

# Washington State Register

September 4, 2002

OLYMPIA, WASHINGTON

ISSUE 02-17



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (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 September 2002 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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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **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.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **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].

2002-2003

**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 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>					
02 - 15	Jun 26, 02	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 27, 02	Sep 24, 02
02 - 16	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 10, 02	Oct 8, 02
02 - 17	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 24, 02	Oct 22, 02
02 - 18	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 18, 02	Oct 8, 02	Nov 5, 02
02 - 19	Aug 21, 02	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 22, 02	Nov 19, 02
02 - 20	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 16, 02	Nov 5, 02	Dec 3, 02
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02 - 22	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 10, 02	Jan 7, 03
02 - 23	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 24, 02	Jan 22, 03
02 - 24	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 18, 02	Jan 7, 03	Feb 4, 03
03 - 01	Nov 21, 02	Dec 5, 02	Dec 19, 02	Jan 2, 03	Jan 22, 03	Feb 19, 03
03 - 02	Dec 5, 02	Dec 19, 02	Jan 2, 03	Jan 15, 03	Feb 4, 03	Mar 4, 03
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03 - 04	Jan 8, 03	Jan 22, 03	Feb 5, 03	Feb 19, 03	Mar 11, 03	Apr 8, 03
03 - 05	Jan 22, 03	Feb 5, 03	Feb 19, 03	Mar 5, 03	Mar 25, 03	Apr 22, 03
03 - 06	Feb 5, 03	Feb 19, 03	Mar 5, 03	Mar 19, 03	Apr 8, 03	May 6, 03
03 - 07	Feb 19, 03	Mar 5, 03	Mar 19, 03	Apr 2, 03	Apr 22, 03	May 20, 03
03 - 08	Mar 5, 03	Mar 19, 03	Apr 2, 03	Apr 16, 03	May 6, 03	Jun 3, 03
03 - 09	Mar 26, 03	Apr 9, 03	Apr 23, 03	May 7, 03	May 27, 03	Jun 24, 03
03 - 10	Apr 9, 03	Apr 23, 03	May 7, 03	May 21, 03	Jun 10, 03	Jul 8, 03
03 - 11	Apr 23, 03	May 7, 03	May 21, 03	Jun 4, 03	Jun 24, 03	Jul 22, 03
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03 - 15	Jun 25, 03	Jul 9, 03	Jul 23, 03	Aug 6, 03	Aug 26, 03	Sep 23, 03
03 - 16	Jul 9, 03	Jul 23, 03	Aug 6, 03	Aug 20, 03	Sep 9, 03	Oct 7, 03
03 - 17	Jul 23, 03	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 23, 03	Oct 21, 03
03 - 18	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 7, 03	Nov 4, 03
03 - 19	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 21, 03	Nov 18, 03
03 - 20	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 15, 03	Nov 4, 03	Dec 2, 03
03 - 21	Sep 24, 03	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 25, 03	Dec 23, 03
03 - 22	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 19, 03	Dec 9, 03	Jan 6, 04
03 - 23	Oct 22, 03	Nov 5, 03	Nov 19, 03	Dec 3, 03	Dec 23, 03	Jan 20, 04
03 - 24	Nov 5, 03	Nov 19, 03	Dec 3, 03	Dec 17, 03	Jan 6, 04	Feb 3, 04

<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 and 1.12.040.

## **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.



**WSR 02-17-031****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

[Filed August 13, 2002, 8:52 a.m.]

Subject of Possible Rule Making: Implementation of ESB 6380 (chapter 158, Laws of 2002), "Retirement systems—Benefits options," also called the "Survivor Bill."

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5) and statutes cited in the bill.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Retirement Systems (DRS) will have to adopt new and amended rules to implement ESB 6380. These will be adopted in time to have an effective date no later than July 1, 2003.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Office of the State Actuary may be required to provide actuarial information for implementation of one or more of these rules. DRS works closely with that office.

Process for Developing New Rule: Department staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

August 12, 2002

Merry A. Kogut  
Rules Coordinator**WSR 02-17-043****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 14, 2002, 2:55 p.m.]

Subject of Possible Rule Making: Shrimp harvest log book requirements and marine fish-shellfish management and catch reporting areas, Puget Sound.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Puget Sound state/tribal management plans have required additional detail in log books and this has been accomplished by emergency order -

by instituting this change on a permanent basis the rule will extend for the life of the season and reduce the need for emergency rules. The in-season rules for the commercial shrimp fishery have become very complex with the description of marine fish-shellfish management and catch reporting areas, subareas, districts and crustacean management areas and multi-layered rules for management needs. Redescribing the management areas for Puget Sound shrimp will simplify the language and provide a more readable rule.

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 Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by October 18, 2002, expected filing date is October 23, 2002.

August 14, 2002

Evan Jacoby  
Rules Coordinator**WSR 02-17-044****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 14, 2002, 2:57 p.m.]

Subject of Possible Rule Making: Salmon egg sales.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Accounting of salmon harvest requires knowledge of all fish removed from the resource. Current rules disallow sale of chum salmon eggs without the salmon carcasses. This requirement may be extended to all salmon species.

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 Lew Atkins, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2651. Contact by October 22, 2002. Expected proposal filing October 23, 2002.

August 14, 2002

Evan Jacoby  
Rules Coordinator**WSR 02-17-046****PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed August 14, 2002, 4:31 p.m.]

Subject of Possible Rule Making: WAC 260-28-030 Financial responsibility.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish criteria, definitions, and procedures relating to financial responsibility.

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

Process for Developing New Rule: Agency study; and industry input and public comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462, fax (360) 459-6461.

August 9, 2002  
R. M. Leichner  
Executive Secretary

**WSR 02-17-047**

**PREPROPOSAL STATEMENT OF INQUIRY  
HORSE RACING COMMISSION**

[Filed August 14, 2002, 4:32 p.m.]

Subject of Possible Rule Making: New rule, role of commission and executive secretary.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Specify guidelines regarding the role of the commission commissioners and the role of the executive secretary relating to separation of duties.

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 Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462, fax (360) 459-6461.

August 9, 2002  
R. M. Leichner  
Executive Secretary

**WSR 02-17-048**

**WITHDRAWAL OF  
PREPROPOSAL STATEMENT OF INQUIRY  
BOARD OF ACCOUNTANCY**

[Filed August 15, 2002, 9:50 a.m.]

The Board of Accountancy hereby withdraws possible rule making regarding the use of the title "Enrolled Agent" or

the designation "EA" filed with your office on January 31, 2002 (WSR 02-04-063).

Dana M. McInturff, CPA  
Executive Director

**WSR 02-17-052**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed August 15, 2002, 9:55 a.m.]

Subject of Possible Rule Making: WAC 246-834-XXX Midwifery standards of practice.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.130.050(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Midwifery practice as defined by law is very general. Practice standards will further define what is expected of midwives and help eliminate mistakes, better protecting mothers and babies. In addition, if midwives are following standards, it could eliminate initial reports.

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

Process for Developing New Rule: Collaborative rule making. A public rules writing workshop will be held with interested members of the public. An invitation will be mailed to all licensed midwives, approved midwifery programs, all persons who have conveyed interest in this subject, all persons on the committee meeting mailing list and all associations and state offices which have a possible interest in this subject.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kendra Pitzler, Program Manager, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail kendra.pitzler@doh.wa.gov.

M. C. Selecky  
Secretary

**WSR 02-17-053**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed August 15, 2002, 9:56 a.m.]

Subject of Possible Rule Making: WAC 246-834-250 Legend drugs and devices.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.50.115.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Midwives are independent practitioners who normally practice in a birth center or a home setting. Because they are independent practitioners, they need to be prepared for emergencies. The department is considering an amendment to this rule to ensure all medica-

tions necessary to protect the patient can be obtained and administered by a licensed midwife.

In addition, the midwifery advisory committee recommended that these rules be looked at as part of their "Standards of Practice" to assure that it is clear what drugs a midwife may obtain and administer and which devices they may use to assist in the birthing process. These changes may help protect the public by assuring licensed midwives have clear direction regarding the medications and procedures that may safely be administered by midwives in or outside the hospital setting.

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

Process for Developing New Rule: Collaborative rule making. A public rules writing workshop will be held with interested members of the public. An invitation will be mailed to all licensed midwives, approved midwifery programs, all persons who have conveyed interest in this subject, all persons on the committee meeting mailing list and all associations and state offices which have a possible interest in this subject.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kendra Pitzler, Program Manager, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail kendra.pitzler@doh.wa.gov.

August 14, 2002

M. C. Selecky  
Secretary

#### WSR 02-17-056

#### WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed August 15, 2002, 9:58 a.m.]

This memo serves as notice that the department is withdrawing the CR-101 for chapter 246-320 WAC which was filed November 1, 2001, and published in WSR 01-22-066. The original proposal was to develop a rule (authorized by HB 1711 passed in June of 2000) for addressing disclosure requirements concerning licensed hospitals. Since the filing of WSR 01-22-066, the department has determined the practices and procedures put into place are successful and achieve this same goal. Additionally, discussions with the regulated community/industry have verified the implementation of a new rule is not necessary. For this reason, the CR-101 for chapter 246-320 WAC is no longer needed.

Individuals requiring information on this rule should contact Byron Plan, Office of Health Care Survey Executive Director, at (360) 705-6780.

#### WSR 02-17-068

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Health and Rehabilitative Services Administration) [Filed August 16, 2002, 4:27 p.m.]

Subject of Possible Rule Making: Chapter 388-820 WAC, Community residential services and support, chapter 388-825 WAC, Division of developmental disabilities services rules, and other rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030, 71A.10.020, chapter 371, Laws of 2002 (2001-03 Supplemental Budget - ESSB 6387).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Division of Developmental Disabilities (DDD) has been directed by the 2002 Washington state legislature to begin paying an income supplemental, called state supplementary payment (SSP). Implementation of this directive requires amendment of rules in chapters 388-820, 388-825 and 388-850 WAC, as well as adoption of new WAC 388-825-500 through 388-825-585, Division of Developmental Disabilities state supplementary payment.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State agencies include the Department of Social and Health Services (DSHS), Aging and Adult Services Administration and Medical Assistance Administration. Federal Public Law 92-603 and the Social Security Act publish regulations for states that must provide a state supplementary payment program. The Social Security Administration oversees state compliance with federal state supplementation rules.

Process for Developing New Rule: The department welcomes public participation in the development of these rules. At a later date, the department will publish proposed rules for public comment, and a public hearing will be held before the rules are adopted as permanent. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Brink, Department of Social and Health Services, Division of Developmental Disabilities, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 902-7716, fax (360) 902-8482, e-mail BRINKSC@DSHS.WA.GOV.

August 16, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**WSR 02-17-069**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed August 16, 2002, 4:28 p.m.]

