In order to protect these listed salmonids, the habitat associated with spawning, rearing and migration needs to be protected.

**Current Forest Practices Rules Inadequate for Listed Salmonids:** Current and newly-approved forest practice operations conducted under the existing rules could cause additional harm to ESA-listed salmonids because continued harvests in riparian areas would decrease shade, bank stability, and large woody debris, and continued road construction in these areas would also impact salmonid habitat. Specific impacts are categorized as follows:

**Shade and Stream Temperature.** Under the current forest practice rules, shade is required to meet current temperature criteria at 16 or 18 degrees centigrade. Currently, it is likely that shade is not fully provided on Type 3 streams because landowners only have to seek shade as far as the maximum width riparian management zone (RMZ). The maximum width RMZs for Type 3 streams are currently fifty feet on streams greater than five feet wide and twenty-five feet on streams that are less than five feet wide.

An additional factor where current rules are inadequate for meeting temperature requirements involves removal of shade in nonfish-bearing waters which contribute to the temperature of fish-bearing waters downstream. This removal of shade elevates the water temperature which then cumulatively elevates temperatures downstream.

**Stream Bank Stability and Forest Roads.** Under the current rules, bank stability may be protected. On the westside of the state, the protection only extends to twenty-five feet. On the eastside, the recommended protection is thirty feet. However, if shade is provided (meeting current shade rule) and leave tree requirements are met, additional tree removal that would provide bank stability is also possible.

Roads are currently covered by the current rules, however, existing information would lead us to believe that standards need to be upgraded and that roads are out of compliance with existing rules as much as half the time as documented in the 1991 Compliance Report prepared by Timber, Fish and Wildlife's Field Implementation Committee. Preliminary findings from an on-going internal audit by the Department of Natural Resources also show that construction of roads in certain areas of the state indicate that the minimum standards are not adequate to protect public resources.

**Large Woody Debris.** Under the current rules, large woody debris is provided at a minimal level in the current RMZ requirements. Leave trees are required within the current RMZs. However, the number required to be left is not based on the ability to improve this LWD function over time so that there is both near- and long-term continuous large woody debris recruitment. Nor are current rules sufficiently designed to assure that the correct size and amount of large woody debris can be provided. If a comparison of the current rules is made with the target identified in the habitat section above, the current rules can be assumed to be deficient for large woody debris.

**Summary.** Given the above information, current forest practices rules are deficient, particularly in providing LWD, adequate shade on small streams (including nonfish-bearing waters), bank stability and road contributions of sediment.

### 4. PROTECTING PUBLIC RESOURCES AND CLASS IV-SPECIAL CLASSIFICATION.

The public has a strong interest in protecting public resources, including water, fish, and wildlife, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices in the salmonid listed areas are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, habitat of these threatened and endangered species could be significantly impacted by forest practices.

The Forest Practices Act requires that forest practices which have the potential for a substantial impact on the environment be classified as Class IV so that they receive additional environmental review under the State Environmental Policy Act (chapter 43.21C RCW). SEPA recognizes the critical importance of restoring and maintaining environmental quality to the public welfare and the importance of full disclosure of adverse environmental impacts caused by agency actions. The Forest Practices Board is obligated under the law to identify those forest practices that have potential for substantial impact on the environment and classify them as Class IV-Special so that additional SEPA review is conducted. If there is the potential for damage to the habitat of a state or federal listed species, then there is potential for substantial impact on the environment. An emergency rule would not necessarily prohibit harvest; it would require additional review to evaluate environmental impacts. This process includes public notice and a public comment period.

As described above, certain forest practices in the salmonid listed areas have the potential for impact on listed salmonids. This impact is substantial because of the number of forest practices in the listed areas and because the current rules are inadequate. Absent permanent rules that adequately prevent these impacts, RCW 76.09.050 and SEPA require the emergency rule change in classification.

#### 5. STATE WATER QUALITY REQUIREMENTS.

The intent of the Forest Practices Act is to meet water quality standards under the Water Pollution Control Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. Temperature increases attributed to forestry activities cause 303(d) listings. In 1996, streams with elevated temperatures comprised the largest group on the entire 303(d) list. Temperature limits in the water quality standards are intended to fully protect in-stream beneficial uses by preventing any decrease in salmonid health or reproductive success. This goal is consistent with the state water quality anti-degradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest.

#### 6. RULE MAKING FILES.

The Forest Practices Board and Department of Ecology maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, Department of Natural Resources at (360) 902-1412 or Doug Rushton, Department of Ecology at (360) 407-6180 if you would like to inspect these files.

**STREAM TYPING PART OF EMERGENCY RULE:** The Forest Practices Board and the Department of Ecology find good cause for an emergency to modify the water typing rules. This document organizes and summarizes information presented to and discussed by the board in public meetings. It is

an attachment to ecology's "findings" in their rule-making order (A.O.98-22).

The reasons for findings are as follows:

New data have shown that the physical characteristics of streams, as defined in the current forest practices rules, are no longer accurate. Accurate water typing is critical to public resource protection. This emergency rule updates those physical characteristics based on current knowledge so that appropriate resource protection can be provided to fish habitat and water quality.

This emergency rule establishes presumptions for determining fish use in the absence of field verification and is necessary during permanent rule making updating the water type rules and associated riparian protection. Because water typing triggers riparian protection through the forest practices rules, watershed analysis, and some local land use decisions, the definitions used to determine water types must reflect current knowledge about fish use and habitat. Due to significant field verification of water types and research, more is known today about fish distribution and the physical characteristics of fish habitat than was known when the existing water type definitions were written (see WAC 222-16-030). In addition, the 303(d) water quality and potential ESA listings cause increased pressure on the forest practices regulation system that will result in increased cost and complexities for all participants. If the water typing system is not upgraded immediately, it will contribute to potential listings and increase the associated burdens of such listings.

In August 1994, the Point-No-Point Treaty Council published a report, Stream Typing Errors in Washington Water Type Maps for Watersheds of Hood Canal and the Southwest Olympic Peninsula. Simultaneously, the Quinault Indian Nation and the Department of Fish and Wildlife were also reviewing water types in the southwest part of the Olympic Peninsula. Data from these studies indicated that seventy-two percent of the type 4 streams were actually type 2 or 3 streams. In addition, projects funded by the United States Fish and Wildlife Service with cooperation from some western Cascade landowners and Washington trout have also resulted in significant upgrades.

The intent of the Forest Practices Act is to meet water quality standards under the Clean Water Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. The number of water bodies included on the Department of Ecology's 303(d) water quality limited list has increased and now includes many forested streams. Numerous fish stocks are being considered for listing under the Endangered Species Act. The state has water quality anti-degradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest. Water quality standards cannot be met if inaccurate stream typing informa-

tion is used in assessing the impacts of forest practices, since protection measures are based, in part, on stream types.

The public has a strong interest in protecting public resources, including water, and fish, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices near water are carefully evaluated while the board and ecology are in the process of adopting permanent rules. Without an emergency rule, public resources, including the habitat of threatened and endangered species, could be significantly impacted by forest practices because of incorrect water typing and resultant inappropriate protection levels.

In this emergency rule process, the Forest Practices Board has separate rules for water typing and salmonids. Ecology combined the two. The Forest Practices Board and Department of Ecology maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, Department of Natural Resources at (360) 902-1412 or Doug Rushton, Department of Ecology at (360) 407-6180 if you would like to inspect these files.

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.

September 24, 1998

Tom Fitzsimmons

Director

**AMENDATORY SECTION** (Amending Order 97-46, filed 3/30/98, effective 4/30/98)

**WAC 173-202-020 Certain WAC sections adopted by reference.** The following sections of the Washington Administrative Code existing on ~~((March 13))~~ September 25, 1998, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.

WAC 222-10-020—\*SEPA policies for certain forest practices within 200 feet of a Type I Water.

WAC 222-10-040—Class IV-Special threatened and endangered species SEPA policies.

WAC 222-10-043—\*Salmonids.

WAC 222-12-010—Authority.

WAC 222-12-040—Alternate plans.

WAC 222-12-045—Adaptive management.

WAC 222-12-046—Cumulative effect.

WAC 222-12-070—Enforcement policy.

WAC 222-12-090—Forest practices board manual.

WAC 222-16-010—General definitions.

WAC 222-16-030—Water typing system.

WAC 222-16-035—Wetland typing system.

WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (1)(j), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n), (5)(o)—Classes of forest practices.

WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.

WAC 222-16-080 (1)(k)—\*Salmonids-harvesting, road construction, aerial applications of pesticides, or site preparation, within the areas on the salmonid listed map in WAC 222-16-088, within 100 feet of a type 1, 2, or 3 water.

WAC 222-16-088—\*Salmonid listed areas.

WAC 222-22-010—Policy.

WAC 222-22-020—Watershed administrative units.

WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.

WAC 222-22-040—Watershed prioritization.

WAC 222-22-050—Level 1 watershed resource assessment.

WAC 222-22-060—Level 2 watershed resource assessment.

WAC 222-22-070—Prescription recommendation.

WAC 222-22-080—Approval of watershed analysis.

WAC 222-22-090—Use and review of watershed analysis.

WAC 222-22-100—Application review prior to watershed analysis.

WAC 222-24-010—Policy.

WAC 222-24-020 (2), (3), (4), (6)—Road location.

WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.

WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.

WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.

WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.

WAC 222-24-050—Road maintenance.

WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.

WAC 222-30-010—Policy—Timber harvesting.

WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.

WAC 222-30-025—Green-up: Even-aged harvest size and timing.

WAC 222-30-030—Stream bank integrity.

WAC 222-30-040—Shade requirements to maintain stream temperature.

WAC 222-30-050 (1), (2), (3)—Felling and bucking.

WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.

- WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.  
 WAC 222-30-080 (1), (2)—Landing cleanup.  
 WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.  
 WAC 222-34-040—Site preparation and rehabilitation.  
 WAC 222-38-010—Policy—Forest chemicals.  
 WAC 222-38-020—Handling, storage, and application of pesticides.  
 WAC 222-38-030—Handling, storage, and application of fertilizers.  
 WAC 222-38-040—Handling, storage, and application of other forest chemicals.

**WSR 98-20-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Division of Child Support)  
 [Filed September 29, 1998, 4:04 p.m.]

Date of Adoption: September 29, 1998.

Purpose: The Department of Social and Health Services Division of Child Support (DCS) is amending WAC 388-14-450 to include both court-ordered and noncourt-ordered cases in the type of case which is subject to a debt adjustment notice. The prior version of WAC 388-14-450 refers only to court-ordered cases, and thus deprives the custodial parent who receives support pursuant to an administrative order of the right to a notice and hearing when DCS adjusts the amount of debt owed to the custodial parent.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14-450.

Statutory Authority for Adoption: RCW 26.23.035(1), 34.05.220(1), 74.08.090, 74.20A.310.

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: DCS believes that the rule in its current version has unintended due process implications which must be addressed. The basis for the debt adjustment notice was a Stipulation and Consent Order Granting Relief filed in *Ecoff v. DSHS*, Thurston County Superior Court Case No. 89-2-016947-4, which provided that the payee under a superior court order was entitled to notice and a hearing when DCS made a discretionary downward adjustment to the support debt. Although DCS has given all payees the right to notice and hearing in debt adjustments, a recent administrative decision denied this right to notice and hearing to the payee under an administrative order, based on a strict reading of the rule. DCS seeks to put the payees of both kinds of orders on equal footing insofar as the right to notice and hearing of debt adjustment is concerned, thus ensuring due process.

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 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.

September 29, 1998

Marie Myerchin-Redifer, Manager  
 Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 97-13-092, filed 6/18/97, effective 7/19/97)

**WAC 388-14-450 Debt adjustment notice.** (1) The IV-D agency shall mail a debt adjustment notice to the ((payee under a court order)) physical custodian, also known as the custodial parent, within thirty days of the date the IV-D agency reduces the amount of the ((court-ordered)) support debt it intends to collect if that reduction was due to:

- (a) A mathematical error in the debt calculation;
- (b) A clerical error in the stated debt;
- (c) Proof the support obligation should have been suspended for all or part of the time period involved in the calculation; or

- (d) Proof the responsible parent made payments that had not previously been credited against the support debt.

(2) The debt adjustment notice shall state:

- (a) The amount of the reduction;
- (b) The reason the IV-D agency reduced the support debt, as provided under subsection (1) of this section;
- (c) The name of the responsible parent and a statement that the responsible parent may attend and participate as an independent party in any hearing requested by the payee under this section; and

- (d) The IV-D agency will continue to provide support enforcement services whether or not the payee objects to the debt adjustment notice.

(3) A debt adjustment notice becomes final under this subsection.

- (a) A debt adjustment notice becomes final unless the ((payee)) custodial parent, within twenty days of service of the notice in Washington, files a request with the IV-D agency for a hearing under subsection (4) of this section. The effective date of a hearing request is the date the IV-D agency receives the request.

- (b) A debt adjustment notice served in another state becomes final according to WAC 388-14-496.

(4) A hearing under this section is for the limited purpose of determining if the IV-D agency correctly reduced the support debt as stated in the notice of debt adjustment.

(5) A ((payee)) custodial parent who requests a late hearing under WAC 388-11-310 must show good cause for filing a late hearing request if it is filed more than one year after the date of the notice of debt adjustment.

**WSR 98-20-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-210—Filed September 29, 1998, 4:53 p.m., effective September 29, 1998, 6:00 p.m.]

Date of Adoption: September 29, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-36-02300X; and amending WAC 220-36-023.

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 harvestable quota of salmon has been attained in Management and Catch Reporting Area 2C. 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: September 29, 1998, 6:00 p.m.  
September 29, 1998

Larry W. Peck  
Acting Director

**NEW SECTION**

**WAC 220-36-02300Y Grays Harbor salmon—Fall fishery.** Notwithstanding the provisions of WAC 220-36-023, effective 6:00 p.m. September 29, 1998 until further notice, it is unlawful to fish for and possess salmon taken for

commercial purposes from Grays Harbor Salmon Management and Catch Reporting Area 2C.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. September 29, 1998:

WAC 220-36-02300X      Grays Harbor salmon—Fall fishery. (98-198)

**WSR 98-20-038**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-207—Filed September 29, 1998, 4:55 p.m.]

Date of Adoption: September 29, 1998.

Purpose: Commercial and recreational fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-046 and 220-56-330.

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: Recent state and tribal crab test fishing indicate that approximately forty percent of legal size male crab in the affected areas are in a soft shell condition. The crab pot management agreements is far exceeded. Closure of this area to crab pot fishing is necessary to prevent unacceptable handling mortality and resource loss. There is insufficient time to adopt 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 2, 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.

September 29, 1998

Larry W. Peck  
Acting Director

**NEW SECTION**

**WAC 220-52-04600G Crab fishery—Seasons and areas.** Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful to fish for or possess crab taken for commercial purposes from Marine Fish Shellfish Catch Area 24B, the portion of Marine Fish Shellfish Catch Area 24C south of a line from East Point on Whidbey Island to Lowell Point on Camano Island, and the portion of Marine Fish Shellfish Catch Area 26A north of a line from the south tip of Possession Point on Whidbey Island to Picnic Point.

**NEW SECTION**

**WAC 220-56-33000K Crab—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-330, effective 8:00 a.m. October 1, 1998, until further notice, it is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from waters of Marine Area 8-2 east and south of a line from East Point on Whidbey Island to Lowell Point on Camano Island, all waters of Marine Area 9 north of a line from the south tip of Possession Point on Whidbey Island to Picnic Point.

Reasons for this Finding: The effective date of the amendment is October 1, 1998, as required by federal regulation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, 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 0, Repealed 0.

Effective Date of Rule: October 1, 1998.

September 29, 1998

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 98-20-043**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed September 30, 1998, 1:29 p.m., effective October 1, 1998]

Date of Adoption: September 29, 1998.

Purpose: To publish the new income eligibility standards for food assistance. The new standards are the basis upon which food stamp allotment will be issued.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.500, 74.04.510, and 74.08.090.

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.

**AMENDATORY SECTION** (Amending WSR 96-16-044 [98-16-044], filed 7/31/98, effective 9/1/98)

**WAC 388-478-0060 Income eligibility standards for food assistance.** ~~((To be eligible for food assistance,))~~ (1) When an assistance unit receives cash benefits (TANF, GA-U, GA-S, etc.) and Supplemental Security Income (SSI), they do not have to meet the income standard.

(2) All households (assistance units), based on their size, must have income at or below ((both the maximum gross and net monthly income standards)) the limits shown in column B to be eligible for food assistance, except as follows:

~~(((1) Assistance units with an elderly or disabled member must have income at or below only the maximum net monthly income standard.~~

~~(2) Assistance units in which all members are receiving cash assistance or SSI do not have to meet the maximum gross or net monthly income standards))~~ (a) Column C is to be used when an assistance unit includes a person sixty years or older, or with disabilities;

(b) Column E is to be used when determining separate household status for an elderly person or a person with permanent disability, as described in WAC 388-408-0035 (1)(d).

((EFFECTIVE 10-1-97

Household Size	Maximum Gross Monthly Income	Maximum Net Monthly Income	165% of the Poverty Level	Maximum Allotment
1	\$ 855	\$658	\$1,085	\$122
2	1,150	885	1,459	224
3	1,445	1,111	1,833	321
4	1,739	1,338	2,207	408
5	2,034	1,565	2,581	485
6	2,329	1,791	2,955	582

EMERGENCY

7	2,623	2,018	3,329	643
8	2,918	2,245	3,703	735
9	3,213	2,472	4,077	827
10	3,508	2,699	4,451	919
Each Additional Member	+295	+227	+374	+92))

EFFECTIVE 10/1/98

<u>Column A Household Size</u>	<u>Column B Maximum Monthly Gross Income</u>	<u>Column C Maximum Net Monthly Income</u>	<u>Column D Maximum Allotment</u>	<u>Column E 165% of Poverty Level</u>
1	873	671	125	1107
2	1176	905	230	1492
3	1479	1138	329	1877
4	1783	1371	419	2262
5	2086	1605	497	2647
6	2389	1838	597	3032
7	2693	2071	659	3417
8	2996	2305	754	3802
9	2200	2539	848	4187
10	3604	2773	942	4572
Each Additional Member	+304	+234	+94	+385

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

**WSR 98-20-048**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-208—Filed October 1, 1998, 9:05 a.m.]

Date of Adoption: September 30, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000Q; and amending WAC 220-44-050.

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 regulations are necessary to achieve conservation goals and to maintain consistency between state and federal regulations. 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: Immediately.

September 30, 1998

Larry W. Peck

Acting Director

**NEW SECTION**

**WAC 220-44-05000R Coastal bottomfish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. October 1, 1998 until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

1. The following definitions apply to this section:

a. Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. For B-platoon vessels a calendar month shall be the 16th of the month through the 15th of the following month. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited

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entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

b. **Daily trip limit** - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

c. **Groundfish limited entry fishery** - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

d. **Groundfish open access fishery** - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

e. **Vessel trip** - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

f. **Vessel trip limit** - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

g. **Dressed length** - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

2. **Groundfish limited entry fishery limits.** The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030):

a. **Pacific ocean perch** - One-month cumulative limit of 4,000 lbs. No minimum size.

b. **Widow rockfish** - One-month cumulative limit of 19,000 pounds. No minimum size.

c. **Shortbelly rockfish** - No minimum size. No maximum poundage.

d. **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

e. **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) One-month cumulative limit of 20,000 pounds, of which no more than 6,500 pounds may be yellowtail rockfish and no more than 500 pounds may be canary rockfish.

f. **DTS Complex - (Dover sole, Thornyhead rockfish, and Sablefish)** - Dover sole, one-month cumulative limit of 18,000 pounds. Longspine thornyheads, one-month cumulative limit of 7,500 pounds. Shortspine thornyheads, one-month cumulative limit of 1,500 pounds. Sablefish; for trawl vessels, one-month cumulative limit of 5,000 pounds; for non-trawl vessels, one-month cumulative limit of 1,800

pounds; for non-trawl vessels, effective November 1, 1998, one-month cumulative limit of 1,500 pounds.

g. **Sablefish** -

(1) **Trawl vessels** - Not more than 500 pounds (round weight) of sablefish per trip may be smaller than 22 inches. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(2) **Non-trawl vessels** - Daily trip limit of 300 pounds (round weight) not to exceed one-month cumulative limit of 1,800 pounds. Effective November 1, 1998, daily trip limit of 300 pounds (round weight) not to exceed one-month cumulative limit of 1,500 pounds.

h. **Pacific Whiting** - No maximum poundage. No minimum size.

i. **Lingcod** - One-month cumulative limit of 500 pounds. Total length minimum size limit of 24 inches. Lingcod total length of 24 inches is equivalent to dressed length of 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(1) It shall be lawful to land up to 100 pounds of lingcod under 24 inches taken in the trawl fishery only.

3. **Groundfish open access fishery limits.** The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030). Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or more than 50% of any 2-month cumulative limit:

(a) **Sablefish** - Daily trip limit of 300 pounds (round weight) not to exceed one-month cumulative limit of 1,800 pounds per month. Effective November 1, 1998, daily trip limit of 300 pounds (round weight) not to exceed one-month cumulative limit of 1,500 pounds. No minimum size.

(b) **Rockfish** - Rockfish includes all *Sebastes* complex, yellowtail rockfish, canary rockfish, black rockfish, widow rockfish, thornyhead rockfish, shortbelly rockfish and Pacific ocean perch. Illegal to take, possess, transport, or land rockfish.

(c) **Lingcod** - Illegal to take, possess, transport or land lingcod.

4. Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip, or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip, or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any

trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "research" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

5. It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

6. The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 30, 1998:

WAC 220-44-05000Q Coastal bottomfish catch limits. (98-178)

**WSR 98-20-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-209—Filed October 1, 1998, 9:09 a.m.]

Date of Adoption: September 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

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 have been approved for rehabilitation and are scheduled for treatment from late September through the end of October 1998. 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 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.

September 30, 1998

Larry W. Peck

Acting Director

#### NEW SECTION

**WAC 232-28-61900Z Exceptions to statewide rules.** Notwithstanding the provisions of WAC 232-28-619:

(1) Big Meadow Lake (Pend Orielle County) Effective October 1 through October 25, 1998 it is lawful to fish for game fish. Daily Limit: None. Minimum size: None.

(2) Fish Lake (Spokane County) Effective October 1 through October 25, 1998 it is lawful to fish for game fish. Daily limit: None. Minimum size: None.

(3) Fishtrap Lake (Lincoln/Spokane County) Effective October 1 through October 25, 1998 it is lawful to fish for game fish. Daily limit: None. Minimum size: None.

(4) Hog Canyon Lake (Spokane County) Effective October 1 through October 25, 1998 it is lawful to fish for game fish. Daily limit: None. Minimum size: None.

(5) Leader Lake (Okanogan County) Effective October 1 through October 31, 1998 it is lawful to fish for game fish. Daily limit: None. Minimum size: None.

(6) Mudget Lake (Stevens County) Effective October 1 through October 25, 1998 it is lawful to fish for game fish. Daily limit: None. Minimum size: None.

(7) Quail Lake (Adams County) Effective October 1, 1998 until further notice - Closed.

**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.

**WSR 98-20-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 98-212—Filed October 1, 1998, 9:13 a.m.]

Date of Adoption: September 30, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-14000U; and amending WAC 220-57-140.

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 numbers of salmon are projected to return to the Chehalis River in Fall 1998. This regulation is consistent with the management criteria established during the planning process. 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: Immediately.

September 30, 1998

Larry W. Peck

Acting Director

## NEW SECTION

**WAC 220-57-14000U Chehalis River.** Notwithstanding the provisions of WAC 220-57-140, effective 12:01 a.m. October 1 through October 31, 1998:

(1) Special daily limit of six salmon except no more than one adult salmon may be retained and release chum and wild coho salmon in those waters downstream from the high bridge to Fuller Bridge. Single point barbless hooks required.

(2) Special daily limit of six salmon except no more than one adult salmon may be retained and release chum, wild coho and adult chinook in those waters downstream from Fuller Bridge. Single point barbless hooks required.

## REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 31, 1998:

WAC 220-57-14000U Chehalis River.

**WSR 98-20-051**

**EMERGENCY RULES**

**BUILDING CODE COUNCIL**

[Filed October 1, 1998, 11:52 a.m.]

Date of Adoption: September 18, 1998.

Purpose: To repeal WAC 51-40-23110, the state amendment to the 1997 Uniform Building Code Footnote 3 to both Table 23-II-I-1 and Table 23-II-I-2, thus leaving the footnote for both of these allowable shear tables as published by the

International Conference of Building Officials (ICBO) in the 1997 Edition of the UBC.

Citation of Existing Rules Affected by this Order: Repealing WAC 51-40-23110.

Statutory Authority for Adoption: RCW 19.27.074, 19.27.031.

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 State Building Code Council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The council's adoption of chapter 51-40 WAC, the state amended 1997 edition of the Uniform Building Code (UBC), published by the International Conference of Building Officials (ICBO), took effect July 1, 1998. The repeal of WAC 51-40-23110 contained herein as adopted by the council under emergency rule making pursuant to RCW 34.05.350, will remove the state's amendment of UBC Table 23-II-I-1 and Table 23-II-I-2, allowable shear tables for wind and seismic forces. After the council's adoption of WAC 51-40-23110, ICBO published an errata for Footnote 3 of the UBC Table 23-II-I-1 and Table 23-II-I-2 which caused the state's amendment of Footnote 3 to be incomplete and inaccurate. This emergency rule will allow changes contained in the errata from ICBO for Footnote 3 in these two tables to take effect. Without these changes, the required shear wall resistance to seismic and wind forces will be inadequate for some building designs. Immediate adoption of this amendment is necessary so that structural engineers will have proper guidance from these two allowable shear tables for use in building design.

The amendment herein takes into consideration the general welfare and safety of the public by reverting to shear wall requirements published by ICBO. In order to provide immediate relief, the council finds it necessary to adopt the amendment as an emergency rule. The council also has taken the necessary steps to adopt a permanent rule. The permanent rule will not be effective until the end of the 1999 legislative session as per RCW 19.27.074.

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.

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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 1.

Effective Date of Rule: Immediately.

September 18, 1998

Mike McEnaney  
Council Chair

### WSR 98-20-053

#### EMERGENCY RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 98-211—Filed October 1, 1998, 12:00 p.m.]

Date of Adoption: October 1, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-52-050.

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: Provisions for one half pink shrimp or spot prawns has been dropped because the bycatch provision has been made identical for both so it is no longer necessary to distinguish. 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 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.

October 1, 1998

Larry Peck  
Acting Director

### NEW SECTION

**WAC 220-52-05000C Shrimp fishery—Coastal waters.** Notwithstanding the provisions of WAC 220-52-050, effective October 1, 1998 until further notice, it is unlawful to retain more than 500 pounds per fishing day of any bottomfish species taken incidental to a shrimp trawl fishery, except that it is unlawful to retain any rockfish (*Sebastes* spp.) or thornyheads (*Sebastolobus* spp.) It is unlawful to retain more than 300 pound of sablefish (round weight) per fishing trip. If a species or species complex trip limit or cumulative limit established for the limited entry fishery under WAC 220-44-050 is less than 500 pounds, it is unlawful to land in excess of that trip limit.

### WSR 98-20-057

#### EMERGENCY RULES

#### DEPARTMENT OF AGRICULTURE

[Filed October 2, 1998, 8:15 a.m.]

Date of Adoption: October 2, 1998.

Purpose: To describe the requirements for registration for commercial fertilizers, including the methods to use for analysis for metals and specifying the metals information which must be submitted with the registration application; to describe the methods for determining maximum use rates for plant nutrients; to set the Washington application rates; to express the Washington standards for metals in pounds per acre per year; to describe how the department will determine if a commercial fertilizer meets or exceeds the metals standards; and to describe a violation of the rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 16-200-695, 16-200-705, and 16-200-708.

Statutory Authority for Adoption: RCW 15.54.325, 15.54.330, 15.54.370, 15.54.800.

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; and 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 1998 legislature passed SSB 6474 which amends chapter 15.54 RCW, the commercial fertilizer registration law, and adopts standards for maximum acceptable cumulative metals additions to soil. The purpose of these amendments is to strengthen the state's fertilizer adulteration law to protect the public health and the environment by ensuring that all fertilizers meet standards for allowable metals and allowing the public to know about the contents of fertilizer products. Section 1, chapter 36, Laws of 1997. The new law requires persons who register commercial fertilizers in Washington to disclose the levels of nine metals which may be present in a commercial fertilizer product. The law took effect on June 11, 1998.

Under chapter 15.54 RCW, the 1998-1999 annual commercial fertilizer registration period began on July 1, 1998. These emergency rules adopt the methods for total metals analysis and reporting which will enable the fertilizer industry to analyze their products for the nine metals designated by the new law and to report the results for the 1998-1999 registration cycle.

The department finds that these emergency rules are necessary to implement the requirements of SSB 6474 by the date established in that law. The effective date of the new law was June 11, 1998. Chapter 15.54 RCW requires registration of commercial fertilizers by July 1 of each year. Since the new law requires registration applications to include information about total metals in each fertilizer product, the commercial fertilizer industry must know, prior to the date of registration, the process for analyzing fertilizer products and submitting registration information. These rules designate this process.

The department issued emergency rules on June 5, 1998, to give the commercial fertilizer industry the necessary information to comply with the new requirements of SSB 6474. These emergency rules renew those earlier emergency rules while the permanent rule-making process is completed. The department filed the CR-102 for the permanent rules on September 23, 1998. Without the enactment of these emergency rules, the commercial fertilizer industry would be unable to comply with the new requirements of SSB 6474 until the permanent rules are effective.

These emergency rules are also necessary to accomplish SSB 6474's goal of informing the public of the metals content of commercial fertilizer products. The information submitted in the registration process, as ordered by SSB 6474, is the only means of apprising the public of the metals content of commercial fertilizer products. Without these emergency rules, this vital information would not be available for the 1998-1999 registration cycle, and the department could not accomplish one of the purposes of SSB 6474.

Because SSB 6474 links application rates and metals concentrations, these emergency rules also set forth the maximum application rates the department will use to determine whether a commercial fertilizer may be registered. These emergency rules also convert the Canadian standards for metals contained in SSB 6474 into the Washington standards for total metals which are expressed in pounds per acre per year. These application rates and conversions enable the department and the industry to determine if a commercial fertilizer product meets or exceeds the Washington standards for total metals.

The department finds that these emergency rules are necessary to implement SSB 6474 to protect the public health and the environment. These emergency rules establish the mechanisms to determine whether a commercial fertilizer product meets or exceeds the standards established in SSB 6474 and allow consumers to know the content of the fertilizer products they intend to apply to the environment. These emergency rules also establish the acts which are unlawful under this chapter. Only by adopting these enforcement provisions immediately can the department ensure that all commercial fertilizers distributed in Washington meet the stan-

dards established in SSB 6474 and take action as required to regulate those fertilizer products.

The department finds that these emergency rules are necessary for the preservation of the public health, safety and welfare, that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest, and that SSB 6474 requires the immediate adoption of these rules. Without these emergency rules, the department cannot implement the new law for the 1998-1999 commercial fertilizer registration cycle and cannot accomplish the purposes set forth by the 1998 legislature.

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 4, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 4, Amended 3, 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 0, Repealed 0.

Effective Date of Rule: Immediately.

October 2, 1998

James M. Jesernig  
Director

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-695 Definitions.** The definitions set forth in this section shall apply throughout this chapter unless context otherwise requires:

(1) "Organic" means a material containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth. When the term "organic" is utilized in the label or labeling of any commercial fertilizer, it shall be qualified as either "synthetic organic" or "natural organic," with the percentage of each specified.

(2) "Natural organic" means a material derived from either plant or animal products containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(3) "Synthetic organic" means a material that is manufactured chemically (by synthesis) from its elements and other chemicals, containing carbon and one or more elements (other than hydrogen and oxygen) essential for plant growth.

(4) "Unit" means one percent (by weight) of a ton.

(5) "AOAC" means the association of official analytical chemists.

(6) "Commercial fertilizer" means ~~((any))~~ a substance containing one or more recognized plant nutrients and ~~((which))~~ that is used for its plant nutrient content ~~((and))~~

((which)) that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It ((shall)) does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule((s)).

(7) "Fertigation" means a method of applying commercial fertilizers with irrigation water to fertilize land or plants.

(8) "Fertilizer component" means a commercial fertilizer ingredient containing one or more recognized plant nutrients which is incorporated in the commercial fertilizer for its plant nutrient value.

(9) "Maximum acceptable cumulative metals additions to soil" means the amount of total metals that can be added to soil over a forty-five-year period of time without exceeding the Canadian standards which have been adopted in RCW 15.54.800(3) as Washington standards for metals.

AMENDATORY SECTION (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-705 Purpose.** The following sections concerning the protection of ground water, labeling requirements and examination of fertilizer minerals and limes (WAC 16-200-708 through 16-200-742) are established in this chapter under the authority of the Commercial Fertilizer Act, chapter 15.54 RCW.

This chapter also describes the requirements for registration of commercial fertilizers, including the information which must be submitted as part of the registration application, the analysis methods which must be used, the maximum use rates the department will use to determine whether a commercial fertilizer may be registered, the Washington standards for metals (in pounds per acre per year), and the acts which are unlawful under this chapter.

**Table 1. Acceptable Analysis Methods for Metals Contained in SW-846, Third Edition.**

Metal	Inductively Coupled Plasma (ICP)	Atomic Absorption	Inductively Coupled Plasma Mass Spectroscopy (ICP/MS)
Arsenic (As)	6010, 6010A, 6010B	7060A, 7061A	6020
Cadmium (Cd)	6010, 6010A, 6010B	7131A	6020
Cobalt (Co)	6010, 6010A, 6010B	7201	6020
Lead (Pb)	6010, 6010A, 6010B	7420, 7421	6020
Molybdenum (Mo)	6010, 6010A, 6010B	7480	6020
Nickel (Ni)	6010, 6010A, 6010B	7520, 7521	6020
Selenium (Se)	6010, 6010A, 6010B	7740, 7741A	6020
Zinc (Zn)	6010, 6010A, 6010B	7951	6020
Mercury (Hg)		7470A, 7471A	

The sample preparation method for the analyses listed in Table 1 shall be one of the appropriate total recoverable metals determinations methods listed in SW-846, Third Edition, Final Update III, Chapter 3, 3.2 Sample Preparation Methods, December 1996.

Copies of SW-846 Third Edition and all associated updates are available from: The Government Printing Office, Superintendent of Documents, Washington, DC 20402, (202)

NEW SECTION

**WAC 16-200-7061 What information must I include with my registration application concerning total metals?**

(1) You are required to submit the following metals information with your registration application:

(a) Total concentration of each metal in each commercial fertilizer reported in parts per million (PPM) which is equivalent to milligrams of metal per kilogram of fertilizer (mg/kg), or micrograms per gram;

(b) Copy of the laboratory report on total metals analysis;

(c) Method of analysis;

(d) Method of sample preparation; and

(e) Minimum detection limits for each method used.

(2) The department may request quality assurance and quality control documentation for analytical procedures and/or for the laboratory which performed the analyses.

(3) The analytical data and maximum application rate will be used to determine if a commercial fertilizer meets or exceeds the Washington standards for metals.

NEW SECTION

**WAC 16-200-7062 What method must I use to analyze the total metals contained in my commercial fertilizer?**

(1) You must prepare and analyze your commercial fertilizer for the total concentration of each of the following nine metals in each commercial fertilizer using one or more of the EPA methods listed in Table 1. All methods are described in the U. S. Environmental Protection Agency's SW-846, Third Edition.

512-1800, and from the Department of Commerce, National Technical Information Center, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650 or 800-553-NTIS.

(2) Other analysis methods for total concentration of each metal in each commercial fertilizer may be used only under the following conditions:

(a) You must submit a request to the department, in writing, detailing the sample preparation and analysis methods,

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minimum detection limits and quality assurance, quality control documentation and a side-by-side comparison of the analysis results from the alternative method to one of the approved methods' analysis results of the same material; and

(b) The department, after reviewing the request, may approve the analysis method only if the capability of the method meets or exceeds the sensitivity and accuracy of the applicable method listed in the Table 1.

$$\frac{\text{Pounds of product applied per acre per year} \times \text{metal content of product (ppm)}}{1,000,000}$$

The number used for pounds of product applied per acre per year will be the maximum application rate allowed by the commercial fertilizer label. If specific label directions for use are not available, the department will use the Washington application rates listed in subsection (2) of this section, divided by four.

(2) Using normal agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state, the department developed the following Washington application rates:

Nutrient	4 Yr. Cumulative Total (lbs./acre)
Nitrogen (N)	1600
Phosphorous (as P2O5)	700
Potassium (as K2O)	1600
Boron (B)	12
Calcium (Ca)	800
Chlorine (Cl)	300
Copper (Cu)	10
Iron (Fe)	80
Magnesium (Mg)	400
Manganese (Mn)	40
Molybdenum (Mo)	4
Sulfur (S)	400
Zinc (Zn)	30
Lime (CaCO3 equivalent)	20,000
Gypsum (CaSO4)	16,000

(3) To ensure that the maximum acceptable cumulative metals additions to soil are not exceeded, the department will assume the commercial fertilizer will be applied at the maximum rate as stated on the label or established in this rule.

**NEW SECTION**

**WAC 16-200-7064 What are the Washington standards for metals?** (1) The standards for metals in Washington are the maximum acceptable annual metals additions to soils adopted in RCW 15.54.800 and are presented in Table 2. Because the Canadian standards contained in the Canadian Trade Memorandum T-4-93 dated August 1996 are based on long-term (forty-five-year) cumulative metals additions to

**NEW SECTION**

**WAC 16-200-7063 How will the department determine whether a commercial fertilizer meets Washington standards for metals?** (1) To determine whether a commercial fertilizer meets Washington standards for metals, the department will use the following formula:

soils, the maximum acceptable annual metals additions to soils are determined by dividing the Canadian standards by forty-five. The Washington standards are expressed as pounds per acre per year.

**Table 2. Washington Standards For Metals.**

Metals	Lbs./acre/yr.
Arsenic (As)	.297
Cadmium (Cd)	.079
Cobalt (Co)	.594
Mercury (Hg)	.019
Molybdenum (Mo)	.079
Nickel (Ni)	.713
Lead (Pb)	1.981
Selenium (Se)	.055
Zinc (Zn)	7.329

(2) To be registered with the department and distributed in Washington, a commercial fertilizer must not exceed the above standards. Because cobalt (Co), molybdenum (Mo), and zinc (Zn) are also plant nutrients, higher concentrations than those presented in the table may be permitted. Commercial fertilizers which contain cobalt (Co), molybdenum (Mo), and/or zinc (Zn) concentrations may be registered and distributed in Washington if those metals are used as plant nutrients and those metals meet all applicable minimum guarantees and labeling requirements of chapter 15.54 RCW and the rules adopted thereunder.

(3) If a commercial fertilizer contains cobalt (Co), molybdenum (Mo), or zinc (Zn) and any one or more of those metals are not intended to be used as a plant nutrient, then the nonplant nutrient metals must meet the Standards shown in Table 2.

**AMENDATORY SECTION** (Amending Order 2066, filed 12/7/90, effective 1/7/91)

**WAC 16-200-708 Unlawful acts.** (1) It shall be unlawful for any person to refuse or neglect to comply with the provisions of the applicable sections of chapter 15.54 RCW, the rules adopted thereunder, or any lawful order of the department.

(2) It is unlawful to distribute a commercial fertilizer in Washington that exceeds the standards for nonnutritive substances established in RCW 15.54.800(3). The department

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will determine if a commercial fertilizer exceeds the standards by using the maximum application rates and by either:

(a) Comparing data submitted by the registrant to the standards established in WAC 16-200-7064; or

(b) Comparing the results of the analysis of an official sample to the standards established in WAC 16-200-7064. Official samples will be analyzed by the methods set forth in these rules.

### WSR 98-20-069

#### EMERGENCY RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 98-213—Filed October 2, 1998, 4:23 p.m.]

Date of Adoption: October 2, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-56-19000V and 220-56-19000W; 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: Harvestable numbers of salmon are predicted to return in Fall 1998. This regulation is consistent with management criteria established during the preseason planning process. 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: Immediately.

October 2, 1998

Evan Jacoby  
for Larry Peck  
Acting Director

WAC 220-56-190, effective immediately through October 31, 1998, in those waters of Grays Harbor bounded by the shore and a line projected between the posted markers on the Port of Grays Harbor Terminal One pier and the dock at 28th Street Landing at Hoquiam: Special daily limit of six salmon not more than one of which may be an adult salmon, except release chum, wild coho and adult chinook salmon. Angling is permitted only from shore or anchored boat within the area. Single point barbless hooks required. Unlawful to fish from one hour after sunset to one hour before sunrise.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-19000V Coastal salmon—Saltwater seasons and daily limits. (98-193)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 31, 1998:

WAC 220-56-19000W Coastal salmon—Saltwater seasons and daily limits.

### WSR 98-20-081

#### EMERGENCY RULES

#### EMPLOYMENT SECURITY DEPARTMENT

[Filed October 6, 1998, 1:27 p.m.]

Date of Adoption: June 4, 1998.

Purpose: To adopt rules implementing ESHB 2947, which took effect on March 30, 1998. This bill amended RCW 50.44.050 to modify the definition of "academic year" for all educational institutions. It also amended RCW 50.44.053 to delete the provision that "reasonable assurance" does not include agreements that are contingent on funding, enrollment, or program changes. New rules are adopted establishing objective criteria defining schools with a twelve-month academic period, defining terms, and clarifying "reasonable assurance."

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-051 and 192-16-052.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010.

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: ESHB 2947 amends RCW 50.44.050 and 50.44.053, pertaining to unemployment benefits for educational employees. The legislation contained an emergency clause which made it effective upon signing, March 30, 1998. The new legislation thus applies to educational employees currently applying for benefits. Discussions with stakeholders and interested parties regarding the

#### NEW SECTION

WAC 220-56-19000W Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of

content of the permanent rules are ongoing. Emergency rules are needed to assist with eligibility determinations during the permanent rule adoption process.

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 3, Amended 0, Repealed 3.

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 0, Repealed 0.

Effective Date of Rule: Immediately.

Carver Gayton  
Commissioner

## Chapter 192-210 WAC

### SPECIAL CATEGORY OCCUPATIONS

#### NEW SECTION

**WAC 192-210-005 Definitions—Educational employees.** (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services. Tenure status is considered a contract.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.150.220 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

#### NEW SECTION

**WAC 192-210-010 What are the objective criteria used to define "academic year"?—RCW 50.44.050(5).** Summer term will be considered part of the academic year for a particular educational institution if:

(1) Total enrollment of full-time equivalent students during the previous summer term is more than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; and

(2) Total full-time equivalent staff during the previous summer term is at least fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

#### NEW SECTION

**WAC 192-210-015 How will the department decide if reasonable assurance exists?** (1) Reasonable assurance is a good faith offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable.

(2) Decisions regarding the existence of reasonable assurance will be made on an individual basis, with consideration given to contingencies that may exist in the individual case.

(3) If there is a disagreement regarding whether an individual has reasonable assurance, the institution must provide the department with documentation in support of its statement that reasonable assurance exists for that individual.

(4) Following are some, but not all, examples of the types of documentary evidence that may be provided by an institution:

(a) The terms of any contract or agreement between the individual and the educational institution, including length, contingencies, or provisions for cancellation,

(b) Whether the employer pays fringe benefits to the individual, such as health care, during periods between academic years or terms,

(c) The number of comparable positions at the institution,

(d) Projections of student enrollment, school funding, or program funding contained in the institution's budget,

(e) Any hiring priorities used by the school, such as precedence given to full-time or tenured staff or the use of seniority lists,

(f) The individual's employment history,

(g) Whether the class(es) have been consistently offered by the institution, including whether the class has been canceled due to lack of enrollment.

(5) The existence of reasonable assurance will be determined by the total weight of the evidence, rather than the existence of any one factor included in subsection (4).

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 192-16-051 Special coverage provisions for educational employees—Definitions—RCW 50.44.050(1)
- WAC 192-16-052 Objective criteria used to define "academic year"—RCW 50.44.050(5)
- WAC 192-16-057 Interpretive regulation—"Under the same terms and conditions of employment" defined

**WSR 98-20-088  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-214—Filed October 6, 1998, 4:44 p.m., effective October 7, 1998, 7:00 a.m.]

Date of Adoption: October 6, 1998.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000C and 220-33-01000D; 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: Harvestable numbers of sturgeon and salmon are available. Provides non-Indian commercial industry with opportunity to harvest their share of commercial sturgeon allocation. Season is consistent with the precepts of the Olympia Accord agreement between the states of Washington and Oregon, the 1996-98 Management Agreement, and actions of the Columbia River Compact hearing on October 5, 1998. 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: October 7, 1998, 7:00 a.m.

October 6, 1998

Evan Jacoby  
for Larry Peck  
Acting Director

**NEW SECTION**

**WAC 220-33-01000D 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:

AREA: SMCRA 1A, 1B, 1C, 1D, and 1E

SEASON: 7:00 a.m. October 7 to 7:00 p.m. October 7, 1998.

12 noon October 12, 1998 to 6 p.m. Tuesday, October 13, 1998.

12 noon Thursday, October 15, 1998 to 6 p.m. Friday, October 16, 1998.

12 noon Monday, October 19, 1998 to 6 p.m. Tuesday, October 20, 1998.

12 noon Thursday, October 22, 1998 to 6 p.m. Friday, October 23, 1998.

12 noon Monday, October 26, 1998 to 6 p.m. Tuesday, October 27, 1998.

12 noon Thursday, October 29, 1998 to 6 p.m. Friday, October 30, 1998.

GEAR: 9 inch minimum mesh and 9 3/4 inch maximum mesh

ALLOWABLE SALE: Salmon and sturgeon

SANCTUARIES: Grays Bay, Elokommin, Cowlitz, Kalama, Washougal, Big Creek, Sandy, and the Lewis-B sanctuary.

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.

FISHING PERIODS

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

Immediately through October 21, 1998

GEAR

Nets restricted to 50 fathoms in length with no weight restriction on headline.

8 inch maximum mesh size.

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.

**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 waters are under concurrent jurisdiction.

**FISHING PERIODS**

6 P.M. Wednesdays to 8 A.M. Thursdays

6 P.M. Thursdays to 8 A.M. Fridays

Immediately through October 23, 1998

**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.

**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:

WAC 220-33-01000C Columbia River salmon seasons below Bonneville. (98-172)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. October 30, 1998:

WAC 220-33-01000D Columbia River salmon seasons below Bonneville.

**WSR 98-20-089  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 98-215—Filed October 6, 1998, 4:46 p.m., effective October 7, 1998, 12:01 a.m.]

Date of Adoption: October 6, 1998.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-16000P and 220-57-16000Q; and amending WAC 220-57-160.

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: Opens the Columbia River below Bonneville Dam to chinook angling on October 7, 1998, and on October 12, 1998, above Bonneville Dam. Listed Snake River fall chinook have primarily cleared the Columbia River below Bonneville by this time. Action is consistent with discussions between the United States v. Oregon and the National Marine Fisheries Service, and is consistent with the 1996-98 Management Agreement. 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: October 7, 1998, 12:01 a.m.

October 6, 1998

Evan Jacoby

for Larry Peck

Acting Director

**NEW SECTION**

**WAC 220-57-16000Q Columbia River.** Notwithstanding the provisions of WAC 220-57-160, effective 12:01 a.m. October 7, 1998 through 11:59 p.m. October 11, 1998, it is unlawful to fish for or possess chinook salmon from those waters of the Columbia River from Bonneville Dam upstream to the Highway 395 Bridge at Pasco.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 6, 1998:

WAC 220-57-16000P Columbia River. (98-197)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 11, 1998:

WAC 220-57-16000Q Columbia River.

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**OFFICE OF THE CODE REVISER**  
**Quarterly Rule Making Report**  
**Covering Registers 98-13 through 98-18**

<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
<b>AGRICULTURE, DEPARTMENT OF</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	6	10	25
Number of Rules Adopted as Emergency Rules	4	3	0
Number of Rules Proposed for Permanent Adoption	32	2	52
Number of Rules Withdrawn	0	0	9
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	4	3	5
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	4	2	15
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	8	17
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	4	18
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	4	4	7
<b>ATTORNEY GENERAL'S OFFICE</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Permanent Rules Adopted	0	0	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>BUILDING CODE COUNCIL</b>			
<b>Type of Activity</b>	<b>New</b>	<b>Amended</b>	<b>Repealed</b>
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	0	9	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0

**MISC.**

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**CLARK COLLEGE**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	0	0

**CODE REVISER'S OFFICE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	47	26
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	47	26
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	47	26
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	47	26
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	2	0

**CORRECTIONS, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	4	0	0
Number of Rules Withdrawn	1	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**COUNTY ROAD ADMINISTRATION BOARD**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	21	144	1

**ECOLOGY, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	23	2
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Withdrawn	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	9	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	15	2
Number of Sections Adopted using Negotiated Rule Making	0	0	1
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	1	0

**EDUCATION, STATE BOARD OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	0
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	3	62	113
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	4	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**EMPLOYMENT SECURITY DEPARTMENT**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	0	13
Number of Rules Adopted as Emergency Rules	3	0	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	3	0	2
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	0	4
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted on the Agency's own Initiative	5	0	12
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**EVERETT COMMUNITY COLLEGE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	11	19	17
Number of Rules Proposed for Permanent Adoption	11	19	17
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	11	19	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	11	19	0
Number of Sections Adopted using Negotiated Rule Making	4	8	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**FINANCIAL INSTITUTIONS, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	7	11	105
Number of Rules Proposed for Permanent Adoption	7	12	29
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	7	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	7	9	24
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	5	0	0
Number of Sections Adopted on the Agency's own Initiative	5	11	40
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	7	10	40
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**FINANCIAL MANAGEMENT, OFFICE OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	69
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**FISH AND WILDLIFE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	18	148	4
Number of Rules Adopted as Emergency Rules	188	0	160
Number of Rules Proposed for Permanent Adoption	4	28	2
Number of Rules Withdrawn	0	6	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	78	75	59
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	1	0	0

**FOREST PRACTICES BOARD**

Type of Activity	New	Amended	Repealed
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	6	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**FRUIT COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
<b>GAMBLING COMMISSION</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	12	1
Number of Rules Proposed for Permanent Adoption	1	8	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	10	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	10	1
Number of Sections Adopted using Negotiated Rule Making	0	12	1
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
<b>HEALTH CARE AUTHORITY</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>HEALTH, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	46	70	14
Number of Rules Adopted as Emergency Rules	0	2	0
Number of Rules Proposed for Permanent Adoption	48	8	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	12	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	4	6
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	2	16	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	8	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	15	4	6
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>HIGHER EDUCATION COORDINATING BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	12	2

MISC.

Type of Activity	New	Amended	Repealed
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	12	2
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**HORSE RACING COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	2	0

**INDUSTRIAL INSURANCE APPEALS, BOARD OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	6	0

**INSURANCE COMMISSIONER'S OFFICE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	21	3
Number of Rules Proposed for Permanent Adoption	3	6	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	21	3
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**JAIL INDUSTRIES BOARD**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	13	0	0
Number of Rules Proposed for Permanent Adoption	13	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	13	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	6	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	57	360	42
Number of Rules Proposed for Permanent Adoption	25	258	14
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	4	6	1
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	35	311	26
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	19	45	16
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	56	360	41
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	36	312	26

<b>LICENSING, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	9	111	44
Number of Rules Adopted as Emergency Rules	15	3	21
Number of Rules Proposed for Permanent Adoption	54	268	167
Number of Rules Withdrawn	3	6	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	7	18	10
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	34	23
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	15	10
Number of Sections Adopted using Negotiated Rule Making	8	23	15
Number of Sections Adopted using Other Alternative Rule Making	0	15	5
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

<b>LIQUOR CONTROL BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	93	2
Number of Rules Proposed for Permanent Adoption	9	2	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	1	88	2
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	3	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	1	0	0

MISC.

Type of Activity	New	Amended	Repealed
<b>LOTTERY COMMISSION</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	15	1	27
Number of Rules Proposed for Permanent Adoption	2	3	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	27
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	12	13	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>NATURAL RESOURCES, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Rules Adopted as Emergency Rules	1	0	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>PERSONNEL RESOURCES BOARD/PERSONNEL, DEPARTMENT OF</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	2	1	0
Number of Rules Proposed for Permanent Adoption	5	153	15
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**PILOTAGE COMMISSIONERS, BOARD OF**

Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	55	3
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	55	3
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	3	55	3
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**PUBLIC INSTRUCTION, SUPERINTENDENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	4	0
Number of Rules Proposed for Permanent Adoption	16	23	2
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	1	4	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	1	4	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**RETIREMENT SYSTEMS, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	13	0

**REVENUE, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	7	3
Number of Rules Proposed for Permanent Adoption	1	4	1
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	5	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	2
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	7	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**SECRETARY OF STATE, OFFICE OF THE**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	20	12
Number of Rules Adopted as Emergency Rules	26	32	2
Number of Rules Proposed for Permanent Adoption	2	106	32
Number of Rules Withdrawn	0	44	10
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	16	9	1
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	17	6
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	13	6
Number of Sections Adopted using Negotiated Rule Making	15	14	1
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3877	330	6370
Number of Rules Adopted as Emergency Rules	78	256	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	641	692	2067
Number of Rules Withdrawn	52	65	39
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	16	28	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	39	19	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	7	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	9	15	0
Number of Sections Adopted on the Agency's own Initiative	629	27	877
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	644	56	877
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

**TRANSPORTATION, COMMISSION AND DEPARTMENT OF**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	1
Number of Rules Adopted as Emergency Rules	7	0	0
Number of Rules Proposed for Permanent Adoption	7	3	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	7	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	7	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	1
Number of Sections Adopted using Negotiated Rule Making	7	2	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	1
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	2	0

**TREASURER, STATE**

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	10	0	0

**UTILITIES AND TRANSPORTATION COMMISSION**

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Proposed for Permanent Adoption	6	3	3
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
<b>WASHINGTON STATE PATROL</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	0	6
Number of Rules Adopted as Emergency Rules	0	1	6
Number of Rules Proposed for Permanent Adoption	3	3	0
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	12
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	12
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>WESTERN WASHINGTON UNIVERSITY</b>			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	15
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
<b>WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD</b>			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	23	0	30

MISC.

Type of Activity	New	Amended	Repealed
<b>TOTALS FOR THE QUARTER:</b>			
Number of Permanent Rules Adopted	4080	1360	6805
Number of Rules Adopted as Emergency Rules	324	314	193
Number of Rules Proposed for Permanent Adoption	950	1840	2548
Number of Rules Withdrawn	56	122	58
Number of Section Adopted in Order to Comply with Recently Enacted State Statutes	84	167	33
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	124	558	165
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	22	18	0
Number of Sections Adopted in Order to Comply with Federal Statute	21	15	0
Number of Sections Adopted on the Agency's own Initiative	774	402	1077
Number of Sections Adopted using Negotiated Rule Making	35	63	18
Number of Sections Adopted using Other Alternative Rule Making	735	514	1027
Number of Sections Adopted using Pilot Rule Making	0	0	0
Numbers of Sections Adopted at Request of a Nongovernmental Entity	42	321	33

**WSR 98-20-006**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—September 22, 1998]

should be listed as Dianna L. Larsen, Director of Admission/Registration and Registrar, Skagit Valley College, 2405 East College Way, Mount Vernon, WA 98273.

D. L. Larsen

Please publish the Transportation Commission's 1999 meeting schedule as follows:

Wednesday and Thursday	January 20 and 21
Wednesday and Thursday	February 17 and 18
Wednesday and Thursday	March 17 and 18
Wednesday and Thursday	April 14 and 15
Wednesday and Thursday	May 19 and 20
Wednesday and Thursday	June 16 and 17
Wednesday and Thursday	July 14 and 15
Wednesday and Thursday	August 18 and 19
Wednesday and Thursday	September 15 and 16
Wednesday and Thursday	October 20 and 21
Wednesday and Thursday	November 17 and 18
Wednesday and Thursday	December 15 and 16

All meetings will be held between 8:00 a.m. and 5:00 p.m. in Room 1D2 of the Transportation Building, 310 Maple Park Drive, Olympia.

**WSR 98-20-008**  
**NOTICE OF PUBLIC MEETINGS**  
**OLYMPIC COLLEGE**  
 [Memorandum—September 22, 1998]

The following schedule is for your publication records of regular board of trustees meetings for the 1998 - 1999 Academic Calendar Year. These dates were approved on August 25, 1998.

September 29, 1998	7:30 p.m.
October 27, 1998	7:30 p.m.
November 24, 1998	7:30 p.m.
December 22, 1998	7:30 p.m.
January 26, 1999	7:30 p.m.
February 23, 1999	7:30 p.m.
March 23, 1999	7:30 p.m.
April 27, 1999	7:30 p.m.
May 25, 1999	7:30 p.m.
June 22, 1999	7:30 p.m.
August 24, 1999	7:30 p.m.

Olympic College, Community College District Number 3 meets the fourth Tuesday of every month with few exceptions.

**WSR 98-20-007**  
**RULES COORDINATOR**  
**SKAGIT VALLEY COLLEGE**  
 [Memorandum—September 21, 1998]

By way of this letter, please note a change in the name of the rules coordinator for Skagit Valley College. The new name

MISC.

**WSR 98-20-009**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY COLLEGES**  
**OF SPOKANE**

[Memorandum—September 21, 1998]

The board of trustees of Community Colleges of Spokane (Washington State Community College District #17) announces the following schedule changes to its regular meeting schedule as published in WSR 97-22-011:

October 20, 1998 - Starting time changes from 1:30 p.m. to 8:30 a.m. The location remains the same, Educational Service District 101, Bryant Center, 910 North Ash, Spokane, WA 99201.

November 17, 1998 - Starting time changes from 1:30 p.m. to 8:30 a.m. The location has been changed from Spokane Falls Community College to Community Colleges of Spokane District Board Room, 2000 North Greene Street, Spokane, WA 99217-5499.

December 15, 1998 - Starting time changes from 1:30 p.m. to 8:30 a.m. The location has been changed from Community Colleges of Spokane District Board Room to Spokane Falls Community College, President's Conference Room, Administration Building, 3410 West Fort George Wright Drive, Spokane, WA 99224-5288.

**WSR 98-20-021**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed September 25, 1998, 2:32 p.m.]

RCW 18.20.240 authorizes the transfer of powers, functions, duties and personnel for boarding homes from the Department of Health to the Department of Social and Health Services.

Please transfer the rules relating to boarding homes which are currently in the Department of Health's chapter 246-316 WAC to a new Department of Social and Health Services' chapter 388-78A WAC.

Marie Myerchin-Redifer, Manager  
 Rules and Policies Assistance Unit

**WSR 98-20-024**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF HEALTH**  
 (Board of Hearing and Speech)

[Memorandum—September 21, 1998]

The Board of Hearing and Speech has scheduled the following 1999 board meeting dates and locations as follows:

February 19, 1999	Olympia
May 14, 1999	Spokane
August 13, 1999	Yakima
November 5, 1999	Olympia

If you have questions, please contact (360) 586-8577 or by e-mail at TDY0303@doh.wa.gov.

**WSR 98-20-027**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—September 25, 1998]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, October 15, 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 98-20-029**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE UNIVERSITY**

[Memorandum—September 23, 1998]

Following is a schedule of the WSU board of regents meetings for 1998 and 1999. Please publish this revised schedule in the Washington State Register.

Remaining Board of Regents meeting dates for 1998:

October 9, 1998	Pullman
November 20, 1998	Spokane

Following are the meeting dates for 1999:

January 22, 1999	Pullman
March 5, 1999	Pullman
April 2, 1999	Pullman
May 7, 1999	Pullman
June 18, 1999	Location to be determined
September 10, 1999	Pullman
October 15, 1999	Pullman
November 19, 1999	Seattle

**WSR 98-20-030**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**

(Red Raspberry Commission)  
 [Memorandum—September 25, 1998]

The Washington Red Raspberry Commission's board meeting schedule has changed. The meeting originally scheduled for October 21 will instead take place November 4. It will be held at Bellingham's Shuksan Golf Club beginning at 9:30 a.m.

**WSR 98-20-031**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY ECONOMIC**  
**REVITALIZATION BOARD**

[Memorandum—September 25, 1998]

**Change of Meeting Location and Time**

**CHANGE OF LOCATION AND TIME:**

**DATES AFFECTED:** November 19, 1998  
January 21, 1999  
March 18, 1999  
May 20, 1999  
July 15, 1999  
September 16, 1999  
November 18, 1999  
**TIME:** Start at 9:00 a.m.  
**NEW LOCATION:** Sea-Tac International Airport  
Host International Auditorium

November 3  
November 17  
December 1  
December 15  
December 29  
January 12, 1999  
January 26  
February 9  
February 23  
March 9  
March 23  
April 6  
April 20  
May 4  
May 18  
June 1  
October 27  
November 10  
November 24  
December 8  
December 22  
January 5, 1999  
January 19  
February 2  
February 16  
March 2  
March 16  
March 30  
April 13  
April 27  
May 11  
May 25

**ASUW Executive Meetings**

Meeting Dates	Location	Time
October 1, 1998	204M	3:30 p.m.
October 8	204M	3:30 p.m.
October 15	204M	3:30 p.m.
October 22	204M	3:30 p.m.
October 29	204M	3:30 p.m.
November 5	204M	3:30 p.m.
November 12	204M	3:30 p.m.
November 19	204M	3:30 p.m.
November 26	204M	3:30 p.m.
December 3	204M	3:30 p.m.
December 10	204M	3:30 p.m.

**WSR 98-20-040**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**

[Memorandum—September 28, 1998]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the University that maintain regular meeting schedules at the UW Public Records office.

1998 Notice of Meetings:  
Business Administration Faculty Council

In accordance with your memo dated December 1, 1995, regarding the Open Public Meetings Act, I am enclosing the Business Administration Faculty Council's scheduled meetings for the 1998 fall quarter.

Dates	Times	Location
Wednesday October 7	3:30 - 5:30	Mackenzie Hall, McCabe Room
Thursday November 12	3:30 - 5:30	Mackenzie Hall, McCabe Room
Wednesday December 9	3:30 - 5:30	Mackenzie Hall, McCabe Room

**GPSS Senate**

Meeting Dates	Location	Time
October 13, 1998	HUB 310	4:30
October 20, 1998	HUB 310	4:30
November 10, 1998	HUB 200	4:30
December 8, 1998	HUB 310	4:30

**School of Fisheries Director's Office**

Following are the 1998-99 School of Fisheries faculty meeting dates. Faculty meetings will be held from 11:30-1:00 p.m. in Room 288, Fisheries Center. One to two additional meetings will be scheduled on dates to be announced to handle promotion considerations.

Faculty Meeting Dates	Agenda Items Due
October 6, 1998	September 29, 1998
October 20	October 13

**WSR 98-20-046**  
**NOTICE OF PUBLIC MEETINGS**  
**WORKFORCE TRAINING AND**  
**EDUCATION COORDINATING BOARD**  
[Memorandum—September 28, 1998]

**MEETING NOTICE**

WASHINGTON STATE WORKFORCE TRAINING  
AND EDUCATION COORDINATING BOARD  
MEETING NO. 63  
OCTOBER 20 AND 21, 1998

MISC.

AEROSPACE MACHINISTS INDUSTRIAL  
DISTRICT LODGE #751  
9125-15TH PLACE SOUTH  
SEATTLE, WASHINGTON 98108  
(206) 764-0358

**WSR 98-20-058**  
**RULES COORDINATOR**  
**DEPARTMENT OF**  
**INFORMATION SERVICES**

[Filed October 2, 1998, 9:08 a.m.]

October 20, 1998, 1:30 p.m. - 5:00 p.m., the Workforce Training and Education Coordinating Board will hold its meeting on October 20 and 21, 1998, at the Aerospace Machinists Industrial District Lodge #75 in Seattle, Washington.

The board will adopt its 1999 meeting schedule; take action on both "High Skills, High Wages: Washington's Comprehensive Plan for Workforce Training and Education"; and the Carl Perkins Federal Vocational Education Plan.

The board will discuss School-to-Work Public Awareness Activities; and approve the WTECB "Annual Report to the Legislature."

October 21, 1998, 8:30 a.m. to noon, the board will adopt the revised Private Vocational Schools Act WACs; and act on operating agency budget requests.

The board will explore the issues and endorse principles to guide its work with the Workforce Investment Act; and will learn of additional information from the "Report on Analysis of Employer Survey Results."

The meeting site is barrier free. People needing special accommodations, please call Caroline Haggard at least ten days in advance at (360) 753-5677.

**WSR 98-20-054**

**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**

[Memorandum—October 1, 1998]

**NOTICE OF SPECIAL MEETING**  
**BOARD OF TRUSTEES**

Skagit Valley College  
2405 East College Way  
Mount Vernon, WA 98273  
Friday, October 2, 1998  
3:30 p.m. - Cascade Room

Chairperson, Brian Stiles, has called a special meeting of the board of trustees for Friday, October 2, 1998, 3:30 p.m. in the Cascade Room of the Mount Vernon, campus. The purpose of the meeting is to discuss personnel. No action will be taken at this meeting. The board of trustees will adjourn into executive session for this discussion.

Effective immediately, Carrie Tellefson is the new rules coordinator for the Department of Information Services (DIS). The previous coordinator, Susan Hettinger, is no longer employed by the agency. Carrie's contact information is as follows: Carrie Tellefson, Administrative Services Division Manager,

P.O. Box 42445, Olympia, WA 98504-2445, phone (360) 902-3510, fax (360) 586-5885, e-mail carriet@dis.wa.gov.

If you need additional information, please contact Carrie at the number listed above or her assistant Gina Hobbs at (360) 902-3139.

Steve E. Kolodney  
Director

**WSR 98-20-059**

**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
(Commission on Pesticide Registration)

[Memorandum—September 29, 1998]

The Washington State Commission on Pesticide Registration has adopted a schedule for 1998-1999 regular meetings. Per RCW 42.30.075, we are making this schedule available to the public through your office. Meetings commence at 10 a.m.

- |                       |                 |
|-----------------------|-----------------|
| Thursday, November 19 | Ellensburg      |
| Wednesday, January 20 | Olympia         |
| Tuesday, March 16     | Pullman         |
| Tuesday, May 11       | Snoqualmie Pass |

The commission accepts proposals to request funding at any time throughout the year. Proposals should be submitted fifteen days preceding the meeting. Examples of proposal format can be requested by contacting Alan Schreiber, or by accessing the WSCPR web page at <http://wscpr.org>. All proposals must be transmitted to Schreiber (fifteen days prior to meeting date) either via email or surface mail, in which case both a hard copy **and** a disk copy are required. Alan Schreiber, WSCPR Administrator, 4518 Desert Drive, Pasco, WA 99301, phone (509) 543-9757, fax 9758, e-mail aschreib@cbvcp.

Interested parties may contact the public documents officer for the Washington State Commission on Pesticide Registration, Tanya Wojtowych at (208) 285-0121, fax 0165, e-mail juliana@moscow.com or Alan Schreiber (see above) for the time and site of each meeting.

MISC.

**WSR 98-20-060**

**RULES COORDINATOR  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed October 2, 1998, 9:11 a.m.]

I appoint Melinda Brown, Administrative Legal Services Unit, as my designee to act as the rules coordinator and hearing officer for the Office of the Superintendent of Public Instruction. This assignment is effective immediately. Melinda will be responsible for:

1. Solicitation of comments from the public,
2. Providing a draft of any rule change to the code reviser's office,
3. Providing a written analysis of the proposed rule,
4. Appropriately distributing a notice of a hearing,
5. Conducting the hearing,
6. Preparing a summary of comments and agency responses, and
7. Providing me with a notice of adoption for my review and signature.

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**WSR 98-20-063**

**NOTICE OF PUBLIC MEETINGS  
OFFICE OF THE GOVERNOR**

(Clemency and Pardons Board)

[Memorandum—October 2, 1998]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following notice of a special meeting:

A special meeting of the board has been set for October 8, 1998, in the John A. Cherberg Building, Senate Hearing Room 1, Olympia, Washington, starting at 9:00 a.m. The purpose of the meeting is to conclude action on the Jeremy Sagastegui matter.

**WSR 98-20-070**

**NOTICE OF PUBLIC MEETINGS  
TRAFFIC SAFETY COMMISSION**

[Memorandum—October 2, 1998]

The commission meeting scheduled for October 22, 1998, has been rescheduled to November 17. The meeting will be held in the Tri-Cities area. Location and time will follow at a later date.

**WSR 98-20-071**

**NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON**

[Memorandum—September 30, 1998]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the University that maintain regular meeting schedules at the UW Public Records Office.

ASUW		
Finance and Budget Committee		
Meeting Dates	Location	Time
October 12, 1998	Hub 204M	3:30 p.m.
October 19, 1998	Hub 204M	3:30 p.m.
October 26, 1998	Hub 204M	3:30 p.m.
November 2, 1998	Hub 204M	3:30 p.m.
November 9, 1998	Hub 204M	3:30 p.m.
November 16, 1998	Hub 204M	3:30 p.m.
November 23, 1998	Hub 204M	3:30 p.m.
November 30, 1998	Hub 204M	3:30 p.m.
December 7, 1998	Hub 204M	3:30 p.m.

**WSR 98-20-072**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—September 30, 1998]

**EDMONDS COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
NOTICE OF SPECIAL MEETINGS  
TO MEDIA/OTHER**

October 15, 1998	Edmonds Community College board of trustees regular board meeting: EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m. Purpose: To address routine college business issues.
October 20, 1998*	Edmonds Community College Foundation Scholarship Banquet, Triton Union Building, 2nd Floor, 20000 68th Avenue West, Lynnwood, WA, 6:00 p.m.

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

MISC.

**WSR 98-20-073**

WAC 137-100-020

Medical records available.

**NOTICE OF PUBLIC MEETINGS**

WAC 137-100-030

Request for test results - by  
correctional staff members.

**TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—October 2, 1998]

**MEETING NOTICE FOR OCTOBER 1998  
TRANSPORTATION IMPROVEMENT BOARD  
SPOKANE, WASHINGTON**

Increase Committee, 1:00 p.m. - 2:00 p.m., Thursday, October 22, 1998, at Cavanaugh's Inn at the Park, West 303 North River Drive, Spokane.

Bus Tour of Spokane and Spokane County Area Projects, 2:00 p.m. - 4:30 p.m., Thursday, October 22, 1998. Meet at Cavanaugh's Inn at the Park.

Work Session, 7:00 p.m., Thursday, October 22, 1998, at Cavanaugh's Inn at the Park.

Board Meeting, 9:00 a.m., Friday, October 23, 1998, Spokane Transit Authority, 1230 West Boone Avenue, Spokane.

**SPECIAL NEEDS:** For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by October 12, 1998.

The next scheduled meeting is November 20, 1998, in Redmond. A notice with further detail of the November meeting will be mailed October 30, 1998.

**WSR 98-20-074**

**DEPARTMENT OF CORRECTIONS**

[Filed October 5, 1998, 4:49 p.m.]

The following sections of the Washington Administrative Code are repealed:

WAC 137-100-001 Purpose.

WAC 137-100-010 Definitions.

WAC 137-100-020 Medical records available.

WAC 137-100-030 Request for test results - by correctional staff members.

Pertinent information is as follows:

a. WAC 137-100-001, 137-100-010, 137-100-020, 137-100-030 were adopted October 24, 1997.

b. The effective date of the repealer is October 7, 1998.

c. I certify that these rules were previously adopted pursuant to the exemption granted the department under RCW 34.05.030c [(1)(c)]. These rules were, therefore, exempt from the Administrative Procedure Act.

d. New rules regarding the subject matter of these rules have been subsequently adopted pursuant to chapter 34.05 RCW.

Joseph D. Lehman  
Secretary

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 137-100-001 Purpose.

WAC 137-100-010 Definitions.