Subject of Possible Rule Making: WAC 388-410-0030  
 How does the department calculate and set up my food assistance overpayment?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The revisions to this rule will include language that notifies clients that their food assistance overpayment calculation disallows the earned income disregard for unreported income. The current WAC does not specify that the earned income disregard is not allowed when calculating food assistance overpayments under these circumstances. See federal regulation 7 C.F.R. 273.18 (c)(1)(ii)(b).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Services amends and adopts federal food assistance regulations, and states are required to comply with the federal regulations.

Process for Developing New Rule: Current rules are reviewed according to clear writing guidelines and appropriate audiences. At a later date, the department will file proposed rules with the Office of the Code Reviser along with a notice of proposed rule making. The proposed rules will be sent to ESA's list of interested parties, and to anyone who requests a copy. All comments will be considered. The ESA regulatory improvement team will also review the proposed rules before adoption.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole McRae, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3074, fax (360) 413-3493, e-mail mcraeca@dshs.wa.gov.

August 16, 2002  
 Brian H. Lindgren, Manager  
 Rules and Policies Assistance Unit

**WSR 02-17-070**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)

[Filed August 16, 2002, 4:30 p.m.]

Subject of Possible Rule Making: WAC 388-535-1050, 388-535-1070, 388-535-1080, 388-535-1100, 388-535-1200, 388-535-1230, 388-535-1240, 388-535-1450 and possible

other sections in chapter 388-535 WAC, Dental-related services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.035, 74.09.500, 74.09.520, 42 U.S.C. 1396d(a), 42 C.F.R. 440.100 and 440.225.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and clarify existing policy regarding dental-related services, including program definitions, provider requirements, covered and non-covered services, dentures, overdentures, partials, laboratory fees, emergency palliative treatment, general anesthesia and conscious sedation.

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 invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules and Publications Program Manager, Medical Assistance Administration, Mailstop 45533, Olympia, WA 98504-5533, phone (360) 725-1342, fax (360) 586-9727, TDD 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

August 16, 2002  
 Brian H. Lindgren, Manager  
 Rules and Policies Assistance Unit

**WSR 02-17-078**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF REVENUE**

[Filed August 19, 2002, 3:48 p.m.]

Subject of Possible Rule Making: WAC 458-40-660  
 Timber excise tax—Stumpage value tables.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.330 and 84.33.096.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.091 requires that the stumpage value tables be revised every six months. The department establishes the stumpage values so that timber harvesters are apprised of the timber values on which the timber excise tax is calculated. The stumpage values provided in a revised Rule 660 will apply for the period of January-June, 2003.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the U.S. Forest Service and Washington State Department of Natural Resources both regulate forest practices, they are not involved in valuation for purposes of taxation. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

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 Ed Ratcliffe, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, e-mail EdR@dor.wa.gov, phone (360) 570-6126, fax (360) 664-0693.

Location of Public Meeting: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on October 16, 2002, at 10 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

August 19, 2002

Alan R. Lynn, Rules Coordinator  
Legislation and Policy Division

#### WSR 02-17-089

#### PREPROPOSAL STATEMENT OF INQUIRY NOXIOUS WEED CONTROL BOARD

[Filed August 20, 2002, 1:44 p.m.]

Subject of Possible Rule Making: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 17.10.080, 17.10.070, and 17.10.010(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The state Noxious Weed Control Board is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects noxious weed control priorities and noxious weed distribution.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agencies regulate this subject. Federal agencies are subject to federal noxious weed laws that require them to coordinate with state regulations. Federal agencies in Washington are invited to participate in all stages of noxious weed rule making.

Process for Developing New Rule: The state Noxious Weed Control Board annually solicits suggestions from county programs, weed districts, state and federal agencies, interest groups and the general public. The Noxious Weed Committee of the board, which includes representation from the public, the Washington Native Plant Society, county weed boards, the nursery industry, and several scientific advisors, meets at least twice to review and research the suggestions. These draft suggestions are sent out again for public comment before the Noxious Weed Committee drafts its final recommendation to the board. Public comment is wel-

come at all committee and board meetings. A press release and information mailing is prepared on the recommended changes and a public hearing is scheduled. The board makes its final decision after considering public input received at the hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve McGonigal, Washington State Noxious Weed Control Board, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2053, fax (360) 902-2094, e-mail smcgonigal@agr.wa.gov. Interested parties can attend meetings of the Noxious Weed Committee and meetings of the state Noxious Weed Board, and can testify at the hearing.

August 20, 2002

Steve McGonigal  
Executive Secretary

#### WSR 02-17-098

#### PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed August 20, 2002, 4:39 p.m.]

Subject of Possible Rule Making: Forest riparian easement program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: The legislature directed the Forest Practices Board (FPB) to adopt rules consistent with the provisions in 2SHB 2311. Chapter 76.13 RCW directs the FPB to adopt rules for the forestry riparian easement program. Authority for adopting forest practices rules are granted under RCW 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The FPB is considering changes to implement 2SHB 2311 which, in part, amends chapter 76.13 RCW, Stewardship on nonindustrial forests and woodlands. The statutory amendments make it necessary to amend chapter 222-21 WAC, forestry riparian easement program, including:

- Eliminating compensation reduction for timber harvest reentry into approved riparian easements, and
- Clarifying the Department of Natural Resources' authority to compensate small forest landowners for their costs in preparing riparian easements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The FPB is the only agency charged with establishing rules to protect the state's public resources while maintaining a viable forest products industry. The Department of Natural Resources is the only agency to administer the Forestry Riparian Easement Program.

Process for Developing New Rule: The small forest landowner advisory committee will be involved in the development of the rule following the guidelines in RCW 76.13.110(4).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by mail, fax, or e-mailing comments to Patricia

Anderson, Rules Coordinator, Forest Practices Board, Department of Natural Resources, Forest Practices Division, 1111 Washington Street, 4th Floor, P.O. Box 47012, Olympia, WA 98504-4701, fax (360) 902-1428, e-mail forest.practicesboard@wadnr.gov.

August 20, 2002  
Pat McElroy  
Chair

**WSR 02-17-108**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed August 21, 2002, 9:33 a.m.]

Subject of Possible Rule Making: Industrial insurance, chapter 296-14 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.010, 51.04.020, and 51.08.178.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Based on the statutes listed above, the Department of Labor and Industries (L&I) establishes and adopts rules governing administration of the industrial insurance and crime victim's compensation laws. The proposed rules would provide the factors used in determining a worker's employment pattern at the time of injury or date of manifestation of an occupational disease. These rules would further interpret the supreme court case *Dept. of Labor & Indus. v. Avundes*.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate this subject.

Process for Developing New Rule: Labor and industries will begin the rule development process by drafting proposed rules and soliciting input from the business and labor communities. Labor and industries will share the draft proposal with stakeholders and other interested parties, including the workers' compensation advisory committee and crime victims advisory committee. Public hearings will be held in Tumwater and Yakima after the proposal is filed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Department of Labor and Industries, Valerie Grimm, Administrative Regulations Analyst, P.O. Box 44208, Olympia, WA 98504-4208, (360) 902-5005, fax (360) 902-4960.

August 21, 2002  
Gary Moore  
Director

**WSR 02-17-112**

**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed August 21, 2002, 10:33 a.m.]

Subject of Possible Rule Making: WAC 392-140-600 through 392-140-685 School district eligibility for state special education safety net funding.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to rules are needed to update special education safety net application procedures and requirements for 2002-03 school year and thereafter.

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, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TDD (360) 664-3631. For telephone assistance contact Mary Ellen Parrish, (360) 725-6309.

August 20, 2002  
Tom J. Kelly  
for Dr. Terry Bergeson  
Superintendent of  
Public Instruction

## WSR 02-16-061

## PROPOSED RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed August 2, 2002, 3:31 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-057.

Title of Rule: New chapter 388-826 WAC, Voluntary placement program.

Purpose: The purpose of proposed new chapter 388-826 WAC is to describe the voluntary placement program in the Division of Developmental Disabilities and clarify who participates, how participation may occur, and the responsibilities for overall program management.

Statutory Authority for Adoption: RCW 74.13.350, Title 71A RCW.

Statute Being Implemented: RCW 74.13.350, 71A.12-.030.

Summary: The rules define participation, out-of-home placement, voluntary agreement and the manner in which children and youth might be served in this program when they meet the definition of developmental disabilities as defined in RCW 71A.12.030. The rules define certain key terms, set criteria for determining when out-of-home is appropriate; describe the process for out-of-home placement; and the roles and responsibilities of birth/adoptive parents and foster parents.

Reasons Supporting Proposal: The rules guide the policies and procedures for program management.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Linda Gil, DSHS/DDD, P.O. Box 45310, Office Building 2, Olympia, WA 98504-5310, (360) 902-8440.

Name of Proponent: DSHS/DDD, 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 purpose of proposed new chapter 388-826 WAC is to provide definitions of program components regarding who may be involved in the voluntary placement program. The proposed rules include the responsibilities and conditions of program participation.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. While this WAC chapter clarifies the way in which children may be cared for in licensed foster care homes and group care settings, the proposed WAC will not impose new or additional costs to any licensed setting that might operate as a small business.

RCW 34.05.328 applies to this rule adoption. The department has determined that the proposed rules meet the definition of "significant legislative rules" per RCW 34.05-.328. A cost-benefit analysis has been prepared and is available by contacting the person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 6, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernaaX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaaX@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

July 21, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## Chapter 388-826 WAC

## VOLUNTARY PLACEMENT PROGRAM

NEW SECTION

**WAC 388-826-0001 What is the purpose of the voluntary placement program?** The purpose of the voluntary placement program is to:

(1) Support the optimal growth and development of the child or youth in out-of-home placement. The sole reason for the out-of-home placement is the child's developmental disability. Services are offered by DSHS/DDD through a voluntary placement agreement. Parents retain custody of their child or youth.

(2) Support the child and family with a shared parenting arrangement through the use of licensed foster care providers.

(3) Complement other public and private resources in providing supports to the child and family.

(4) Encourage the relationship between the child and parents, even when the child or youth is not living in their own home.

(5) These rules are adopted under the authority of RCW 74.13.350.

NEW SECTION

**WAC 388-826-0005 Definitions. "Best interest"** includes, but is not limited to:

(1) Prevent regression or loss of skills already acquired;

(2) Achieve or maintain self-sufficiency;

(3) Provide the least restrictive setting that will meet the child's/youth's medical, social, developmental and personal needs;

(4) Benefits the medical, personal, social and developmental needs of the child/youth;

(5) Maintains family relationships.

"Child or youth" means an individual who is eligible for division services per RCW 71A.16.040 and chapter 388-825 WAC, is less than eighteen years of age and who is in the custody of a parent by blood, adoption or legal guardianship.

**"Client or person"** means an individual is eligible for division services per RCW 71A.16.040 and WAC 388-825-030.

**"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, social work, early childhood intervention, employment, family counseling, respite care, information and referral, health services, legal services, therapy services, residential services and support, transportation services, and vocational services.

**"Department"** means the department of social and health services of the state of Washington.

**"Director"** means the director of the division of developmental disabilities.

**"DDD"** means the division of developmental disabilities of the department of social and health services.

**"Emergency"** means a sudden, unexpected occurrence demanding immediate action.

**"Exemption"** means the department's approval of a written request for an exception to a rule in this chapter.

**"Family"** means individuals of any age, living together in the same household related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

**"Foster care provider"** means the individual person licensed by the DSHS, children's administration, division of licensed resources (DLR) (chapter 388-148 WAC) to provide foster care in the person's home; or a group care agency licensed by DLR to provide foster care for an individual in a group facility or staffed residential setting.

**"In the voluntary placement program the legal status of the child"** means that the child is in legal custody of the biological or adoptive parent(s) or legal and custodial guardian.

**"The judicial determination and review"** means a process that occurs in court and its purpose is to affirm that out-of-home placement is in the best interest of the child. The parent is notified of the court date and may appear in court with the child's DDD social worker.

**"Out-of-home placement"** means a DLR licensed home, a licensed group care facility or another licensed setting.

**"Parent"** means the individual who is the biological or adoptive person or legal custodial guardian who has legal responsibility for and physical custody of the child.

**"Shared parenting"** means biological or adoptive parents or legal guardians and foster care providers share responsibilities. Responsibilities are for the physical and emotional care, education and medical well-being of child/youth who meets DDD eligibility criteria and who is in a voluntary out of home placement as is described in the shared parenting agreement.

**"Shared parenting plan"** means a written plan among the parent, a foster care provider and DDD, with the expectation of sharing responsibilities for care of a child/youth, including exchanging information on a routine basis about medical, education, daily routines and special situations in the life of the child/youth.

**"Voluntary out-of-home placement"** for a child who is eligible for DDD services means:

(1) When a parent and the division of developmental disabilities (DDD) agree that it is in the best interest of the child to reside out of the home of the parents;

(2) The placement is solely due to the child's disability;

(3) There are no unresolved issues of abuse and neglect;

(4) When the parent or custodial and legal guardian and division sign a voluntary placement agreement; and

(5) When a child lives more than fifty percent of her/his life in a licensed setting that is other than in the parents' home. The setting may be a licensed foster family home, group care facility, or staffed residential home as licensed under chapter 74.15 RCW.

**"Voluntary placement agreement,"** as used in this section, means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a licensed facility.

**"Written request for out-of-home placement"** means a written request signed by the custodial parent requesting out-of-home placement for the child or youth under eighteen years of age.

#### NEW SECTION

**WAC 388-826-0010 Who is eligible for the voluntary placement program?** Children who:

(1) Are determined eligible for DDD services under RCW 71A.16.040;

(2) Are under eighteen years of age when the request for services through VPP is made;

(3) Have no unresolved issues of abuse or neglect pending with DSHS children's administration;

(4) Are in the legal and physical custody of their parent or legal guardian; and

(5) The request is made solely due to the child's disability RCW 74.13.350 and parents have used all other appropriate services for their child through DDD.

#### NEW SECTION

**WAC 388-826-0015 Who else may be eligible to participate in the voluntary placement program?** Within available resources:

(1) Children or youth who are eligible for DDD services per RCW 71A.16.040, may transfer from children's administration, as long as they are under eighteen years of age, in a stable guardianship, and have no unresolved issues of abuse or neglect pending with children's administration.

(2) Youth who turn eighteen while in the VPP and reside in a DLR licensed setting, may continue to participate in VPP until age twenty-one as long as her/his placement remains in tact and does not disrupt and she/he remains in school until graduation or reaches age twenty-one, whichever comes first (see WAC 388-826-0115).

NEW SECTION

**WAC 388-826-0020 How does the family, whose child who is a client of DDD request access to the VPP?** Parents must make a written request for voluntary out-of-home placement services (DSHS 10-277) for their child to their DDD case resource manager. The request is considered when the following criteria are met:

- (1) The child is under eighteen years of age;
- (2) The placement is due solely to the child's disability;
- (3) The family is currently using some DDD services or is on the list for services;
- (4) There are available funds for the VPP;
- (5) There are no issues of abuse and neglect; and
- (6) The custodial parent and the division of developmental disabilities (DDD) agree that it is in the best interest of the child to reside outside of the parent's home.

NEW SECTION

**WAC 388-826-0025 What is the process for a child or youth who transfers from children's administration to get into the VPP?** (1) At the regional level, a staffing occurs. It involves DDD and DCFS social workers and supervisors, and any other agency representatives who have knowledge of the child or youth's issues.

(2) At the staffing the participants discuss the criteria outlined in WAC 388-826-0010 and 388-826-0015.

(3) Within available resources and when appropriate criteria are met, social workers determine the appropriateness of the transfer of the child's case from one administration to the other.

NEW SECTION

**WAC 388-826-0030 How is a decision made for out-of-home placement?** A parent makes a written request for out-of-home placement, to her/his child's case manager. Prior to a decision for out-of-home placement, a staffing is held. The purpose of the staffing is to determine whether all other available and appropriate services have been used or could be used by the family. The parents, the DDD case manager, the DDD social worker, and/or resource developer and where appropriate, DCFS social worker may participate in staffings.

NEW SECTION

**WAC 388-826-0035 How is a decision made regarding participation in the voluntary placement program?**

(1) A decision regarding participation in VPP is based on the premise that all available DDD services to the child and family have been used and that out-of-home placement is in the best interest of the child and that the placement is due solely to the child's disability;

(2) There are funds available in VPP;

(3) Through a staffing, the family's DDD case resource manager, VPP supervisor and VPP social worker, and any other person who can provide useful information, discuss the

services used, and share information and resources regarding the needs of the family and child;

(4) DDD and the parents must be in agreement about the need for out-of-home placement and that the request fits the criteria for the program. When both parties are in agreement, a written voluntary placement agreement is signed by the parent and DDD representative:

(a) If there are no funds available, parents may sign a request for out-of-home placement (DSHS 10-277);

(b) When it is determined that the request is appropriate, the child or youth is eligible for out-of-home placement, there are available funds and there is a placement, the agreement is signed and the child's file is transferred to a DDD social worker in the voluntary program;

(c) If there are funds available, the consideration for out-of-home placement continues. The name of the child/youth is placed on the VPP database for consideration of placement outside the home.

NEW SECTION

**WAC 388-826-0040 What is a voluntary placement agreement?** It is a mutually voluntary and written document between the parent and the department. It must be signed by the child's parent and the DSHS/DDD representative to be in effect. An agreement regarding a Native American child is not valid unless executed in writing before the court and filed with the court as provided in RCW 13.34.130. Any party to the voluntary placement agreement may terminate the agreement at any time. When one party ends the agreement, per the VPA, the voluntary agreement is ended.

The agreement authorizes DSHS/DDD to facilitate a placement for the child who is under eighteen years of age in a licensed facility. Under the term of the agreement, the parent retains legal custody. DSHS/DDD is responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement.

NEW SECTION

**WAC 388-826-0045 What happens after a voluntary placement agreement is signed, what are the legal issues and who is responsible?** When the DDD social worker facilitates the placement of a child in a licensed out-of-home care arrangement, under a DDD voluntary placement agreement, the department has the responsibility for the child's placement and care. The department shall:

(1) In conjunction with the parents, develop an individual services plan for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care;

(2) Develop a shared parenting plan with foster care providers and parents;

(3) Obtain a judicial determination, within one hundred eighty days of placement, in accordance with RCW 13.34.-030 and 13.34.270 that the placement is in the best interest of the child;

(4) Attend the permanency planning hearing reviews where a review of the child's out-of-home placement determines if it continues to be in the best interest of the child to continue the out-of-home placement;

(5) Make a face-to-face visit with the child and visit with the child in their licensed placement, every ninety days;

(6) Facilitate a judicial review at one hundred eighty days and annually thereafter, unless the child's placement ends before one hundred eighty days have elapsed;

(7) Provide for periodic administrative reviews of the child's case, unless a judicial review occurs every one hundred eighty days after initial placement.

#### NEW SECTION

**WAC 388-826-0050 Is there an ongoing court process when the child is in out-of-home placement and how does the process work?** The ongoing court process involves the following activities:

(1) When a child is placed in a licensed out-of-home setting, within one hundred eighty days, the DDD social worker must file an order with the court that says the custodial and legal parent has signed a voluntary placement agreement with DDD and voluntarily requests placement of their child in out-of-home care;

(2) The child's DDD social worker prepares the necessary papers and files them with the court clerk; and

(3) Once a year, the DDD social worker prepares a report that must be presented to the court. It is called an order for continued placement and it describes in the words of the social worker, why the out-of-home placement continues to be in the best interest of the child.

#### NEW SECTION

**WAC 388-826-0055 What basic services may a family receive from the voluntary placement program?** (1) Shared parenting between foster care providers and parents on daily routines;

(2) Medical coverage, under a medical coupon issued from the foster care medical unit (FCMU);

(3) Special education services in the local school district when the child meets eligibility criteria;

(4) Supervised special activities in the community when appropriate;

(5) Safe, developmentally appropriate care;

(6) Supervision by a DDD social worker who has responsibility for visiting the child/youth at a minimum, every ninety days;

(7) An individual services plan for the child within sixty days from the date that DSHS/DDD assumes responsibility for the child's placement and care;

(8) DDD social worker prepares documents for court, and pursuant to RCW 13.34.030 and 13.34.270 shares the documents at the court hearings in order to determine that the placement is in the best interest of the child;

(9) Social work services such as needs assessment, referral, service coordination and case monitoring;

(10) Early intervention services: DDD ensures coordination of services for children from birth through thirty-five months of age with early intervention and special education; and

(11) Medically intensive services under WAC 388-531-3000.

#### NEW SECTION

**WAC 388-826-0060 Are there other services a child may receive in this program?** In-home supports may be available to support a child in the parent's home. Approval of in-home support services is based on available funds. The criteria to receive in-home supports when there are available funds are:

(1) Children whose current out of home placement disrupts and who are awaiting new out-of-home placements;

(2) Children whose names are on the database and whose parents have signed a "request for out-of-home placement."

Service need level for in-home services are evaluated within six months and reviewed every ninety days thereafter. Any reduction in service or denial of services allows the child's family the right to appeal the decision under chapter 388-825 WAC.

#### NEW SECTION

**WAC 388-826-0065 What can parents expect if they use in-home supports under this program?** Within available funds, the parent's child may sometimes receive supports. Supports may be in the form of respite services, specialized behavioral support, and other services that are needed to support the child's continued living arrangement in the parent's home. A person meeting provider qualifications may provide the supports to the child in the home, through a contract with DDD.