**MISC.**



**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
- OBJECT = 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 of existing section
- 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	14-276-060	NEW-XA	98-18-045	16-129-010	REP	98-13-029
1-21-010	AMD	98-14-048	14-276-070	NEW-XA	98-18-045	16-129-020	REP-XR	98-08-020
1-21-020	AMD-XA	98-09-083	14-276-080	NEW-XA	98-18-045	16-129-020	REP	98-13-029
1-21-020	AMD	98-14-048	14-276-090	NEW-XA	98-18-045	16-129-025	REP-XR	98-08-020
4-25	AMD-C	98-05-020	14-276-100	NEW-XA	98-18-045	16-129-025	REP	98-13-029
4-25	AMD-C	98-07-025	14-276-110	NEW-XA	98-18-045	16-129-030	REP-XR	98-08-020
4-25-410	AMD	98-12-020	14-276-120	NEW-XA	98-18-045	16-129-030	REP	98-13-029
4-25-511	REP-XR	98-19-044	14-276-130	NEW-XA	98-18-045	16-154	PREP	98-16-016
4-25-520	AMD	98-12-021	14-276-140	NEW-XA	98-18-045	16-160	PREP	98-16-015
4-25-530	PREP	98-19-045	14-325-010	NEW-XA	98-18-045	16-167-010	AMD-XA	98-04-076
4-25-540	AMD	98-12-022	16-08-151	AMD-XA	98-04-082	16-167-010	AMD	98-09-048
4-25-550	AMD	98-12-023	16-08-151	AMD	98-09-085	16-167-020	AMD-XA	98-04-076
4-25-551	AMD	98-12-047	16-20	PREP	98-15-067	16-167-020	AMD	98-09-048
4-25-620	AMD	98-12-048	16-21	PREP	98-15-067	16-167-030	AMD-XA	98-04-076
4-25-622	AMD	98-12-049	16-22	PREP	98-15-067	16-167-030	AMD	98-09-048
4-25-625	REP	98-12-056	16-23	PREP	98-15-067	16-167-040	AMD-XA	98-04-076
4-25-626	NEW	98-12-055	16-32-009	PREP	98-05-104	16-167-040	AMD	98-09-048
4-25-627	REP	98-12-056	16-32-009	REP-P	98-09-104	16-167-050	AMD-XA	98-04-076
4-25-631	AMD	98-12-050	16-32-009	REP	98-14-036	16-167-050	AMD	98-09-048
4-25-810	AMD	98-12-051	16-32-011	AMD-P	98-09-104	16-167-060	AMD-XA	98-04-076
4-25-920	REP-XR	98-19-044	16-32-011	AMD	98-14-036	16-167-060	AMD	98-09-048
14-104-010	NEW-XA	98-18-045	16-46-010	REP-XR	98-08-080	16-168-010	AMD	98-03-089
14-104-020	NEW-XA	98-18-045	16-46-010	REP	98-13-118	16-168-020	AMD	98-03-089
14-104-030	NEW-XA	98-18-045	16-86	PREP	98-08-022	16-168-030	AMD	98-03-089
14-108-010	NEW-XA	98-18-045	16-86	PREP	98-11-010	16-168-040	AMD	98-03-089
14-108-020	NEW-XA	98-18-045	16-89	PREP	98-08-023	16-168-050	AMD	98-03-089
14-108-030	NEW-XA	98-18-045	16-96	REP-C	98-18-043	16-168-060	AMD	98-03-089
14-108-040	NEW-XA	98-18-045	16-96-001	REP-P	98-15-157	16-168-070	AMD	98-03-089
14-108-050	NEW-XA	98-18-045	16-96-001	REP	98-19-037	16-168-075	NEW	98-03-089
14-108-060	NEW-XA	98-18-045	16-96-002	REP-P	98-15-157	16-168-080	AMD	98-03-089
14-108-070	NEW-XA	98-18-045	16-96-002	REP	98-19-037	16-168-090	AMD	98-03-089
14-108-080	NEW-XA	98-18-045	16-96-003	REP-P	98-15-157	16-168-100	AMD	98-03-089
14-122-010	NEW-XA	98-18-045	16-96-003	REP	98-19-037	16-200	PREP	98-12-039
14-122-020	NEW-XA	98-18-045	16-96-003	REP	98-19-037	16-200-695	AMD-E	98-12-018
14-122-030	NEW-XA	98-18-045	16-96-010	REP-P	98-15-157	16-200-695	AMD-E	98-13-013
14-133-020	NEW-XA	98-18-045	16-96-010	REP	98-19-037	16-200-695	AMD-P	98-19-128
14-134-010	NEW-XA	98-18-045	16-96-020	REP-P	98-15-157	16-200-695	AMD-E	98-20-057
14-276-010	NEW-XA	98-18-045	16-96-020	REP	98-19-037	16-200-705	AMD-E	98-12-018
14-276-020	NEW-XA	98-18-045	16-96-030	REP-P	98-15-157	16-200-705	AMD-E	98-13-013
14-276-030	NEW-XA	98-18-045	16-96-030	REP	98-19-037	16-200-705	AMD-P	98-19-128
14-276-040	NEW-XA	98-18-045	16-102	PREP	98-04-075	16-200-705	AMD-E	98-20-057
14-276-050	NEW-XA	98-18-045	16-104	PREP	98-19-027	16-200-705	AMD-E	98-20-057
			16-129-010	REP-XR	98-08-020	16-200-7061	NEW-E	98-12-018

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16-200-7061	NEW-P	98-19-128	16-333-240	REP-XR	98-07-108	16-471-015	REP	98-19-023
16-200-7061	NEW-E	98-20-057	16-333-240	REP	98-13-033	16-471-020	REP-P	98-10-115
16-200-7062	NEW-E	98-12-018	16-333-245	REP-XR	98-07-108	16-471-020	REP-W	98-13-127
16-200-7062	NEW-E	98-13-013	16-333-245	REP	98-13-033	16-471-020	REP-P	98-13-128
16-200-7062	NEW-P	98-19-128	16-334-010	NEW-XA	98-07-109	16-471-020	REP	98-19-023
16-200-7062	NEW-E	98-20-057	16-334-010	NEW	98-11-048	16-471-030	REP-P	98-10-115
16-200-7063	NEW-E	98-12-018	16-334-020	NEW-XA	98-07-109	16-471-030	REP-W	98-13-127
16-200-7063	NEW-E	98-13-013	16-334-020	NEW	98-11-048	16-471-030	REP-P	98-13-128
16-200-7063	NEW-P	98-19-128	16-334-030	NEW-XA	98-07-109	16-471-030	REP	98-19-023
16-200-7063	NEW-E	98-20-057	16-334-030	NEW	98-11-048	16-471-040	REP-P	98-10-115
16-200-7064	NEW-E	98-12-018	16-334-040	NEW-XA	98-07-109	16-471-040	REP-W	98-13-127
16-200-7064	NEW-E	98-13-013	16-334-040	NEW	98-11-048	16-471-040	REP-P	98-13-128
16-200-7064	NEW-P	98-19-128	16-334-050	NEW-XA	98-07-109	16-471-040	REP	98-19-023
16-200-7064	NEW-E	98-20-057	16-334-050	NEW	98-11-048	16-471-050	REP-P	98-10-115
16-200-708	AMD-E	98-12-018	16-334-060	NEW-XA	98-07-109	16-471-050	REP-W	98-13-127
16-200-708	AMD-E	98-13-013	16-334-060	NEW	98-11-048	16-471-050	REP-P	98-13-128
16-200-708	AMD-P	98-19-128	16-334-070	NEW-XA	98-07-109	16-471-050	REP	98-19-023
16-200-708	AMD-E	98-20-057	16-334-070	NEW	98-11-048	16-471-060	REP-P	98-10-115
16-212	PREP	98-11-024	16-334-080	NEW-XA	98-07-109	16-471-060	REP-W	98-13-127
16-212-030	AMD-P	98-07-106	16-334-080	NEW	98-11-048	16-471-060	REP-P	98-13-128
16-212-030	AMD	98-12-058	16-354-002	REP-P	98-06-082	16-471-060	REP	98-19-023
16-212-060	AMD-P	98-07-106	16-354-002	REP	98-09-049	16-471-070	REP-P	98-10-115
16-212-060	AMD	98-12-058	16-354-005	AMD-P	98-06-082	16-471-070	REP-W	98-13-127
16-212-070	AMD-P	98-07-106	16-354-005	AMD	98-09-049	16-471-070	REP-P	98-13-128
16-212-070	AMD	98-12-058	16-354-010	AMD-P	98-06-082	16-471-070	REP	98-19-023
16-212-080	AMD-P	98-07-106	16-354-010	AMD	98-09-049	16-471-080	REP-P	98-10-115
16-212-080	AMD	98-12-058	16-354-020	AMD-P	98-06-082	16-471-080	REP-W	98-13-127
16-212-082	AMD-P	98-07-106	16-354-020	AMD	98-09-049	16-471-080	REP-P	98-13-128
16-212-082	AMD	98-12-058	16-354-030	AMD-P	98-06-082	16-471-080	REP	98-19-023
16-228-155	PREP	98-07-003	16-354-030	AMD	98-09-049	16-532-010	AMD-P	98-02-073
16-228-155	AMD-P	98-10-069	16-354-040	AMD-P	98-06-082	16-532-010	AMD	98-13-122
16-228-155	AMD	98-15-026	16-354-040	AMD	98-09-049	16-532-0402	REP-P	98-02-073
16-316-474	PREP	98-06-093	16-354-050	AMD-P	98-06-082	16-532-0402	REP	98-13-122
16-316-474	AMD-P	98-09-101	16-354-050	AMD	98-09-049	16-532-0404	REP-P	98-02-073
16-316-474	AMD	98-12-032	16-354-070	AMD-P	98-06-082	16-532-0404	REP	98-13-122
16-316-525	PREP	98-06-093	16-354-070	AMD	98-09-049	16-532-0406	REP-P	98-02-073
16-316-525	AMD-P	98-09-101	16-354-100	AMD-P	98-06-082	16-532-0406	REP	98-13-122
16-316-525	AMD	98-12-032	16-354-100	AMD	98-09-049	16-532-0408	REP-P	98-02-073
16-319-041	PREP	98-06-094	16-400	AMD-P	98-07-032	16-532-0408	REP	98-13-122
16-319-041	AMD-P	98-09-100	16-400	AMD	98-10-083	16-532-0410	REP-P	98-02-073
16-319-041	AMD	98-12-031	16-400-007	AMD-P	98-07-032	16-532-0410	REP	98-13-122
16-325-005	NEW-XA	98-05-106	16-400-007	AMD	98-10-083	16-532-0412	REP-P	98-02-073
16-325-005	NEW	98-09-071	16-400-040	AMD-P	98-07-032	16-532-0412	REP	98-13-122
16-325-010	NEW-XA	98-05-106	16-400-040	AMD	98-10-083	16-532-0414	REP-P	98-02-073
16-325-010	NEW	98-09-071	16-400-100	AMD-P	98-07-032	16-532-0414	REP	98-13-122
16-325-015	NEW-XA	98-05-106	16-400-100	AMD	98-10-083	16-545-010	NEW-P	98-19-118
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16-325-020	NEW	98-09-071	16-402-005	NEW-P	98-13-129	16-545-030	NEW-P	98-19-118
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16-325-025	NEW	98-09-071	16-402-010	NEW-P	98-13-129	16-545-041	NEW-P	98-19-118
16-333-200	REP-XR	98-07-108	16-402-010	NEW	98-17-069	16-545-050	NEW-P	98-19-118
16-333-200	REP	98-13-033	16-402-015	NEW-P	98-13-129	16-545-080	NEW-P	98-19-118
16-333-205	REP-XR	98-07-108	16-402-015	NEW	98-17-069	16-557	PREP	98-08-099
16-333-205	REP	98-13-033	16-402-020	NEW-P	98-13-129	16-557-010	AMD-P	98-12-017
16-333-210	REP-XR	98-07-108	16-402-020	NEW	98-17-069	16-557-010	AMD	98-16-081
16-333-210	REP	98-13-033	16-470-100	AMD-P	98-08-108	16-557-025	NEW-P	98-12-017
16-333-215	REP-XR	98-07-108	16-470-100	AMD	98-12-091	16-557-025	NEW	98-16-081
16-333-215	REP	98-13-033	16-470-120	AMD-P	98-08-108	16-561	PREP	98-13-120
16-333-220	REP-XR	98-07-108	16-471	PREP	98-07-107	16-561-030	AMD-P	98-16-080
16-333-220	REP	98-13-033	16-471-010	REP-P	98-10-115	16-565	PREP	98-13-119
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16-333-225	REP	98-13-033	16-471-010	REP-P	98-13-128	16-573-020	NEW	98-04-093
16-333-230	REP-XR	98-07-108	16-471-010	REP	98-19-023	16-573-030	NEW	98-04-093
16-333-230	REP	98-13-033	16-471-015	REP-P	98-10-115	16-573-040	NEW	98-04-093
16-333-235	REP-XR	98-07-108	16-471-015	REP-W	98-13-127	16-573-041	NEW	98-04-093

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16-573-070	NEW	98-04-093	16-607-100	NEW-P	98-15-157	16-620-380	REP	98-19-037
16-573-080	NEW	98-04-093	16-607-100	NEW	98-19-037	16-620-390	REP-P	98-15-157
16-575	PREP	98-06-096	16-607-105	NEW-P	98-15-157	16-620-390	REP	98-19-037
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16-600-020	REP	98-13-030	16-607-110	NEW-P	98-15-157	16-620-400	REP	98-19-037
16-604	REP-C	98-18-043	16-607-110	NEW	98-19-037	16-620-410	REP-P	98-15-157
16-604-001	REP-P	98-15-157	16-607-115	NEW-P	98-15-157	16-620-410	REP	98-19-037
16-604-001	REP	98-19-037	16-607-115	NEW	98-19-037	16-657	PREP	98-07-068
16-604-002	REP-P	98-15-157	16-607-120	NEW-P	98-15-157	16-657-040	AMD-P	98-10-120
16-604-002	REP	98-19-037	16-607-120	NEW-S	98-19-087	16-657-040	AMD	98-13-074
16-604-003	REP-P	98-15-157	16-607-125	NEW-P	98-15-157	16-659	PREP	98-07-067
16-604-003	REP	98-19-037	16-607-125	NEW	98-19-037	16-659-001	REP-P	98-10-119
16-604-008	REP-P	98-15-157	16-607-130	NEW-P	98-15-157	16-659-001	REP	98-13-073
16-604-008	REP	98-19-037	16-607-130	NEW	98-19-037	16-659-002	NEW-P	98-10-119
16-604-010	REP-P	98-15-157	16-607-135	NEW-P	98-15-157	16-659-002	NEW	98-13-073
16-604-012	REP-P	98-15-157	16-607-135	NEW	98-19-037	16-659-010	AMD-P	98-10-119
16-604-012	REP	98-19-037	16-607-140	NEW-P	98-15-157	16-659-010	AMD	98-13-073
16-604-015	REP-P	98-15-157	16-607-140	NEW	98-19-037	16-662	PREP	98-07-069
16-604-015	REP	98-19-037	16-607-145	NEW-P	98-15-157	16-662-105	AMD-P	98-10-118
16-604-015	REP	98-19-037	16-607-145	NEW	98-19-037	16-662-105	AMD	98-13-072
16-604-030	REP-P	98-15-157	16-608	REP-C	98-18-043	16-662-115	AMD-P	98-10-118
16-604-030	REP	98-19-037	16-608-001	REP-P	98-15-157	16-662-115	AMD	98-13-072
16-605A	REP-C	98-18-043	16-608-001	REP	98-19-037	16-675-030	AMD-P	98-09-099
16-605A-001	REP-P	98-15-157	16-608-001	REP	98-15-157	16-675-030	AMD	98-12-030
16-605A-001	REP	98-19-037	16-608-010	REP-P	98-19-037	16-675-040	AMD-P	98-09-099
16-605A-005	REP-P	98-15-157	16-608-010	REP	98-19-037	16-675-040	AMD	98-12-030
16-605A-005	REP	98-19-037	16-608-020	REP-P	98-15-157	16-750	PREP	98-12-069
16-605A-010	REP-P	98-15-157	16-608-020	REP	98-19-037	16-750-005	AMD-P	98-20-094
16-605A-010	REP	98-19-037	16-620	REP-C	98-18-043	16-750-011	AMD-P	98-20-094
16-607	NEW-C	98-18-043	16-620-010	REP-P	98-15-157	16-750-015	AMD-P	98-20-094
16-607	NEW-C	98-19-018	16-620-010	REP	98-19-037	16-750-110	AMD-P	98-20-094
16-607-005	NEW-P	98-15-157	16-620-015	REP-P	98-15-157	16-752	PREP	98-04-077
16-607-005	NEW	98-19-037	16-620-015	REP	98-19-037	16-752-610	AMD-P	98-08-109
16-607-005	AMD-S	98-19-087	16-620-020	REP-P	98-15-157	16-752-610	AMD	98-13-008
16-607-010	NEW-P	98-15-157	16-620-020	REP	98-19-037	24-12-010	AMD-P	98-13-121
16-607-010	NEW	98-19-037	16-620-030	REP-P	98-15-157	24-12-010	AMD	98-18-060
16-607-015	NEW-P	98-15-157	16-620-030	REP	98-19-037	25-18-010	REP	98-05-027
16-607-015	NEW	98-19-037	16-620-080	REP-P	98-15-157	25-18-020	REP	98-05-027
16-607-015	NEW	98-19-037	16-620-080	REP	98-19-037	25-18-030	REP	98-05-027
16-607-020	NEW-P	98-15-157	16-620-100	REP-P	98-15-157	25-18-040	REP	98-05-027
16-607-020	NEW	98-19-037	16-620-100	REP	98-19-037	25-18-050	REP	98-05-027
16-607-025	NEW-P	98-15-157	16-620-105	REP-P	98-15-157	25-18-060	REP	98-05-027
16-607-025	NEW	98-19-037	16-620-105	REP	98-19-037	25-18-070	REP	98-05-027
16-607-035	NEW-P	98-15-157	16-620-150	REP-P	98-15-157	25-18-080	REP	98-05-027
16-607-035	NEW	98-19-037	16-620-150	REP	98-19-037	25-18-090	REP	98-05-027
16-607-040	NEW-P	98-15-157	16-620-205	REP-P	98-15-157	25-18-100	REP	98-05-027
16-607-045	NEW-P	98-15-157	16-620-205	REP	98-19-037	25-18-110	REP	98-05-027
16-607-045	NEW	98-19-037	16-620-205	REP	98-19-037	25-18-120	REP	98-05-027
16-607-050	NEW-P	98-15-157	16-620-210	REP-P	98-15-157	25-18-130	REP	98-05-027
16-607-050	NEW	98-19-037	16-620-210	REP	98-19-037	25-36-010	REP	98-05-027
16-607-055	NEW-P	98-15-157	16-620-230	REP-P	98-15-157	25-36-020	REP	98-05-027
16-607-055	NEW-S	98-19-087	16-620-230	REP	98-19-037	25-36-030	REP	98-05-027
16-607-060	NEW-P	98-15-157	16-620-240	REP-P	98-15-157	25-36-040	REP	98-05-027
16-607-060	NEW	98-19-037	16-620-240	REP	98-19-037	25-36-050	REP	98-05-027
16-607-060	AMD-S	98-19-087	16-620-250	REP-P	98-15-157	25-36-060	REP	98-05-027
16-607-065	NEW-P	98-15-157	16-620-250	REP	98-19-037	25-36-070	REP	98-05-027
16-607-065	NEW	98-19-037	16-620-260	REP-P	98-15-157	25-36-080	REP	98-05-027
16-607-070	NEW-P	98-15-157	16-620-260	REP	98-19-037	25-36-090	REP	98-05-027
16-607-070	NEW	98-19-037	16-620-275	REP-P	98-15-157	25-36-100	REP	98-05-027
16-607-075	NEW-P	98-15-157	16-620-275	REP	98-19-037	25-36-110	REP	98-05-027
16-607-075	NEW	98-19-037	16-620-280	REP-P	98-15-157	25-36-120	REP	98-05-027
16-607-080	NEW-P	98-15-157	16-620-280	REP	98-19-037	25-36-130	REP	98-05-027
16-607-080	NEW	98-19-037	16-620-290	REP-P	98-15-157	30-04-020	PREP	98-09-082
16-607-085	NEW-P	98-15-157	16-620-290	REP	98-19-037	30-04-020	AMD-P	98-20-087
16-607-085	NEW	98-19-037	16-620-340	REP-P	98-15-157	30-08-070	PREP	98-09-082
16-607-090	NEW-P	98-15-157	16-620-340	REP	98-19-037			
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30-12-150	PREP	98-09-082	50-52-280	REP	98-16-105	50-52-620	REP-XR	98-13-096
30-12-150	AMD-P	98-20-087	50-52-290	REP-XR	98-13-096	50-52-620	REP	98-16-105
30-18-040	PREP	98-09-082	50-52-290	REP	98-16-105	50-52-630	REP-XR	98-13-096
30-18-040	AMD-P	98-20-087	50-52-300	REP-XR	98-13-096	50-52-630	REP	98-16-105
30-22-070	PREP	98-09-082	50-52-300	REP	98-16-105	50-52-640	REP-XR	98-13-096
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30-22-090	PREP	98-09-082	50-52-310	REP	98-16-105	51-04	PREP	98-13-052
30-22-090	AMD-P	98-20-087	50-52-320	REP-XR	98-13-096	51-04-015	AMD	98-02-048
44-01-140	REP-XR	98-07-053	50-52-320	REP	98-16-105	51-04-015	AMD-P	98-15-150
44-01-140	REP	98-13-046	50-52-330	REP-XR	98-13-096	51-04-030	AMD-P	98-15-150
50-36	PREP	98-15-148	50-52-330	REP	98-16-105	51-04-060	AMD-P	98-15-150
50-52	PREP	98-13-096	50-52-340	REP-XR	98-13-096	51-04-070	AMD	98-02-048
50-52-010	REP-XR	98-13-096	50-52-340	REP	98-16-105	51-06-020	AMD	98-02-049
50-52-010	REP	98-16-105	50-52-350	REP-XR	98-13-096	51-06-120	AMD	98-02-049
50-52-020	REP-XR	98-13-096	50-52-350	REP	98-16-105	51-11	PREP	98-13-051
50-52-020	REP	98-16-105	50-52-360	REP-XR	98-13-096	51-11	PREP	98-14-110
50-52-030	REP-XR	98-13-096	50-52-360	REP	98-16-105	51-11-0101	AMD	98-03-003
50-52-030	REP	98-16-105	50-52-370	REP-XR	98-13-096	51-11-0101	AMD-P	98-15-151
50-52-040	REP-XR	98-13-096	50-52-370	REP	98-16-105	51-11-0104	AMD	98-03-003
50-52-040	REP	98-16-105	50-52-380	REP-XR	98-13-096	51-11-0201	AMD	98-03-003
50-52-050	REP-XR	98-13-096	50-52-380	REP	98-16-105	51-11-0402	AMD	98-03-003
50-52-050	REP	98-16-105	50-52-390	REP-XR	98-13-096	51-11-0502	AMD	98-03-003
50-52-060	REP-XR	98-13-096	50-52-390	REP	98-16-105	51-11-0503	AMD	98-03-003
50-52-060	REP	98-16-105	50-52-400	REP-XR	98-13-096	51-11-0503	AMD-E	98-15-080
50-52-070	REP-XR	98-13-096	50-52-400	REP	98-16-105	51-11-0503	AMD-P	98-16-066
50-52-070	REP	98-16-105	50-52-410	REP-XR	98-13-096	51-11-0504	AMD	98-03-003
50-52-080	REP-XR	98-13-096	50-52-410	REP	98-16-105	51-11-0505	AMD-W	98-05-064
50-52-080	REP	98-16-105	50-52-420	REP-XR	98-13-096	51-11-0525	AMD	98-03-003
50-52-090	REP-XR	98-13-096	50-52-420	REP	98-16-105	51-11-0527	AMD	98-03-003
50-52-090	REP	98-16-105	50-52-430	REP-XR	98-13-096	51-11-0530	AMD	98-03-003
50-52-100	REP-XR	98-13-096	50-52-430	REP	98-16-105	51-11-0541	AMD	98-03-003
50-52-100	REP	98-16-105	50-52-440	REP-XR	98-13-096	51-11-0602	AMD	98-03-003
50-52-110	REP-XR	98-13-096	50-52-440	REP	98-16-105	51-11-0606	REP	98-03-003
50-52-110	REP	98-16-105	50-52-450	REP-XR	98-13-096	51-11-0607	REP	98-03-003
50-52-120	REP-XR	98-13-096	50-52-450	REP	98-16-105	51-11-0608	REP	98-03-003
50-52-120	REP	98-16-105	50-52-460	REP-XR	98-13-096	51-11-0625	AMD	98-03-003
50-52-130	REP-XR	98-13-096	50-52-460	REP	98-16-105	51-11-0626	AMD	98-03-003
50-52-130	REP	98-16-105	50-52-470	REP-XR	98-13-096	51-11-0627	AMD	98-03-003
50-52-140	REP-XR	98-13-096	50-52-470	REP	98-16-105	51-11-0628	AMD	98-03-003
50-52-140	REP	98-16-105	50-52-480	REP-XR	98-13-096	51-11-0629	AMD	98-03-003
50-52-150	REP-XR	98-13-096	50-52-480	REP	98-16-105	51-11-0630	AMD	98-03-003
50-52-150	REP	98-16-105	50-52-490	REP-XR	98-13-096	51-11-0630	AMD	98-03-003
50-52-160	REP-XR	98-13-096	50-52-490	REP	98-16-105	51-11-0701	AMD	98-03-003
50-52-160	REP	98-16-105	50-52-500	REP-XR	98-13-096	51-11-0800	AMD	98-03-003
50-52-170	REP-XR	98-13-096	50-52-500	REP	98-16-105	51-11-1002	AMD	98-03-003
50-52-170	REP	98-16-105	50-52-510	REP-XR	98-13-096	51-11-1003	AMD	98-03-003
50-52-180	REP-XR	98-13-096	50-52-510	REP	98-16-105	51-11-1004	AMD	98-03-003
50-52-180	REP	98-16-105	50-52-520	REP-XR	98-13-096	51-11-1005	AMD	98-03-003
50-52-190	REP-XR	98-13-096	50-52-520	REP	98-16-105	51-11-1006	AMD	98-03-003
50-52-190	REP	98-16-105	50-52-530	REP-XR	98-13-096	51-11-1007	AMD	98-03-003
50-52-200	REP-XR	98-13-096	50-52-530	REP	98-16-105	51-11-1008	AMD	98-03-003
50-52-200	REP	98-16-105	50-52-540	REP-XR	98-13-096	51-11-1009	AMD	98-03-003
50-52-210	REP-XR	98-13-096	50-52-540	REP	98-16-105	51-11-1010	REP	98-03-003
50-52-210	REP	98-16-105	50-52-550	REP-XR	98-13-096	51-11-1120	AMD	98-03-003
50-52-220	REP-XR	98-13-096	50-52-550	REP	98-16-105	51-11-1130	AMD	98-03-003
50-52-220	REP	98-16-105	50-52-560	REP-XR	98-13-096	51-11-1132	AMD	98-03-003
50-52-230	REP-XR	98-13-096	50-52-560	REP	98-16-105	51-11-1133	AMD	98-03-003
50-52-230	REP	98-16-105	50-52-570	REP-XR	98-13-096	51-11-1210	AMD	98-03-003
50-52-240	REP-XR	98-13-096	50-52-570	REP	98-16-105	51-11-1310	AMD-W	98-05-064
50-52-240	REP	98-16-105	50-52-580	REP-XR	98-13-096	51-11-1312	AMD	98-03-003
50-52-250	REP-XR	98-13-096	50-52-580	REP	98-16-105	51-11-1322	AMD-W	98-05-064
50-52-250	REP	98-16-105	50-52-590	REP-XR	98-13-096	51-11-1323	AMD	98-03-003
50-52-260	REP-XR	98-13-096	50-52-590	REP	98-16-105	51-11-1331	AMD	98-03-003
50-52-260	REP	98-16-105	50-52-600	REP-XR	98-13-096	51-11-1334	AMD	98-03-003
50-52-270	REP-XR	98-13-096	50-52-600	REP	98-16-105	51-11-1411	AMD	98-03-003
50-52-270	REP	98-16-105	50-52-610	REP-XR	98-13-096	51-11-1412	AMD	98-03-003
						51-11-1414	AMD	98-03-003

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**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-11-1421	AMD	98-03-003	51-30-0207	REP	98-02-054	51-30-2903	REP	98-02-054
51-11-1422	AMD	98-03-003	51-30-0217	REP	98-02-054	51-30-2904	REP	98-02-054
51-11-1423	AMD	98-03-003	51-30-0220	REP	98-02-054	51-30-2910	REP	98-02-054
51-11-1433	AMD	98-03-003	51-30-0300	REP	98-02-054	51-30-3102	REP	98-02-054
51-11-1452	AMD	98-03-003	51-30-0302	REP	98-02-054	51-30-31200	REP	98-02-054
51-11-1454	AMD	98-03-003	51-30-0304	REP	98-02-054	51-30-31201	REP	98-02-054
51-11-1512	AMD	98-03-003	51-30-0305	REP	98-02-054	51-30-31202	REP	98-02-054
51-11-1530	AMD	98-03-003	51-30-0307	REP	98-02-054	51-30-31203	REP	98-02-054
51-11-1701	AMD	98-03-003	51-30-0310	REP	98-02-054	51-30-31204	REP	98-02-054
51-11-2005	AMD	98-03-003	51-30-0313	REP	98-02-054	51-30-31205	REP	98-02-054
51-11-2006	AMD	98-03-003	51-30-0400	REP	98-02-054	51-30-31206	REP	98-02-054
51-11-2007	AMD	98-03-003	51-30-0403	REP	98-02-054	51-30-31207	REP	98-02-054
51-11-23110	REP-P	98-16-065	51-30-0405	REP	98-02-054	51-30-31208	REP	98-02-054
51-11-99903	AMD	98-03-003	51-30-0500	REP	98-02-054	51-30-31209	REP	98-02-054
51-11-99904	AMD	98-03-003	51-30-0510	REP	98-02-054	51-30-31210	REP	98-02-054
51-13-106	AMD	98-02-047	51-30-0600	REP	98-02-054	51-30-3400	REP	98-02-054
51-13-402	AMD	98-02-047	51-30-0601	REP	98-02-054	51-30-3404	REP	98-02-054
51-13-502	AMD	98-02-047	51-30-0800	REP	98-02-054	51-30-93115	REP	98-02-054
51-26-001	REP	98-02-055	51-30-0804	REP	98-02-054	51-30-93116	REP	98-02-054
51-26-002	REP	98-02-055	51-30-0900	REP	98-02-054	51-30-93117	REP	98-02-054
51-26-003	REP	98-02-055	51-30-0902	REP	98-02-054	51-30-93118	REP	98-02-054
51-26-004	REP	98-02-055	51-30-0904	REP	98-02-054	51-30-93119	REP	98-02-054
51-26-008	REP	98-02-055	51-30-1000	REP	98-02-054	51-30-93120	REP	98-02-054
51-26-0300	REP	98-02-055	51-30-1001	REP	98-02-054	51-32-001	REP	98-02-056
51-26-0310	REP	98-02-055	51-30-1004	REP	98-02-054	51-32-002	REP	98-02-056
51-26-0315	REP	98-02-055	51-30-1005	REP	98-02-054	51-32-003	REP	98-02-056
51-26-0400	REP	98-02-055	51-30-1006	REP	98-02-054	51-32-004	REP	98-02-056
51-26-0401	REP	98-02-055	51-30-1007	REP	98-02-054	51-32-005	REP	98-02-056
51-26-0500	REP	98-02-055	51-30-1009	REP	98-02-054	51-32-007	REP	98-02-056
51-26-0503	REP	98-02-055	51-30-1014	REP	98-02-054	51-32-008	REP	98-02-056
51-26-0909	REP	98-02-055	51-30-1019	REP	98-02-054	51-32-0200	REP	98-02-056
51-26-1000	REP	98-02-055	51-30-1030	REP	98-02-054	51-32-0223	REP	98-02-056
51-26-1004	REP	98-02-055	51-30-1100	REP	98-02-054	51-32-0300	REP	98-02-056
51-26-1007	REP	98-02-055	51-30-1101	REP	98-02-054	51-32-0327	REP	98-02-056
51-26-1009	REP	98-02-055	51-30-1102	REP	98-02-054	51-32-0500	REP	98-02-056
51-26-1020	REP	98-02-055	51-30-1103	REP	98-02-054	51-32-0504	REP	98-02-056
51-26-1301	REP	98-02-055	51-30-1104	REP	98-02-054	51-32-0600	REP	98-02-056
51-26-1800	REP	98-02-055	51-30-1105	REP	98-02-054	51-32-0601	REP	98-02-056
51-26-1801	REP	98-02-055	51-30-1106	REP	98-02-054	51-32-0605	REP	98-02-056
51-26-1802	REP	98-02-055	51-30-1107	REP	98-02-054	51-32-1100	REP	98-02-056
51-26-1803	REP	98-02-055	51-30-1108	REP	98-02-054	51-32-1101	REP	98-02-056
51-26-1804	REP	98-02-055	51-30-1109	REP	98-02-054	51-32-1102	REP	98-02-056
51-26-1810	REP	98-02-055	51-30-1110	REP	98-02-054	51-32-1103	REP	98-02-056
51-26-1820	REP	98-02-055	51-30-1111	REP	98-02-054	51-32-1104	REP	98-02-056
51-26-1830	REP	98-02-055	51-30-1112	REP	98-02-054	51-32-1105	REP	98-02-056
51-26-1840	REP	98-02-055	51-30-1113	REP	98-02-054	51-32-1106	REP	98-02-056
51-26-1845	REP	98-02-055	51-30-1114	REP	98-02-054	51-32-1107	REP	98-02-056
51-26-2200	REP	98-02-055	51-30-1120	REP	98-02-054	51-32-1108	REP	98-02-056
51-26-2300	REP	98-02-055	51-30-1121	REP	98-02-054	51-32-1300	REP	98-02-056
51-26-2301	REP	98-02-055	51-30-1122	REP	98-02-054	51-32-1312	REP	98-02-056
51-27-001	REP	98-02-055	51-30-1123	REP	98-02-054	51-32-1313	REP	98-02-056
51-27-002	REP	98-02-055	51-30-1124	REP	98-02-054	51-34-001	REP	98-02-053
51-27-003	REP	98-02-055	51-30-1125	REP	98-02-054	51-34-002	REP	98-02-053
51-27-004	REP	98-02-055	51-30-1200	REP	98-02-054	51-34-003	REP	98-02-053
51-27-008	REP	98-02-055	51-30-1203	REP	98-02-054	51-34-007	REP	98-02-053
51-30-001	REP	98-02-054	51-30-1600	REP	98-02-054	51-34-008	REP	98-02-053
51-30-002	REP	98-02-054	51-30-1614	REP	98-02-054	51-34-0200	REP	98-02-053
51-30-003	REP	98-02-054	51-30-1700	REP	98-02-054	51-34-0206	REP	98-02-053
51-30-004	REP	98-02-054	51-30-1702	REP	98-02-054	51-34-0216	REP	98-02-053
51-30-005	REP	98-02-054	51-30-1900	REP	98-02-054	51-34-0219	REP	98-02-053
51-30-007	REP	98-02-054	51-30-1909	REP	98-02-054	51-34-0223	REP	98-02-053
51-30-008	REP	98-02-054	51-30-2200	REP	98-02-054	51-34-0900	REP	98-02-053
51-30-009	REP	98-02-054	51-30-2211	REP	98-02-054	51-34-0901	REP	98-02-053
51-30-0100	REP	98-02-054	51-30-2400	REP	98-02-054	51-34-0902	REP	98-02-053
51-30-0104	REP	98-02-054	51-30-2406	REP	98-02-054	51-34-1000	REP	98-02-053
51-30-0200	REP	98-02-054	51-30-2900	REP	98-02-054	51-34-1003	REP	98-02-053
51-30-0204	REP	98-02-054	51-30-2902	REP	98-02-054	51-34-1007	REP	98-02-053