#### NEW SECTION

**WAC 388-826-0070 What is the responsibility of the department for the child who is in out-of-home care?** When DDD facilitates an out-of-home placement, DDD is responsible for:

(1) A voluntary placement agreement according to this section;

(2) Monitoring of the child's placement and care;

(3) A permanency plan of care for the child;

(4) A plan that monitors the health, safety and appropriateness of the child's placement at a minimum every ninety days, making face-to-face visits at that time; and

(5) The DDD social worker maintains any records as required by court oversight.

#### NEW SECTION

**WAC 388-826-0075 What are the responsibilities of the parents when their child receives services in the voluntary placement program?** Parents retain custody of their child at all times when the child is receiving services in the

voluntary placement program. Parents responsibilities include, but are not limited to, the following:

(1) The right to make all major nonemergency decision about medical care, enlistment in military service, marriage and other important legal decisions for the person under eighteen years of age;

(2) Maintain ongoing and regular contact with the child;

(3) Agree to work cooperatively with their child's DDD social worker and other DSHS staff and persons caring for their child;

(3) Participate in decision making for their child;

(4) Cooperate with DDD in selecting a representative payee for the child's Social Security benefits, received from the Social Security Administration, and which are used for basic maintenance while the child is in out-of-home care;

(5) Agree that if their child's out-of-home placement disrupts, their child will return to the parents physical care until a new placement is developed. The parent's signature on the voluntary placement agreement confirms their understanding of the responsibilities listed in the VPA.

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

#### NEW SECTION

**WAC 388-826-0080 What are the expectations for parents when their child is in out-of-home care?** Parents are expected to be active in the "shared parenting" plan and continue to be involved in their child's life. The plan is a written agreement between the licensed foster parents or provider caring for the child and the child's parents. It includes:

(1) Responsibilities of legal and foster parents or provider;

(2) Plan for respite;

(3) Emergency procedures;

(4) Planned activities;

(5) Expectations and special considerations; and

(6) Involvement on a regular basis by the parent.

#### NEW SECTION

**WAC 388-826-0085 Are other DDD services available for a child through the voluntary placement program?** When a parent signs a voluntary placement agreement and the child enters the VPP, the child will no longer be eligible for services from the family support opportunity program, or the Medicaid Personal Care program. A parent will not be able to obtain other DDD services when the parent's child is in the VPP. The DDD services will be authorized and obtained through the VPP. Some services will be similar to other DDD services, but they will not be paid for out of any other program besides the VPP, as long as the child is receiving services in the VPP.

#### NEW SECTION

**WAC 388-826-0090 What does a parent do with the child's Social Security benefits when the parent's child lives outside the parent's home?** (1) When a parent signs a

DDD VPA, the DDD social worker shares with the parent a list of representative payee agencies. From the list, parents must select a representative payee for their child's SSI benefits.

(2) Each month, the child's SSI check will be sent to the representative payee. The portion of the check designated for "room and board," the amount that is allowed for basic maintenance while in foster care and when parents are not caring for their child in their own home, is sent to the licensed foster care provider for reimbursement for basic maintenance.

(3) The representative payee sets aside an amount from the child's SSI warrants designated as "client personal incidentals or CPI" and it is entered into a trust account for the child or youth. It is made available for items that are of a direct benefit to the child. The representative payee monitors the account held in trust for the child and notifies the DDD social worker when the account is within three hundred dollars of the maximum reserve exemption allowance.

#### NEW SECTION

**WAC 388-826-0095 Who pays for a child's care when a child is in out-of-home placement?** State funds, federal funds and the child's SSI, that is used for basic maintenance support the cost of the child's care while the child is in licensed out-of-home placement. The parent is encouraged to continue to support their child with typical activities, e.g., presents, clothing, special items, special outings. Licensed providers who care for the child in a licensed setting will be paid directly through a contract with DDD and according to an established rate structure, established within DDD.

#### NEW SECTION

**WAC 388-826-0100 What happens if the voluntary placement ends?** The child must be returned to the physical care of the child's legal parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The agreement as described in RCW 74.13.350, between DDD and legal parents is completely voluntary. Per RCW 74.13.350, any party may terminate the agreement at any time.

#### NEW SECTION

**WAC 388-826-0105 When the child leaves the voluntary placement program for any reason, what DDD services are available to the child and family when voluntary placement ends?** Depending on availability of funds, the child and family may be eligible for other DDD programs and that would support the child.

#### NEW SECTION

**WAC 388-826-0110 Will a child or youth continue to receive special education or early intervention services while in VPP?** (1) Early intervention services are available to a child, birth through thirty-five months when in VPP and

when that child meets the early intervention eligibility criteria.

(2) When a child or youth meets eligibility criteria for special education programs, ages three to twenty-one years, the child or youth continues to receive special education services through their local public school district.

(3) Office of superintendent of public instruction is responsible for the special education program for the eligible children, ages three to twenty-one years, RCW 28A.155.220 allows that children and youth who meet eligibility criteria may remain in special education until graduation, if that occurs during the school year.

#### NEW SECTION

**WAC 388-826-0115 What happens after a youth turns eighteen?** When a youth turns eighteen, and is considered an adult, while in the voluntary placement program, the youth may remain in the child foster home, in VPP, under the following circumstances:

(1) Youth remains in the education or vocational program in the local public school district in which he/she has been enrolled until graduation or age twenty-one, whichever is earlier, per WAC 392-172-030(2), RCW 74.13.031 (10) and (13), 28A.155.020, and 28A.155.030;

(2) The placement remains intact and does not disrupt;

(3) When needed, youth who turns eighteen can self-administer medication.

(4) Youth cannot remain in foster care, living in a child foster home, and in VPP, after eighteen years of age when:

(a) The child foster home placement disrupts;

(b) The youth leaves education or vocational program; or

(c) The youth who turns eighteen needs someone to administer medication.

Dependency guardianships end at age eighteen. If a youth has been in a legal guardianship, under chapter 11.88 RCW and if the reason for guardianship was the minority of the child the guardianship ends.

#### NEW SECTION

**WAC 388-826-0120 What happens if a parent disagrees with a decision made by DDD?** If a parent disagrees with a decision made by DDD staff, the parent has the right to pursue the appeal process, as outlined in RCW 71A.10.050 and chapter 388-02 WAC.

#### NEW SECTION

**WAC 388-826-0125 Does DDD make exceptions to the requirements in this chapter?** DDD may grant exceptions to the requirements specified in this chapter as long as the DDD director approves the request in writing within sixty days.

#### WSR 02-16-080

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed August 6, 2002, 12:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-04-096.

Title of Rule: **Amending and moving subject matter from the following rules into chapter 388-71 WAC: WAC 388-15-194 Home and community services, 388-15-202 Long-term care services, 388-15-203 Long-term care services—Assessment of task self-performance and determination of required assistance, and 388-15-205 Long-term care services—Service plan development. Amending to clarify that a reassessment is required as a condition for continued HCS program eligibility: WAC 388-71-0430 Am I eligible for one of the HCP programs? and 388-71-450 How do I remain eligible for services? Updating cross-references within: WAC 388-71-0410, 388-71-0435, 388-71-0440, 388-71-0445, 388-71-0500, 388-71-0515, 388-71-0600, 388-76-540, and 388-110-020. Repealing obsolete or redundant rules: WAC 388-15-194, 388-15-202, 388-15-203, 388-15-204, 388-15-205, 388-110-210, 388-110-230, and 388-110-250.**

Purpose: To (1) amend and move remaining home and community services rules in chapter 388-15 WAC into chapter 388-71 WAC; (2) clarify that the requirement of an in-home assessment applies to all recipients of services through the COPES (community options program entry system), MPC (Medicaid personal care), and chore programs; (3) update WAC and RCW cross-references in other HCS rules; and (4) repeal rules in chapters 388-15 and 388-110 WAC that are now obsolete or redundant.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, and 74.39A.090.

Statute Being Implemented: RCW 74.39A.090.

Summary: See Purpose above and Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kristi Olson, AASA, 640 Woodland Square Loop, P.O. Box 45600, Olympia, WA 98505-5600 [98504-5600], (360) 725-2537.

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 proposed rules will clarify that the requirement of an in-home assessment applies to all recipients of services through the COPES, MPC, and chore programs. Adoption of new WAC 388-71-194, 388-71-202, 388-71-203, and 388-71-205 will place all home and community services (HCS) program rules into one chapter of Title 388 WAC.

Proposal Changes the Following Existing Rules: **The following HCS rules have been revised to clarify language and are being proposed as new rules in chapter 388-71**

**WAC:** WAC 388-15-194 (proposed as new WAC 388-71-194), 388-15-202 (proposed as new WAC 388-71-202), 388-15-203 (proposed as new WAC 388-71-203), 388-15-205 (proposed as new WAC 388-71-205).

**These proposed rules clarify that a reassessment is required to remain eligible for HCS services:** WAC 388-71-0430 Am I eligible for one of the HCP programs? and 388-71-450 How do I remain eligible for services?

**These proposed rules update cross-references within:** WAC 388-71-0410, 388-71-0435, 388-71-0440, 388-71-0445, 388-71-0500, 388-71-0515, 388-71-0600, 388-76-540 and 388-110-020, to clarify cross-references to other WAC.

**The department also proposes to repeal:** WAC 388-15-194, 388-15-202, 388-15-203, 388-15-204, 388-15-205, 388-110-210, 388-110-230, and 388-110-250. The subject matter in these rules will be redundant or obsolete.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will clarify that the requirement of an in-home assessment applies to all recipients of services through the COPES, MPC, and chore programs, and therefore affect only department clients who may be eligible for these services. The proposed rules will not impact small businesses.

RCW 34.05.328 applies to this rule adoption. Rules do meet the definition of "significant legislative rule," but the department is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii), "Rules of the Department of Social and Health Services relating only to client medical or financial eligibility..." The proposed rules clarify that a reassessment is required to remain eligible for COPES, MPC and chore services.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dsht.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaa@dsht.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

July 30, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## Chapter 388-71 WAC

### ((SOCIAL SERVICES FOR ADULTS)) HOME AND COMMUNITY SERVICES AND PROGRAMS

#### NEW SECTION

**WAC 388-71-0194 Home and community services—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 will consult about or visit a community options program entry system client or a Medicaid personal care client to perform a nursing service which may include the following activities:

- (a) Nursing assessment/reassessment;
- (b) Instruction to care providers and clients;
- (c) Care coordination;
- (d) Evaluation.

(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 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.

#### NEW SECTION

**WAC 388-71-0202 Long-term care services—Definitions.** The department shall use the definition in this section for long-term care services. "**Long-term care services**" means the services administered directly or through contract by the aging and adult services administration of the department, including but not limited to nursing facility care and home and community services.