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51-34-2500	REP	98-02-053	51-35-52550	REP	98-02-053	51-40-23110	REP-E	98-20-051
51-34-2501	REP	98-02-053	51-35-52560	REP	98-02-053	51-40-2406	NEW	98-02-054
51-34-5200	REP	98-02-053	51-35-52570	REP	98-02-053	51-40-2900	NEW	98-02-054
51-34-5201	REP	98-02-053	51-35-52580	REP	98-02-053	51-40-2929	NEW	98-02-054
51-34-5204	REP	98-02-053	51-35-52590	REP	98-02-053	51-40-3004	NEW	98-02-054
51-34-6100	REP	98-02-053	51-35-52600	REP	98-02-053	51-40-3102	NEW	98-02-054
51-34-6103	REP	98-02-053	51-40	PREP	98-14-125	51-40-31200	NEW	98-02-054
51-34-6104	REP	98-02-053	51-40-001	NEW	98-02-054	51-40-3404	NEW	98-02-054
51-34-6105	REP	98-02-053	51-40-002	NEW	98-02-054	51-40-93115	NEW	98-02-054
51-34-6106	REP	98-02-053	51-40-003	NEW	98-02-054	51-40-93116	NEW	98-02-054
51-34-6107	REP	98-02-053	51-40-004	NEW	98-02-054	51-40-93117	NEW	98-02-054
51-34-6301	REP	98-02-053	51-40-005	NEW	98-02-054	51-40-93118	NEW	98-02-054
51-34-6302	REP	98-02-053	51-40-007	NEW	98-02-054	51-40-93119	NEW	98-02-054
51-34-6303	REP	98-02-053	51-40-007	PREP	98-13-051	51-40-93120	NEW	98-02-054
51-34-6304	REP	98-02-053	51-40-007	AMD-P	98-15-151	51-42-001	NEW	98-02-056
51-34-6305	REP	98-02-053	51-40-008	NEW	98-02-054	51-42-002	NEW	98-02-056
51-34-6306	REP	98-02-053	51-40-009	NEW	98-02-054	51-42-003	NEW	98-02-056
51-34-6307	REP	98-02-053	51-40-0200	NEW	98-02-054	51-42-004	NEW	98-02-056
51-34-6308	REP	98-02-053	51-40-0302	NEW	98-02-054	51-42-005	NEW	98-02-056
51-34-6309	REP	98-02-053	51-40-0303	NEW	98-02-054	51-42-007	NEW	98-02-056
51-34-6310	REP	98-02-053	51-40-0304	NEW	98-02-054	51-42-007	PREP	98-13-051
51-34-6311	REP	98-02-053	51-40-0305	NEW	98-02-054	51-42-007	AMD-P	98-15-151
51-34-6312	REP	98-02-053	51-40-0307	NEW	98-02-054	51-42-008	NEW	98-02-056
51-34-6313	REP	98-02-053	51-40-0308	NEW	98-02-054	51-42-0200	NEW	98-02-056
51-34-6314	REP	98-02-053	51-40-0310	NEW	98-02-054	51-42-0223	NEW	98-02-056
51-34-6315	REP	98-02-053	51-40-0311	NEW	98-02-054	51-42-0303	NEW	98-02-056
51-34-6316	REP	98-02-053	51-40-0313	NEW	98-02-054	51-42-0504	NEW	98-02-056
51-34-6317	REP	98-02-053	51-40-0403	NEW	98-02-054	51-42-0600	NEW	98-02-056
51-34-6318	REP	98-02-053	51-40-0405	NEW	98-02-054	51-42-0601	NEW	98-02-056
51-34-6319	REP	98-02-053	51-40-0510	NEW	98-02-054	51-42-0605	NEW	98-02-056
51-34-6320	REP	98-02-053	51-40-0804	NEW	98-02-054	51-42-0901	NEW	98-02-056
51-34-6321	REP	98-02-053	51-40-0902	NEW	98-02-054	51-42-1000	NEW	98-02-056
51-34-6322	REP	98-02-053	51-40-0904	NEW	98-02-054	51-42-1002	NEW	98-02-056
51-34-6323	REP	98-02-053	51-40-1000	NEW	98-02-054	51-42-1004	NEW	98-02-056
51-34-6324	REP	98-02-053	51-40-1002	NEW	98-02-054	51-42-1005	NEW	98-02-056
51-34-7800	REP	98-02-053	51-40-1003	NEW	98-02-054	51-42-1100	NEW	98-02-056
51-34-7802	REP	98-02-053	51-40-1004	NEW	98-02-054	51-42-1101	NEW	98-02-056
51-34-7900	REP	98-02-053	51-40-1007	NEW	98-02-054	51-42-1102	NEW	98-02-056
51-34-7902	REP	98-02-053	51-40-1091	NEW	98-02-054	51-42-1103	NEW	98-02-056
51-34-7904	REP	98-02-053	51-40-1100	NEW	98-02-054	51-42-1104	NEW	98-02-056
51-34-8000	REP	98-02-053	51-40-1101	NEW	98-02-054	51-42-1105	NEW	98-02-056
51-34-8001	REP	98-02-053	51-40-1102	NEW	98-02-054	51-42-1106	NEW	98-02-056
51-34-8003	REP	98-02-053	51-40-1103	NEW	98-02-054	51-42-1107	NEW	98-02-056
51-34-9100	REP	98-02-053	51-40-1104	NEW	98-02-054	51-42-1108	NEW	98-02-056
51-34-9101	REP	98-02-053	51-40-1105	NEW	98-02-054	51-42-1311	NEW	98-02-056
51-34-9102	REP	98-02-053	51-40-1106	NEW	98-02-054	51-42-1312	NEW	98-02-056
51-34-9103	REP	98-02-053	51-40-1107	NEW	98-02-054	51-42-1401	NEW	98-02-056
51-34-9104	REP	98-02-053	51-40-1108	NEW	98-02-054	51-44-001	NEW	98-02-053
51-34-9105	REP	98-02-053	51-40-1109	NEW	98-02-054	51-44-002	NEW	98-02-053
51-34-9106	REP	98-02-053	51-40-1110	NEW	98-02-054	51-44-003	NEW	98-02-053
51-34-9107	REP	98-02-053	51-40-1111	NEW	98-02-054	51-44-007	NEW	98-02-053
51-34-9108	REP	98-02-053	51-40-1112	NEW	98-02-054	51-44-007	PREP	98-13-051
51-35-001	REP	98-02-053	51-40-1113	NEW	98-02-054	51-44-007	AMD-P	98-15-151
51-35-002	REP	98-02-053	51-40-1114	NEW	98-02-054	51-44-008	NEW	98-02-053
51-35-003	REP	98-02-053	51-40-1191	NEW	98-02-054	51-44-0103	NEW	98-02-053
51-35-007	REP	98-02-053	51-40-1192	NEW	98-02-054	51-44-0200	NEW	98-02-053
51-35-008	REP	98-02-053	51-40-1193	NEW	98-02-054	51-44-0900	NEW	98-02-053
51-35-52000	REP	98-02-053	51-40-1194	NEW	98-02-054	51-44-1003	NEW	98-02-053
51-35-52400	REP	98-02-053	51-40-1195	NEW	98-02-054	51-44-1007	NEW	98-02-053
51-35-52440	REP	98-02-053	51-40-1196	NEW	98-02-054	51-44-10210	NEW	98-02-053
51-35-52441	REP	98-02-053	51-40-1203	NEW	98-02-054	51-44-1109	NEW	98-02-053
51-35-52442	REP	98-02-053	51-40-1506	NEW-W	98-05-065	51-44-2500	NEW	98-02-053
51-35-52500	REP	98-02-053	51-40-1616	NEW	98-02-054	51-44-5200	NEW	98-02-053
51-35-52510	REP	98-02-053	51-40-1702	NEW	98-02-054	51-44-6100	NEW	98-02-053
51-35-52520	REP	98-02-053	51-40-1909	NEW	98-02-054	51-44-6300	NEW	98-02-053
51-35-52530	REP	98-02-053	51-40-23110	NEW	98-02-054	51-44-7404	NEW	98-02-053
51-35-52540	REP	98-02-053	51-40-23110	REP-P	98-16-065	51-44-7802	NEW	98-02-053

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51-45-001	NEW	98-02-053	51-46-0814	NEW	98-02-055	82-28-010	REP	98-18-018
51-45-002	NEW	98-02-053	51-46-0815	NEW	98-02-055	82-28-020	REP-XR	98-14-065
51-45-003	NEW	98-02-053	51-46-0900	NEW	98-02-055	82-28-020	REP	98-18-018
51-45-007	NEW	98-02-053	51-46-0903	NEW	98-02-055	82-28-030	REP-XR	98-14-065
51-45-008	NEW	98-02-053	51-46-1000	NEW	98-02-055	82-28-030	REP	98-18-018
51-45-80400	NEW	98-02-053	51-46-1003	NEW	98-02-055	82-28-040	REP-XR	98-14-065
51-46-001	NEW	98-02-055	51-46-1012	NEW	98-02-055	82-28-040	REP	98-18-018
51-46-002	NEW	98-02-055	51-46-1300	NEW	98-02-055	82-28-050	REP-XR	98-14-065
51-46-003	NEW	98-02-055	51-46-1301	NEW	98-02-055	82-28-050	REP	98-18-018
51-46-007	NEW	98-02-055	51-46-1302	NEW	98-02-055	82-28-060	REP-XR	98-14-065
51-46-007	PREP	98-13-051	51-46-1303	NEW	98-02-055	82-28-060	REP	98-18-018
51-46-007	AMD-P	98-15-151	51-46-1304	NEW	98-02-055	82-28-06001	REP-XR	98-14-065
51-46-008	NEW	98-02-055	51-46-1305	NEW	98-02-055	82-28-06001	REP	98-18-018
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51-46-0101	NEW	98-02-055	51-46-1401	NEW	98-02-055	82-28-070	REP	98-18-018
51-46-0102	NEW	98-02-055	51-46-1491	NEW	98-02-055	82-28-080	REP-XR	98-14-065
51-46-0103	NEW	98-02-055	51-46-97120	NEW	98-02-055	82-28-080	REP	98-18-018
51-46-0200	NEW	98-02-055	51-46-97121	NEW	98-02-055	82-28-090	REP-XR	98-14-065
51-46-0205	NEW	98-02-055	51-46-97122	NEW	98-02-055	82-28-090	REP	98-18-018
51-46-0215	NEW	98-02-055	51-46-97123	NEW	98-02-055	82-28-100	REP-XR	98-14-065
51-46-0218	NEW	98-02-055	51-46-97124	NEW	98-02-055	82-28-100	REP	98-18-018
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51-46-0301	NEW	98-02-055	51-46-97126	NEW	98-02-055	82-28-110	REP	98-18-018
51-46-0310	NEW	98-02-055	51-46-97127	NEW	98-02-055	82-28-120	REP-XR	98-14-065
51-46-0311	NEW	98-02-055	51-46-97128	NEW	98-02-055	82-28-120	REP	98-18-018
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51-46-0314	NEW	98-02-055	51-47-001	NEW	98-02-055	82-28-130	REP	98-18-018
51-46-0316	NEW	98-02-055	51-47-002	NEW	98-02-055	82-28-135	REP-XR	98-14-065
51-46-0392	NEW	98-02-055	51-47-003	NEW	98-02-055	82-28-135	REP	98-18-018
51-46-0400	NEW	98-02-055	51-47-007	NEW	98-02-055	82-28-140	REP-XR	98-14-065
51-46-0402	NEW	98-02-055	51-47-008	NEW	98-02-055	82-28-140	REP	98-18-018
51-46-0412	NEW	98-02-055	67-25-005	AMD-P	98-19-016	82-28-150	REP-XR	98-14-065
51-46-0413	NEW	98-02-055	67-25-255	AMD-P	98-19-016	82-28-150	REP	98-18-018
51-46-0500	NEW	98-02-055	67-25-260	AMD-P	98-19-016	82-28-160	REP-XR	98-14-065
51-46-0501	NEW	98-02-055	67-25-270	AMD-P	98-19-016	82-28-160	REP	98-18-018
51-46-0502	NEW	98-02-055	67-25-288	AMD-P	98-19-016	82-28-170	REP-XR	98-14-065
51-46-0505	NEW	98-02-055	67-25-350	AMD-P	98-19-016	82-28-170	REP	98-18-018
51-46-0507	NEW	98-02-055	67-25-384	AMD-P	98-19-016	82-28-180	REP-XR	98-14-065
51-46-0509	NEW	98-02-055	67-25-540	AMD-P	98-19-016	82-28-180	REP	98-18-018
51-46-0512	NEW	98-02-055	67-25-550	AMD-P	98-19-016	82-28-190	REP-XR	98-14-065
51-46-0513	NEW	98-02-055	82-24-010	REP-XR	98-14-066	82-28-190	REP	98-18-018
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51-46-0515	NEW	98-02-055	82-24-020	REP-XR	98-14-066	82-28-200	REP	98-18-018
51-46-0516	NEW	98-02-055	82-24-020	REP	98-18-017	82-28-210	REP-XR	98-14-065
51-46-0517	NEW	98-02-055	82-24-030	REP-XR	98-14-066	82-28-210	REP	98-18-018
51-46-0518	NEW	98-02-055	82-24-030	REP	98-18-017	82-28-220	REP-XR	98-14-065
51-46-0519	NEW	98-02-055	82-24-040	REP-XR	98-14-066	82-28-220	REP	98-18-018
51-46-0520	NEW	98-02-055	82-24-040	REP	98-18-017	82-28-230	REP-XR	98-14-065
51-46-0521	NEW	98-02-055	82-24-050	REP-XR	98-14-066	82-28-230	REP	98-18-018
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51-46-0524	NEW	98-02-055	82-24-060	REP	98-18-017	82-36-020	REP-XR	98-14-016
51-46-0525	NEW	98-02-055	82-24-070	REP-XR	98-14-066	82-36-020	REP	98-18-014
51-46-0600	NEW	98-02-055	82-24-070	REP	98-18-017	82-36-030	REP-XR	98-14-016
51-46-0603	NEW	98-02-055	82-24-080	REP-XR	98-14-066	82-36-030	REP	98-18-014
51-46-0604	NEW	98-02-055	82-24-080	REP	98-18-017	82-36-033	REP-XR	98-14-016
51-46-0608	NEW	98-02-055	82-24-090	REP-XR	98-14-066	82-36-033	REP	98-18-014
51-46-0609	NEW	98-02-055	82-24-090	REP	98-18-017	82-36-035	REP-XR	98-14-016
51-46-0610	NEW	98-02-055	82-24-100	REP-XR	98-14-066	82-36-035	REP	98-18-014
51-46-0700	NEW	98-02-055	82-24-100	REP	98-18-017	82-36-040	REP-XR	98-14-016
51-46-0701	NEW	98-02-055	82-24-110	REP-XR	98-14-066	82-36-040	REP	98-18-014
51-46-0704	NEW	98-02-055	82-24-110	REP	98-18-017	82-36-050	REP-XR	98-14-016
51-46-0710	NEW	98-02-055	82-24-120	REP-XR	98-14-066	82-36-050	REP	98-18-014
51-46-0713	NEW	98-02-055	82-24-120	REP	98-18-017	82-36-060	REP-XR	98-14-016
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82-36-120	REP	98-18-014	106-116-514	AMD-P	98-19-067	131-16-055	AMD	98-14-033
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82-36-140	REP	98-18-014	106-116-603	AMD-P	98-19-067	131-16-060	REP-P	98-06-075
82-36-150	REP-XR	98-14-016	106-116-850	AMD-P	98-19-067	131-16-061	AMD-P	98-06-075
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82-40-020	REP-XR	98-14-017	118-40-030	AMD	98-07-028	131-16-065	REP-P	98-06-075
82-40-020	REP	98-18-016	118-40-040	AMD	98-07-028	131-16-066	REP-P	98-06-075
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173-160-161	NEW	98-08-032	173-160-465	REP	98-08-032	173-303-145	AMD	98-03-018
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180-27-530	AMD	98-19-143	180-30-115	REP-P	98-14-148	180-30-450	REP	98-19-142
180-27-990	REP-P	98-14-149	180-30-115	REP	98-19-142	180-30-455	REP-P	98-14-148
180-27-990	REP	98-19-143	180-30-116	REP-P	98-14-148	180-30-455	REP	98-19-142
180-29	PREP	98-06-004	180-30-116	REP	98-19-142	180-30-460	REP-P	98-14-148
180-29-005	AMD-P	98-14-147	180-30-117	REP-P	98-14-148	180-30-460	REP	98-19-142
180-29-005	AMD	98-19-141	180-30-117	REP	98-19-142	180-30-465	REP-P	98-14-148
180-29-015	REP-P	98-14-147	180-30-120	REP-P	98-14-148	180-30-465	REP	98-19-142
180-29-015	REP	98-19-141	180-30-120	REP	98-19-142	180-30-470	REP-P	98-14-148
180-29-020	REP-P	98-14-147	180-30-125	REP-P	98-14-148	180-30-470	REP	98-19-142
180-29-020	REP	98-19-141	180-30-125	REP	98-19-142	180-30-475	REP-P	98-14-148
180-29-021	AMD-P	98-14-147	180-30-130	REP-P	98-14-148	180-30-475	REP	98-19-142
180-29-021	AMD	98-19-141	180-30-130	REP	98-19-142	180-30-480	REP-P	98-14-148
180-29-025	AMD-P	98-14-147	180-30-135	REP-P	98-14-148	180-30-480	REP	98-19-142
180-29-025	AMD	98-19-141	180-30-135	REP	98-19-142	180-30-485	REP-P	98-14-148
180-29-030	REP-P	98-14-147	180-30-200	REP-P	98-14-148	180-30-485	REP	98-19-142
180-29-030	REP	98-19-141	180-30-200	REP	98-19-142	180-30-490	REP-P	98-14-148
180-29-035	AMD-P	98-14-147	180-30-205	REP-P	98-14-148	180-30-490	REP	98-19-142
180-29-035	AMD	98-19-141	180-30-205	REP	98-19-142	180-30-495	REP-P	98-14-148
180-29-080	AMD-P	98-14-147	180-30-210	REP-P	98-14-148	180-30-495	REP	98-19-142
180-29-085	AMD-P	98-14-147	180-30-210	REP	98-19-142	180-30-500	REP-P	98-14-148
180-29-085	AMD	98-19-141	180-30-215	REP-P	98-14-148	180-30-500	REP	98-19-142
180-29-090	AMD-P	98-14-147	180-30-215	REP	98-19-142	180-30-505	REP-P	98-14-148
180-29-1075	AMD-P	98-14-147	180-30-220	REP-P	98-14-148	180-30-505	REP	98-19-142
180-29-1075	AMD	98-19-141	180-30-220	REP	98-19-142	180-30-510	REP-P	98-14-148
180-29-1076	REP-P	98-14-147	180-30-225	REP-P	98-14-148	180-30-510	REP	98-19-142
180-29-1076	REP	98-19-141	180-30-225	REP	98-19-142	180-30-515	REP-P	98-14-148
180-29-115	AMD-P	98-14-147	180-30-230	REP-P	98-14-148	180-30-515	REP	98-19-142
180-29-115	AMD	98-19-141	180-30-230	REP	98-19-142	180-30-520	REP-P	98-14-148
180-29-116	REP-P	98-14-147	180-30-250	REP-P	98-14-148	180-30-520	REP	98-19-142
180-29-116	REP	98-19-141	180-30-250	REP	98-19-142	180-30-575	REP-P	98-14-148
180-29-155	AMD-P	98-14-147	180-30-350	REP-P	98-14-148	180-30-575	REP	98-19-142
180-29-155	AMD	98-19-141	180-30-350	REP	98-19-142	180-30-610	REP-P	98-14-148
180-29-200	AMD-P	98-14-147	180-30-355	REP-P	98-14-148	180-30-610	REP	98-19-142
180-29-200	AMD	98-19-141	180-30-355	REP	98-19-142	180-30-620	REP-P	98-14-148
180-30	PREP	98-06-001	180-30-360	REP-P	98-14-148	180-30-620	REP	98-19-142
180-30-003	REP-P	98-14-148	180-30-360	REP	98-19-142	180-30-625	REP-P	98-14-148
180-30-003	REP	98-19-142	180-30-365	REP-P	98-14-148	180-30-625	REP	98-19-142
180-30-005	REP-P	98-14-148	180-30-365	REP	98-19-142	180-30-630	REP-P	98-14-148
180-30-005	REP	98-19-142	180-30-370	REP-P	98-14-148	180-30-630	REP	98-19-142
180-30-010	REP-P	98-14-148	180-30-370	REP	98-19-142	180-30-635	REP-P	98-14-148
180-30-010	REP	98-19-142	180-30-380	REP-P	98-14-148	180-30-635	REP	98-19-142
180-30-015	REP-P	98-14-148	180-30-380	REP	98-19-142	180-30-640	REP-P	98-14-148
180-30-015	REP	98-19-142	180-30-400	REP-P	98-14-148	180-30-640	REP	98-19-142
180-30-030	REP-P	98-14-148	180-30-400	REP	98-19-142	180-30-645	REP-P	98-14-148
180-30-030	REP	98-19-142	180-30-405	REP-P	98-14-148	180-30-645	REP	98-19-142
180-30-035	REP-P	98-14-148	180-30-405	REP	98-19-142	180-30-650	REP-P	98-14-148
180-30-035	REP	98-19-142	180-30-406	REP-P	98-14-148	180-30-650	REP	98-19-142
180-30-040	REP-P	98-14-148	180-30-406	REP	98-19-142	180-30-655	REP-P	98-14-148
180-30-040	REP	98-19-142	180-30-407	REP-P	98-14-148	180-30-655	REP	98-19-142
180-30-050	REP-P	98-14-148	180-30-407	REP	98-19-142	180-30-660	REP-P	98-14-148
180-30-050	REP	98-19-142	180-30-408	REP-P	98-14-148	180-30-660	REP	98-19-142
180-30-055	REP-P	98-14-148	180-30-408	REP	98-19-142	180-30-710	REP-P	98-14-148
180-30-055	REP	98-19-142	180-30-410	REP-P	98-14-148	180-30-710	REP	98-19-142
180-30-060	REP-P	98-14-148	180-30-410	REP	98-19-142	180-30-715	REP-P	98-14-148
180-30-060	REP	98-19-142	180-30-415	REP-P	98-14-148	180-30-715	REP	98-19-142
180-30-065	REP-P	98-14-148	180-30-415	REP	98-19-142	180-30-720	REP-P	98-14-148
180-30-065	REP	98-19-142	180-30-420	REP-P	98-14-148	180-30-720	REP	98-19-142

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-30-725	REP-P	98-14-148	180-32-055	REP	98-19-145	180-59-155	REP	98-05-007
180-30-725	REP	98-19-142	180-33	PREP	98-06-008	180-59-160	REP	98-05-007
180-30-730	REP-P	98-14-148	180-33-005	AMD-P	98-14-144	180-59-165	REP	98-05-007
180-30-730	REP	98-19-142	180-33-005	AMD	98-19-138	180-77-122	PREP	98-16-096
180-30-735	REP-P	98-14-148	180-33-025	AMD	98-09-052	180-77-122	AMD-P	98-19-136
180-30-735	REP	98-19-142	180-33-040	AMD-P	98-14-144	180-77A-170	PREP	98-16-097
180-30-740	REP-P	98-14-148	180-33-040	AMD	98-19-138	180-77A-170	AMD-P	98-19-137
180-30-740	REP	98-19-142	180-33-042	AMD-P	98-14-144	180-78A	PREP	98-06-030
180-30-750	REP-P	98-14-148	180-33-042	AMD	98-19-138	180-78A	PREP	98-16-098
180-30-750	REP	98-19-142	180-33-043	REP-P	98-14-144	180-78A-003	AMD-P	98-19-134
180-30-755	REP-P	98-14-148	180-33-043	REP	98-19-138	180-78A-004	REP-P	98-19-134
180-30-755	REP	98-19-142	180-34-010	AMD	98-05-002	180-78A-005	AMD-P	98-19-134
180-30-760	REP-P	98-14-148	180-34-015	REP	98-05-002	180-78A-006	REP-P	98-19-134
180-30-760	REP	98-19-142	180-34-020	REP	98-05-002	180-78A-010	AMD-P	98-19-134
180-30-765	REP-P	98-14-148	180-34-025	REP	98-05-002	180-78A-012	REP-P	98-19-134
180-30-765	REP	98-19-142	180-36-007	NEW	98-05-021	180-78A-015	AMD-P	98-19-134
180-30-770	REP-P	98-14-148	180-39-025	AMD	98-05-004	180-78A-026	REP-P	98-19-134
180-30-770	REP	98-19-142	180-39-027	REP	98-05-004	180-78A-028	REP-P	98-19-134
180-30-775	REP-P	98-14-148	180-39-028	REP	98-05-004	180-78A-030	REP-P	98-19-134
180-30-775	REP	98-19-142	180-39-030	REP	98-05-004	180-78A-033	REP-P	98-19-134
180-30-780	REP-P	98-14-148	180-39-035	REP	98-05-004	180-78A-037	REP-P	98-19-134
180-30-780	REP	98-19-142	180-51	PREP	98-20-016	180-78A-047	REP-P	98-19-134
180-30-800	REP-P	98-14-148	180-51-050	PREP	98-06-028	180-78A-057	REP-P	98-19-134
180-30-800	REP	98-19-142	180-56-003	REP	98-05-005	180-78A-060	REP-P	98-19-134
180-30-805	REP-P	98-14-148	180-58-010	REP	98-05-006	180-78A-063	REP-P	98-19-134
180-30-805	REP	98-19-142	180-58-015	REP	98-05-006	180-78A-065	REP-P	98-19-134
180-30-807	REP-P	98-14-148	180-58-020	REP	98-05-006	180-78A-068	REP-P	98-19-134
180-30-807	REP	98-19-142	180-58-030	REP	98-05-006	180-78A-073	REP-P	98-19-134
180-30-810	REP-P	98-14-148	180-58-040	REP	98-05-006	180-78A-075	REP-P	98-19-134
180-30-810	REP	98-19-142	180-58-045	REP	98-05-006	180-78A-080	REP-P	98-19-134
180-30-815	REP-P	98-14-148	180-58-055	REP	98-05-006	180-78A-100	NEW-P	98-19-134
180-30-815	REP	98-19-142	180-58-065	REP	98-05-006	180-78A-105	NEW-P	98-19-134
180-30-820	REP-P	98-14-148	180-58-075	REP	98-05-006	180-78A-110	NEW-P	98-19-134
180-30-820	REP	98-19-142	180-58-085	REP	98-05-006	180-78A-115	NEW-P	98-19-134
180-30-825	REP-P	98-14-148	180-58-090	REP	98-05-006	180-78A-120	NEW-P	98-19-134
180-30-825	REP	98-19-142	180-59-005	REP	98-05-007	180-78A-125	NEW-P	98-19-134
180-30-830	REP-P	98-14-148	180-59-010	REP	98-05-007	180-78A-130	NEW-P	98-19-134
180-30-830	REP	98-19-142	180-59-015	REP	98-05-007	180-78A-135	REP-P	98-19-134
180-30-845	REP-P	98-14-148	180-59-020	REP	98-05-007	180-78A-136	NEW-P	98-19-134
180-30-845	REP	98-19-142	180-59-025	REP	98-05-007	180-78A-140	REP-P	98-19-134
180-31	PREP	98-06-003	180-59-030	REP	98-05-007	180-78A-142	REP-P	98-19-134
180-31-005	AMD-P	98-14-150	180-59-032	REP	98-05-007	180-78A-145	REP-P	98-19-134
180-31-005	AMD	98-19-144	180-59-035	REP	98-05-007	180-78A-150	REP-P	98-19-134
180-31-020	AMD-P	98-14-150	180-59-037	REP	98-05-007	180-78A-151	NEW-P	98-19-134
180-31-020	AMD	98-19-144	180-59-040	REP	98-05-007	180-78A-155	REP-P	98-19-134
180-31-025	AMD-P	98-14-150	180-59-045	REP	98-05-007	180-78A-160	REP-P	98-19-134
180-31-025	AMD	98-19-144	180-59-047	REP	98-05-007	180-78A-165	AMD	98-05-022
180-31-035	AMD-P	98-14-150	180-59-050	REP	98-05-007	180-78A-165	REP-P	98-19-134
180-31-035	AMD	98-19-144	180-59-055	REP	98-05-007	180-78A-195	REP-P	98-19-134
180-31-040	AMD-P	98-14-150	180-59-060	REP	98-05-007	180-78A-197	REP-P	98-19-134
180-31-040	AMD	98-19-144	180-59-065	REP	98-05-007	180-78A-200	NEW-P	98-19-134
180-31-045	NEW-P	98-14-150	180-59-070	REP	98-05-007	180-78A-201	REP-P	98-19-134
180-31-045	NEW	98-19-144	180-59-075	REP	98-05-007	180-78A-205	NEW-P	98-19-134
180-32	PREP	98-06-002	180-59-080	REP	98-05-007	180-78A-207	NEW-P	98-19-134
180-32-005	AMD-P	98-14-151	180-59-090	REP	98-05-007	180-78A-209	NEW-P	98-19-134
180-32-005	AMD	98-19-145	180-59-095	REP	98-05-007	180-78A-210	NEW-P	98-19-134
180-32-020	AMD-P	98-14-151	180-59-100	REP	98-05-007	180-78A-215	NEW-P	98-19-134
180-32-020	AMD	98-19-145	180-59-105	REP	98-05-007	180-78A-220	NEW-P	98-19-134
180-32-025	AMD-P	98-14-151	180-59-110	REP	98-05-007	180-78A-225	NEW-P	98-19-134
180-32-025	AMD	98-19-145	180-59-115	REP	98-05-007	180-78A-250	NEW-P	98-19-134
180-32-035	AMD-P	98-14-151	180-59-120	REP	98-05-007	180-78A-255	NEW-P	98-19-134
180-32-035	AMD	98-19-145	180-59-125	REP	98-05-007	180-78A-260	REP-P	98-19-134
180-32-040	AMD-P	98-14-151	180-59-130	REP	98-05-007	180-78A-261	NEW-P	98-19-134
180-32-040	AMD	98-19-145	180-59-135	REP	98-05-007	180-78A-263	REP-P	98-19-134
180-32-050	AMD-P	98-14-151	180-59-140	REP	98-05-007	180-78A-264	NEW-P	98-19-134
180-32-050	AMD	98-19-145	180-59-145	REP	98-05-007	180-78A-265	REP-P	98-19-134
180-32-055	REP-P	98-14-151	180-59-150	REP	98-05-007	180-78A-266	REP-P	98-19-134

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-78A-270	NEW-P	98-19-134	180-79A-205	REP-P	98-19-134	180-82-300	NEW-P	98-19-134
180-78A-300	REP-P	98-19-134	180-79A-206	NEW-P	98-19-134	180-82-302	NEW-P	98-19-134
180-78A-301	REP-P	98-19-134	180-79A-210	REP-P	98-19-134	180-82-304	NEW-P	98-19-134
180-78A-302	REP-P	98-19-134	180-79A-211	NEW-P	98-19-134	180-82-306	NEW-P	98-19-134
180-78A-303	REP-P	98-19-134	180-79A-213	NEW-P	98-19-134	180-82-308	NEW-P	98-19-134
180-78A-304	REP-P	98-19-134	180-79A-215	REP-P	98-19-134	180-82-310	NEW-P	98-19-134
180-78A-305	REP-P	98-19-134	180-79A-220	AMD-P	98-04-089	180-82-312	NEW-P	98-19-134
180-78A-306	REP-P	98-19-134	180-79A-220	AMD	98-08-068	180-82-314	NEW-P	98-19-134
180-78A-307	NEW-P	98-19-134	180-79A-220	REP-P	98-19-134	180-82-316	NEW-P	98-19-134
180-78A-308	NEW-P	98-19-134	180-79A-221	NEW-P	98-19-134	180-82-318	NEW-P	98-19-134
180-78A-310	NEW-P	98-19-134	180-79A-223	NEW-P	98-19-134	180-82-320	NEW-P	98-19-134
180-78A-315	NEW-P	98-19-134	180-79A-225	REP-P	98-19-134	180-82-322	NEW-P	98-19-134
180-78A-317	NEW-P	98-19-134	180-79A-226	NEW-P	98-19-134	180-82-324	NEW-P	98-19-134
180-78A-320	REP-P	98-19-134	180-79A-230	REP-P	98-19-134	180-82-326	NEW-P	98-19-134
180-78A-325	NEW-P	98-19-134	180-79A-231	NEW-P	98-19-134	180-82-328	NEW-P	98-19-134
180-78A-330	NEW-P	98-19-134	180-79A-236	REP-P	98-19-134	180-82-330	NEW-P	98-19-134
180-78A-340	REP-P	98-19-134	180-79A-250	NEW-P	98-19-134	180-82-332	NEW-P	98-19-134
180-78A-345	REP-P	98-19-134	180-79A-253	NEW-P	98-19-134	180-82-334	NEW-P	98-19-134
180-78A-350	REP-P	98-19-134	180-79A-255	NEW-P	98-19-134	180-82-336	NEW-P	98-19-134
180-78A-355	REP-P	98-19-134	180-79A-257	NEW-P	98-19-134	180-82-338	NEW-P	98-19-134
180-78A-360	REP-P	98-19-134	180-79A-260	NEW-P	98-19-134	180-82-339	NEW-P	98-19-134
180-78A-365	REP-P	98-19-134	180-79A-265	NEW-P	98-19-134	180-82-340	NEW-P	98-19-134
180-78A-400	NEW-P	98-19-134	180-79A-270	NEW-P	98-19-134	180-82-342	NEW-P	98-19-134
180-78A-500	NEW-P	98-19-134	180-79A-299	NEW-P	98-19-134	180-82-343	NEW-P	98-19-134
180-78A-505	NEW-P	98-19-134	180-79A-304	AMD-P	98-19-134	180-82-344	NEW-P	98-19-134
180-78A-510	NEW-P	98-19-134	180-79A-340	AMD	98-05-023	180-82-346	NEW-P	98-19-134
180-78A-515	NEW-P	98-19-134	180-79A-403	REP-P	98-19-134	180-82-348	NEW-P	98-19-134
180-78A-520	NEW-P	98-19-134	180-79A-405	REP-P	98-19-134	180-82-350	NEW-P	98-19-134
180-78A-525	NEW-P	98-19-134	180-79A-415	REP-P	98-19-134	180-82-352	NEW-P	98-19-134
180-78A-530	NEW-P	98-19-134	180-79A-417	REP-P	98-19-134	180-82-354	NEW-P	98-19-134
180-78A-535	NEW-P	98-19-134	180-79A-420	PREP	98-04-087	180-82-356	NEW-P	98-19-134
180-78A-540	NEW-P	98-19-134	180-79A-420	AMD-P	98-10-102	180-82-358	NEW-P	98-19-134
180-78A-545	NEW-P	98-19-134	180-79A-420	AMD	98-15-027	180-82-360	NEW-P	98-19-134
180-78A-550	NEW-P	98-19-134	180-79A-420	REP-P	98-19-134	180-82-362	NEW-P	98-19-134
180-78A-555	NEW-P	98-19-134	180-79A-422	PREP	98-04-087	180-85	PREP	98-16-098
180-78A-560	NEW-P	98-19-134	180-79A-422	AMD-P	98-10-102	180-85-020	AMD-P	98-19-134
180-78A-565	NEW-P	98-19-134	180-79A-422	AMD	98-15-027	180-85-075	AMD-P	98-19-134
180-79A	PREP	98-16-098	180-79A-422	REP-P	98-19-134	180-85-100	AMD	98-05-024
180-79A-005	REP-P	98-19-134	180-79A-423	REP-P	98-19-134	180-87	PREP	98-08-038
180-79A-006	NEW-P	98-19-134	180-79A-424	REP-P	98-19-134	180-90-125	PREP	98-10-024
180-79A-007	NEW-P	98-19-134	180-79A-430	REP-P	98-19-134	182-04-070	AMD-XA	98-13-078
180-79A-010	REP-P	98-19-134	180-79A-433	AMD-P	98-10-103	182-04-070	AMD	98-17-063
180-79A-011	NEW-P	98-19-134	180-79A-433	AMD	98-15-028	182-25-010	AMD	98-07-002
180-79A-012	REP-P	98-19-134	180-79A-433	REP-P	98-19-134	182-25-010	AMD-XA	98-10-086
180-79A-013	REP-P	98-19-134	180-79A-435	REP-P	98-19-134	182-25-010	AMD	98-15-018
180-79A-025	REP-P	98-19-134	180-79A-440	REP-P	98-19-134	182-25-020	AMD	98-07-002
180-79A-030	NEW-P	98-19-134	180-79A-445	REP-P	98-19-134	182-25-030	AMD	98-07-002
180-79A-101	REP-P	98-19-134	180-79A-503	REP-P	98-19-134	182-25-040	AMD	98-07-002
180-79A-117	AMD	98-05-024	180-79A-510	REP-P	98-19-134	182-25-070	AMD	98-07-002
180-79A-117	AMD-P	98-19-134	180-79A-515	REP-P	98-19-134	182-25-080	AMD	98-07-002
180-79A-122	REP-P	98-19-134	180-79A-517	REP-P	98-19-134	182-25-090	AMD	98-07-002
180-79A-123	NEW-P	98-19-134	180-79A-520	REP-P	98-19-134	182-25-100	AMD	98-07-002
180-79A-124	NEW-P	98-19-134	180-82	PREP	98-16-098	182-25-100	PREP	98-17-062
180-79A-125	REP-P	98-19-134	180-82-002	NEW-P	98-19-134	182-25-105	AMD	98-07-002
180-79A-126	REP-P	98-19-134	180-82-004	NEW-P	98-19-134	182-25-105	PREP	98-17-062
180-79A-127	NEW-P	98-19-134	180-82-105	NEW-P	98-19-134	182-25-110	PREP	98-17-062
180-79A-128	NEW-P	98-19-134	180-82-110	NEW-P	98-19-134	192-12-030	AMD-P	98-09-106
180-79A-140	AMD-P	98-19-134	180-82-115	NEW-P	98-19-134	192-12-030	REP	98-14-068
180-79A-145	NEW-P	98-19-134	180-82-120	NEW-P	98-19-134	192-12-040	AMD-P	98-09-105
180-79A-150	AMD-P	98-19-134	180-82-125	NEW-P	98-19-134	192-12-040	REP	98-14-068
180-79A-155	NEW-P	98-19-134	180-82-130	NEW-P	98-19-134	192-12-041	AMD-P	98-09-105
180-79A-157	NEW-P	98-19-134	180-82-200	NEW-P	98-19-134	192-12-041	REP	98-14-068
180-79A-160	REP-P	98-19-134	180-82-201	NEW-P	98-19-134	192-12-042	AMD-P	98-09-105
180-79A-161	REP-P	98-19-134	180-82-202	NEW-P	98-19-134	192-12-042	REP	98-14-068
180-79A-165	REP-P	98-19-134	180-82-204	NEW-P	98-19-134	192-12-141	AMD	98-06-097
180-79A-170	REP-P	98-19-134	180-82-210	NEW-P	98-19-134	192-16-024	REP-XR	98-15-146
180-79A-200	REP-P	98-19-134	180-82-215	NEW-P	98-19-134	192-16-024	REP	98-19-120

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192-16-051	REP-E	98-13-015	194-10-090	REP	98-05-027	196-08-260	REP	98-12-045
192-16-051	REP-E	98-20-081	194-10-100	REP	98-05-027	196-08-270	REP-P	98-08-078
192-16-052	PREP	98-08-072	194-10-110	REP	98-05-027	196-08-270	REP	98-12-045
192-16-052	REP-E	98-13-015	194-10-120	REP	98-05-027	196-08-280	REP-P	98-08-078
192-16-052	REP-E	98-20-081	194-10-130	REP	98-05-027	196-08-280	REP	98-12-045
192-16-057	PREP	98-08-072	194-10-140	REP	98-05-027	196-08-290	REP-P	98-08-078
192-16-057	REP-E	98-20-081	194-18-010	REP-XR	98-17-034	196-08-290	REP	98-12-045
192-18-010	REP-XR	98-07-023	194-18-020	REP-XR	98-17-034	196-08-300	REP-P	98-08-078
192-18-010	REP	98-14-031	194-18-030	REP-XR	98-17-034	196-08-300	REP	98-12-045
192-18-012	REP-XR	98-07-023	196-04	PREP	98-11-025	196-08-310	REP-P	98-08-078
192-18-012	REP	98-14-031	196-04-010	REP-P	98-15-019	196-08-310	REP	98-12-045
192-18-020	REP-XR	98-07-023	196-04-010	REP	98-18-046	196-08-320	REP-P	98-08-078
192-18-020	REP	98-14-031	196-04-020	REP-P	98-15-019	196-08-320	REP	98-12-045
192-18-030	REP-XR	98-07-023	196-04-020	REP	98-18-046	196-08-330	REP-P	98-08-078
192-18-030	REP	98-14-031	196-04-025	REP-P	98-15-019	196-08-330	REP	98-12-045
192-18-040	REP-XR	98-07-023	196-04-025	REP	98-18-046	196-08-340	REP-P	98-08-078
192-18-040	REP	98-14-031	196-04-030	REP-P	98-15-019	196-08-340	REP	98-12-045
192-18-050	REP-XR	98-07-023	196-04-030	REP	98-18-046	196-08-350	REP-P	98-08-078
192-18-050	REP	98-14-031	196-04-040	REP-P	98-15-019	196-08-350	REP	98-12-045
192-18-060	REP-XR	98-07-023	196-04-040	REP	98-18-046	196-08-360	REP-P	98-08-078
192-18-060	REP	98-14-031	196-08-010	REP-P	98-08-078	196-08-360	REP	98-12-045
192-18-070	REP-XR	98-07-023	196-08-010	REP	98-12-045	196-08-370	REP-P	98-08-078
192-18-070	REP	98-14-031	196-08-040	REP-P	98-08-078	196-08-370	REP	98-12-045
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192-20-010	REP	98-14-032	196-08-050	REP-P	98-08-078	196-08-380	REP	98-12-045
192-23-018	AMD	98-06-097	196-08-050	REP	98-12-045	196-08-390	REP-P	98-08-078
192-32	AMD	98-05-042	196-08-060	REP-P	98-08-078	196-08-390	REP	98-12-045
192-32-001	REP	98-05-042	196-08-060	REP	98-12-045	196-08-400	REP-P	98-08-078
192-32-010	AMD	98-05-042	196-08-070	REP-P	98-08-078	196-08-400	REP	98-12-045
192-32-015	REP	98-05-042	196-08-070	REP	98-12-045	196-08-410	REP-P	98-08-078
192-32-025	REP	98-05-042	196-08-080	REP-P	98-08-078	196-08-410	REP	98-12-045
192-32-035	AMD	98-05-042	196-08-080	REP	98-12-045	196-08-420	REP-P	98-08-078
192-32-045	AMD	98-05-042	196-08-090	REP-P	98-08-078	196-08-420	REP	98-12-045
192-32-050	AMD	98-05-042	196-08-090	REP	98-12-045	196-08-430	REP-P	98-08-078
192-32-055	AMD	98-05-042	196-08-100	REP-P	98-08-078	196-08-430	REP	98-12-045
192-32-065	AMD	98-05-042	196-08-100	REP	98-12-045	196-08-440	REP-P	98-08-078
192-32-075	AMD	98-05-042	196-08-110	REP-P	98-08-078	196-08-440	REP	98-12-045
192-32-085	AMD	98-05-042	196-08-110	REP	98-12-045	196-08-450	REP-P	98-08-078
192-32-095	AMD	98-05-042	196-08-120	REP-P	98-08-078	196-08-450	REP	98-12-045
192-32-100	NEW	98-05-042	196-08-120	REP	98-12-045	196-08-460	REP-P	98-08-078
192-32-105	AMD	98-05-042	196-08-130	REP-P	98-08-078	196-08-460	REP	98-12-045
192-32-115	AMD	98-05-042	196-08-130	REP	98-12-045	196-08-470	REP-P	98-08-078
192-32-120	REP	98-05-042	196-08-140	REP-P	98-08-078	196-08-470	REP	98-12-045
192-32-125	REP	98-05-042	196-08-140	REP	98-12-045	196-08-480	REP-P	98-08-078
192-32-130	NEW	98-05-042	196-08-150	REP-P	98-08-078	196-08-480	REP	98-12-045
192-32-135	NEW	98-05-042	196-08-150	REP	98-12-045	196-08-490	REP-P	98-08-078
192-33-005	NEW	98-05-042	196-08-160	REP-P	98-08-078	196-08-490	REP	98-12-045
192-33-006	NEW	98-05-042	196-08-160	REP	98-12-045	196-08-500	REP-P	98-08-078
192-130-050	NEW	98-14-068	196-08-170	REP-P	98-08-078	196-08-500	REP	98-12-045
192-210-005	NEW-E	98-13-015	196-08-170	REP	98-12-045	196-08-510	REP-P	98-08-078
192-210-005	NEW-E	98-20-081	196-08-180	REP-P	98-08-078	196-08-510	REP	98-12-045
192-210-010	NEW-E	98-13-015	196-08-180	REP	98-12-045	196-08-520	REP-P	98-08-078
192-210-010	NEW-E	98-20-081	196-08-190	REP-P	98-08-078	196-08-520	REP	98-12-045
192-210-015	NEW-E	98-13-015	196-08-190	REP	98-12-045	196-08-530	REP-P	98-08-078
192-210-015	NEW-E	98-20-081	196-08-200	REP-P	98-08-078	196-08-530	REP	98-12-045
192-310-010	NEW	98-14-068	196-08-200	REP	98-12-045	196-08-540	REP-P	98-08-078
192-310-020	NEW	98-14-068	196-08-210	REP-P	98-08-078	196-08-540	REP	98-12-045
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192-310-030	NEW	98-14-068	196-08-220	REP-P	98-08-078	196-08-550	REP	98-12-045
194-10-010	REP	98-05-027	196-08-220	REP	98-12-045	196-08-560	REP-P	98-08-078
194-10-020	REP	98-05-027	196-08-230	REP-P	98-08-078	196-08-560	REP	98-12-045
194-10-030	REP	98-05-027	196-08-230	REP	98-12-045	196-08-570	REP-P	98-08-078
194-10-040	REP	98-05-027	196-08-240	REP-P	98-08-078	196-08-570	REP	98-12-045
194-10-050	REP	98-05-027	196-08-240	REP	98-12-045	196-08-580	REP-P	98-08-078
194-10-060	REP	98-05-027	196-08-250	REP-P	98-08-078	196-08-580	REP	98-12-045
194-10-070	REP	98-05-027	196-08-250	REP	98-12-045	196-08-590	REP-P	98-08-078

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196-09-010	NEW	98-12-045	204-50-040	PREP	98-19-076	220-16-480	NEW	98-15-031
196-09-020	NEW-P	98-08-078	204-50-050	PREP	98-19-076	220-16-490	NEW-P	98-09-089
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196-12-020	AMD-P	98-08-105	204-50-090	PREP	98-19-076	220-16-510	NEW-W	98-11-049
196-12-020	AMD	98-12-052	204-50-110	PREP	98-19-076	220-16-520	NEW-W	98-11-049
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196-12-045	NEW-P	98-08-105	204-72-030	AMD	98-04-054	220-16-550	NEW	98-06-031
196-12-045	NEW	98-12-052	204-72-040	AMD	98-04-054	220-16-550	AMD-P	98-11-086
196-12-050	AMD-P	98-08-105	204-80-020	PREP	98-19-038	220-16-550	AMD	98-15-081
196-12-050	AMD	98-12-052	204-90-030	AMD	98-04-052	220-16-560	NEW-W	98-11-049
196-12-060	REP-P	98-08-105	204-90-040	AMD	98-04-052	220-16-570	NEW-W	98-11-049
196-12-060	REP	98-12-052	204-90-070	AMD	98-04-052	220-16-580	NEW-W	98-11-049
196-12-085	REP-P	98-08-105	204-90-120	AMD	98-04-052	220-16-590	NEW	98-06-031
196-12-085	REP	98-12-052	204-90-140	AMD	98-04-052	220-16-600	NEW-W	98-11-049
196-24-030	REP-P	98-08-105	208-418	PREP	98-13-084	220-16-610	NEW	98-06-031
196-24-030	REP	98-12-052	208-436	PREP	98-13-084	220-16-620	NEW-W	98-11-049
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196-24-050	REP-P	98-08-105	208-444-010	AMD	98-10-072	220-16-640	NEW-W	98-11-049
196-24-050	REP	98-12-052	208-444-020	AMD	98-10-072	220-16-650	NEW-W	98-11-049
196-24-105	AMD-P	98-08-105	208-444-030	AMD	98-10-072	220-16-660	NEW-W	98-11-049
196-24-105	AMD	98-12-052	208-444-040	AMD	98-10-072	220-16-670	NEW-W	98-11-049
196-25-001	NEW-P	98-08-106	208-444-050	AMD	98-10-072	220-16-680	NEW-W	98-11-049
196-25-001	NEW	98-12-053	208-464	PREP	98-13-084	220-16-690	NEW-W	98-11-049
196-25-002	NEW-P	98-08-106	208-472	PREP	98-13-084	220-16-700	NEW	98-06-031
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196-25-005	NEW-P	98-08-106	212-17-185	AMD	98-04-007	220-16-720	NEW	98-06-031
196-25-005	NEW	98-12-053	212-17-190	REP-XR	98-07-019	220-20-010	AMD	98-06-031
196-25-010	NEW-P	98-08-106	212-17-190	REP	98-13-038	220-20-010	AMD-P	98-09-089
196-25-010	NEW	98-12-053	212-17-190	REP-E	98-13-039	220-20-010	AMD-P	98-11-086
196-25-020	NEW-P	98-08-106	212-17-190	REP-E	98-07-019	220-20-010	AMD	98-15-031
196-25-020	NEW	98-12-053	212-17-195	REP-XR	98-07-019	220-20-010	AMD	98-15-081
196-25-030	NEW-P	98-08-106	212-17-195	REP	98-13-038	220-20-01000A	NEW-E	98-05-014
196-25-030	NEW	98-12-053	212-17-195	REP-E	98-13-039	220-20-01000A	REP-E	98-05-014
196-25-040	NEW-P	98-08-106	212-17-200	REP-XR	98-07-019	220-20-01000B	NEW-E	98-08-046
196-25-040	NEW	98-12-053	212-17-200	REP	98-13-038	220-20-01015	AMD-P	98-09-089
196-26-020	AMD-P	98-09-051	212-17-200	REP-E	98-13-039	220-20-015	AMD	98-15-031
196-26-020	AMD	98-12-046	212-17-205	REP-XR	98-07-019	220-20-020	AMD-P	98-09-089
196-26-030	AMD-P	98-09-051	212-17-205	REP	98-13-038	220-20-020	AMD	98-15-031
196-26-030	AMD	98-12-046	212-17-205	REP-E	98-13-039	220-20-025	AMD-P	98-09-089
197-11-680	AMD	98-06-092	212-17-210	REP-XR	98-07-019	220-20-025	AMD	98-15-031
204-10-020	AMD	98-04-053	212-17-210	REP	98-13-038	220-22-410	AMD	98-05-043
204-10-020	PREP	98-11-036	212-17-210	REP-E	98-13-039	220-24-02000E	NEW-E	98-10-031
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204-10-020	AMD	98-19-040	212-17-215	REP	98-13-038	220-24-02000F	NEW-E	98-11-020
204-10-070	AMD	98-04-053	212-17-215	REP-E	98-13-039	220-24-02000F	REP-E	98-12-076
204-10-090	AMD	98-04-053	212-17-21503	NEW	98-04-007	220-24-02000G	NEW-E	98-11-085
204-10-100	REP	98-04-053	212-17-21505	NEW	98-04-007	220-24-02000H	NEW-E	98-12-076
204-10-110	REP	98-04-053	212-17-21507	NEW	98-04-007	220-32-05100D	NEW-E	98-04-056
204-10-130	REP	98-04-053	212-17-21509	NEW	98-04-007	220-32-05100D	REP-E	98-04-056
204-10-140	REP	98-04-053	212-17-21511	NEW	98-04-007	220-32-05100D	REP-E	98-04-068
204-10-150	REP	98-04-053	212-17-21513	NEW	98-04-007	220-32-05100E	REP-E	98-04-068
204-24-050	PREP	98-11-035	212-17-21515	NEW	98-04-007	220-32-05100E	NEW-E	98-04-068
204-24-050	AMD-P	98-15-056	212-17-21517	NEW	98-04-007	220-32-05100E	REP-E	98-07-057
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204-46-020	PREP	98-14-049	220-12-020	AMD	98-06-031	220-32-05100G	REP-E	98-19-019
204-46-020	NEW-P	98-18-073	220-16-002	NEW-P	98-11-086	220-32-05100G	NEW-E	98-19-019
204-46-030	PREP	98-14-049	220-16-002	NEW	98-15-081	220-32-05100H	NEW-E	98-19-051
204-46-030	NEW-P	98-18-073	220-16-005	NEW-P	98-11-086	220-32-05100H	REP-E	98-19-051
204-46-030	PREP	98-14-049	220-16-005	NEW	98-15-081	220-32-05100I	REP-E	98-19-077
204-50-010	PREP	98-19-076	220-16-440	AMD	98-06-031	220-32-05100I	NEW-E	98-19-077
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220-32-05500M	REP-E	98-13-006	220-47-31100A	NEW-E	98-16-009	220-52-04600C	NEW-E	98-14-021
220-32-05500N	REP-E	98-11-041	220-47-326	REP-P	98-11-086	220-52-04600C	REP-E	98-14-021
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220-32-05500P	NEW-E	98-13-006	220-47-401	AMD-P	98-11-086	220-52-04600D	REP-E	98-14-038
220-32-05500P	REP-E	98-13-006	220-47-401	AMD	98-15-081	220-52-04600D	NEW-E	98-14-038
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220-32-05500Q	REP-E	98-18-047	220-47-410	AMD	98-15-081	220-52-04600E	NEW-E	98-14-064
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220-33-01000B	REP-E	98-16-077	220-47-902	NEW-E	98-18-048	220-52-05000B	NEW-E	98-10-059
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246-847-200	REP	98-05-060	246-915-050	AMD	98-05-060	246-930-431	NEW	98-05-060
246-847-990	AMD	98-05-060	246-915-060	REP	98-05-060	246-930-990	AMD	98-05-060
246-849-110	AMD	98-05-060	246-915-085	AMD	98-05-060	246-930-995	NEW	98-05-060
246-849-210	AMD	98-05-060	246-915-110	AMD	98-05-060	246-933-180	REP	98-05-060
246-849-220	AMD	98-05-060	246-915-990	AMD	98-05-060	246-933-305	AMD	98-05-060
246-849-260	AMD	98-05-060	246-918-006	REP	98-05-060	246-933-420	AMD	98-05-060
246-849-990	AMD	98-05-060	246-918-008	REP	98-09-118	246-933-430	REP	98-05-060
246-849-995	NEW	98-05-060	246-918-009	REP	98-09-118	246-933-470	REP	98-05-060
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246-851-340	REP-XR	98-20-065	246-919-480	AMD	98-05-060	246-976-560	AMD	98-04-038
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246-851-510	REP	98-05-060	246-919-990	AMD	98-05-060	246-976-570	AMD	98-04-038
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246-976-770	AMD-XA	98-14-121	250- 55-070	REP	98-08-009	251- 01-305	AMD	98-19-035
246-976-770	AMD	98-19-107	250- 55-080	REP	98-08-009	251- 01-365	AMD-P	98-15-036
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246-976-780	AMD	98-19-107	250- 55-110	REP	98-08-009	251- 01-410	AMD	98-19-035
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246-976-820	AMD-XA	98-14-121	250- 55-170	REP	98-08-009	251- 04-050	AMD	98-19-035
246-976-820	AMD	98-19-107	250- 55-180	REP	98-08-009	251- 04-060	AMD-P	98-15-036
246-976-822	NEW	98-04-038	250- 55-190	REP	98-08-009	251- 04-060	AMD	98-19-035
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246-976-860	AMD-XA	98-14-121	250- 61-090	AMD-XA	98-08-002	251- 04-160	AMD-P	98-15-036
246-976-860	AMD	98-19-107	250- 61-150	REP	98-08-005	251- 04-160	AMD	98-19-035
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246-976-881	NEW	98-04-038	250- 72-015	AMD-P	98-19-070	251- 04-170	AMD-P	98-15-036
246-976-885	AMD	98-04-038	250- 72-020	AMD-E	98-14-008	251- 04-170	AMD	98-19-035
246-976-890	AMD	98-04-038	250- 72-020	AMD-P	98-19-070	251- 05-010	AMD-P	98-15-036
246-976-935	NEW	98-05-035	250- 72-025	AMD-E	98-14-008	251- 05-010	AMD	98-19-035
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250- 10-130	REP	98-08-006	250- 73-030	REP-E	98-14-007	251- 06-090	AMD	98-19-035
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251-11-120	AMD	98-19-035	251-19-120	AMD-P	98-15-036	255-02-020	NEW-P	98-04-059
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275- 46-065	NEW	98-18-056	284- 19-170	AMD-XA	98-08-097	284- 24-110	NEW	98-20-102
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284-43-250	NEW	98-04-005	284-58-050	REP	98-09-041	288-06-040	NEW	98-17-004
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284-43-320	NEW	98-04-005	284-58-250	AMD-XA	98-08-098	288-06-060	NEW-P	98-14-059
284-43-330	NEW	98-04-005	284-58-250	AMD	98-13-094	288-06-060	NEW	98-17-004
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284-43-420	NEW-W	98-10-082	284-58-270	REP	98-13-094	292-110-010	AMD	98-08-054
284-43-610	NEW-W	98-10-082	284-58-280	REP-XA	98-08-098	292-110-050	NEW	98-03-045
284-43-620	NEW-W	98-10-082	284-58-280	REP	98-13-094	292-110-060	NEW	98-04-001
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284-43-640	NEW-W	98-10-082	284-66	PREP	98-13-088	292-130-020	NEW-P	98-16-006
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284-43-700	NEW	98-04-005	284-74-020	NEW	98-05-069	292-130-040	NEW-P	98-16-006
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284-43-730	NEW	98-04-005	286-04-060	AMD-P	98-04-079	292-130-070	NEW-P	98-16-006
284-43-800	NEW	98-04-005	286-04-060	AMD	98-08-014	292-130-080	NEW-P	98-16-006
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284-43-905	NEW	98-04-011	286-13-030	AMD-P	98-04-079	292-130-100	NEW-P	98-16-006
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284-43-920	NEW	98-04-011	286-13-040	AMD	98-08-014	292-130-130	NEW-P	98-16-006
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296-04A-055	NEW-W	98-07-058	296-08-540	REP-XR	98-08-102	296-17-31011	NEW	98-18-042
296-04A-060	NEW-W	98-07-058	296-08-550	REP-XR	98-08-102	296-17-31012	NEW-P	98-12-079
296-04A-100	NEW-W	98-07-058	296-08-560	REP-XR	98-08-102	296-17-31012	NEW	98-18-042
296-04A-110	NEW-W	98-07-058	296-08-570	REP-XR	98-08-102	296-17-31013	NEW-P	98-12-079
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296-04A-210	NEW-W	98-07-058	296-14-015	REP-P	98-12-079	296-17-31015	NEW	98-18-042
296-04A-230	NEW-W	98-07-058	296-14-015	REP	98-18-042	296-17-31016	NEW-P	98-12-079
296-04A-300	NEW-W	98-07-058	296-14-900	AMD-P	98-13-125	296-17-31016	NEW	98-18-042
296-04A-30001	NEW-W	98-07-058	296-14-900	AMD	98-19-001	296-17-31017	NEW-P	98-12-079
296-04A-330	NEW-W	98-07-058	296-14-910	AMD-P	98-13-125	296-17-31017	NEW	98-18-042
296-04A-340	NEW-W	98-07-058	296-14-910	AMD	98-19-001	296-17-31018	NEW-P	98-12-079
296-04A-350	NEW-W	98-07-058	296-14-920	AMD-P	98-13-125	296-17-31018	NEW	98-18-042
296-04A-351	NEW-W	98-07-058	296-14-920	AMD	98-19-001	296-17-31019	NEW-P	98-12-079
296-04A-360	NEW-W	98-07-058	296-14-930	AMD-P	98-13-125	296-17-31019	NEW	98-18-042
296-04A-370	NEW-W	98-07-058	296-14-930	AMD	98-19-001	296-17-31020	NEW-P	98-12-079
296-04A-380	NEW-W	98-07-058	296-14-940	AMD-P	98-13-125	296-17-31020	NEW	98-18-042
296-04A-390	NEW-W	98-07-058	296-14-940	AMD	98-19-001	296-17-31021	NEW-P	98-12-079
296-04A-400	NEW-W	98-07-058	296-15-001	NEW-P	98-19-148	296-17-31021	NEW	98-18-042
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296-04A-420	NEW-W	98-07-058	296-15-070	REP-P	98-19-148	296-17-31022	NEW	98-18-042
296-04A-430	NEW-W	98-07-058	296-15-072	REP-P	98-19-148	296-17-31023	NEW-P	98-12-079
296-04A-440	NEW-W	98-07-058	296-15-100	REP-P	98-19-148	296-17-31023	NEW	98-18-042
296-04A-460	NEW-W	98-07-058	296-15-160	REP-P	98-19-148	296-17-31024	NEW-P	98-12-079
296-04A-470	NEW-W	98-07-058	296-15-180	REP-P	98-19-148	296-17-31024	NEW	98-18-042
296-04A-480	NEW-W	98-07-058	296-15-190	REP-P	98-19-148	296-17-31025	NEW-P	98-12-079
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296-17-673	AMD	98-18-042	296-17-706	AMD	98-18-042	296-17-738	AMD-P	98-12-079
296-17-675	AMD-P	98-12-079	296-17-707	AMD-P	98-12-079	296-17-738	AMD	98-18-042
296-17-675	AMD	98-18-042	296-17-707	AMD	98-18-042	296-17-739	AMD-P	98-12-079
296-17-676	AMD-P	98-12-079	296-17-708	AMD-P	98-12-079	296-17-739	AMD	98-18-042
296-17-676	AMD	98-18-042	296-17-708	AMD	98-18-042	296-17-740	AMD-P	98-12-079
296-17-67601	AMD-P	98-12-079	296-17-709	AMD-P	98-12-079	296-17-740	AMD	98-18-042
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296-17-741	AMD	98-18-042	296-17-76211	AMD-P	98-12-079	296-24-12507	AMD-P	98-16-100
296-17-742	AMD-P	98-12-079	296-17-76211	AMD	98-18-042	296-24-12509	AMD-P	98-16-100
296-17-742	AMD	98-18-042	296-17-76212	AMD-P	98-12-079	296-24-12511	AMD-P	98-16-100
296-17-743	AMD-P	98-12-079	296-17-76212	AMD	98-18-042	296-24-12513	AMD-P	98-16-100
296-17-743	AMD	98-18-042	296-17-763	AMD-P	98-12-079	296-24-12515	AMD-P	98-16-100
296-17-744	AMD-P	98-12-079	296-17-763	AMD	98-18-042	296-24-12517	AMD-P	98-16-100
296-17-744	AMD	98-18-042	296-17-764	AMD-P	98-12-079	296-24-12519	AMD-P	98-16-100
296-17-745	AMD-P	98-12-079	296-17-764	AMD	98-18-042	296-24-12521	AMD-P	98-16-100
296-17-745	AMD	98-18-042	296-17-765	AMD-P	98-12-079	296-24-12523	AMD-P	98-16-100
296-17-746	AMD-P	98-12-079	296-17-765	AMD	98-18-042	296-24-205	AMD	98-10-073
296-17-746	AMD	98-18-042	296-17-766	AMD-P	98-12-079	296-24-20501	AMD	98-10-073
296-17-747	AMD-P	98-12-079	296-17-766	AMD	98-18-042	296-24-20503	AMD	98-10-073
296-17-747	AMD	98-18-042	296-17-772	AMD-P	98-12-079	296-24-20505	AMD	98-10-073
296-17-748	AMD-P	98-12-079	296-17-772	AMD	98-18-042	296-24-20507	AMD	98-10-073
296-17-748	AMD	98-18-042	296-17-773	AMD-P	98-12-079	296-24-20509	AMD	98-10-073
296-17-749	AMD-P	98-12-079	296-17-773	AMD	98-18-042	296-24-20511	AMD	98-10-073
296-17-749	AMD	98-18-042	296-17-777	AMD-P	98-12-079	296-24-20513	AMD	98-10-073
296-17-750	AMD-P	98-12-079	296-17-777	AMD	98-18-042	296-24-20515	AMD	98-10-073
296-17-750	AMD	98-18-042	296-17-778	AMD-P	98-12-079	296-24-20517	AMD	98-10-073
296-17-751	AMD-P	98-12-079	296-17-778	AMD	98-18-042	296-24-20519	AMD	98-10-073
296-17-751	AMD	98-18-042	296-17-779	AMD-P	98-12-079	296-24-20521	AMD	98-10-073
296-17-752	AMD-P	98-12-079	296-17-779	AMD	98-18-042	296-24-20523	AMD	98-10-073
296-17-752	AMD	98-18-042	296-17-855	AMD-P	98-19-150	296-24-20525	AMD	98-10-073
296-17-753	AMD-P	98-12-079	296-17-870	AMD-P	98-12-079	296-24-20527	AMD	98-10-073
296-17-753	AMD	98-18-042	296-17-870	AMD	98-18-042	296-24-20529	AMD	98-10-073
296-17-75301	AMD-P	98-12-079	296-17-875	AMD-P	98-19-150	296-24-20531	AMD	98-10-073
296-17-75301	AMD	98-18-042	296-17-880	AMD-P	98-19-150	296-24-20533	AMD	98-10-073
296-17-75303	NEW-P	98-12-079	296-17-885	AMD-P	98-19-150	296-24-58503	AMD-P	98-17-078
296-17-75303	NEW	98-18-042	296-17-890	AMD-P	98-19-150	296-24-58505	AMD-P	98-17-078
296-17-754	AMD-P	98-12-079	296-17-895	AMD-P	98-12-079	296-27	PREP	98-12-081
296-17-754	AMD	98-18-042	296-17-895	AMD	98-18-042	296-27-210	NEW-P	98-18-080
296-17-755	AMD-P	98-12-079	296-17-895	AMD-P	98-19-150	296-27-21001	NEW-P	98-18-080
296-17-755	AMD	98-18-042	296-17-89502	AMD-P	98-19-150	296-27-21005	NEW-P	98-18-080
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296-17-756	AMD	98-18-042	296-17-920	AMD-P	98-19-150	296-27-21015	NEW-P	98-18-080
296-17-757	AMD-P	98-12-079	296-20-03004	REP-XR	98-08-101	296-27-21020	NEW-P	98-18-080
296-17-757	AMD	98-18-042	296-20-135	AMD-P	98-05-100	296-27-21025	NEW-P	98-18-080
296-17-758	AMD-P	98-12-079	296-20-135	AMD	98-09-125	296-27-21030	NEW-P	98-18-080
296-17-758	AMD	98-18-042	296-23-220	AMD-P	98-05-100	296-27-21035	NEW-P	98-18-080
296-17-759	AMD-P	98-12-079	296-23-220	AMD	98-09-125	296-27-21040	NEW-P	98-18-080
296-17-759	AMD	98-18-042	296-23-230	AMD-P	98-05-100	296-27-21045	NEW-P	98-18-080
296-17-760	AMD-P	98-12-079	296-23-230	AMD	98-09-125	296-27-21050	NEW-P	98-18-080
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296-17-762	AMD-P	98-12-079	296-24-060	REP	98-06-061	296-31-069	AMD-P	98-19-149
296-17-762	AMD	98-18-042	296-24-061	NEW	98-06-061	296-44-005	REP	98-07-009
296-17-76201	AMD-P	98-12-079	296-24-06105	NEW	98-06-061	296-44-010	REP	98-07-009
296-17-76201	AMD	98-18-042	296-24-06105	AMD-XA	98-20-079	296-44-011	REP	98-07-009
296-17-76202	AMD-P	98-12-079	296-24-06110	NEW	98-06-061	296-44-013	REP	98-07-009
296-17-76202	AMD	98-18-042	296-24-06115	NEW	98-06-061	296-44-015	REP	98-07-009
296-17-76203	AMD-P	98-12-079	296-24-06120	NEW	98-06-061	296-44-016	REP	98-07-009
296-17-76203	AMD	98-18-042	296-24-06125	NEW	98-06-061	296-44-017	REP	98-07-009
296-17-76204	AMD-P	98-12-079	296-24-06130	NEW	98-06-061	296-44-023	REP	98-07-009
296-17-76204	AMD	98-18-042	296-24-06135	NEW	98-06-061	296-44-02301	REP	98-07-009
296-17-76205	AMD-P	98-12-079	296-24-06140	NEW	98-06-061	296-44-02305	REP	98-07-009
296-17-76205	AMD	98-18-042	296-24-06145	NEW	98-06-061	296-44-02309	REP	98-07-009
296-17-76206	AMD-P	98-12-079	296-24-06150	NEW	98-06-061	296-44-02315	REP	98-07-009
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296-17-76207	AMD	98-18-042	296-24-065	REP	98-06-061	296-44-02329	REP	98-07-009
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296-44-04105	REP	98-07-009	296-44-21221	REP	98-07-009	296-44-41321	REP	98-07-009
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296-44-05125	REP	98-07-009	296-44-24205	REP	98-07-009	296-44-440	REP	98-07-009
296-44-05129	REP	98-07-009	296-44-24213	REP	98-07-009	296-44-44009	REP	98-07-009
296-44-05131	REP	98-07-009	296-44-24221	REP	98-07-009	296-44-44021	REP	98-07-009
296-44-05135	REP	98-07-009	296-44-24233	REP	98-07-009	296-44-44033	REP	98-07-009
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296-44-06517	REP	98-07-009	296-44-278	REP	98-07-009	296-44-45231	REP	98-07-009
296-44-074	REP	98-07-009	296-44-27809	REP	98-07-009	296-44-45243	REP	98-07-009
296-44-07405	REP	98-07-009	296-44-27821	REP	98-07-009	296-44-45257	REP	98-07-009
296-44-07411	REP	98-07-009	296-44-27833	REP	98-07-009	296-44-467	REP	98-07-009
296-44-07417	REP	98-07-009	296-44-27847	REP	98-07-009	296-44-46709	REP	98-07-009
296-44-07423	REP	98-07-009	296-44-29501	REP	98-07-009	296-44-46733	REP	98-07-009
296-44-07427	REP	98-07-009	296-44-29509	REP	98-07-009	296-44-46739	REP	98-07-009
296-44-07433	REP	98-07-009	296-44-29515	REP	98-07-009	296-44-46747	REP	98-07-009
296-44-07439	REP	98-07-009	296-44-29523	REP	98-07-009	296-44-46755	REP	98-07-009
296-44-086	REP	98-07-009	296-44-29529	REP	98-07-009	296-44-46761	REP	98-07-009
296-44-08605	REP	98-07-009	296-44-29539	REP	98-07-009	296-44-491	REP	98-07-009
296-44-08611	REP	98-07-009	296-44-29541	REP	98-07-009	296-44-49109	REP	98-07-009
296-44-08619	REP	98-07-009	296-44-29551	REP	98-07-009	296-44-49121	REP	98-07-009
296-44-098	REP	98-07-009	296-44-29563	REP	98-07-009	296-44-850	REP	98-07-009
296-44-09805	REP	98-07-009	296-44-29572	REP	98-07-009	296-44-855	REP	98-07-009
296-44-09811	REP	98-07-009	296-44-317	REP	98-07-009	296-44-860	REP	98-07-009
296-44-09819	REP	98-07-009	296-44-31709	REP	98-07-009	296-44-865	REP	98-07-009
296-44-09826	REP	98-07-009	296-44-31719	REP	98-07-009	296-44-870	REP	98-07-009
296-44-110	REP	98-07-009	296-44-31729	REP	98-07-009	296-44-875	REP	98-07-009
296-44-11005	REP	98-07-009	296-44-31738	REP	98-07-009	296-44-880	REP	98-07-009
296-44-11021	REP	98-07-009	296-44-31749	REP	98-07-009	296-44-88001	REP	98-07-009
296-44-11029	REP	98-07-009	296-44-31757	REP	98-07-009	296-44-88002	REP	98-07-009
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296-44-134	REP	98-07-009	296-44-35009	REP	98-07-009	296-44-88008	REP	98-07-009
296-44-13405	REP	98-07-009	296-44-35021	REP	98-07-009	296-44-88009	REP	98-07-009
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296-44-13431	REP	98-07-009	296-44-36527	REP	98-07-009	296-45	AMD	98-07-009
296-44-170	REP	98-07-009	296-44-36539	REP	98-07-009	296-45-005	NEW	98-07-009
296-44-17005	REP	98-07-009	296-44-36551	REP	98-07-009	296-45-015	NEW	98-07-009
296-44-17017	REP	98-07-009	296-44-36563	REP	98-07-009	296-45-025	NEW	98-07-009
296-44-17029	REP	98-07-009	296-44-36575	REP	98-07-009	296-45-035	NEW	98-07-009
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296-44-19421	REP	98-07-009	296-44-39842	REP	98-07-009	296-45-135	NEW	98-07-009
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296-45-17515	NEW	98-07-009	296-45-65005	REP	98-07-009	296-46-920	AMD	98-12-042
296-45-17520	NEW	98-07-009	296-45-65009	REP	98-07-009	296-46-930	AMD-P	98-07-097
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296-45-205	NEW	98-07-009	296-45-65031	REP	98-07-009	296-56-60009	AMD-P	98-17-079
296-45-215	NEW	98-07-009	296-45-65033	REP	98-07-009	296-56-60011	AMD-P	98-17-079
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296-45-25510	NEW	98-07-009	296-45-65039	REP	98-07-009	296-56-60062	REP-P	98-17-079
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296-45-285	NEW	98-07-009	296-45-65043	REP	98-07-009	296-56-60067	REP-P	98-17-079
296-45-295	NEW	98-07-009	296-45-65045	REP	98-07-009	296-56-60069	REP-P	98-17-079
296-45-305	NEW	98-07-009	296-45-65047	REP	98-07-009	296-56-60073	AMD-P	98-17-079
296-45-315	NEW	98-07-009	296-45-660	REP	98-07-009	296-56-60077	AMD-P	98-17-079
296-45-325	NEW	98-07-009	296-45-66001	REP	98-07-009	296-56-60079	AMD-P	98-17-079
296-45-335	NEW	98-07-009	296-45-66003	REP	98-07-009	296-56-60083	AMD-P	98-17-079
296-45-345	NEW	98-07-009	296-45-66005	REP	98-07-009	296-56-60085	AMD-P	98-17-079
296-45-355	NEW	98-07-009	296-45-66007	REP	98-07-009	296-56-60087	AMD-P	98-17-079
296-45-365	NEW	98-07-009	296-45-66009	REP	98-07-009	296-56-60093	AMD-P	98-17-079
296-45-375	NEW	98-07-009	296-45-66011	REP	98-07-009	296-56-60097	AMD-P	98-17-079
296-45-385	NEW	98-07-009	296-45-67543	AMD-W	98-07-008	296-56-60098	AMD-P	98-17-079
296-45-455	NEW	98-07-009	296-45-680	REP	98-07-009	296-56-60103	AMD-P	98-17-079
296-45-45505	NEW	98-07-009	296-45-690	REP	98-07-009	296-56-60113	AMD-P	98-17-079
296-45-45510	NEW	98-07-009	296-45-695	REP	98-07-009	296-56-60115	AMD-P	98-17-079
296-45-45515	NEW	98-07-009	296-45-700	REP	98-07-009	296-56-60123	AMD-P	98-17-079
296-45-45520	NEW	98-07-009	296-45-900	NEW	98-07-009	296-56-60211	AMD-P	98-17-079
296-45-45525	NEW	98-07-009	296-45-901	NEW	98-07-009	296-56-60217	AMD-P	98-17-079
296-45-45530	NEW	98-07-009	296-45-903	NEW	98-07-009	296-61-010	REP-XR	98-19-057
296-45-465	NEW	98-07-009	296-45-905	NEW	98-07-009	296-61-020	REP-XR	98-19-057
296-45-475	NEW	98-07-009	296-46	PREP	98-13-123	296-61-030	REP-XR	98-19-057
296-45-485	NEW	98-07-009	296-46-100	NEW-P	98-07-097	296-61-040	REP-XR	98-19-057
296-45-48505	NEW	98-07-009	296-46-100	NEW	98-12-042	296-61-050	REP-XR	98-19-057
296-45-48510	NEW	98-07-009	296-46-140	AMD-P	98-07-097	296-61-060	REP-XR	98-19-057
296-45-48515	NEW	98-07-009	296-46-140	AMD	98-12-042	296-61-070	REP-XR	98-19-057
296-45-48520	NEW	98-07-009	296-46-155	NEW-P	98-07-097	296-61-080	REP-XR	98-19-057
296-45-48525	NEW	98-07-009	296-46-155	NEW	98-12-042	296-61-090	REP-XR	98-19-057
296-45-48530	NEW	98-07-009	296-46-21052	AMD-P	98-07-097	296-61-100	REP-XR	98-19-057
296-45-48535	NEW	98-07-009	296-46-21052	AMD	98-12-042	296-61-110	REP-XR	98-19-057
296-45-48540	NEW	98-07-009	296-46-225	AMD-P	98-07-097	296-61-120	REP-XR	98-19-057
296-45-48545	NEW	98-07-009	296-46-225	AMD	98-12-042	296-61-130	REP-XR	98-19-057
296-45-48550	NEW	98-07-009	296-46-23028	AMD-P	98-07-097	296-61-140	REP-XR	98-19-057
296-45-48555	NEW	98-07-009	296-46-23028	AMD	98-12-042	296-61-150	REP-XR	98-19-057
296-45-48560	NEW	98-07-009	296-46-30001	AMD-P	98-07-097	296-61-160	REP-XR	98-19-057
296-45-525	NEW	98-07-009	296-46-30001	AMD	98-12-042	296-61-170	REP-XR	98-19-057
296-45-52505	NEW	98-07-009	296-46-348	AMD-P	98-07-097	296-61-180	REP-XR	98-19-057
296-45-52510	NEW	98-07-009	296-46-348	AMD	98-12-042	296-61-190	REP-XR	98-19-057
296-45-52515	NEW	98-07-009	296-46-495	AMD-P	98-07-097	296-61-200	REP-XR	98-19-057
296-45-52520	NEW	98-07-009	296-46-495	AMD	98-12-042	296-61-210	REP-XR	98-19-057
296-45-52525	NEW	98-07-009	296-46-50002	NEW-P	98-07-097	296-61-220	REP-XR	98-19-057
296-45-52530	NEW	98-07-009	296-46-50002	NEW	98-12-042	296-61-230	REP-XR	98-19-057
296-45-52535	NEW	98-07-009	296-46-770	AMD-P	98-07-097	296-61-240	REP-XR	98-19-057
296-45-52540	NEW	98-07-009	296-46-770	AMD	98-12-042	296-61-250	REP-XR	98-19-057
296-45-52545	NEW	98-07-009	296-46-910	AMD-P	98-07-097	296-61-260	REP-XR	98-19-057
296-45-52550	NEW	98-07-009	296-46-910	AMD	98-12-042	296-61-270	REP-XR	98-19-057
296-45-545	NEW	98-07-009	296-46-910	AMD-XA	98-18-101	296-61-280	REP-XR	98-19-057
296-45-60013	REP	98-07-009	296-46-915	AMD-P	98-07-097	296-61-290	REP-XR	98-19-057