"**Aged person**" means a person sixty-five years of age or older.

"**Agency provider**" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

"**Application**" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

"**Assessment**" or "**reassessment**" means an inventory and evaluation of abilities and needs based on an in-person interview in the client's home.

"**Attendant care**" means the chore personal care service provided to a grandfathered client needing full-time care due to the client's need for:

- (1) Assistance with personal care; or
- (2) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

**"Authorization"** means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

**"Available resources"** is a term to describe a chore personal care client's assets accessible for use and conversion into money or its equivalent without significant depreciation in the property value.

**"Blind person"** means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

**"Categorically needy"** means the financial status of a person as defined under WAC 388-503-0310.

**"Client"** means an applicant for service or a person currently receiving services.

**"Community residence"** means:

- (1) The client's **"own home"** as defined in this section;
- (2) Licensed adult family home under department contract;
- (3) Licensed boarding home under department contract;
- (4) Licensed children's foster home;
- (5) Licensed group care facility, as described in chapter 388-148 WAC; or
- (6) Shared living arrangement as defined in this section.

**"Community spouse"** means a person as described under WAC 388-513-1365 (1)(b).

**"Companionship"** means the activity of a person in a client's own home to prevent the client's loneliness or to accompany the client outside the home for other than personal care services.

**"Contracted program"** means services provided by a licensed and contracted home care agency or home health agency.

**"COPES"** means community options program entry system.

**"Department"** means the state department of social and health services.

**"Direct personal care services"** means verbal or physical assistance with tasks involving direct client care which are directly related to the client's handicapping condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined in **"personal care services"** below.

**"Disabled"** means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

**"Disabling condition"** means a condition which prevents a person from self-performance of personal care tasks without assistance.

**"Estate recovery"** means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-527-2742.

**"Grandfathered client"** means a chore personal care services client approved for either:

- (1) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and
- (2) Family care services provided under the chore personal care program when these services began before December 14, 1987; and
- (3) The client was receiving the same services as of June 30, 1989.

**"Home health agency"** means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

(a) Private duty nursing; or

(b) Skilled nursing services under an approved Medicaid waiver program.

**"Household assistance"** means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

**"Income"** means **"income"** as defined under WAC 388-500-0005.

**"Individual provider"** means a person employed by a community options program entry system (COPES) or Medicaid personal care client when the person:

(1) Meets or exceeds the qualifications as defined under WAC 388-71-0500 through 388-71-0580;

(2) Has signed an agreement to provide personal care services to a client; and

(3) Has been authorized payment for the services provided in accordance with the client's service plan.

**"Individual provider program (IPP)"** means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

**"Institution"** means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. **"Institution"** includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

**"Institutional eligible client"** means a person whose eligibility is determined under WAC 388-513-1315. "Institutionalized client" means the same as defined in WAC 388-513-1365(f).

**"Institutional spouse"** means a person described under WAC 388-513-1365 (1)(e).

**"Medicaid"** means the federal aid Title XIX program under which medical care is provided to:

- (1) Categorically needy as defined under WAC 388-503-0310; and
- (2) Medically needy as defined under WAC 388-503-0320.

**"Medical assistance"** means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined under WAC 388-503-0310 and 388-503-1105.

**"Medical institution"** means an institution defined under WAC 388-500-0005.

**"Medically necessary"** and **"medical necessity"** mean the same as defined under WAC 388-500-0005.

**"Medically oriented tasks"** means direct personal care services and household assistance provided as an integral but subordinate part of the personal care and supervision furnished directly to a client.

**"Mental health professional"** means a person defined under WAC 388-865-0150.

**"Own home"** means the client's present or intended place of residence:

- (1) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or
- (2) In a building the client owns; or
- (3) In a relative's established residence; or
- (4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

**"Personal care aide"** means a person meeting the department's qualification and training requirements and providing direct Medicaid personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the Medicaid personal care client.

**"Personal care services"** means both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks, as listed in (1) through (17) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks performed by a licensed health professional.

(1) **"Ambulation"** means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the

client if totally unable to walk alone or with a mechanical device.

(2) **"Bathing"** means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(3) **"Body care"** means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required and pedicure to trim toenails and apply lotion to feet. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services, dressing changes using clean technique and topical ointments must be delegated by a registered nurse in accordance with chapter 246-840 WAC. **"Body care"** excludes:

(a) Foot care for clients who are diabetic or have poor circulation; or

(b) Changing bandages or dressings when sterile procedures are required.

(4) **"Dressing"** means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(5) **"Eating"** means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(6) **"Essential shopping"** means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(7) **"Housework"** means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(8) **"Laundry"** means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(9) **"Meal preparation"** means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(10) **"Personal hygiene"** means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(11) **"Positioning"** means assisting the client to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

(12) **"Self-medication"** means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(13) **"Supervision"** means being available to:

(a) Help the client with personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, some medication assistance; and

(b) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(14) **"Toileting"** means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services colostomy care and catheterization using clean technique must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

(15) **"Transfer"** means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(16) **"Travel to medical services"** means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(17) **"Wood supply"** means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

**"Physician"** means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

**"Plan of care"** means a **"service plan"** as described under WAC 388-71-205.

**"Property owned"** means any real and personal property and other assets over which the client has any legal title or interest.

**"Provider"** or **"provider of service"** means an institution, agency, or person:

(1) Having a signed department agreement to furnish long-term care client services; and

(2) Qualified and eligible to receive department payment.

**"Relative"** means:

(1) For chore personal care service, a client's spouse, father, mother, son, or daughter;

(2) For Medicaid personal care service:

(a) **"Legally responsible relative"** means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(b) **"Nonresponsible relative"** means a parent caring for an adult child and an adult child caring for a parent.

**"Service plan"** means a plan for long-term care service delivery as described under WAC 388-71-205.

**"Shared living arrangement"** for purposes of Medicaid personal care means an arrangement where:

(1) A nonresponsible relative as defined in **"relative"** above is the personal care provider and resides in the same residence with common facilities, such as living, cooking, and eating areas; or

(2) A minor child age seventeen or younger lives in the home of a legally responsible relative as defined in **"relative"** above.

**"SSI-related"** means a person who is aged, blind, or disabled.

**"Supervision"** means a person available to a long-term care client as defined under **"personal care services."**

**"Supplemental Security Income (SSI)"** means the federal program as described under WAC 388-500-0005.

**"Title XIX"** is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, and Medicaid personal care home and community-based services.

**"Transfer of resources"** means the same as defined under WAC 388-513-1365 (1)(g).

**"Unscheduled tasks"** means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

## NEW SECTION

**WAC 388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance.** (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the person's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff or designee while assessing need for case management shall perform the assessment.

(b) Except for adult protective service, the assessors shall perform a separate assessment for each client.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment based on an in-person interview with the client in the client's home. A case manager may request the assessment be conducted in private.

(e) When performing the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) The adult client's functional ability to self-perform each personal care task and household task shall be determined using the following definitions of the assistance required:

(a) Ambulation:

(i) Independent. The client is mobile, with or without an assistive device, both inside and outside the household without the assistance of another person.

(ii) Minimal. The client is mobile inside without assistance but needs the assistance of another person outside; or the client needs occasional assistance of another person inside, and usually needs assistance of another person outside.

(iii) Substantial. The client is only mobile with regular assistance of another person both inside and outside.

(iv) Total. The client is not mobile.

(b) Bathing:

(i) Independent. The client can bathe self.

(ii) Minimal. The client requires oversight help or reminding only. The client can bathe without assistance or supervision, but must be reminded some of the time; or the client cannot get into the tub alone and physical help is limited to stand-by assist only.

(iii) Substantial. The client requires physical help in a large part of the bathing activity, for example, to lather, wash, and/or rinse own body or hair.

(iv) Total. The client is dependent on others to provide a complete bath.

(c) Body care:

(i) Independent. The client can apply ointment, lotion, change bandages or dressings, and perform exercises without assistance.

(ii) Minimal. The client requires oversight help or reminding only, or requires occasional assistance.

(iii) Substantial. The client requires limited physical help to apply ointment, lotion, or to perform dry bandage or dressing change.

(iv) Total. The client is dependent on others to perform all required body care.

(d) Dressing:

(i) Independent. The client can dress and undress without assistance or supervision.

(ii) Minimal. The client can dress and undress, but may need to be reminded or supervised to do so on some days; the client can assist dressing and undressing, but frequently or most of the time needs some physical assistance.

(iii) Substantial. The client always needs assistance to do parts of dressing and undressing.

(iv) Total. The client is dependent on others to do all dressing and undressing.

(e) Eating:

(i) Independent. The client can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.

(ii) Minimal. The client:

(A) Can feed self, chew and swallow foods, but needs reminding to maintain adequate intake;

(B) May need food cut up;

(C) Can feed self only if food is brought to the client.

(iii) Substantial. The client:

(A) Can feed self but needs standby assistance for occasional gagging, choking, or swallowing difficulty; or

(B) Needs reminders/assistance with adaptive feeding equipment; or

(C) Must be fed some or all food by mouth by another person.

(iv) Total. The client must be totally fed by another person and/or frequently gags or chokes due to difficulty in swallowing; or the client must be fed by another person by stomach tube or by venous access.

(f) Essential shopping:

(i) Independent. The client can drive and is licensed or the client is capable of using public transportation.

(ii) Minimal. The client can use available transportation and does not need assistance with shopping, but needs instructions or physical assistance to get to or from transportation vehicle.

(iii) Substantial. The client is dependent on being accompanied or helped by others to access community shops and needs assistance with shopping.

(iv) Total. The client is totally dependent on others to do essential shopping.

(g) Housework:

(i) Independent. The client can perform essential housework.

(ii) Minimal. The client needs assistance or needs cuing or supervision in self-performance of essential housework one or two times per month in client use areas.

(iii) Substantial. The client needs weekly assistance of another with essential housework in client use areas.

(iv) Total. The client is dependent on others to do all housework in client use areas.

(h) Laundry:

(i) Independent. The client is capable of using available laundry facilities.

(ii) Minimal. The client is physically capable of using laundry facilities, but requires cuing and/or supervision.

(iii) Substantial. The client is not able to use laundry facilities without physical assistance.

(iv) Total. The client is dependent upon others to do all laundry.

(i) Meal preparation:

(i) Independent. The client can prepare and cook required meals.

(ii) Minimal. The client requires some instruction or physical assistance to prepare meals.

(iii) Substantial. The client can participate but needs substantial assistance to prepare meals.

(iv) Total. The client cannot prepare or participate in preparation of meals.

(j) Personal hygiene:

(i) Independent. The client can manage personal hygiene and grooming tasks on a regular basis.