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-61-300	REP-XR	98-19-057	296-87	PREP	98-13-124	296-125-0275	NEW-P	98-20-093
296-61-310	REP-XR	98-19-057	296-89	PREP	98-13-124	296-125-028	REP-P	98-20-093
296-61-320	REP-XR	98-19-057	296-91	PREP	98-13-124	296-125-0280	NEW-P	98-20-093
296-62	PREP	98-08-104	296-93A	PREP	98-13-124	296-125-0285	NEW-P	98-20-093
296-62	PREP	98-12-082	296-94	PREP	98-13-124	296-125-0287	NEW-P	98-20-093
296-62	PREP	98-12-084	296-95	PREP	98-13-124	296-125-050	REP-P	98-20-093
296-62-07477	AMD-P	98-05-061	296-100	PREP	98-13-124	296-125-060	REP-P	98-20-093
296-62-07477	AMD	98-10-029	296-104	PREP	98-09-065	296-125-0600	NEW-P	98-20-093
296-62-07515	AMD-P	98-05-061	296-104-010	AMD-P	98-16-079	296-125-0610	NEW-P	98-20-093
296-62-07515	AMD-E	98-10-028	296-104-017	NEW-P	98-16-079	296-125-0611	NEW-P	98-20-093
296-62-07515	AMD	98-10-029	296-104-100	AMD-P	98-16-079	296-125-0620	NEW-P	98-20-093
296-65	PREP	98-08-104	296-104-102	AMD-P	98-16-079	296-125-0630	NEW-P	98-20-093
296-78	PREP	98-08-104	296-104-180	NEW-P	98-16-079	296-125-0640	NEW-P	98-20-093
296-81	PREP	98-02-080	296-104-200	AMD-P	98-16-079	296-125-0650	NEW-P	98-20-093
296-81	PREP	98-13-124	296-104-265	AMD-P	98-16-079	296-125-0651	NEW-P	98-20-093
296-81-007	AMD-P	98-07-094	296-104-307	NEW-P	98-16-079	296-125-0660	NEW-P	98-20-093
296-81-007	AMD	98-12-043	296-104-310	AMD-P	98-16-079	296-125-0670	NEW-P	98-20-093
296-82	PREP	98-13-124	296-104-405	AMD-P	98-16-079	296-125-070	REP-P	98-20-093
296-84	PREP	98-13-124	296-104-502	AMD-P	98-16-079	296-125-0700	NEW-P	98-20-093
296-85	PREP	98-13-124	296-104-510	AMD-P	98-16-079	296-125-0710	NEW-P	98-20-093
296-86-010	REP-P	98-07-094	296-104-515	AMD-P	98-16-079	296-125-0720	NEW-P	98-20-093
296-86-010	REP	98-12-043	296-104-520	AMD-P	98-16-079	296-125-0721	NEW-P	98-20-093
296-86-020	REP-P	98-07-094	296-104-525	REP-P	98-16-079	296-125-0722	NEW-P	98-20-093
296-86-020	REP	98-12-043	296-104-530	AMD-P	98-16-079	296-125-0723	NEW-P	98-20-093
296-86-030	REP-P	98-07-094	296-104-535	NEW-P	98-16-079	296-125-0725	NEW-P	98-20-093
296-86-030	REP	98-12-043	296-104-540	NEW-P	98-16-079	296-125-0730	NEW-P	98-20-093
296-86-040	REP-P	98-07-094	296-104-600	REP-P	98-16-079	296-125-0740	NEW-P	98-20-093
296-86-040	REP	98-12-043	296-104-700	AMD-P	98-04-017	296-125-0741	NEW-P	98-20-093
296-86-050	REP-P	98-07-094	296-104-700	AMD	98-09-064	296-125-0750	NEW-P	98-20-093
296-86-050	REP	98-12-043	296-104-800	REP-P	98-16-079	296-125-0760	NEW-P	98-20-093
296-86-060	REP-P	98-07-094	296-104-801	REP-P	98-16-079	296-125-0770	NEW-P	98-20-093
296-86-060	REP	98-12-043	296-104-805	REP-P	98-16-079	296-125-0771	NEW-P	98-20-093
296-86-070	REP-P	98-07-094	296-124-010	REP-XR	98-07-093	296-125-0772	NEW-P	98-20-093
296-86-070	REP	98-12-043	296-124-010	REP	98-14-042	296-126-098	REP-XR	98-08-103
296-86-075	REP-P	98-07-094	296-124-020	REP-XR	98-07-093	296-126-098	REP	98-14-041
296-86-075	REP	98-12-043	296-124-020	REP	98-14-042	296-150C-0020	AMD-P	98-07-095
296-86-080	REP-P	98-07-094	296-124-021	REP-XR	98-07-093	296-150C-0020	AMD	98-14-078
296-86-080	REP	98-12-043	296-124-021	REP	98-14-042	296-150C-0310	AMD-P	98-07-095
296-86-090	REP-P	98-07-094	296-124-022	REP-XR	98-07-093	296-150C-0310	AMD	98-14-078
296-86-090	REP	98-12-043	296-124-022	REP	98-14-042	296-150C-0320	AMD-P	98-07-095
296-86A	PREP	98-13-124	296-124-040	REP-XR	98-07-093	296-150C-0320	AMD	98-14-078
296-86A-010	NEW-P	98-07-094	296-124-040	REP	98-14-042	296-150C-0410	AMD-P	98-07-095
296-86A-010	NEW	98-12-043	296-124-050	REP-XR	98-07-093	296-150C-0410	AMD	98-14-078
296-86A-020	NEW-P	98-07-094	296-124-050	REP	98-14-042	296-150C-0460	AMD-P	98-07-095
296-86A-020	NEW	98-12-043	296-125	PREP	98-02-079	296-150C-0460	AMD	98-14-078
296-86A-025	NEW-P	98-07-094	296-125-020	REP-P	98-20-093	296-150C-0500	AMD-P	98-07-095
296-86A-025	NEW	98-12-043	296-125-0200	NEW-P	98-20-093	296-150C-0500	AMD	98-14-078
296-86A-028	NEW-P	98-07-094	296-125-0210	NEW-P	98-20-093	296-150C-0560	AMD-P	98-07-095
296-86A-028	NEW	98-12-043	296-125-0211	NEW-P	98-20-093	296-150C-0560	AMD	98-14-078
296-86A-030	NEW-P	98-07-094	296-125-0212	NEW-P	98-20-093	296-150C-0800	AMD-P	98-07-095
296-86A-030	NEW	98-12-043	296-125-0220	NEW-P	98-20-093	296-150C-0800	AMD	98-14-078
296-86A-040	NEW-P	98-07-094	296-125-0221	NEW-P	98-20-093	296-150C-0820	AMD-P	98-07-095
296-86A-040	NEW	98-12-043	296-125-0222	NEW-P	98-20-093	296-150C-0820	AMD	98-14-078
296-86A-060	NEW-P	98-07-094	296-125-0223	NEW-P	98-20-093	296-150C-0960	AMD-P	98-07-095
296-86A-060	NEW	98-12-043	296-125-0224	NEW-P	98-20-093	296-150C-0960	AMD	98-14-078
296-86A-065	NEW-P	98-07-094	296-125-0230	NEW-P	98-20-093	296-150C-0980	REP-P	98-07-095
296-86A-065	NEW	98-12-043	296-125-0231	NEW-P	98-20-093	296-150C-0980	REP	98-14-078
296-86A-070	NEW-P	98-07-094	296-125-026	REP-P	98-20-093	296-150C-1080	AMD-P	98-07-095
296-86A-070	NEW	98-12-043	296-125-0260	NEW-P	98-20-093	296-150C-1080	AMD	98-14-078
296-86A-073	NEW-P	98-07-094	296-125-0261	NEW-P	98-20-093	296-150C-1170	AMD-P	98-07-095
296-86A-073	NEW	98-12-043	296-125-0262	NEW-P	98-20-093	296-150C-1170	AMD	98-14-078
296-86A-074	NEW-P	98-07-094	296-125-0263	NEW-P	98-20-093	296-150C-1303	NEW-P	98-07-095
296-86A-074	NEW	98-12-043	296-125-0264	NEW-P	98-20-093	296-150C-1303	NEW	98-14-078
296-86A-075	NEW-P	98-07-094	296-125-0265	NEW-P	98-20-093	296-150C-1580	AMD-P	98-07-095
296-86A-075	NEW	98-12-043	296-125-0266	NEW-P	98-20-093	296-150C-1580	AMD	98-14-078
296-86A-080	NEW-P	98-07-094	296-125-0267	NEW-P	98-20-093	296-150C-1590	AMD-P	98-07-095
296-86A-080	NEW	98-12-043	296-125-0268	NEW-P	98-20-093	296-150C-1590	AMD	98-14-078

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296-150C-1600	AMD	98-14-078	296-150M-0700	REP-P	98-07-095	296-155-730	AMD	98-05-046
296-150C-1720	AMD-P	98-07-095	296-150M-0700	REP	98-14-078	296-200A-900	AMD-P	98-07-096
296-150C-1720	AMD	98-14-078	296-150M-0710	REP-P	98-07-095	296-200A-900	AMD	98-12-041
296-150C-1730	AMD-P	98-07-095	296-150M-0710	REP	98-14-078	296-301-020	AMD	98-10-073
296-150C-1730	AMD	98-14-078	296-150M-0720	REP-XR	98-14-077	296-305	PREP	98-11-075
296-150C-1740	AMD-P	98-07-095	296-150M-0720	REP	98-18-036	296-305-01003	AMD-P	98-17-078
296-150C-1740	AMD	98-14-078	296-150M-0730	REP-P	98-07-095	296-305-01005	AMD-P	98-17-078
296-150C-1750	NEW-P	98-07-095	296-150M-0730	REP	98-14-078	296-305-01509	AMD-P	98-17-078
296-150C-1750	NEW	98-14-078	296-150M-3000	AMD-P	98-07-096	296-305-02001	AMD-P	98-17-078
296-150C-1751	NEW-P	98-07-095	296-150M-3000	AMD	98-12-041	296-305-02003	AMD-P	98-17-078
296-150C-1751	NEW	98-14-078	296-150P-3000	AMD-P	98-07-096	296-305-02007	AMD-P	98-17-078
296-150C-1752	NEW-P	98-07-095	296-150P-3000	AMD	98-12-041	296-305-02013	AMD-P	98-17-078
296-150C-1752	NEW	98-14-078	296-150R-3000	AMD-P	98-07-096	296-305-02015	AMD-P	98-17-078
296-150C-1753	NEW-P	98-07-095	296-150R-3000	AMD	98-12-041	296-305-04001	AMD-P	98-17-078
296-150C-1753	NEW	98-14-078	296-155	PREP	98-08-104	296-305-04501	AMD-P	98-17-078
296-150C-1754	NEW-P	98-07-095	296-155-229	NEW-P	98-05-073	296-305-04503	AMD-P	98-17-078
296-150C-1754	NEW	98-14-078	296-155-229	NEW	98-13-069	296-305-05001	AMD-P	98-17-078
296-150C-1755	NEW-P	98-07-095	296-155-229	DECOD	98-16-067	296-305-05007	AMD-P	98-17-078
296-150C-1755	NEW	98-14-078	296-155-24525	AMD	98-05-046	296-305-05009	AMD-P	98-17-078
296-150C-1756	NEW-P	98-07-095	296-155-329	RECOD	98-16-067	296-305-06005	AMD-P	98-17-078
296-150C-1756	NEW	98-14-078	296-155-330	AMD-P	98-05-073	296-305-06007	AMD-P	98-17-078
296-150C-1757	NEW-P	98-07-095	296-155-330	AMD	98-13-069	296-307	PREP	98-04-094
296-150C-1757	NEW	98-14-078	296-155-481	AMD	98-05-046	296-307	PREP	98-10-035
296-150C-1758	NEW-P	98-07-095	296-155-482	NEW	98-05-046	296-307-003	AMD-P	98-16-100
296-150C-1758	NEW	98-14-078	296-155-483	AMD	98-05-046	296-307-006	AMD-P	98-16-100
296-150C-1759	NEW-P	98-07-095	296-155-484	NEW	98-05-046	296-307-009	AMD-P	98-16-100
296-150C-1759	NEW	98-14-078	296-155-485	AMD	98-05-046	296-307-015	AMD-P	98-16-100
296-150C-1760	NEW-P	98-07-095	296-155-48503	REP	98-05-046	296-307-018	AMD-P	98-16-100
296-150C-1760	NEW	98-14-078	296-155-48504	REP	98-05-046	296-307-024	AMD-P	98-16-100
296-150C-3000	AMD-P	98-07-096	296-155-48505	REP	98-05-046	296-307-030	AMD-P	98-16-100
296-150C-3000	AMD	98-12-041	296-155-48506	REP	98-05-046	296-307-05507	AMD-P	98-16-100
296-150F-0020	AMD-P	98-07-095	296-155-48507	REP	98-05-046	296-307-061	AMD-P	98-16-100
296-150F-0020	AMD	98-14-078	296-155-48508	REP	98-05-046	296-307-07013	AMD-P	98-16-100
296-150F-0130	NEW-P	98-07-095	296-155-48509	REP	98-05-046	296-307-076	AMD-P	98-16-100
296-150F-0130	NEW	98-14-078	296-155-48510	REP	98-05-046	296-307-08003	AMD-P	98-16-100
296-150F-0200	AMD-P	98-07-095	296-155-48511	REP	98-05-046	296-307-08009	AMD-P	98-16-100
296-150F-0200	AMD	98-14-078	296-155-48512	REP	98-05-046	296-307-08012	AMD-P	98-16-100
296-150F-0210	AMD-P	98-07-095	296-155-48513	REP	98-05-046	296-307-08018	AMD-P	98-16-100
296-150F-0210	AMD	98-14-078	296-155-48514	REP	98-05-046	296-307-08021	AMD-P	98-16-100
296-150F-0460	AMD-P	98-07-095	296-155-48515	REP	98-05-046	296-307-085	AMD-P	98-16-100
296-150F-0460	AMD	98-14-078	296-155-48516	REP	98-05-046	296-307-09503	AMD-P	98-16-100
296-150F-0500	AMD-P	98-07-095	296-155-48517	REP	98-05-046	296-307-09506	AMD-P	98-16-100
296-150F-0500	AMD	98-14-078	296-155-48518	REP	98-05-046	296-307-09509	AMD-P	98-16-100
296-150F-3000	AMD-P	98-07-096	296-155-48519	REP	98-05-046	296-307-107	AMD-P	98-16-100
296-150F-3000	AMD	98-12-041	296-155-48523	REP	98-05-046	296-307-11005	AMD-P	98-16-100
296-150M-0020	AMD-P	98-07-095	296-155-48525	REP	98-05-046	296-307-11010	AMD-P	98-16-100
296-150M-0020	AMD	98-14-078	296-155-48527	REP	98-05-046	296-307-120	AMD-P	98-16-100
296-150M-0306	NEW-P	98-07-095	296-155-48529	REP	98-05-046	296-307-12010	AMD-P	98-16-100
296-150M-0306	NEW	98-14-078	296-155-48531	REP	98-05-046	296-307-12015	AMD-P	98-16-100
296-150M-0307	NEW-P	98-07-095	296-155-48533	REP	98-05-046	296-307-12020	AMD-P	98-16-100
296-150M-0307	NEW	98-14-078	296-155-48536	REP	98-05-046	296-307-12025	AMD-P	98-16-100
296-150M-0310	AMD-P	98-07-095	296-155-487	NEW	98-05-046	296-307-12030	AMD-P	98-16-100
296-150M-0310	AMD	98-14-078	296-155-488	NEW	98-05-046	296-307-12040	AMD-P	98-16-100
296-150M-0331	NEW-P	98-07-095	296-155-489	NEW	98-05-046	296-307-12050	AMD-P	98-16-100
296-150M-0331	NEW	98-14-078	296-155-490	NEW	98-05-046	296-307-130	AMD-P	98-16-100
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296-150M-0400	AMD	98-14-078	296-155-494	NEW	98-05-046	296-307-13015	AMD-P	98-16-100
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308-56A-335	PREP	98-16-071	308-72-560	AMD-P	98-18-059	308-93-074	PREP	98-03-026
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356-15-060	AMD	98-03-052	356-42-020	AMD-P	98-15-035	365-110	PREP	98-09-096
356-15-060	AMD-P	98-06-062	356-42-020	AMD	98-19-034	365-110-010	AMD-P	98-14-069
356-15-060	AMD	98-09-066	356-42-055	AMD-P	98-15-035	365-110-035	AMD-P	98-14-069
356-15-125	AMD-P	98-15-035	356-42-055	AMD	98-19-034	372-32-010	REP-XR	98-08-060
356-15-125	AMD	98-19-034	356-42-080	AMD-P	98-15-035	372-32-010	REP	98-13-050
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356-15-130	AMD	98-19-034	356-42-082	AMD-P	98-15-035	381-10-120	AMD-W	98-11-071
356-18-050	AMD-P	98-15-035	356-42-082	AMD	98-19-034	381-10-120	AMD-XA	98-11-072
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356-22-220	AMD	98-19-034	356-42-086	AMD	98-19-034	381-20-050	AMD-XA	98-11-072
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356-22-230	AMD	98-19-034	356-42-088	AMD	98-19-034	381-20-090	AMD-XA	98-09-047
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356-26-110	AMD-C	98-13-059	356-42-105	AMD	98-19-034	381-20-100	AMD-XA	98-11-072
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356-30-260	AMD	98-19-034	356-49-010	AMD-P	98-15-035	381-40-140	AMD	98-09-045
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356-37-010	AMD	98-19-034	356-56-010	AMD-C	98-20-034	388-14-045	PREP	98-12-106
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388-14-570	NEW	98-17-031	388-15-310	REP	98-02-058	388-49-180	REP-P	98-11-084
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388-15-170	AMD-E	98-14-035	388-15-610	AMD-E	98-09-042	388-49-200	REP	98-16-044
388-15-171	NEW-P	98-14-034	388-15-610	PREP	98-11-032	388-49-210	REP-P	98-11-084
388-15-171	NEW-E	98-14-035	388-15-610	AMD-P	98-15-138	388-49-210	REP	98-16-044
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388-15-19600	NEW-P	98-14-062	388-15-890	AMD-E	98-09-042	388-49-280	REP	98-16-044
388-15-19600	NEW	98-18-037	388-15-890	PREP	98-11-031	388-49-290	REP-P	98-11-084
388-15-19610	NEW-P	98-14-062	388-15-890	PREP	98-11-032	388-49-290	REP	98-16-044
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388-15-19620	NEW-P	98-14-062	388-15-890	AMD-E	98-17-030	388-49-300	REP	98-16-044
388-15-19620	NEW	98-18-037	388-15-890	AMD	98-19-055	388-49-310	REP-P	98-11-084
388-15-19630	NEW-P	98-14-062	388-15-895	NEW	98-04-026	388-49-310	REP	98-16-044
388-15-19630	NEW	98-18-037	388-15-895	AMD-E	98-09-042	388-49-320	REP-P	98-11-084
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388-15-19660	NEW	98-18-037	388-31	PREP	98-06-088	388-49-350	REP-P	98-11-084
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388-49-368	REP	98-16-044	388-49-580	REP	98-16-044	388-76-59120	NEW	98-12-054
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388-49-510	REP	98-16-044	388-73-012	AMD-P	98-20-042	388-76-640	AMD-W	98-08-091
388-49-515	REP-P	98-11-084	388-73-101	NEW-P	98-20-042	388-76-655	AMD-S	98-02-077
388-49-515	REP	98-16-044	388-73-104	AMD-P	98-20-042	388-76-655	AMD	98-11-095
388-49-520	REP-P	98-11-084	388-76-540	AMD-S	98-02-077	388-76-660	AMD-S	98-02-077
388-49-520	REP	98-16-044	388-76-540	AMD	98-11-095	388-76-660	AMD	98-11-095
388-49-535	REP-P	98-11-084	388-76-550	AMD-S	98-02-077	388-76-665	AMD-S	98-02-077
388-49-535	REP	98-16-044	388-76-550	AMD	98-11-095	388-76-665	AMD	98-11-095
388-49-550	AMD-P	98-04-039	388-76-560	AMD-S	98-02-077	388-76-670	AMD-S	98-02-077
388-49-550	AMD-E	98-04-040	388-76-560	AMD	98-11-095	388-76-670	AMD	98-11-095
388-49-550	AMD	98-10-025	388-76-561	NEW-S	98-04-032	388-76-675	AMD-S	98-02-077
388-49-550	REP-P	98-11-084	388-76-561	NEW-W	98-17-072	388-76-675	AMD	98-11-095
388-49-550	REP	98-16-044	388-76-570	AMD-S	98-02-077	388-76-680	AMD-S	98-02-077
388-49-560	REP-P	98-04-039	388-76-570	AMD	98-11-095	388-76-680	AMD	98-11-095
388-49-560	REP-E	98-04-040	388-76-590	AMD-S	98-04-032	388-76-685	AMD-S	98-02-077
388-49-560	AMD	98-10-025	388-76-590	AMD-W	98-08-091	388-76-685	AMD	98-11-095
388-49-560	REP-P	98-11-084	388-76-590	AMD	98-12-054	388-76-690	AMD-S	98-02-077
388-49-560	REP	98-16-044	388-76-59000	NEW	98-12-054	388-76-690	AMD	98-11-095
388-49-570	REP-P	98-04-039	388-76-59010	NEW	98-12-054	388-76-695	AMD-S	98-02-077
388-49-570	REP-E	98-04-040	388-76-59020	NEW	98-12-054	388-76-695	AMD	98-11-095
388-49-570	AMD	98-10-025	388-76-59050	NEW	98-12-054	388-76-705	AMD-S	98-02-077
388-49-570	REP-P	98-11-084	388-76-59060	NEW	98-12-054	388-76-705	AMD	98-11-095
388-49-570	REP	98-16-044	388-76-59070	NEW	98-12-054	388-76-765	AMD-W	98-08-091
388-49-580	REP-P	98-04-039	388-76-59080	NEW	98-12-054	388-78A-010	RECOD	98-20-021

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388-78A-030	RECOD	98-20-021	388-96	AMD-P	98-15-141	388-96-507	REP	98-20-023
388-78A-040	RECOD	98-20-021	388-96	AMD	98-20-023	388-96-508	REP-P	98-15-141
388-78A-045	RECOD	98-20-021	388-96-010	AMD-P	98-15-141	388-96-508	REP	98-20-023
388-78A-050	RECOD	98-20-021	388-96-010	AMD	98-20-023	388-96-509	REP-P	98-15-141
388-78A-055	RECOD	98-20-021	388-96-020	AMD-P	98-15-141	388-96-509	REP	98-20-023
388-78A-060	RECOD	98-20-021	388-96-020	AMD	98-20-023	388-96-513	REP-P	98-15-141
388-78A-070	RECOD	98-20-021	388-96-023	REP-P	98-15-141	388-96-513	REP	98-20-023
388-78A-080	RECOD	98-20-021	388-96-023	REP	98-20-023	388-96-521	REP-P	98-15-141
388-78A-090	RECOD	98-20-021	388-96-026	AMD-P	98-15-141	388-96-521	REP	98-20-023
388-78A-100	RECOD	98-20-021	388-96-026	AMD	98-20-023	388-96-523	REP-P	98-15-141
388-78A-110	RECOD	98-20-021	388-96-029	REP-P	98-15-141	388-96-523	REP	98-20-023
388-78A-120	RECOD	98-20-021	388-96-029	REP	98-20-023	388-96-525	AMD-P	98-15-141
388-78A-130	RECOD	98-20-021	388-96-032	REP-P	98-15-141	388-96-525	AMD	98-20-023
388-78A-140	RECOD	98-20-021	388-96-032	REP	98-20-023	388-96-529	REP-P	98-15-141
388-78A-150	RECOD	98-20-021	388-96-101	REP-P	98-15-141	388-96-529	REP	98-20-023
388-78A-160	RECOD	98-20-021	388-96-101	REP	98-20-023	388-96-530	NEW-P	98-15-141
388-78A-170	RECOD	98-20-021	388-96-104	REP-P	98-15-141	388-96-530	NEW	98-20-023
388-78A-180	RECOD	98-20-021	388-96-104	REP	98-20-023	388-96-531	REP-P	98-15-141
388-78A-190	RECOD	98-20-021	388-96-108	AMD-P	98-15-141	388-96-531	REP	98-20-023
388-78A-200	RECOD	98-20-021	388-96-108	AMD	98-20-023	388-96-532	NEW-P	98-15-141
388-78A-210	RECOD	98-20-021	388-96-110	REP-P	98-15-141	388-96-532	NEW	98-20-023
388-78A-220	RECOD	98-20-021	388-96-110	REP	98-20-023	388-96-533	REP-P	98-15-141
388-78A-230	RECOD	98-20-021	388-96-113	REP-P	98-15-141	388-96-533	REP	98-20-023
388-78A-240	RECOD	98-20-021	388-96-113	REP	98-20-023	388-96-535	AMD-P	98-15-141
388-78A-250	RECOD	98-20-021	388-96-119	AMD-P	98-15-141	388-96-535	AMD	98-20-023
388-78A-260	RECOD	98-20-021	388-96-119	AMD	98-20-023	388-96-536	NEW-P	98-15-141
388-78A-265	RECOD	98-20-021	388-96-122	AMD-P	98-15-141	388-96-536	NEW	98-20-023
388-78A-268	RECOD	98-20-021	388-96-122	AMD	98-20-023	388-96-540	NEW-P	98-15-141
388-78A-280	RECOD	98-20-021	388-96-128	REP-P	98-15-141	388-96-540	NEW	98-20-023
388-78A-290	RECOD	98-20-021	388-96-128	REP	98-20-023	388-96-542	NEW-P	98-15-141
388-78A-300	RECOD	98-20-021	388-96-131	REP-P	98-15-141	388-96-542	NEW	98-20-023
388-78A-310	RECOD	98-20-021	388-96-131	REP	98-20-023	388-96-543	REP-P	98-15-141
388-78A-320	RECOD	98-20-021	388-96-134	REP-P	98-15-141	388-96-543	REP	98-20-023
388-78A-330	RECOD	98-20-021	388-96-134	REP	98-20-023	388-96-555	REP-P	98-15-141
388-78A-335	RECOD	98-20-021	388-96-202	NEW-P	98-15-141	388-96-555	REP	98-20-023
388-78A-340	RECOD	98-20-021	388-96-202	NEW	98-20-023	388-96-557	REP-P	98-15-141
388-78A-990	RECOD	98-20-021	388-96-204	REP-P	98-15-141	388-96-557	REP	98-20-023
388-78A-990	AMD-P	98-20-097	388-96-204	REP	98-20-023	388-96-567	REP-P	98-15-141
388-79	NEW-C	98-05-053	388-96-207	REP-P	98-15-141	388-96-567	REP	98-20-023
388-79-010	NEW-P	98-03-085	388-96-207	REP	98-20-023	388-96-569	REP-P	98-15-141
388-79-010	NEW	98-10-055	388-96-210	REP-P	98-15-141	388-96-569	REP	98-20-023
388-79-020	NEW-P	98-03-085	388-96-210	REP	98-20-023	388-96-571	REP-P	98-15-141
388-79-020	NEW	98-10-055	388-96-213	REP-P	98-15-141	388-96-571	REP	98-20-023
388-79-030	NEW-P	98-03-085	388-96-213	REP	98-20-023	388-96-573	REP-P	98-15-141
388-79-030	NEW	98-10-055	388-96-218	NEW-P	98-15-141	388-96-573	REP	98-20-023
388-79-040	NEW-P	98-03-085	388-96-218	NEW	98-20-023	388-96-580	AMD-P	98-15-141
388-79-040	NEW	98-10-055	388-96-220	REP-P	98-15-141	388-96-580	AMD	98-20-023
388-86	PREP	98-10-106	388-96-220	REP	98-20-023	388-96-585	AMD-P	98-15-141
388-86-005	AMD-P	98-15-140	388-96-221	REP-P	98-15-141	388-96-585	AMD	98-20-023
388-86-005	AMD	98-18-079	388-96-221	REP	98-20-023	388-96-704	AMD-P	98-15-141
388-86-015	REP-P	98-13-082	388-96-224	REP-P	98-15-141	388-96-704	AMD	98-20-023
388-86-015	REP	98-16-050	388-96-224	REP	98-20-023	388-96-708	AMD-P	98-15-141
388-86-024	PREP	98-15-112	388-96-226	REP-P	98-15-141	388-96-708	AMD	98-20-023
388-86-027	AMD-P	98-11-084	388-96-226	REP	98-20-023	388-96-709	AMD-P	98-15-141
388-86-027	AMD	98-16-044	388-96-228	REP-P	98-15-141	388-96-709	AMD	98-20-023
388-86-045	PREP	98-13-086	388-96-228	REP	98-20-023	388-96-710	AMD-P	98-15-141
388-86-080	REP-P	98-13-082	388-96-229	REP-P	98-15-141	388-96-710	AMD	98-20-023
388-86-080	REP	98-16-050	388-96-229	REP	98-20-023	388-96-713	AMD-P	98-15-141
388-86-095	REP-P	98-13-082	388-96-501	REP-P	98-15-141	388-96-713	AMD	98-20-023
388-86-095	REP-W	98-15-101	388-96-501	REP	98-20-023	388-96-716	REP-P	98-15-141
388-86-100	AMD-P	98-19-014	388-96-502	AMD-P	98-15-141	388-96-716	REP	98-20-023
388-86-110	REP-P	98-19-014	388-96-502	AMD	98-20-023	388-96-717	REP-P	98-15-141
388-86-200	AMD-P	98-19-014	388-96-503	REP-P	98-15-141	388-96-717	REP	98-20-023
388-87	PREP	98-10-106	388-96-503	REP	98-20-023	388-96-718	NEW-E	98-11-094
388-87	PREP	98-13-086	388-96-505	AMD-P	98-15-141	388-96-718	NEW-P	98-15-103