(ii) Minimal. The client can manage their personal hygiene and grooming but must be reminded or supervised at least some of the time; the client regularly requires some limited assistance with both personal hygiene and grooming.

(iii) Substantial. The client regularly requires assistance with personal hygiene and grooming and cooperates in the process.

(iv) Total. The client is dependent on others to provide all personal hygiene and grooming.

(k) Positioning:

(i) Independent. The client can move to and from a lying position, position their body in bed, and get into and out of bed and chairs.

(ii) Minimal. The client can move to and from a lying position, turn from side to side, and position their body while in bed and chairs but requires assistance some of the time.

(iii) Substantial. The client needs occasional assistance to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(iv) Total. The client needs assistance most or all of the time to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(l) Self-medication:

(i) Independent. The client can take own medications or does not take medication.

(ii) Minimal. The client is physically able to take medications but requires another person to:

(A) Remind, monitor, or observe the taking of medications less than daily; or

(B) Open a container, lay out, or organize medications less than daily.

(iii) Substantial. The client can physically take medications, but requires another person to either remind, monitor, or observe the taking of medications daily; or the client can physically take medications if another person daily opens containers, lays out, organizes medications.

(iv) Total. The client cannot physically take medications and requires another person to assist and administer all medications.

(m) Toileting:

(i) Independent. The client can use the toilet without physical assistance or supervision; or the client can manage own closed drainage system if the system has a catheter or sheath; or the client uses and manages protective aids. The client may need grab bars or raised toilet seat.

(ii) Minimal. The client needs stand-by assistance for safety or encouragement. The client may need minimal physical assistance with parts of the task, such as clothing adjustment, washing hands, wiping, and cleansing. The client may need a protective garment and may or may not be aware of this need.

(iii) Substantial. The client cannot get to the toilet without assistance; or the client needs substantial physical assistance with part of the task; or the client needs someone else to manage care of a closed drainage system if it has a catheter or sheath. The client may or may not be aware of own needs.

(iv) Total. The client is physically unable to use toilet. Requires continual observation and total cleansing. The client may require protective garments or padding or linen changes. The client may or may not be aware of own needs.

(n) Transfer:

(i) Independent. The client can transfer without physical assistance.

(ii) Minimal. The client transfers without assistance most of the time, but needs assistance on occasion.

(iii) Substantial. The client can assist with own transfers, but frequently or most of the time needs assistance.

(iv) Total. The client transfers must be done by someone else.

(o) Travel to medical services:

(i) Independent. The client can drive and is licensed; or is capable of using available public transportation.

(ii) Minimal. The client cannot drive or can drive but should not; or public transportation is not available.

(iii) Substantial. The client requires physical assistance or supervision to both get into and out of a vehicle, but can use the transportation without assistance during the trip.

(iv) Total. The client is totally dependent on being accompanied or helped by others during the trip.

(p) Wood supply:

(i) Independent. The client does not rely on wood as the sole fuel source or is capable of splitting, stacking, or carrying wood for heating or cooking.

(ii) Minimal. The client can carry wood but needs occasional assistance with splitting or stacking wood.

(iii) Substantial. The client is not able to carry, split, or stack wood, but is able to use the wood supply once it is inside the residence.

(iv) Total. The client is dependent on another person to establish and maintain heat for cooking or residential heating.

(4) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, the assessor shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available to the client through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The assessor shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0 = none, M = minimal, S = substantial, and T = total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping	0	5	10	15
With client				
or				
For client	0	1	3	5
Meal preparation	0	4	7	10
Breakfast				
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry	0	1	2	3
Facilities in home				
or				
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply		3	5	7

(c) The assessor shall add together the points awarded for each task to obtain the total score for the applicant or client.

(5) Hour computation. The assessor shall:

(a) Convert the total score into maximum hours per month which may be authorized using the scoring conversion chart.

Scoring Conversion Chart

MAXIMUM		MAXIMUM		MAXIMUM	
Score	Hours	Score	Hours	Score	Hours
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100

Scoring Conversion Chart

MAXIMUM		MAXIMUM		MAXIMUM	
Score	Hours	Score	Hours	Score	Hours
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

(b) Recognize conversion hours show client need, and may not reflect department-paid hours as determined by program standards.

(6) The assessor shall determine the client's additional hours of supervision needed:

(a) Due to impaired judgment; and

(b) For standby assistance necessary for unscheduled tasks defined under WAC 388-71-202; and

(c) Recognize supervision hours show client need, and may not reflect department paid hours as determined by program standards.

(7) Department staff or the department's designee shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs or the eligibility criteria for the division authorizing the service. The department or the department's designee shall notify the client of the right to contest a denial or reduction of services.

(8) Department staff or the department designee shall be responsible for representing the department at any hearing involving the assessment or decisions made relating to such assessment.

**NEW SECTION**

**WAC 388-71-0205 Long-term care services—Service plan.** (1) The department or its designee shall develop a service plan with the client which identifies ways to meet the client's needs with the most appropriate services, both formal and informal.

(2) Staff who develop the service plan shall document the:

(a) Client's specific problems and needs;

(b) Plan for meeting each need;

(c) Responsible parties for carrying out each part of the plan;

(d) Anticipated outcomes;

(e) Dates and changes to the plan;

(f) Dates of referral, service initiation, follow-up reviews; and

(g) Agreement to the service plan by the client or the client's representative.

**AMENDATORY SECTION** (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

**WAC 388-71-0410 What services may I receive under HCP?** You may receive the following HCP services:

PROPOSED

(1) Assistance with personal care tasks and household tasks in your own home, as defined in ~~((388-15-202(38)))~~ WAC 388-71-202; and

(2) Assistance with personal care tasks and household tasks in a residential setting, as described in WAC 388-71-0600. Note: Household tasks are included as part of the board and room rate. You may receive, under MPC:

(a) Up to thirty hours of personal care services in an adult residential care facility; or

(b) Up to sixty hours of personal care services in an adult family home.

**AMENDATORY SECTION** (Amending WSR 00-13-077, filed 6/19/00, effective 7/20/00)

**WAC 388-71-0430 Am I eligible for one of the HCP programs?** You are eligible to receive HCP services if you meet the functional and financial eligibility requirements in WAC 388-71-0435 for COPEs, WAC 388-71-0440 for MPC, or WAC 388-71-0445 for Chore. Functional eligibility for all three programs is determined through an assessment as provided under WAC 388-71-203. Your eligibility begins upon the date of the department's service authorization.

**AMENDATORY SECTION** (Amending WSR 00-13-077, filed 6/19/00, effective 7/20/00)

**WAC 388-71-0435 Am I eligible for COPEs-funded services?** You are eligible for COPEs-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, Community options program entry system (COPEs).

(3) You:

(a) Are not eligible for Medicaid personal care services; or

(b) Are eligible for Medicaid personal care services, but the department determines that the amount, duration, or scope of your needs is beyond what Medicaid personal care can provide.

(4) Your comprehensive assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless COPEs services are provided) which means one of the following applies. You:

(a) Require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis;

(b) Have an unmet need requiring substantial or total assistance with at least two or more of the following activities of daily living (ADLS) as defined in WAC ~~((388-15-202 and 388-15-203))~~ 388-71-202 and 388-71-203:

(i) Eating,

(ii) Toileting,

(iii) Ambulation,

(iv) Transfer,

(v) Positioning,

(vi) Bathing, and

(vii) Self-medication.

(c) Have an unmet need requiring minimal, substantial or total assistance in three or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section; or

(d) Have:

(i) A cognitive impairment and require supervision due to one or more of the following: disorientation, memory impairment, impaired judgment, or wandering; and

(ii) An unmet need requiring substantial or total assistance with one or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section.

(5) You have a completed service plan, per WAC ~~((388-15-205))~~ 388-71-205.

**AMENDATORY SECTION** (Amending WSR 00-18-099 [01-02-051], filed 12/28/00, effective 1/28/01)

**WAC 388-71-0445 Am I eligible for Chore-funded services?** To be eligible for Chore-funded services, you must:

(1) Be eighteen years of age or older;

(2) Require assistance with at least one of the direct personal care tasks listed in WAC ~~((388-15-202(17)))~~ 388-71-202;

(3) Not be eligible for MPC or COPEs, Medicare home health or other programs if these programs can meet your needs;

(4) Have net household income (as described in WAC 388-450-0005, 388-450-0020, 388-450-0040, and 388-511-1130) not exceeding:

(a) The sum of the cost of your chore services, and

(b) One-hundred percent of the FPL adjusted for family size.

(5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)

(6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

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

**AMENDATORY SECTION** (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

**WAC 388-71-0450 How do I remain eligible for services?** In order to remain eligible for services, you must have and be found still in need of HCP services through a ~~((reassessment))~~ new assessment. The reassessment must be ~~((conducted))~~

(1) ~~Face-to-face.~~

(2) ~~In your own home. Note: A case manager may request the interview be conducted in private.~~

(3)) at least annually or more often if your functional, financial, or other significant circumstances change.

**AMENDATORY SECTION** (Amending WSR 02-10-117, filed 4/30/02, effective 5/31/02)

**WAC 388-71-0500 What is the purpose of WAC 388-71-0500 through 388-71-05952?** A client/legal representative may choose an individual provider or a home care agency provider. The intent of WAC 388-71-0500 through 388-71-05952 is to describe the:

- (1) Qualifications of an individual provider, as defined in WAC ((~~388-15-202(25)~~ and (~~26~~)) 388-71-202;
- (2) Qualifications of a home care agency provider, as defined in WAC ((~~388-15-202(2)~~)) 388-71-202 and chapter 246-336 WAC;
- (3) Conditions under which the department or the area agency on aging (AAA) will pay for the services of an individual provider or a home care agency provider;
- (4) Training requirements for an individual provider and home care agency provider.

**AMENDATORY SECTION** (Amending WSR 01-11-019, filed 5/4/01, effective 6/4/01)

**WAC 388-71-0515 What are the responsibilities of an individual provider or home care agency provider when employed to provide care to a client?** An individual provider or home care agency provider must:

- (1) Understand the client's service plan that is signed by the client or legal representative and social worker/case manager, and translated or interpreted, as necessary, for the client and the provider;
- (2) Provide the services as outlined on the client's service plan, within the scope of practice in WAC ((~~388-15-202(38)~~ and ~~388-15-203~~)) 388-71-202 and 388-71-203;
- (3) Accommodate client's individual preferences and differences in providing care, within the scope of the service plan;
- (4) Contact the client's representative and case manager when there are changes which affect the personal care and other tasks listed on the service plan;
- (5) Observe the client for change(s) in health, take appropriate action, and respond to emergencies;
- (6) Notify the case manager immediately when the client enters a hospital, or moves to another setting;
- (7) Notify the case manager immediately if the client dies;
- (8) Notify the department or AAA immediately when unable to staff/serve the client; and
- (9) Notify the department/AAA when the individual provider or home care agency will no longer provide services. Notification to the client/legal guardian must:
  - (a) Give at least two weeks' notice, and
  - (b) Be in writing.
- (10) Complete and keep accurate time sheets that are accessible to the social worker/case manager; and
- (11) Comply with all applicable laws and regulations.

**AMENDATORY SECTION** (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

**WAC 388-71-0600 What are residential services?**

The residential service program provides personal care services, as defined in WAC ((~~388-15-202(38)~~)) 388-71-202, room, board, supervision, and nursing services for elderly and disabled adults. Eligible individuals may choose to receive services from any of the following licensed and contracted residential settings:

- (1) **Adult family homes** with a state contract provide services for two to six unrelated adults (chapter 388-76 WAC). Services include room, board and supervision. Residents may also receive limited nursing services, under nurse delegation or if the sponsor or the manager is a nurse.
- (2) **Assisted living** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and II). Structural requirements include two hundred twenty square foot private room, private bathroom, and a kitchen in each unit. Resident services may include room, board, assistance with ADL and IADL, and limited nursing services. Services are authorized according to the department's comprehensive assessment and service plan.

(3) **Enhanced adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and III). Services may include a shared room, limited nursing services, assistance with ADL and IADL, limited nursing services, and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

(4) **Adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and IV). Services may include supervision.

**AMENDATORY SECTION** (Amending WSR 98-11-095, filed 5/20/98, effective 7/1/98)

**WAC 388-76-540 Definitions. "Abandonment"** means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Abuse"** means a nonaccidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual.

**"Adult family home"** means the same as the definition in RCW 70.128.010.

**"Applicant"** means an individual, partnership, corporation, or other entity seeking a license to operate an adult family home.

**"Capacity"** means the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults in the home who receive special care.

**"Caregiver"** means any person eighteen years of age or older responsible for providing direct personal care to a resident and may include but is not limited to the provider, resi-

dent manager, employee, relief caregiver, volunteer, student, entity representative, or household member.

"**Case manager**" means the department staff person or designee assigned to negotiate, monitor, and facilitate a service plan for residents receiving services fully or partially paid for by the department.

"**Chemical restraint**" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

"**Department**" means the Washington state department of social and health services.

"**Entity provider**" means any corporation, partnership, association, or limited liability company that is licensed under this chapter to operate an adult family home.

"**Entity representative**" means the individual designated by an entity provider who is responsible for the daily operation of the adult family home.

"**Exploitation**" means the illegal or improper use of a frail elder or vulnerable adult or that person's income or resources, including trust funds, for another person's profit or advantage.

"**Frail elder or vulnerable adult**" means the same as the definition in RCW 74.34.020 or RCW 43.43.830.

"**Individual provider**" means an individual person or a legally married couple who is licensed to operate an adult family home.

"**Inspection**" means an on-site visit by department personnel to determine the adult family home's compliance with this chapter and chapter 70.128 RCW, Adult family homes.

"**Multiple facility provider**" means an individual or entity provider who is licensed to operate more than one adult family home.

"**Neglect**" means a pattern of conduct or inaction resulting in deprivation of care necessary to maintain a resident's physical or mental health.

"**Nursing assistant**" means the same as the definition in chapter 18.88A RCW.

"**Personal care services**" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs as defined in WAC ((388-15-202)) 388-71-202, Long-term care services—Definitions. Personal care services do not include assistance with tasks performed by a licensed health professional.

"**Physical restraint**" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

"**Provider**" means any person or entity that is licensed under this chapter to operate an adult family home.

"**Resident**" means any adult unrelated to the provider who lives in the adult family home and who is in need of care. "**Resident**" includes former residents when examining complaints about admissions, readmissions, transfers or discharges. For decision-making purposes, the term "resident"

includes the resident's surrogate decision maker in accordance with state law or at the resident's request.

"**Resident manager**" means a person employed or designated by the provider to manage the adult family home.

"**Special care**" means care beyond personal care services as defined by "**personal care services**" in this section.

"**Unsupervised**" means the same as the definition in RCW 43.43.830(8).

AMENDATORY SECTION (Amending Order 3979, filed 5/8/96, effective 6/8/96)

**WAC 388-110-020 Definitions.** ((+)) "**Adult residential care**" is a package of services, including personal care services, that the department contracts with a licensed boarding home to provide in accordance with Parts I and IV of this chapter.

((2)) "**Aging in place**" means being in a care environment that can accommodate a resident's progressive disability or changing needs without relocating. For aging in place to occur, needed services are adjusted to meet the changing needs of the resident.

((3)) "**Applicant**" means the individual, partnership, corporation or other entity which has applied for a contract with the department to provide assisted living services, enhanced adult residential care, or adult residential care to state funded residents in a licensed boarding home.

((4)) "**Assisted living services**" is a package of services, including personal care and limited nursing services, that the department contracts with a licensed boarding home to provide in accordance with Parts I and II of this chapter. Assisted living services include housing for the resident in a private apartment-like unit.

((5)) "**Boarding home**" means the same as the definition found in RCW 18.20.020(2), or a boarding home located within the boundaries of a federally recognized Indian reservation and licensed by the tribe.

((6)) "**Caregiver**" means any person responsible for providing direct personal care services to a resident and may include but is not limited to the contractor, employee, volunteer, or student.

((7)) "**Case manager**" means the department staff person or designee assigned to negotiate, monitor, and facilitate a service plan for residents receiving services fully or partially paid for by the department.

((8)) "**Contractor**" means the individual, partnership, corporation, or other entity which contracts with the department to provide assisted living services, enhanced adult residential care, or adult residential care to state funded residents in a licensed boarding home.

((9)) "**Department**" means the Washington state department of social and health services (DSHS).

((10)) "**Dignity**" means the quality or condition of being esteemed and respected in such a way as to validate the self-worth of the resident.

((11)) "**Enhanced adult residential care**" is a package of services, including personal care and limited nursing services, that the department contracts with a licensed board-

ing home to provide in accordance with Parts I and III of this chapter.

((+2)) **"Frail elder or vulnerable adult"** means the same as the definition found in RCW 74.34.020 or 43.43.830.

((+3)) **"Homelike"** means an environment having the qualities of a home, including privacy, comfortable surroundings, and the opportunity to modify one's living area to suit one's individual preferences. A homelike environment provides residents with an opportunity for self-expression, and encourages interaction with the community, family and friends.

((+4)) **"Independence"** means free from the control of others and being able to assert one's own will, personality and preferences.

((+5)) **"Individuality"** means the quality of being unique; the aggregate of qualities and characteristics that distinguishes one from others. Individuality is supported by modifying services to suit the needs or wishes of a specific individual.

((+6)) **"Limited nursing services"** means the same as the definition found in WAC 246-316-265.

((+7)) **"Personal care services"** means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs as defined in WAC ((388-15-202(38))) 388-71-202. Personal care services do not include assistance with tasks that must be performed by a licensed health professional.

((+8)) **"Resident"** means a person residing in a boarding home for whom services are paid for, in whole or in part, by the department under a contract for assisted living services, enhanced adult residential care, or adult residential care. **"Resident"** includes former residents when examining complaints about admissions, re-admissions, transfers or discharges. For decision-making purposes, the term **"resident"** includes the resident's surrogate decision maker in accordance with state law or at the resident's request.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-110-210 Client service eligibility.
- WAC 388-110-230 Client eligibility.
- WAC 388-110-250 Client service eligibility.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-15-194 Home and community services—Nursing services.
- WAC 388-15-202 Long-term care services—Definitions.
- WAC 388-15-203 Long-term care services—Assessment of task self-per-

formance and determination of required assistance.

WAC 388-15-204

Home and community services—Reassessment.

WAC 388-15-205

Long-term care services—Service plan development.

**WSR 02-17-002  
PROPOSED RULES  
WASHINGTON STATE  
SCHOOL FOR THE DEAF  
[Filed August 8, 2002, 9:02 a.m.]**

Original Notice.

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

Title of Rule: Chapter 148-100 WAC, Organization.

Purpose: To implement ESSB 6558, chapter 209, Laws of 2002, changes to governance.

Statutory Authority for Adoption: RCW 72.40.022.

Statute Being Implemented: Chapter 209, Laws of 2002.

Summary: Changes are needed to implement ESSB 6558, chapter 209, Laws of 2002, which revised the governance structure at the Washington School for the Deaf. The powers and duties of the board of trustees, formerly an advisory body, have been changed. The superintendent shall continue to supervise and manage the school, however, many of the superintendent's duties require approval by the board of trustees. ESSB 6558 requires the board to adopt bylaws and rules for its governance.

Reasons Supporting Proposal: Required by state law.

Name of Agency Personnel Responsible for Drafting: Bonnie Y. Terada, Attorney General's Office, 1220 Main Street, Suite 510, Vancouver, WA 98660, (360) 759-2100; Implementation and Enforcement: Len Aron, Washington School for the Deaf, 611 Grand Boulevard, Vancouver, WA 98661-4918, (360) 414-0400.

Name of Proponent: Washington State School for the Deaf, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes are needed to implement ESSB 6558, chapter 209, Laws of 2002, which revised the governance structure at the Washington School for the Deaf. The powers and duties of the board of trustees, formerly an advisory body, have been changed. Effective July 1, 2002, the board of trustees is a governing body responsible for performing oversight services to the governor and legislature, and directing, managing and supervising the operations of the school. The superintendent shall continue to supervise and manage the school, however, many of the superintendent's duties require approval by the board of trustees. ESSB 6558 requires the board to adopt bylaws and rules for its governance.

Proposal Changes the Following Existing Rules: As described above.

**PROPOSED**

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impacts have been identified.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule adoption. The rules are not considered significant legislative rules by the Washington School for the Deaf.

Hearing Location: Washington State School for the Deaf, Administrative Conference Room, 611 Grand Boulevard, Vancouver, WA 98661, on October 2, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Judy Smith by July 3, 2001 [October 1, 2002], TTY (360) 414-0401.

Submit Written Comments to: Len Aron, Washington School for the Deaf, 611 Grand Boulevard, Vancouver, WA 98661-4918, fax (360) 696-6291, by September 16, 2002.

Date of Intended Adoption: October 2, 2002.

August 6, 2002

Len Aron

Superintendent

## Chapter 148-100 WAC

### ORGANIZATION

AMENDATORY SECTION [(Amending WSR 90-16-012, filed 7/19/90)]

**WAC 148-100-001 Description of organization.** (1) The Washington state school for the deaf is a state agency established and organized under the authority of chapter 72.40 RCW. ~~((The primary purpose of the school is to educate and train hearing impaired children.))~~ The school provides special education and related services to deaf and hearing impaired students pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq.; and as administered and generally supervised by the superintendent of public instruction under chapter 28A.155 RCW.