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388-96-718	NEW	98-19-062	388-96-801	REP-P	98-15-141	388-210-1250	REP-P	98-11-084
388-96-719	REP-P	98-15-141	388-96-801	REP	98-20-023	388-210-1250	REP	98-16-044
388-96-719	REP	98-20-023	388-96-804	REP-P	98-15-141	388-210-1300	REP-P	98-11-084
388-96-722	REP-P	98-15-141	388-96-804	REP	98-20-023	388-210-1300	REP	98-16-044
388-96-722	REP	98-20-023	388-96-807	REP-P	98-15-141	388-210-1310	REP-P	98-11-084
388-96-723	NEW-P	98-15-141	388-96-807	REP	98-20-023	388-210-1310	REP	98-16-044
388-96-723	NEW	98-20-023	388-96-810	REP-P	98-15-141	388-210-1320	REP-P	98-11-084
388-96-724	NEW-P	98-15-141	388-96-810	REP	98-20-023	388-210-1320	REP	98-16-044
388-96-724	NEW	98-20-023	388-96-813	REP-P	98-15-141	388-210-1330	REP-P	98-11-084
388-96-725	NEW-P	98-15-141	388-96-813	REP	98-20-023	388-210-1330	REP	98-16-044
388-96-725	NEW	98-20-023	388-96-816	REP-P	98-15-141	388-210-1340	REP-P	98-11-084
388-96-726	NEW-P	98-15-141	388-96-816	REP	98-20-023	388-210-1340	REP	98-16-044
388-96-726	NEW	98-20-023	388-96-901	AMD-P	98-15-141	388-210-1350	REP-P	98-11-084
388-96-727	REP-P	98-15-141	388-96-901	AMD	98-20-023	388-210-1350	REP	98-16-044
388-96-727	REP	98-20-023	388-96-904	AMD-P	98-15-141	388-210-1400	REP-P	98-11-084
388-96-728	NEW-P	98-15-141	388-96-904	AMD	98-20-023	388-210-1400	REP	98-16-044
388-96-728	NEW	98-20-023	388-96-905	NEW-P	98-15-141	388-210-1410	REP-P	98-11-084
388-96-729	NEW-P	98-15-141	388-96-905	NEW	98-20-023	388-210-1410	REP	98-16-044
388-96-729	NEW	98-20-023	388-97	PREP	98-06-089	388-210-1420	REP-P	98-11-084
388-96-735	REP-P	98-15-141	388-97-235	AMD-W	98-13-077	388-210-1420	REP	98-16-044
388-96-735	REP	98-20-023	388-150-010	AMD-P	98-20-098	388-212-1000	REP-P	98-11-084
388-96-737	REP-P	98-15-141	388-150-180	PREP	98-02-057	388-212-1000	REP	98-16-044
388-96-737	REP	98-20-023	388-150-180	AMD-P	98-20-098	388-212-1050	REP-P	98-11-084
388-96-738	NEW-P	98-15-141	388-150-190	PREP	98-02-057	388-212-1050	REP	98-16-044
388-96-738	NEW	98-20-023	388-150-200	PREP	98-02-057	388-212-1100	REP-P	98-11-084
388-96-739	NEW-P	98-15-141	388-150-200	AMD-P	98-20-098	388-212-1100	REP	98-16-044
388-96-739	NEW	98-20-023	388-150-470	PREP	98-02-057	388-212-1140	REP-P	98-11-084
388-96-740	NEW-P	98-15-141	388-150-470	AMD-P	98-20-098	388-212-1140	REP	98-16-044
388-96-740	NEW	98-20-023	388-151	PREP	98-10-104	388-212-1150	REP-P	98-11-084
388-96-741	NEW-P	98-15-141	388-151-010	AMD-P	98-20-098	388-212-1150	REP	98-16-044
388-96-741	NEW	98-20-023	388-151-180	PREP	98-02-057	388-212-1200	REP-P	98-11-084
388-96-742	NEW-P	98-15-141	388-151-180	AMD-P	98-20-098	388-212-1200	REP	98-16-044
388-96-742	NEW	98-20-023	388-151-190	PREP	98-02-057	388-212-1250	REP-P	98-11-084
388-96-744	NEW-P	98-15-141	388-151-190	AMD-P	98-20-098	388-212-1250	REP	98-16-044
388-96-744	NEW	98-20-023	388-151-200	PREP	98-02-057	388-215-1000	REP-P	98-11-084
388-96-745	REP-P	98-15-141	388-151-200	AMD-P	98-20-098	388-215-1000	REP	98-16-044
388-96-745	REP	98-20-023	388-151-470	PREP	98-02-057	388-215-1010	REP-P	98-11-084
388-96-746	NEW-P	98-15-141	388-151-470	AMD-P	98-20-098	388-215-1010	REP	98-16-044
388-96-746	NEW	98-20-023	388-155-010	AMD-P	98-20-098	388-215-1025	REP-P	98-11-084
388-96-747	NEW-P	98-15-141	388-155-180	PREP	98-02-057	388-215-1025	REP	98-16-044
388-96-747	NEW	98-20-023	388-155-180	AMD-P	98-20-098	388-215-1050	REP-P	98-11-084
388-96-752	REP-P	98-15-141	388-155-190	PREP	98-02-057	388-215-1050	REP	98-16-044
388-96-752	REP	98-20-023	388-155-200	PREP	98-02-057	388-215-1060	REP-P	98-11-084
388-96-754	REP-P	98-15-141	388-155-200	AMD-P	98-20-098	388-215-1060	REP	98-16-044
388-96-754	REP	98-20-023	388-155-470	PREP	98-02-057	388-215-1070	REP-P	98-11-084
388-96-757	AMD-P	98-15-141	388-155-470	AMD-P	98-20-098	388-215-1070	REP	98-16-044
388-96-757	AMD	98-20-023	388-160	PREP	98-08-084	388-215-1080	REP-P	98-11-084
388-96-760	AMD-P	98-15-141	388-200-1100	REP-P	98-11-084	388-215-1080	REP	98-16-044
388-96-760	AMD	98-20-023	388-200-1100	REP	98-16-044	388-215-1100	REP-P	98-11-084
388-96-761	REP-P	98-15-141	388-200-1150	REP-P	98-11-084	388-215-1100	REP	98-16-044
388-96-761	REP	98-20-023	388-200-1150	REP	98-16-044	388-215-1110	REP-P	98-11-084
388-96-763	REP-P	98-15-141	388-210-1000	REP-P	98-11-084	388-215-1110	REP	98-16-044
388-96-763	REP	98-20-023	388-210-1000	REP	98-16-044	388-215-1115	REP-P	98-11-084
388-96-764	REP-P	98-15-141	388-210-1010	REP-P	98-11-084	388-215-1115	REP	98-16-044
388-96-764	REP	98-20-023	388-210-1010	REP	98-16-044	388-215-1120	REP-P	98-11-084
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388-96-765	REP	98-20-023	388-210-1020	REP	98-16-044	388-215-1130	REP-P	98-11-084
388-96-768	REP-P	98-15-141	388-210-1050	REP-P	98-11-084	388-215-1130	REP	98-16-044
388-96-768	REP	98-20-023	388-210-1050	REP	98-16-044	388-215-1140	REP-P	98-11-084
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388-96-769	REP	98-20-023	388-210-1100	REP	98-16-044	388-215-1150	REP-P	98-11-084
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388-96-774	REP	98-20-023	388-210-1200	REP	98-16-044	388-215-1160	REP-P	98-11-084
388-96-776	AMD-P	98-15-141	388-210-1220	REP-P	98-11-084	388-215-1160	REP	98-16-044
388-96-776	AMD	98-20-023	388-210-1220	REP	98-16-044	388-215-1170	REP-P	98-11-084
388-96-778	REP-P	98-15-141	388-210-1230	REP-P	98-11-084	388-215-1170	REP	98-16-044



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388-218-1530	REP-P	98-11-084	388-219-1600	REP	98-16-044	388-233-0010	REP-P	98-11-084
388-218-1530	REP	98-16-044	388-219-1700	REP-P	98-11-084	388-233-0010	REP	98-16-044
388-218-1540	REP-P	98-11-084	388-219-1700	REP	98-16-044	388-233-0020	REP-P	98-11-084
388-218-1540	REP	98-16-044	388-219-2000	REP-P	98-11-084	388-233-0020	REP	98-16-044
388-218-1600	REP-P	98-11-084	388-219-2000	REP	98-16-044	388-233-0030	REP-P	98-11-084
388-218-1600	REP	98-16-044	388-219-2500	REP-P	98-11-084	388-233-0030	REP	98-16-044
388-218-1605	REP-P	98-11-084	388-219-2500	REP	98-16-044	388-233-0035	NEW-E	98-14-086
388-218-1605	REP	98-16-044	388-219-2600	REP-P	98-11-084	388-233-0040	REP-P	98-11-084
388-218-1610	REP-P	98-11-084	388-219-2600	REP	98-16-044	388-233-0040	REP	98-16-044
388-218-1610	REP	98-16-044	388-219-3000	REP-P	98-11-084	388-233-0050	REP-P	98-11-084
388-218-1620	REP-P	98-11-084	388-219-3000	REP	98-16-044	388-233-0050	REP	98-16-044
388-218-1620	REP	98-16-044	388-219-3500	REP-P	98-11-084	388-233-0060	REP-P	98-11-084
388-218-1630	REP-P	98-11-084	388-219-3500	REP	98-16-044	388-233-0060	REP	98-16-044
388-218-1630	REP	98-16-044	388-220-0001	REP-P	98-11-084	388-233-0070	REP-P	98-11-084
388-218-1640	REP-P	98-11-084	388-220-0001	REP	98-16-044	388-233-0070	REP	98-16-044
388-218-1640	REP	98-16-044	388-220-0030	REP-P	98-11-084	388-233-0080	REP-P	98-11-084
388-218-1650	REP-P	98-11-084	388-220-0030	REP	98-16-044	388-233-0080	REP	98-16-044
388-218-1650	REP	98-16-044	388-220-0050	NEW	98-08-036	388-233-0090	REP-P	98-11-084
388-218-1660	REP-P	98-11-084	388-220-0050	REP-P	98-11-084	388-233-0090	REP	98-16-044
388-218-1660	REP	98-16-044	388-220-0050	REP	98-16-044	388-233-0100	REP-P	98-11-084
388-218-1670	REP-P	98-11-084	388-225-0010	REP-P	98-11-084	388-233-0100	REP	98-16-044
388-218-1670	REP	98-16-044	388-225-0010	REP	98-16-044	388-235	PREP	98-07-038
388-218-1680	REP-P	98-11-084	388-225-0020	REP-P	98-11-084	388-235-0010	REP-P	98-11-084
388-218-1680	REP	98-16-044	388-225-0020	REP	98-16-044	388-235-0010	REP	98-16-044
388-218-1690	REP-P	98-11-084	388-225-0050	REP-P	98-11-084	388-235-0020	REP-P	98-11-084
388-218-1690	REP	98-16-044	388-225-0050	REP	98-16-044	388-235-0020	REP	98-16-044
388-218-1695	REP-P	98-11-084	388-225-0060	REP-P	98-11-084	388-235-0030	REP-P	98-11-084
388-218-1695	REP	98-16-044	388-225-0060	REP	98-16-044	388-235-0030	AMD-E	98-14-086
388-218-1700	REP-P	98-03-084	388-225-0070	REP-P	98-11-084	388-235-0030	REP	98-16-044
388-218-1700	REP	98-06-056	388-225-0070	REP	98-16-044	388-235-0040	REP-P	98-11-084
388-218-1710	REP-P	98-11-084	388-225-0080	REP-P	98-11-084	388-235-0040	REP	98-16-044
388-218-1710	REP	98-16-044	388-225-0080	REP	98-16-044	388-235-0050	REP-P	98-11-084
388-218-1720	REP-P	98-11-084	388-225-0090	REP-P	98-11-084	388-235-0050	REP	98-16-044
388-218-1720	REP	98-16-044	388-225-0090	REP	98-16-044	388-235-0060	REP-P	98-11-084
388-218-1735	REP-P	98-11-084	388-225-0100	REP-P	98-11-084	388-235-0060	REP	98-16-044
388-218-1735	REP	98-16-044	388-225-0100	REP	98-16-044	388-235-0070	REP-P	98-11-084
388-218-1740	REP-P	98-11-084	388-225-0120	REP-P	98-11-084	388-235-0070	REP	98-16-044
388-218-1740	REP	98-16-044	388-225-0120	REP	98-16-044	388-235-0080	REP-P	98-11-084
388-218-1800	REP-P	98-03-084	388-225-0150	REP-P	98-11-084	388-235-0080	REP	98-16-044
388-218-1800	REP	98-06-056	388-225-0150	REP	98-16-044	388-235-0090	REP-P	98-11-084
388-218-1810	REP-P	98-11-084	388-225-0160	REP-P	98-11-084	388-235-0090	REP	98-16-044
388-218-1810	REP	98-16-044	388-225-0160	REP	98-16-044	388-235-0100	REP-P	98-11-084
388-218-1820	REP-P	98-11-084	388-225-0170	REP-P	98-11-084	388-235-0100	REP	98-16-044
388-218-1820	REP	98-16-044	388-225-0170	REP	98-16-044	388-235-0110	REP-P	98-11-084
388-218-1830	REP-P	98-11-084	388-225-0180	REP-P	98-11-084	388-235-0110	REP	98-16-044
388-218-1830	REP	98-16-044	388-225-0180	REP	98-16-044	388-235-2000	REP-P	98-11-084
388-218-1900	REP-P	98-11-084	388-225-0190	REP-P	98-11-084	388-235-2000	REP	98-16-044
388-218-1900	REP	98-16-044	388-225-0190	REP	98-16-044	388-235-3000	REP-P	98-11-084
388-218-1910	REP-P	98-11-084	388-230-0010	REP-P	98-11-084	388-235-3000	REP	98-16-044
388-218-1910	REP	98-16-044	388-230-0010	REP	98-16-044	388-235-4000	REP-P	98-11-084
388-218-1920	REP-P	98-11-084	388-230-0030	REP-P	98-11-084	388-235-4000	REP	98-16-044
388-218-1920	REP	98-16-044	388-230-0030	REP	98-16-044	388-245-1000	REP-P	98-11-084
388-218-1930	REP-P	98-11-084	388-230-0050	REP-P	98-11-084	388-245-1000	REP	98-16-044
388-218-1930	REP	98-16-044	388-230-0050	REP	98-16-044	388-245-1150	AMD	98-04-015
388-218-1940	REP-P	98-03-084	388-230-0060	REP-P	98-11-084	388-245-1150	REP-P	98-11-084
388-218-1940	REP	98-06-056	388-230-0060	AMD-E	98-14-086	388-245-1150	REP	98-16-044
388-219-0100	REP-P	98-11-084	388-230-0060	REP	98-16-044	388-245-1160	REP-P	98-11-084
388-219-0100	REP	98-16-044	388-230-0080	REP-P	98-11-084	388-245-1160	REP	98-16-044
388-219-0200	REP-P	98-11-084	388-230-0080	REP	98-16-044	388-245-1170	REP-P	98-11-084
388-219-0200	REP	98-16-044	388-230-0090	REP-P	98-11-084	388-245-1170	REP	98-16-044
388-219-1000	REP-P	98-11-084	388-230-0090	REP	98-16-044	388-245-1210	REP-P	98-11-084
388-219-1000	REP	98-16-044	388-230-0110	REP-P	98-11-084	388-245-1210	REP	98-16-044
388-219-1100	REP-P	98-11-084	388-230-0110	REP	98-16-044	388-245-1300	REP-P	98-11-084
388-219-1100	REP	98-16-044	388-230-0120	REP-P	98-11-084	388-245-1300	REP	98-16-044
388-219-1500	REP-P	98-11-084	388-230-0120	REP	98-16-044	388-245-1310	REP-P	98-11-084
388-219-1500	REP	98-16-044	388-230-0140	REP-P	98-11-084	388-245-1310	REP	98-16-044

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-245-1315	REP-P	98-11-084	388-250-1450	REP	98-16-044	388-270-1125	REP	98-16-044
388-245-1315	REP	98-16-044	388-250-1500	REP-P	98-11-084	388-270-1150	REP-P	98-11-084
388-245-1320	REP-P	98-11-084	388-250-1500	REP	98-16-044	388-270-1150	REP	98-16-044
388-245-1320	REP	98-16-044	388-250-1550	REP-P	98-11-084	388-270-1200	REP-P	98-11-084
388-245-1350	REP-P	98-11-084	388-250-1550	REP	98-16-044	388-270-1200	REP	98-16-044
388-245-1350	REP	98-16-044	388-250-1600	REP-P	98-11-084	388-270-1250	REP-P	98-11-084
388-245-1400	REP-P	98-11-084	388-250-1600	REP	98-16-044	388-270-1250	REP	98-16-044
388-245-1400	REP	98-16-044	388-250-1650	REP-P	98-11-084	388-270-1300	REP-P	98-11-084
388-245-1410	REP-P	98-11-084	388-250-1650	REP	98-16-044	388-270-1300	REP	98-16-044
388-245-1410	REP	98-16-044	388-250-1700	AMD	98-06-057	388-270-1400	REP-P	98-11-084
388-245-1500	REP-P	98-11-084	388-250-1700	REP-P	98-11-084	388-270-1400	REP	98-16-044
388-245-1500	REP	98-16-044	388-250-1700	REP	98-16-044	388-270-1500	REP-P	98-11-084
388-245-1510	AMD	98-04-016	388-250-1750	REP-P	98-11-084	388-270-1500	REP	98-16-044
388-245-1510	REP-P	98-11-084	388-250-1750	REP	98-16-044	388-270-1550	REP-P	98-11-084
388-245-1510	REP	98-16-044	388-255-1350	REP-P	98-11-084	388-270-1550	REP	98-16-044
388-245-1520	REP-P	98-11-084	388-255-1350	REP	98-16-044	388-270-1600	REP-P	98-11-084
388-245-1520	REP	98-16-044	388-255-1400	REP-P	98-11-084	388-270-1600	REP	98-16-044
388-245-1600	REP-P	98-11-084	388-255-1400	REP	98-16-044	388-275	PREP	98-07-036
388-245-1600	REP	98-16-044	388-265	PREP	98-07-099	388-275-0020	REP-P	98-11-084
388-245-1610	REP-P	98-11-084	388-265-1010	REP-P	98-11-084	388-275-0020	REP	98-16-044
388-245-1610	REP	98-16-044	388-265-1010	REP	98-16-044	388-275-0030	REP-P	98-11-084
388-245-1700	REP-P	98-11-084	388-265-1050	REP-P	98-11-084	388-275-0030	REP	98-16-044
388-245-1700	REP	98-16-044	388-265-1050	REP	98-16-044	388-275-0050	REP-P	98-11-084
388-245-1710	REP-P	98-11-084	388-265-1100	REP-P	98-11-084	388-275-0050	REP	98-16-044
388-245-1710	REP	98-16-044	388-265-1100	REP	98-16-044	388-275-0060	REP-P	98-11-084
388-245-1715	REP-P	98-11-084	388-265-1150	AMD-P	98-11-074	388-275-0060	REP	98-16-044
388-245-1715	REP	98-16-044	388-265-1155	NEW-P	98-11-074	388-275-0070	REP-P	98-11-084
388-245-1720	REP-P	98-11-084	388-265-1200	AMD-P	98-11-074	388-275-0070	REP	98-16-044
388-245-1720	REP	98-16-044	388-265-1250	AMD-P	98-11-074	388-275-0090	REP-P	98-11-084
388-245-1730	REP-P	98-11-084	388-265-1275	AMD-P	98-11-074	388-275-0090	REP	98-16-044
388-245-1730	REP	98-16-044	388-265-1300	AMD-P	98-11-074	388-280	PREP	98-07-037
388-245-1740	REP-P	98-11-084	388-265-1375	NEW-P	98-11-074	388-290	PREP	98-08-075
388-245-1740	REP	98-16-044	388-265-1400	REP-P	98-11-074	388-290	PREP	98-20-096
388-245-2010	REP-P	98-11-084	388-265-1450	AMD-P	98-11-074	388-290-010	AMD-P	98-03-083
388-245-2010	REP	98-16-044	388-265-1500	AMD-P	98-11-074	388-290-010	AMD	98-08-021
388-245-2020	REP-P	98-11-084	388-265-1500	AMD-W	98-16-038	388-290-010	AMD-P	98-17-080
388-245-2020	REP	98-16-044	388-265-1550	REP-P	98-11-074	388-290-010	AMD-E	98-18-078
388-245-2030	REP-P	98-11-084	388-265-1550	REP-P	98-11-084	388-290-020	AMD-P	98-03-083
388-245-2030	REP	98-16-044	388-265-1550	REP-W	98-16-038	388-290-020	AMD	98-08-021
388-245-2040	REP-P	98-11-084	388-265-1550	REP	98-16-044	388-290-025	AMD-P	98-03-083
388-245-2040	REP	98-16-044	388-265-1600	AMD-P	98-11-074	388-290-025	AMD	98-08-021
388-245-2050	REP-P	98-11-084	388-265-1700	REP-P	98-11-074	388-290-035	AMD-P	98-03-083
388-245-2050	REP	98-16-044	388-265-1700	REP-P	98-11-084	388-290-035	AMD	98-08-021
388-250-1010	REP-P	98-11-084	388-265-1700	REP	98-16-044	388-290-050	AMD-P	98-03-083
388-250-1010	REP	98-16-044	388-265-1800	REP-P	98-11-084	388-290-050	AMD	98-08-021
388-250-1050	REP-P	98-11-084	388-265-1800	REP	98-16-044	388-290-055	PREP	98-08-075
388-250-1050	REP	98-16-044	388-265-1850	REP-P	98-11-084	388-290-055	AMD-E	98-16-026
388-250-1100	REP-P	98-11-084	388-265-1850	REP	98-16-044	388-290-055	RESCIND	98-16-040
388-250-1100	REP	98-16-044	388-265-1900	REP-P	98-11-084	388-290-055	AMD-E	98-16-093
388-250-1150	REP-P	98-11-084	388-265-1900	REP	98-16-044	388-290-055	AMD-P	98-17-080
388-250-1150	REP	98-16-044	388-265-1950	REP-P	98-11-084	388-290-090	AMD-P	98-03-083
388-250-1200	REP-P	98-11-084	388-265-1950	REP	98-16-044	388-290-090	AMD	98-08-021
388-250-1200	REP	98-16-044	388-265-2000	REP-P	98-11-084	388-290-090	PREP	98-08-075
388-250-1225	REP-P	98-11-084	388-265-2000	REP	98-16-044	388-310	PREP	98-19-124
388-250-1225	REP	98-16-044	388-270-1005	REP-P	98-11-084	388-310-0400	AMD-P	98-15-139
388-250-1250	AMD	98-08-037	388-270-1005	REP	98-16-044	388-310-0500	AMD-P	98-15-139
388-250-1250	REP-P	98-11-084	388-270-1010	REP-P	98-11-084	388-310-1000	AMD-P	98-15-139
388-250-1250	REP	98-16-044	388-270-1010	REP	98-16-044	388-310-1050	NEW-P	98-15-139
388-250-1300	REP-P	98-11-084	388-270-1025	REP-P	98-11-084	388-310-1300	NEW-S	98-03-080
388-250-1300	REP	98-16-044	388-270-1025	REP	98-16-044	388-310-1300	NEW-S	98-07-042
388-250-1310	REP-P	98-11-084	388-270-1075	REP-P	98-11-084	388-310-1300	NEW	98-10-054
388-250-1310	REP	98-16-044	388-270-1075	REP	98-16-044	388-310-1600	AMD-P	98-15-139
388-250-1350	REP-P	98-11-084	388-270-1100	REP-P	98-11-084	388-320-340	REP-P	98-08-076
388-250-1350	REP	98-16-044	388-270-1100	REP	98-16-044	388-320-340	REP	98-11-034
388-250-1400	REP-P	98-11-084	388-270-1110	REP-P	98-11-084	388-400-0005	NEW-P	98-11-084
388-250-1400	REP	98-16-044	388-270-1110	REP	98-16-044	388-400-0005	NEW	98-16-044
388-250-1450	REP-P	98-11-084	388-270-1125	REP-P	98-11-084	388-400-0010	NEW-P	98-11-084

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388-400-0010	NEW	98-16-044	388-408-0055	NEW-P	98-11-084	388-422-0005	NEW-P	98-11-084
388-400-0015	NEW-P	98-11-084	388-408-0055	NEW	98-16-044	388-422-0005	NEW	98-16-044
388-400-0015	NEW	98-16-044	388-410-0001	NEW-P	98-11-084	388-422-0010	NEW-P	98-11-084
388-400-0020	NEW-P	98-11-084	388-410-0001	NEW	98-16-044	388-422-0010	NEW	98-16-044
388-400-0020	NEW	98-16-044	388-410-0005	NEW-P	98-11-084	388-422-0020	NEW-P	98-11-084
388-400-0025	NEW-P	98-11-084	388-410-0005	NEW	98-16-044	388-422-0020	NEW	98-16-044
388-400-0025	NEW	98-16-044	388-410-0010	NEW-P	98-11-084	388-422-0030	NEW-P	98-11-084
388-400-0030	NEW-P	98-11-084	388-410-0010	NEW	98-16-044	388-422-0030	NEW	98-16-044
388-400-0030	NEW	98-16-044	388-410-0015	NEW-P	98-11-084	388-424-0005	NEW-P	98-11-084
388-400-0035	NEW-P	98-11-084	388-410-0015	NEW	98-16-044	388-424-0005	NEW	98-16-044
388-400-0035	NEW	98-16-044	388-410-0020	NEW-P	98-11-084	388-424-0010	NEW-P	98-11-084
388-400-0040	NEW-P	98-11-084	388-410-0020	NEW	98-16-044	388-424-0010	NEW	98-16-044
388-400-0040	NEW	98-16-044	388-410-0025	NEW-P	98-11-084	388-424-0015	NEW-P	98-11-084
388-400-0045	NEW-P	98-13-080	388-410-0025	NEW	98-16-044	388-424-0015	NEW	98-16-044
388-400-0045	NEW	98-16-044	388-410-0030	NEW-P	98-11-084	388-424-0020	NEW-P	98-11-084
388-404-0005	NEW-P	98-11-084	388-410-0030	NEW	98-16-044	388-424-0020	NEW	98-16-044
388-404-0005	NEW	98-16-044	388-410-0035	NEW-P	98-11-084	388-424-0025	NEW-P	98-11-084
388-404-0010	NEW-P	98-11-084	388-410-0035	NEW	98-16-044	388-424-0025	NEW	98-16-044
388-404-0010	NEW	98-16-044	388-410-0040	NEW-P	98-11-084	388-426-0005	NEW-P	98-11-084
388-404-0015	NEW-P	98-11-084	388-410-0040	NEW	98-16-044	388-426-0005	NEW	98-16-044
388-404-0015	NEW	98-16-044	388-412	PREP	98-16-089	388-428-0005	NEW-P	98-11-084
388-406-0005	NEW-P	98-11-084	388-412-0005	NEW-P	98-11-084	388-428-0005	NEW-W	98-15-113
388-406-0005	NEW	98-16-044	388-412-0005	NEW	98-16-044	388-428-0010	NEW-P	98-11-084
388-406-0010	NEW-P	98-11-084	388-412-0010	NEW-P	98-11-084	388-428-0010	NEW	98-16-044
388-406-0010	NEW	98-16-044	388-412-0010	NEW	98-16-044	388-430-0001	NEW-P	98-11-084
388-406-0015	NEW-P	98-11-084	388-412-0015	NEW-P	98-11-084	388-430-0001	NEW	98-16-044
388-406-0015	NEW	98-16-044	388-412-0015	NEW	98-16-044	388-430-0005	NEW-P	98-11-084
388-406-0020	NEW-P	98-11-084	388-412-0020	NEW-P	98-11-084	388-430-0005	NEW	98-16-044
388-406-0020	NEW	98-16-044	388-412-0020	NEW	98-16-044	388-430-0010	NEW-P	98-11-084
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388-406-0025	NEW	98-16-044	388-412-0025	NEW	98-16-044	388-430-0015	NEW-P	98-11-084
388-406-0030	NEW-P	98-11-084	388-412-0030	NEW-P	98-11-084	388-430-0015	NEW	98-16-044
388-406-0030	NEW	98-16-044	388-412-0030	NEW	98-16-044	388-430-0020	NEW-P	98-11-084
388-406-0035	NEW-P	98-11-084	388-412-0035	NEW-P	98-11-084	388-430-0020	NEW	98-16-044
388-406-0035	NEW	98-16-044	388-412-0035	NEW	98-16-044	388-430-0025	NEW-P	98-11-084
388-406-0040	NEW-P	98-11-084	388-412-0040	NEW-P	98-11-084	388-430-0025	NEW	98-16-044
388-406-0040	NEW	98-16-044	388-412-0040	NEW	98-16-044	388-434-0005	NEW-P	98-11-084
388-406-0045	NEW-P	98-11-084	388-414-0001	NEW-P	98-11-084	388-434-0005	NEW	98-16-044
388-406-0045	NEW	98-16-044	388-414-0001	NEW	98-16-044	388-434-0010	NEW-P	98-11-084
388-406-0050	NEW-P	98-11-084	388-416-0005	NEW-P	98-11-084	388-434-0010	NEW	98-16-044
388-406-0050	NEW	98-16-044	388-416-0005	NEW	98-16-044	388-436-0001	NEW-P	98-11-084
388-406-0055	NEW-P	98-11-084	388-416-0010	NEW-P	98-11-084	388-436-0001	NEW	98-16-044
388-406-0055	NEW	98-16-044	388-416-0010	NEW	98-16-044	388-436-0005	NEW-P	98-11-084
388-406-0060	NEW-P	98-11-084	388-416-0015	NEW-P	98-11-084	388-436-0005	NEW	98-16-044
388-406-0060	NEW	98-16-044	388-416-0015	NEW	98-16-044	388-436-0010	NEW-P	98-11-084
388-406-0065	NEW-P	98-11-084	388-416-0020	NEW-P	98-11-084	388-436-0010	NEW	98-16-044
388-406-0065	NEW	98-16-044	388-416-0020	NEW	98-16-044	388-436-0015	NEW-P	98-11-084
388-408-0005	NEW-P	98-11-084	388-416-0025	NEW-P	98-11-084	388-436-0015	NEW	98-16-044
388-408-0005	NEW	98-16-044	388-416-0025	NEW	98-16-044	388-436-0020	NEW-P	98-11-084
388-408-0010	NEW-P	98-11-084	388-416-0030	NEW-P	98-11-084	388-436-0020	NEW	98-16-044
388-408-0010	NEW	98-16-044	388-416-0030	NEW	98-16-044	388-436-0025	NEW-P	98-11-084
388-408-0015	NEW-P	98-11-084	388-416-0035	NEW-P	98-11-084	388-436-0025	NEW	98-16-044
388-408-0015	NEW	98-16-044	388-416-0035	NEW	98-16-044	388-436-0030	NEW-P	98-11-084
388-408-0020	NEW-P	98-11-084	388-418-0005	NEW-P	98-11-084	388-436-0030	NEW	98-16-044
388-408-0020	NEW	98-16-044	388-418-0005	NEW	98-16-044	388-436-0035	NEW-P	98-11-084
388-408-0025	NEW-P	98-11-084	388-418-0010	NEW-P	98-11-084	388-436-0035	NEW	98-16-044
388-408-0025	NEW	98-16-044	388-418-0010	NEW	98-16-044	388-436-0040	NEW-P	98-11-084
388-408-0030	NEW-P	98-11-084	388-418-0015	NEW-P	98-11-084	388-436-0040	NEW	98-16-044
388-408-0030	NEW	98-16-044	388-418-0015	NEW	98-16-044	388-436-0045	NEW-P	98-11-084
388-408-0035	NEW-P	98-11-084	388-418-0020	NEW-P	98-11-084	388-436-0045	NEW	98-16-044
388-408-0035	NEW	98-16-044	388-418-0020	NEW	98-16-044	388-436-0050	NEW-P	98-11-084
388-408-0040	NEW-P	98-11-084	388-418-0025	NEW-P	98-11-084	388-436-0050	NEW-W	98-13-054
388-408-0040	NEW	98-16-044	388-418-0025	NEW	98-16-044	388-436-0050	NEW-P	98-13-080
388-408-0045	NEW-P	98-11-084	388-418-0030	NEW-P	98-11-084	388-436-0050	NEW	98-16-044
388-408-0045	NEW	98-16-044	388-418-0030	NEW	98-16-044	388-437-0001	NEW-P	98-11-084
388-408-0050	NEW-P	98-11-084	388-420-010	NEW-P	98-11-084	388-437-0001	NEW	98-16-044
388-408-0050	NEW	98-16-044	388-420-010	NEW	98-16-044	388-438-0100	NEW-P	98-11-084

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-438-0100	NEW	98-16-044	388-450-0040	NEW-P	98-11-084	388-450-0200	NEW	98-16-044
388-438-0110	NEW-P	98-11-084	388-450-0040	NEW	98-16-044	388-450-0205	NEW-P	98-11-084
388-438-0110	NEW	98-16-044	388-450-0045	NEW-P	98-11-084	388-450-0205	NEW	98-16-044
388-440-0001	NEW-P	98-11-084	388-450-0045	NEW	98-16-044	388-450-0210	NEW-P	98-11-084
388-440-0001	NEW	98-16-044	388-450-0050	NEW-P	98-11-084	388-450-0210	NEW	98-16-044
388-440-0005	NEW-P	98-11-084	388-450-0050	NEW	98-16-044	388-450-0215	NEW-P	98-11-084
388-440-0005	NEW	98-16-044	388-450-0055	NEW-P	98-11-084	388-450-0215	NEW	98-16-044
388-442-0010	NEW-P	98-11-084	388-450-0055	NEW	98-16-044	388-450-0220	NEW-P	98-11-084
388-442-0010	NEW	98-16-044	388-450-0060	NEW-P	98-11-084	388-450-0220	NEW	98-16-044
388-444-0005	NEW-P	98-11-084	388-450-0060	NEW	98-16-044	388-450-0225	NEW-P	98-11-084
388-444-0005	NEW	98-16-044	388-450-0065	NEW-P	98-11-084	388-450-0225	NEW	98-16-044
388-444-0010	NEW-P	98-11-084	388-450-0065	NEW	98-16-044	388-450-0230	NEW-P	98-11-084
388-444-0010	NEW	98-16-044	388-450-0070	NEW-P	98-11-084	388-450-0230	NEW	98-16-044
388-444-0015	NEW-P	98-11-084	388-450-0070	NEW	98-16-044	388-450-0235	NEW-P	98-11-084
388-444-0015	NEW	98-16-044	388-450-0075	NEW-P	98-11-084	388-450-0235	NEW	98-16-044
388-444-0020	NEW-P	98-11-084	388-450-0075	NEW	98-16-044	388-450-0240	NEW-P	98-11-084
388-444-0020	NEW	98-16-044	388-450-0080	NEW-P	98-11-084	388-450-0240	NEW	98-16-044
388-444-0025	NEW	98-16-044	388-450-0080	NEW	98-16-044	388-450-0245	NEW-P	98-11-084
388-444-0030	NEW-P	98-11-084	388-450-0085	NEW-P	98-11-084	388-450-0245	NEW	98-16-044
388-444-0030	NEW	98-16-044	388-450-0085	NEW	98-16-044	388-450-0250	NEW-P	98-11-084
388-444-0035	NEW-P	98-11-084	388-450-0090	NEW-P	98-11-084	388-450-0250	NEW	98-16-044
388-444-0035	NEW	98-16-044	388-450-0090	NEW	98-16-044	388-452-0005	NEW-P	98-11-084
388-444-0040	NEW-P	98-11-084	388-450-0095	NEW-P	98-11-084	388-452-0005	NEW	98-16-044
388-444-0040	NEW	98-16-044	388-450-0095	NEW	98-16-044	388-452-0010	NEW-P	98-11-084
388-444-0045	NEW-P	98-11-084	388-450-0100	NEW-P	98-11-084	388-452-0010	NEW	98-16-044
388-444-0045	NEW	98-16-044	388-450-0100	NEW	98-16-044	388-454-0005	NEW-P	98-11-084
388-444-0050	NEW-P	98-11-084	388-450-0105	NEW-P	98-11-084	388-454-0005	NEW	98-16-044
388-444-0050	NEW	98-16-044	388-450-0105	NEW	98-16-044	388-454-0010	NEW-P	98-11-084
388-444-0055	NEW-P	98-11-084	388-450-0106	NEW-XA	98-19-126	388-454-0010	NEW	98-16-044
388-444-0055	NEW	98-16-044	388-450-0110	NEW-P	98-11-084	388-454-0015	NEW-P	98-11-084
388-444-0060	NEW-P	98-11-084	388-450-0110	NEW	98-16-044	388-454-0015	NEW	98-16-044
388-444-0060	NEW	98-16-044	388-450-0115	NEW-P	98-11-084	388-454-0020	NEW-P	98-11-084
388-444-0065	NEW-P	98-11-084	388-450-0115	NEW	98-16-044	388-454-0020	NEW	98-16-044
388-444-0065	NEW	98-16-044	388-450-0116	NEW-XA	98-19-126	388-454-0025	NEW-P	98-11-084
388-444-0070	NEW-P	98-11-084	388-450-0120	NEW-P	98-11-084	388-454-0025	NEW	98-16-044
388-444-0070	NEW	98-16-044	388-450-0120	NEW	98-16-044	388-456-0001	NEW-P	98-11-084
388-444-0075	NEW-P	98-11-084	388-450-0125	NEW-P	98-11-084	388-456-0001	NEW	98-16-044
388-444-0075	NEW	98-16-044	388-450-0125	NEW	98-16-044	388-456-0005	NEW-P	98-11-084
388-444-0080	NEW-P	98-11-084	388-450-0130	NEW-P	98-11-084	388-456-0005	NEW	98-16-044
388-446-0001	NEW-P	98-11-084	388-450-0130	NEW	98-16-044	388-456-0010	NEW-P	98-11-084
388-446-0001	NEW	98-16-044	388-450-0135	NEW-P	98-11-084	388-456-0010	NEW	98-16-044
388-446-0005	NEW-P	98-11-084	388-450-0135	NEW	98-16-044	388-456-0015	NEW-P	98-11-084
388-446-0005	NEW	98-16-044	388-450-0140	NEW-P	98-11-084	388-456-0015	NEW	98-16-044
388-446-0010	NEW-P	98-11-084	388-450-0140	NEW	98-16-044	388-458-0005	NEW-P	98-11-084
388-446-0010	NEW	98-16-044	388-450-0145	NEW-P	98-11-084	388-458-0005	NEW	98-16-044
388-446-0015	NEW-P	98-11-084	388-450-0145	NEW	98-16-044	388-458-0010	NEW-P	98-11-084
388-446-0015	NEW	98-16-044	388-450-0150	NEW-P	98-11-084	388-458-0010	NEW	98-16-044
388-446-0020	NEW-P	98-11-084	388-450-0150	NEW	98-16-044	388-458-0015	NEW-P	98-11-084
388-446-0020	NEW	98-16-044	388-450-0155	NEW-P	98-11-084	388-458-0015	NEW	98-16-044
388-448-0001	NEW-P	98-11-084	388-450-0155	NEW	98-16-044	388-460-0001	NEW-P	98-11-084
388-448-0001	NEW	98-16-044	388-450-0160	NEW-P	98-11-084	388-460-0001	NEW	98-16-044
388-448-0005	NEW-P	98-11-084	388-450-0160	NEW	98-16-044	388-460-0005	NEW-P	98-11-084
388-448-0005	NEW	98-16-044	388-450-0165	NEW-P	98-11-084	388-460-0005	NEW	98-16-044
388-450-0005	NEW-P	98-11-084	388-450-0165	NEW	98-16-044	388-460-0010	NEW-P	98-11-084
388-450-0005	NEW	98-16-044	388-450-0170	NEW-P	98-11-084	388-460-0010	NEW	98-16-044
388-450-0010	NEW-P	98-11-084	388-450-0170	NEW	98-16-044	388-460-0015	NEW-P	98-11-084
388-450-0010	NEW	98-16-044	388-450-0175	NEW-P	98-11-084	388-460-0015	NEW	98-16-044
388-450-0015	NEW-P	98-11-084	388-450-0175	NEW	98-16-044	388-462-0005	NEW-P	98-11-084
388-450-0015	NEW	98-16-044	388-450-0180	NEW-P	98-11-084	388-462-0005	NEW	98-16-044
388-450-0020	NEW-P	98-11-084	388-450-0180	NEW	98-16-044	388-462-0010	NEW-P	98-11-084
388-450-0020	NEW	98-16-044	388-450-0185	NEW-P	98-11-084	388-462-0010	NEW	98-16-044
388-450-0025	NEW-P	98-11-084	388-450-0185	NEW	98-16-044	388-462-0015	NEW-P	98-11-084
388-450-0025	NEW	98-16-044	388-450-0190	NEW-P	98-11-084	388-462-0015	NEW	98-16-044
388-450-0030	NEW-P	98-11-084	388-450-0190	NEW	98-16-044	388-464-0001	NEW-P	98-11-084
388-450-0030	NEW	98-16-044	388-450-0195	NEW-P	98-11-084	388-464-0001	NEW	98-16-044
388-450-0035	NEW-P	98-11-084	388-450-0195	NEW	98-16-044	388-466-0005	NEW-P	98-11-084
388-450-0035	NEW	98-16-044	388-450-0200	NEW-P	98-11-084	388-466-0005	NEW	98-16-044

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-466-0010	NEW-P	98-11-084	388-478-0030	NEW-P	98-11-084	388-503-0350	REP-P	98-13-082
388-466-0010	NEW	98-16-044	388-478-0030	NEW	98-16-044	388-503-0350	REP	98-16-050
388-466-0015	NEW-P	98-11-084	388-478-0035	NEW-P	98-11-084	388-503-0370	REP-P	98-13-082
388-466-0015	NEW	98-16-044	388-478-0035	NEW	98-16-044	388-503-0370	REP	98-16-050
388-466-0020	NEW-P	98-11-084	388-478-0040	NEW-P	98-11-084	388-503-0505	NEW-P	98-11-084
388-466-0020	NEW	98-16-044	388-478-0040	NEW	98-16-044	388-503-0505	NEW	98-16-044
388-466-0025	NEW-P	98-11-084	388-478-0045	NEW-P	98-11-084	388-503-0510	NEW-P	98-11-084
388-466-0025	NEW	98-16-044	388-478-0045	NEW	98-16-044	388-503-0510	NEW	98-16-044
388-468-0005	NEW	98-16-044	388-478-0050	NEW-P	98-11-084	388-503-0515	NEW-P	98-11-084
388-468-0010	NEW-P	98-11-084	388-478-0050	NEW	98-16-044	388-503-0515	NEW	98-16-044
388-470-0005	NEW-P	98-11-084	388-478-0055	NEW-P	98-11-084	388-503-0520	NEW-P	98-11-084
388-470-0005	NEW	98-16-044	388-478-0055	NEW	98-16-044	388-503-0520	NEW-W	98-16-037
388-470-0010	NEW-P	98-11-084	388-478-0060	NEW-P	98-11-084	388-504	PREP	98-10-106
388-470-0010	NEW	98-16-044	388-478-0060	NEW	98-16-044	388-504-0405	REP-P	98-13-082
388-470-0015	NEW-P	98-11-084	388-478-0060	AMD-E	98-20-043	388-504-0405	REP	98-16-050
388-470-0015	NEW	98-16-044	388-478-0065	NEW-P	98-11-084	388-504-0410	REP-P	98-13-082
388-470-0020	NEW-P	98-11-084	388-478-0065	NEW	98-16-044	388-504-0410	REP	98-16-050
388-470-0020	NEW	98-16-044	388-478-0070	NEW-P	98-11-084	388-504-0420	REP-P	98-13-082
388-470-0025	NEW-P	98-11-084	388-478-0070	NEW	98-16-044	388-504-0420	REP	98-16-050
388-470-0025	NEW	98-16-044	388-478-0075	NEW-P	98-11-084	388-504-0430	REP-P	98-13-082
388-470-0030	NEW-P	98-11-084	388-478-0075	NEW	98-16-044	388-504-0430	REP	98-16-050
388-470-0030	NEW	98-16-044	388-478-0080	NEW-P	98-11-084	388-504-0440	REP-P	98-13-082
388-470-0035	NEW-P	98-11-084	388-478-0080	NEW	98-16-044	388-504-0440	REP	98-16-050
388-470-0035	NEW	98-16-044	388-478-0085	NEW-P	98-11-084	388-504-0450	REP-P	98-13-082
388-470-0040	NEW-P	98-11-084	388-478-0085	NEW	98-16-044	388-504-0450	REP	98-16-050
388-470-0040	NEW	98-16-044	388-480-0001	NEW-P	98-11-084	388-504-0460	REP-P	98-13-082
388-470-0045	NEW-P	98-11-084	388-480-0001	NEW	98-16-044	388-504-0460	REP	98-16-050
388-470-0045	NEW	98-16-044	388-482-0005	NEW-P	98-11-084	388-504-0470	REP-P	98-13-082
388-470-0050	NEW-P	98-11-084	388-482-0005	NEW	98-16-044	388-504-0470	REP	98-16-050
388-470-0050	NEW	98-16-044	388-484-0005	NEW-P	98-11-084	388-504-0480	REP-P	98-13-082
388-470-0055	NEW-P	98-11-084	388-484-0005	NEW	98-16-044	388-504-0480	REP	98-16-050
388-470-0055	NEW	98-16-044	388-486-0005	NEW-P	98-11-084	388-504-0485	REP-P	98-13-082
388-470-0060	NEW-P	98-11-084	388-486-0005	NEW	98-16-044	388-504-0485	REP	98-16-050
388-470-0060	NEW	98-16-044	388-486-0010	NEW-P	98-11-084	388-505	PREP	98-10-106
388-470-0065	NEW-P	98-11-084	388-486-0010	NEW	98-16-044	388-505-0110	NEW-P	98-11-084
388-470-0065	NEW	98-16-044	388-488-0005	NEW-P	98-11-084	388-505-0110	NEW	98-16-044
388-470-0070	NEW-P	98-11-084	388-488-0005	NEW	98-16-044	388-505-0210	NEW-P	98-11-084
388-470-0070	NEW	98-16-044	388-488-0010	NEW-P	98-11-084	388-505-0210	NEW	98-16-044
388-470-0075	NEW-P	98-11-084	388-488-0010	NEW	98-16-044	388-505-0220	NEW-P	98-11-084
388-470-0075	NEW	98-16-044	388-490-0005	NEW-P	98-11-084	388-505-0220	NEW	98-16-044
388-470-0080	NEW-P	98-11-084	388-490-0005	NEW	98-16-044	388-505-0501	REP-P	98-13-082
388-470-0080	NEW	98-16-044	388-500	PREP	98-10-106	388-505-0501	REP	98-16-050
388-472-0005	NEW-P	98-11-084	388-500-0005	AMD-P	98-08-081	388-505-0505	REP-P	98-13-082
388-472-0005	NEW	98-16-044	388-500-0005	AMD-E	98-08-088	388-505-0505	REP	98-16-050
388-474-0001	NEW-P	98-11-084	388-500-0005	AMD	98-15-066	388-505-0510	REP-P	98-13-082
388-474-0001	NEW	98-16-044	388-501	PREP	98-10-106	388-505-0510	REP	98-16-050
388-474-0005	NEW-P	98-11-084	388-501-0105	REP-P	98-13-082	388-505-0520	AMD-P	98-08-081
388-474-0005	NEW	98-16-044	388-501-0105	REP	98-16-050	388-505-0520	AMD-E	98-08-088
388-474-0010	NEW-P	98-11-084	388-501-0110	REP-P	98-13-082	388-505-0520	REP-P	98-13-082
388-474-0010	NEW	98-16-044	388-501-0110	REP	98-16-050	388-505-0520	AMD	98-15-066
388-474-0015	NEW-P	98-11-084	388-501-0135	AMD-P	98-11-084	388-505-0520	REP	98-16-050
388-474-0015	NEW	98-16-044	388-501-0135	AMD	98-16-044	388-505-0530	REP-P	98-13-082
388-474-0020	NEW-P	98-11-084	388-501-0140	REP-P	98-13-082	388-505-0530	REP	98-16-050
388-474-0020	NEW	98-16-044	388-501-0140	REP	98-16-050	388-505-0540	AMD-P	98-11-084
388-476-0005	NEW-P	98-11-084	388-501-0150	REP-P	98-13-082	388-505-0540	AMD	98-16-044
388-476-0005	NEW	98-16-044	388-501-0170	REP-P	98-13-082	388-505-0560	REP-P	98-13-082
388-478-0005	NEW-P	98-11-084	388-501-0170	REP	98-16-050	388-505-0560	REP	98-16-050
388-478-0005	NEW	98-16-044	388-501-0190	REP-P	98-13-082	388-505-0570	REP-P	98-13-082
388-478-0010	NEW-P	98-11-084	388-501-0190	REP	98-16-050	388-505-0570	REP	98-16-050
388-478-0010	NEW	98-16-044	388-503	PREP	98-10-106	388-505-0580	REP-P	98-13-082
388-478-0015	NEW-P	98-11-084	388-503-0305	REP-P	98-13-082	388-505-0580	REP	98-16-050
388-478-0015	NEW	98-16-044	388-503-0305	REP	98-16-050	388-505-0590	REP-P	98-13-082
388-478-0015	PREP	98-17-081	388-503-0310	AMD-P	98-08-081	388-505-0590	REP	98-16-050
388-478-0020	NEW-P	98-11-084	388-503-0310	AMD-E	98-08-088	388-506	PREP	98-10-106
388-478-0020	NEW	98-16-044	388-503-0310	AMD	98-15-066	388-506-0610	REP-P	98-13-082
388-478-0025	NEW-P	98-11-084	388-503-0320	REP-P	98-13-082	388-506-0610	REP	98-16-050
388-478-0025	NEW	98-16-044	388-503-0320	REP	98-16-050	388-506-0620	AMD-P	98-15-140

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388-506-0620	AMD	98-18-079	388-510-1020	REP	98-16-050	388-517-1760	REP	98-11-073
388-506-0630	REP-P	98-13-082	388-510-1030	REP-P	98-13-082	388-517-1770	NEW-P	98-08-083
388-506-0630	REP	98-16-050	388-510-1030	REP	98-16-050	388-517-1770	NEW-E	98-08-086
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388-507-0710	AMD-P	98-08-082	388-511-1105	AMD-P	98-15-140	388-517-1770	REP-P	98-13-082
388-507-0710	AMD-E	98-08-087	388-511-1105	AMD	98-18-079	388-517-1770	REP	98-16-050
388-507-0710	AMD	98-11-033	388-511-1110	REP-P	98-13-082	388-518	PREP	98-10-106
388-507-0710	REP-P	98-13-082	388-511-1110	REP	98-16-050	388-518-1805	REP-P	98-13-082
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388-507-0740	REP-P	98-13-082	388-511-1160	REP-P	98-13-082	388-518-1840	REP-P	98-13-082
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388-508-0805	AMD-E	98-08-085	388-512-1275	AMD	98-04-004	388-519-0100	NEW-P	98-11-084
388-508-0805	REP-P	98-13-082	388-512-1280	REP	98-04-004	388-519-0100	NEW	98-16-044
388-508-0805	AMD-P	98-15-053	388-513	PREP	98-10-106	388-519-0110	NEW-P	98-11-084
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388-508-0810	REP	98-16-050	388-513-1350	AMD-E	98-08-087	388-519-1905	REP	98-16-050
388-508-0820	REP-P	98-13-082	388-513-1350	AMD	98-11-033	388-519-1910	REP-P	98-13-082
388-508-0820	REP	98-16-050	388-513-1380	AMD-P	98-03-085	388-519-1910	REP	98-16-050
388-508-0830	REP-P	98-13-082	388-513-1380	AMD-C	98-05-053	388-519-1930	REP-P	98-13-082
388-508-0830	REP	98-16-050	388-513-1380	AMD	98-08-077	388-519-1930	REP	98-16-050
388-508-0835	REP-P	98-13-082	388-513-1380	AMD-E	98-14-126	388-519-1950	REP-P	98-13-082
388-508-0835	REP	98-16-050	388-515	PREP	98-10-106	388-519-1950	REP	98-16-050
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388-509-0905	REP	98-16-050	388-517-0300	NEW	98-16-044	388-521-2106	REP	98-16-050
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388-509-0910	REP	98-16-050	388-517-1710	AMD-E	98-08-086	388-521-2110	REP	98-16-050
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388-509-0920	AMD-E	98-08-085	388-517-1710	REP-P	98-13-082	388-521-2120	REP	98-16-050
388-509-0920	REP-P	98-13-082	388-517-1710	REP	98-16-050	388-521-2130	REP-P	98-13-082
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388-509-0920	AMD-E	98-16-036	388-517-1715	AMD-E	98-08-086	388-521-2140	REP-P	98-13-082
388-509-0920	REP	98-16-050	388-517-1715	AMD	98-11-073	388-521-2140	REP	98-16-050
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388-509-0960	AMD-E	98-08-085	388-517-1720	REP	98-11-073	388-521-2160	AMD-P	98-08-083
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388-509-0960	AMD-P	98-15-053	388-517-1730	AMD-E	98-08-086	388-521-2160	AMD	98-11-073
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388-525-2505	REP	98-16-050	388-555-1000	NEW-S	98-10-107	391-08-300	AMD	98-14-112
388-525-2520	REP-P	98-13-082	388-555-1000	NEW	98-15-054	391-08-310	AMD-P	98-10-101
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391-45-370	REP	98-14-112	392-122-212	AMD-P	98-18-093	392-139-174	REP-P	98-05-040
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391-55-245	AMD	98-14-112	392-122-270	AMD-P	98-18-093	392-139-180	REP	98-08-096
391-55-345	AMD-P	98-10-101	392-122-275	AMD-P	98-18-093	392-139-182	REP-P	98-05-040
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391-95-070	AMD	98-14-112	392-126-006	AMD-P	98-16-055	392-139-186	REP-P	98-05-040
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391-95-250	AMD	98-14-112	392-126-087	NEW-P	98-16-055	392-139-611	REP-P	98-05-040
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391-95-260	AMD	98-14-112	392-126-092	NEW-P	98-16-055	392-139-616	REP-P	98-05-040
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391-95-270	AMD	98-14-112	392-134-010	AMD-W	98-04-070	392-139-620	AMD-P	98-05-040
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392-139-661	NEW	98-08-096	392-140-723	NEW-P	98-03-067	392-141-152	NEW	98-17-007
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392-139-681	REP-P	98-05-040	392-140-726	NEW	98-07-061	392-170-042	NEW	98-12-002
392-139-681	REP	98-08-096	392-140-727	NEW-P	98-03-067	392-170-047	NEW	98-12-002
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392-140-616	AMD	98-08-013	392-140-736	NEW-P	98-03-067	399-20-030	AMD-S	98-18-019
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392-140-685	AMD-P	98-04-036	392-140-747	NEW	98-07-061	399-30-030	AMD-S	98-18-019
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434-180-245	AMD	98-16-031	434-260-330	RECOD	98-08-010	434-334-150	NEW-E	98-17-029
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434-208-040	RECOD	98-08-010	434-261-080	AMD-E	98-18-041	434-334-170	NEW-E	98-17-029
434-208-050	RECOD	98-08-010	434-291-010	RECOD	98-08-010	434-334-175	NEW-E	98-17-029
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460-24A-220	PREP	98-15-123	460-70-050	REP	98-17-058	468-84-135	REP	98-11-045
460-28A-015	PREP	98-15-109	460-70-060	REP-XR	98-14-072	468-84-200	REP-P	98-07-005
460-32A-400	PREP	98-07-101	460-70-060	REP	98-17-058	468-84-200	REP	98-11-045
460-32A-400	AMD-P	98-15-111	463-54-070	AMD-W	98-08-092	468-84-210	REP-P	98-07-005
460-32A-400	AMD	98-18-033	468-18	PREP	98-16-014	468-84-210	REP	98-11-045
460-44A-050	PREP	98-07-102	468-30-030	REP-XR	98-13-060	468-84-220	REP-P	98-07-005
460-44A-050	AMD-P	98-15-110	468-30-030	REP	98-18-003	468-84-220	REP	98-11-045
460-44A-050	AMD	98-18-032	468-34-010	AMD-P	98-19-129	468-84-230	REP-P	98-07-005
460-44A-100	NEW-P	98-14-073	468-34-020	AMD-P	98-19-129	468-84-230	REP	98-11-045
460-44A-100	NEW	98-17-012	468-34-100	AMD-P	98-19-129	468-84-240	REP-P	98-07-005
460-44A-110	NEW-P	98-14-073	468-34-120	AMD-P	98-19-129	468-84-240	REP	98-11-045
460-44A-110	NEW	98-17-012	468-34-150	AMD-P	98-19-129	468-84-250	REP-P	98-07-005
460-44A-500	AMD-P	98-08-055	468-34-330	AMD-P	98-19-129	468-84-250	REP	98-11-045
460-44A-500	AMD	98-11-014	468-38-070	AMD-P	98-06-016	468-84-260	REP-P	98-07-005
460-44A-501	AMD-P	98-08-055	468-38-070	AMD	98-09-029	468-84-260	REP	98-11-045
460-44A-501	AMD	98-11-014	468-38-070	AMD-E	98-12-097	468-84-300	REP-P	98-07-005
460-44A-502	AMD-P	98-08-055	468-38-070	PREP	98-14-045	468-84-300	REP	98-11-045
460-44A-502	AMD	98-11-014	468-38-070	AMD-P	98-18-026	468-84-310	REP-P	98-07-005
460-44A-503	AMD-P	98-08-055	468-38-071	AMD-E	98-12-097	468-84-310	REP	98-11-045
460-44A-503	AMD	98-11-014	468-38-071	AMD-P	98-18-026	468-84-320	REP-P	98-07-005
460-44A-504	AMD-P	98-08-055	468-38-110	PREP	98-06-023	468-84-320	REP	98-11-045
460-44A-504	PREP	98-09-003	468-38-110	AMD-P	98-10-038	468-85	PREP	98-03-031
460-44A-504	AMD	98-11-014	468-38-110	AMD-S	98-13-101	468-85-010	AMD-P	98-07-006
460-44A-506	AMD-P	98-08-055	468-38-110	AMD	98-16-048	468-85-010	AMD	98-11-046
460-44A-506	AMD	98-11-014	468-38-120	AMD-E	98-08-057	468-85-015	AMD-P	98-07-006
460-44A-508	AMD-P	98-08-055	468-38-120	PREP	98-08-089	468-85-015	AMD	98-11-046
460-44A-508	AMD	98-11-014	468-38-120	AMD-P	98-12-096	468-85-110	AMD-P	98-07-006
460-52A-010	REP-XR	98-14-071	468-38-120	AMD	98-16-087	468-85-110	AMD	98-11-046
460-52A-010	REP	98-17-059	468-38-160	AMD-E	98-09-090	468-85-120	AMD-P	98-07-006
460-52A-030	REP-XR	98-14-071	468-38-160	PREP	98-10-037	468-85-120	AMD	98-11-046
460-52A-030	REP	98-17-059	468-38-160	AMD-P	98-14-044	468-85-130	AMD-P	98-07-006
460-52A-040	REP-XR	98-14-071	468-38-160	AMD	98-16-088	468-85-130	AMD	98-11-046

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
468-85-210	AMD-P	98-07-006	468-550-070	NEW-P	98-16-049	480-09-475	AMD-P	98-19-146
468-85-210	AMD	98-11-046	468-550-070	NEW	98-19-052	480-09-500	AMD-P	98-19-146
468-85-220	AMD-P	98-07-006	474-10-010	NEW-P	98-14-139	480-09-510	AMD-P	98-19-146
468-85-220	AMD	98-11-046	474-10-020	NEW-P	98-14-139	480-09-530	NEW-P	98-15-094
468-85-230	AMD-P	98-07-006	474-10-030	NEW-P	98-14-139	480-09-600	AMD-P	98-19-146
468-85-230	AMD	98-11-046	474-10-040	NEW-P	98-14-139	480-09-610	AMD-P	98-19-146
468-85-240	AMD-P	98-07-006	474-10-050	NEW-P	98-14-139	480-09-620	AMD-P	98-19-146
468-85-240	AMD	98-11-046	474-10-060	NEW-P	98-14-139	480-09-700	AMD-P	98-19-146
468-85-250	AMD-P	98-07-006	474-10-070	NEW-P	98-14-139	480-09-705	AMD-P	98-19-146
468-85-250	AMD	98-11-046	474-10-080	NEW-P	98-14-139	480-09-710	AMD-P	98-19-146
468-85-260	REP-P	98-07-006	474-10-090	NEW-P	98-14-139	480-09-720	AMD-P	98-19-146
468-85-260	REP	98-11-046	474-10-100	NEW-P	98-14-139	480-09-730	AMD-P	98-19-146
468-85-270	REP-P	98-07-006	478-160-015	AMD-P	98-05-066	480-09-735	AMD-P	98-19-146
468-85-270	REP	98-11-046	478-160-015	AMD	98-10-048	480-09-736	AMD-P	98-19-146
468-85-280	REP-P	98-07-006	478-160-095	AMD-P	98-05-066	480-09-740	AMD-P	98-19-146
468-85-280	REP	98-11-046	478-160-095	AMD	98-10-048	480-09-745	AMD-P	98-19-146
468-85-290	AMD-P	98-07-006	478-160-110	AMD-P	98-05-066	480-09-750	AMD-P	98-19-146
468-85-290	AMD	98-11-046	478-160-110	AMD	98-10-048	480-09-751	AMD-P	98-19-146
468-85-310	AMD-P	98-07-006	478-160-120	REP-P	98-05-066	480-09-760	AMD-P	98-19-146
468-85-310	AMD	98-11-046	478-160-120	REP	98-10-048	480-09-770	AMD-P	98-19-146
468-300-010	AMD-P	98-03-050	478-160-142	NEW-P	98-05-066	480-09-780	AMD-P	98-19-146
468-300-010	AMD	98-08-051	478-160-142	NEW	98-10-048	480-09-800	AMD-P	98-19-146
468-300-020	AMD-P	98-03-050	478-160-143	NEW-P	98-05-066	480-09-810	AMD-P	98-19-146
468-300-020	AMD	98-08-051	478-160-143	NEW	98-10-048	480-09-815	AMD-P	98-19-146
468-300-040	AMD-P	98-03-050	478-160-150	AMD-P	98-05-066	480-09-820	AMD-P	98-19-146
468-300-040	AMD	98-08-051	478-160-150	AMD	98-10-048	480-09-830	REP-P	98-19-146
468-300-220	AMD-P	98-03-050	478-160-246	AMD-P	98-05-066	480-12-001	REP-P	98-19-060
468-300-220	AMD	98-08-051	478-160-246	AMD	98-10-048	480-12-003	REP-P	98-19-060
468-300-700	PREP	98-17-076	478-160-270	AMD-P	98-05-066	480-12-005	REP-P	98-19-060
468-300-700	AMD-P	98-20-092	478-160-270	AMD	98-10-048	480-12-010	REP-P	98-19-060
468-310	PREP	98-17-036	478-160-275	AMD-P	98-05-066	480-12-015	REP-P	98-19-060
468-400-010	NEW-E	98-03-009	478-160-275	AMD	98-10-048	480-12-020	REP-P	98-19-060
468-400-010	NEW-E	98-03-059	478-160-280	AMD-P	98-05-066	480-12-022	REP-P	98-19-060
468-400-010	NEW	98-06-029	478-160-280	AMD	98-10-048	480-12-025	REP-P	98-19-060
468-400-020	NEW-E	98-03-009	478-160-295	AMD-P	98-05-066	480-12-030	REP-P	98-19-060
468-400-020	NEW-P	98-03-059	478-160-295	AMD	98-10-048	480-12-031	REP-P	98-19-060
468-400-020	NEW	98-06-029	480-09	PREP	98-05-056	480-12-033	REP-P	98-19-060
468-400-030	NEW-E	98-03-009	480-09-005	NEW-P	98-19-146	480-12-045	REP-P	98-19-060
468-400-030	NEW-P	98-03-059	480-09-010	AMD-P	98-19-146	480-12-050	REP-P	98-19-060
468-400-030	NEW	98-06-029	480-09-012	AMD-P	98-19-146	480-12-065	REP-P	98-19-060
468-400-040	NEW-E	98-03-009	480-09-100	AMD-P	98-19-146	480-12-070	REP-P	98-19-060
468-400-040	NEW-P	98-03-059	480-09-101	NEW-P	98-19-146	480-12-080	REP-P	98-19-060
468-400-040	NEW	98-06-029	480-09-115	AMD-P	98-19-146	480-12-081	REP-P	98-19-060
468-510	PREP	98-04-044	480-09-120	AMD-P	98-19-146	480-12-083	REP-P	98-19-060
468-510-010	NEW-P	98-08-030	480-09-125	AMD-P	98-19-146	480-12-084	REP-P	98-19-060
468-510-010	NEW	98-12-062	480-09-130	AMD-P	98-19-146	480-12-100	REP-P	98-19-060
468-510-020	NEW-P	98-08-030	480-09-135	AMD-P	98-19-146	480-12-115	REP-P	98-19-060
468-510-020	NEW	98-12-062	480-09-140	AMD-P	98-19-146	480-12-120	REP-P	98-19-060
468-550-010	NEW-E	98-15-037	480-09-150	AMD-P	98-19-146	480-12-121	REP-P	98-19-060
468-550-010	NEW-P	98-16-049	480-09-200	AMD-P	98-19-146	480-12-125	REP-P	98-19-060
468-550-010	NEW	98-19-052	480-09-210	AMD-P	98-19-146	480-12-126	REP-P	98-19-060
468-550-020	NEW-E	98-15-037	480-09-220	AMD-P	98-19-146	480-12-127	REP-P	98-19-060
468-550-020	NEW-P	98-16-049	480-09-230	AMD-P	98-19-146	480-12-130	REP-P	98-19-060
468-550-020	NEW	98-19-052	480-09-340	AMD-P	98-19-146	480-12-135	REP-P	98-19-060
468-550-030	NEW-E	98-15-037	480-09-390	AMD-P	98-19-146	480-12-150	REP-P	98-19-060
468-550-030	NEW-P	98-16-049	480-09-400	AMD-P	98-19-146	480-12-165	REP-P	98-19-060
468-550-030	NEW	98-19-052	480-09-410	AMD-P	98-19-146	480-12-170	REP-P	98-19-060
468-550-040	NEW-E	98-15-037	480-09-420	AMD-P	98-19-146	480-12-180	REP-P	98-19-060
468-550-040	NEW-P	98-16-049	480-09-425	AMD-P	98-19-146	480-12-185	REP-P	98-19-060
468-550-040	NEW	98-19-052	480-09-426	AMD-P	98-19-146	480-12-190	REP-P	98-19-060
468-550-050	NEW-E	98-15-037	480-09-430	AMD-P	98-19-146	480-12-200	REP-P	98-19-060
468-550-050	NEW-P	98-16-049	480-09-440	AMD-P	98-19-146	480-12-210	REP-P	98-19-060
468-550-050	NEW	98-19-052	480-09-460	AMD-P	98-19-146	480-12-215	REP-P	98-19-060
468-550-060	NEW-E	98-15-037	480-09-465	AMD-P	98-19-146	480-12-220	REP-P	98-19-060
468-550-060	NEW-P	98-16-049	480-09-466	AMD-P	98-19-146	480-12-235	REP-P	98-19-060
468-550-060	NEW	98-19-052	480-09-467	AMD-P	98-19-146	480-12-250	REP-P	98-19-060
468-550-070	NEW-E	98-15-037	480-09-470	AMD-P	98-19-146	480-12-255	REP-P	98-19-060

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-12-265	REP-P	98-19-060	480-15-285	NEW-P	98-19-060	480-15-940	NEW-P	98-19-060
480-12-270	REP-P	98-19-060	480-15-290	NEW-P	98-19-060	480-60	PREP	98-20-105
480-12-275	REP-P	98-19-060	480-15-300	NEW-P	98-19-060	480-63-010	REP-XR	98-14-135
480-12-280	REP-P	98-19-060	480-15-310	NEW-P	98-19-060	480-63-020	REP-XR	98-14-135
480-12-285	REP-P	98-19-060	480-15-320	NEW-P	98-19-060	480-63-030	REP-XR	98-14-135
480-12-290	REP-P	98-19-060	480-15-330	NEW-P	98-19-060	480-63-040	REP-XR	98-14-135
480-12-295	REP-P	98-19-060	480-15-340	NEW-P	98-19-060	480-63-050	REP-XR	98-14-135
480-12-300	REP-P	98-19-060	480-15-350	NEW-P	98-19-060	480-63-060	REP-XR	98-14-135
480-12-320	REP-P	98-19-060	480-15-360	NEW-P	98-19-060	480-63-070	REP-XR	98-14-135
480-12-325	REP-P	98-19-060	480-15-370	NEW-P	98-19-060	480-63-080	REP-XR	98-14-135
480-12-330	REP-P	98-19-060	480-15-380	NEW-P	98-19-060	480-63-090	REP-XR	98-14-135
480-12-335	REP-P	98-19-060	480-15-390	NEW-P	98-19-060	480-66	PREP	98-20-105
480-12-340	REP-P	98-19-060	480-15-400	NEW-P	98-19-060	480-80-330	AMD	98-04-028
480-12-345	REP-P	98-19-060	480-15-410	NEW-P	98-19-060	480-92	PREP	98-06-050
480-12-350	REP-P	98-19-060	480-15-420	NEW-P	98-19-060	480-93-010	PREP	98-16-011
480-12-355	REP-P	98-19-060	480-15-430	NEW-P	98-19-060	480-95-010	REP-XR	98-14-136
480-12-360	REP-P	98-19-060	480-15-440	NEW-P	98-19-060	480-95-020	REP-XR	98-14-136
480-12-365	REP-P	98-19-060	480-15-450	NEW-P	98-19-060	480-95-030	REP-XR	98-14-136
480-12-370	REP-P	98-19-060	480-15-460	NEW-P	98-19-060	480-95-040	REP-XR	98-14-136
480-12-375	REP-P	98-19-060	480-15-470	NEW-P	98-19-060	480-95-050	REP-XR	98-14-136
480-12-385	REP-P	98-19-060	480-15-480	NEW-P	98-19-060	480-95-060	REP-XR	98-14-136
480-12-395	REP-P	98-19-060	480-15-490	NEW-P	98-19-060	480-95-070	REP-XR	98-14-136
480-12-400	REP-P	98-19-060	480-15-500	NEW-P	98-19-060	480-95-080	REP-XR	98-14-136
480-12-405	REP-P	98-19-060	480-15-510	NEW-P	98-19-060	480-95-090	REP-XR	98-14-136
480-12-410	REP-P	98-19-060	480-15-520	NEW-P	98-19-060	480-95-100	REP-XR	98-14-136
480-12-415	REP-P	98-19-060	480-15-530	NEW-P	98-19-060	480-95-110	REP-XR	98-14-136
480-12-420	REP-P	98-19-060	480-15-540	NEW-P	98-19-060	480-95-120	REP-XR	98-14-136
480-12-425	REP-P	98-19-060	480-15-550	NEW-P	98-19-060	480-95-125	REP-XR	98-14-136
480-12-430	REP-P	98-19-060	480-15-560	NEW-P	98-19-060	480-110	PREP	98-05-056
480-12-435	REP-P	98-19-060	480-15-570	NEW-P	98-19-060	480-120-021	AMD-P	98-17-068
480-12-440	REP-P	98-19-060	480-15-580	NEW-P	98-19-060	480-120-027	AMD	98-04-028
480-12-445	REP-P	98-19-060	480-15-590	NEW-P	98-19-060	480-120-045	NEW-P	98-03-011
480-12-450	REP-P	98-19-060	480-15-600	NEW-P	98-19-060	480-120-045	NEW-S	98-12-071
480-12-455	REP-P	98-19-060	480-15-610	NEW-P	98-19-060	480-120-045	NEW-P	98-20-104
480-12-460	REP-P	98-19-060	480-15-620	NEW-P	98-19-060	480-120-137	REP-P	98-17-068
480-12-465	REP-P	98-19-060	480-15-630	NEW-P	98-19-060	480-120-138	AMD-P	98-17-068
480-12-600	REP-P	98-19-060	480-15-640	NEW-P	98-19-060	480-120-141	AMD-P	98-17-068
480-12-990	REP-P	98-19-060	480-15-650	NEW-P	98-19-060	480-120-142	REP-P	98-17-068
480-15-010	NEW-P	98-19-060	480-15-660	NEW-P	98-19-060	480-120-143	REP-P	98-17-068
480-15-020	NEW-P	98-19-060	480-15-670	NEW-P	98-19-060	480-120-144	NEW-P	98-18-107
480-15-030	NEW-P	98-19-060	480-15-680	NEW-P	98-19-060	480-120-151	NEW-P	98-18-107
480-15-040	NEW-P	98-19-060	480-15-690	NEW-P	98-19-060	480-120-152	NEW-P	98-18-107
480-15-050	NEW-P	98-19-060	480-15-700	NEW-P	98-19-060	480-120-153	NEW-P	98-18-107
480-15-060	NEW-P	98-19-060	480-15-710	NEW-P	98-19-060	480-120-154	NEW-P	98-18-107
480-15-070	NEW-P	98-19-060	480-15-720	NEW-P	98-19-060	480-120-400	REP-S	98-12-071
480-15-080	NEW-P	98-19-060	480-15-730	NEW-P	98-19-060	480-120-400	REP-P	98-20-104
480-15-090	NEW-P	98-19-060	480-15-740	NEW-P	98-19-060	480-120-405	REP-S	98-12-071
480-15-100	NEW-P	98-19-060	480-15-750	NEW-P	98-19-060	480-120-405	REP-P	98-20-104
480-15-110	NEW-P	98-19-060	480-15-760	NEW-P	98-19-060	480-120-410	REP-S	98-12-071
480-15-120	NEW-P	98-19-060	480-15-770	NEW-P	98-19-060	480-120-410	REP-P	98-20-104
480-15-130	NEW-P	98-19-060	480-15-780	NEW-P	98-19-060	480-120-415	REP-S	98-12-071
480-15-140	NEW-P	98-19-060	480-15-790	NEW-P	98-19-060	480-120-415	REP-P	98-20-104
480-15-150	NEW-P	98-19-060	480-15-795	NEW-P	98-19-060	480-120-420	REP-S	98-12-071
480-15-160	NEW-P	98-19-060	480-15-800	NEW-P	98-19-060	480-120-420	REP-P	98-20-104
480-15-170	NEW-P	98-19-060	480-15-810	NEW-P	98-19-060	480-120-425	REP-S	98-12-071
480-15-180	NEW-P	98-19-060	480-15-820	NEW-P	98-19-060	480-120-425	REP-P	98-20-104
480-15-190	NEW-P	98-19-060	480-15-830	NEW-P	98-19-060	480-120-430	REP-S	98-12-071
480-15-195	NEW-P	98-19-060	480-15-840	NEW-P	98-19-060	480-120-430	REP-P	98-20-104
480-15-200	NEW-P	98-19-060	480-15-850	NEW-P	98-19-060	480-120-435	REP-S	98-12-071
480-15-210	NEW-P	98-19-060	480-15-860	NEW-P	98-19-060	480-120-435	REP-P	98-20-104
480-15-220	NEW-P	98-19-060	480-15-870	NEW-P	98-19-060	480-120-540	NEW-P	98-11-082
480-15-230	NEW-P	98-19-060	480-15-880	NEW-P	98-19-060	480-120-540	NEW	98-19-147
480-15-240	NEW-P	98-19-060	480-15-890	NEW-P	98-19-060	480-121-040	PREP	98-05-055
480-15-250	NEW-P	98-19-060	480-15-900	NEW-P	98-19-060	480-122-020	PREP	98-09-033
480-15-260	NEW-P	98-19-060	480-15-910	NEW-P	98-19-060	480-122-020	AMD-P	98-12-070
480-15-270	NEW-P	98-19-060	480-15-920	NEW-P	98-19-060	480-122-020	AMD	98-18-106
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