(2) The school operates under the direction and control of the superintendent and the board of trustees. ~~((The board of trustees serves as an advisory board to the superintendent and to the legislature and performs various other functions as provided in chapter 72.42 RCW. The school provides consolidated services for the use of the Washington state school for the deaf and the Washington state school for the blind under an interagency agreement. A description of the administrative organization of the school is available at the administrative office of the school.))~~ The school is governed by a nine-member board of trustees, appointed by the governor, which is responsible for performing needed oversight services to the governor and legislature in the development of programs for the hearing impaired and in the operation of the school. The superintendent is the principal administrative officer of the school and shall be responsible for supervision and management of the school and its programs as well as other duties which are prescribed by Laws of 2002, ch. 209, sec. 3.

(3) The administrative office of the school is located at 611 Grand Blvd., Vancouver, Washington 98661. Any person may obtain additional information and make submissions

and requests at the administrative office. Additional information concerning organization and educational programs may also be obtained from the school's webpage at <http://www.wsd.wa.gov>.

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

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

## BYLAWS

### NEW SECTION

**WAC 148-100-010 Time and place of board meetings.** The board of trustees shall hold regular meetings on the third Thursday of each month pursuant to a schedule established yearly by the board and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with RCW 42.30.080. A regular meeting may be cancelled by action of the board or the board chair.

Meetings of the board shall be at the Washington School for the Deaf, 611 Grand Blvd., Vancouver, Washington 98661, or at such other location as the board may determine.

All regular and special meetings are open to the general public; however, the chair may call an executive session when permitted by law at which members of the general public shall not be present unless invited.

No official business may be conducted by the board of trustees except during a regular or special meeting. No individual member of the board may act on behalf of the board unless specifically instructed by action of the board.

### NEW SECTION

**WAC 148-100-020 Meetings—Board agenda—Communication.** (1) Anyone, other than a board member or a representative of the superintendent's office wishing an item placed on the agenda of a board meeting, must have a written request to the board secretary, superintendent's office, no later than twelve o'clock noon twelve business days before the next scheduled meeting of the board. The secretary will relate the request to the chair of the board as soon as feasible. The chair will determine whether the item is to be placed on the agenda. The chair or designee will notify the individual initiating the request as to whether or not the item will be placed on the agenda.

(2) All materials to be considered by the board must be submitted in sufficient quantities to provide each member of the board and the secretary with appropriate copies. To allow the board to have the benefit of background information and research, the superintendent shall be given an opportunity, whenever possible, to review and evaluate all materials prepared for consideration by the board prior to submission to the board. The superintendent shall also have the opportunity to make recommendations prior to a decision by the board on the matter.

(3) Proposed new policies and/or changes in policy will be presented first to the board of trustees as a report. Board action will usually be taken at a subsequent meeting. If expedient action on the matter would clearly be beneficial to the school, the board may consider taking action at the time the policy is first presented to the board.

(4)(a) Each regular meeting of the board shall provide members of the public an opportunity to address the board on any item of business. Groups and individuals are to submit their statements in writing to the board secretary, superintendent's office, whenever possible no less than two weeks prior to the time of the meeting. The board encourages groups to designate a spokesperson to address the board on their behalf.

(b) The chair of the board reserves the right to determine time limits on statements and presentations.

(c) The intent of the board shall be to provide equal time for opposing presentations. The chair also maintains the right to regulate the subject matter of that which may be presented or discussed at the open meeting including, but not limited to, matters which are the subject of current or pending grievances or adjudicative or disciplinary proceedings. Matters for consideration, discussion, and/or debate will be limited to the extent allowed by the Open Public Meetings Act, chapter 42.30 RCW.

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

#### NEW SECTION

**WAC 148-100-030 Officers of the board.** (1) At the first regular meeting of the board each fiscal year, the board shall elect from its membership, a chair and vice chair to serve for the ensuing year. In addition, the superintendent of the Washington School for the Deaf shall serve as secretary to the board of trustees. The secretary may, at his or her discretion, appoint the executive assistant to the superintendent to act as recording secretary for all regular and special meetings of the board.

2) The chair, shall preside at each regular or special meeting of the board, sign all legal and official documents recording action of the board, and review the agenda prepared for each meeting of the board. The chair shall, while presiding at official meetings, have full right of discussion and vote.

(3) The vice chair shall act as chair of the board in the absence of the chair.

(4) In case of the absence of the chair and vice chair from any meeting of the board of trustees or in case of the inability of both of the two to act, the board of trustees shall elect for the meeting a chair pro tempore, and may authorize such chair pro tempore to perform the duties and acts authorized or required by said chair or vice chair to be performed, as long as the inability of these said officers to act may continue.

(5) The secretary of the board shall in addition to any duties imposed by law or the Governor, keep the official seal of the board, maintain all records of meetings and other official action of the board.

(6) The secretary shall also be responsible for board correspondence, compiling the agenda of meetings, and distributing the minutes of the meetings and related reports.

(7) The secretary, or his or her designee, must attend all regular and special meetings of the board, and official minutes must be kept of all such meetings except in executive sessions.

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

#### NEW SECTION

**WAC 148-100-040 Records of board action.** All business transacted in official board meeting shall be recorded in minutes and filed for reference. Records are kept in the office of the secretary of the board.

#### NEW SECTION

**WAC 148-100-050 Revision of bylaws.** (1) The board of trustees may adopt bylaws to govern its operations. A record of these bylaws shall be maintained in the office of the president.

(2) Bylaws of the board may be revised by majority vote of the board provided such changes are proposed at least one meeting prior to the meeting at which the vote is taken. Bylaws may be revised by unanimous vote of the board at the same meeting at which the revision is originally proposed.

### **RULES COORDINATOR**

#### NEW SECTION

**WAC 148-100-200 Rules coordinator.** The rules coordinator for the Washington School for the Deaf as designated by the Board of Trustees is:

Superintendent  
Washington School for the Deaf  
611 Grand Blvd.  
Vancouver, Washington 98661

**WSR 02-17-029**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 12, 2002, 3:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-12-070.

Title of Rule: WAC 388-406-0015 Can I get food assistance right away?

Purpose: To clarify language in subsection (3)(a) and (b) and to delete language restricting expedited service start date to only SSI recipients in subsection (5)(c).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Summary: The amendment of this rule removes restrictive language about when expedited count start date begins for those clients leaving an institution and to clarify that the appropriate utility allowance should be used in place of the standard utility allowance.

Name of Agency Personnel Responsible for Drafting: Carole McRae, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3074; Implementation: Pam Raymond, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3087; and Enforcement: Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3205.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 20 C.F.R. 416.2130.

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose and Effect: This change is intended to clarify which utility allowance can be used in calculating food assistance benefits and to remove restrictive language on clients' expedited start dates when leaving institutions.

Proposal Changes the Following Existing Rules: The change to this rule clarifies for clients and financial workers which utility allowance can be used when calculating food assistance benefits for expedited food assistance. The new rule also removes the restriction of having to be an SSI recipient in order to take advantage of expedited start date rules when leaving an institution.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of these rules do not affect small businesses. They affect client eligibility for DSHS services and in this particular case are intended to clarify utility allowance and to remove the restriction of having to be an SSI recipient in order to take advantage of expedited start date rules when leaving an institution.

RCW 34.05.328 does not apply to this rule adoption. These rules are exempt from significant legislative rule requirements per RCW 34.05.328 (5)(b)(vii) which states in part, "(t)his section does not apply to . . . rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 9, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-18-036, filed 8/28/01, effective 10/1/01)

**WAC 388-406-0015 Can I get food assistance right away?** (1) When the department gets your food assistance application, we look at your circumstances to see if you can get benefits within five calendar days. This is called "expedited service."

(2) To get expedited service, you must provide proof of who you are and meet one of these three conditions:

(a) You have available cash of one hundred dollars or less and have monthly income before taxes under one hundred fifty dollars; or

(b) Your monthly income before taxes plus available cash is less than the total of your shelter costs such as your rent or mortgage and utilities; or

(c) You are a destitute migrant or seasonal farm worker household, as defined in WAC 388-406-0021, and your household's available cash does not exceed one hundred dollars.

(3) To determine the amount of utilities to use to decide if you can get expedited services, we allow:

(a) The ~~((standard))~~ appropriate utility allowance ~~((SUA))~~ under WAC 388-450-0195, if you have heating or cooling costs and the ~~((SUA))~~ appropriate utility allowance is greater than the amount you pay; or

(b) The amount you pay, if it is greater than the ~~((SUA))~~ appropriate utility allowance.

(4) If you are eligible for expedited service and are not required to have an office interview, you can:

(a) Have a telephone interview or a home visit; and

(b) Still get benefits within ~~((five days))~~ five days.

(5) If you are an applicant, "day one" of your five-day expedited service period starts on the:

(a) Day after the date your application is filed; or

(b) Date of the rescheduled interview when you are screened as expedited service eligible but do not show up for your initial interview; or

(c) Date you are released from a public institution ~~((if you are an SSI recipient))~~; or

(d) Date of your interview when you:

(i) Waive your expedited interview and are found eligible for expedited service during your rescheduled interview; or

(ii) Are screened as ineligible for expedited service and later found eligible for the service during your interview; or

(iii) Do not request expedited service on the application and are found eligible for the service during your interview.

(6) If you get expedited service and are found eligible for food assistance, we give you benefits for no more than two months. If we give you benefits and we need additional information to decide if you are eligible for continued benefits,

you have up to thirty days from the date ((of application)) you applied to give us the information.

(7) If you have received expedited service in the past, you can get this service again if you meet the requirements listed in subsection (2) above and you:

(a) Gave us all the information we needed to prove eligibility for your last expedited service benefit period; or

(b) Were certified under normal processing standards after your last expedited certification.

(8) If you reapply and request expedited service before your certification period ends, you are not eligible for expedited service.

(9) If you reapply after your certification period ends and request expedited service, your five-day expedited service period is the same as a new application.

(10) If you are denied expedited service, you can ask for a department review of your case. We review the decision within two working days from the date we denied you expedited service.

**WSR 02-17-032**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed August 13, 2002, 12:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-13-110.

Title of Rule: Regulatory fee increase and expansion of punch board/pull-tab and bingo licensing classes. Amending WAC 230-04-202 Fees—Bona fide charitable/nonprofit organizations, 230-04-203 Fees—Commercial stimulant and other business organizations, 230-04-204 Fees—Individuals, and 230-08-017 Control of gambling equipment—Use of identification and inspection services stamps.

Purpose: Staff have determined that a fee increase of approximately 3.29% is needed to cover budget requirements. This increase is in accordance with the limitations set forth in Initiative 601.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: N/A.

Summary: As a result of the bingo bill, which allows bingo operators to increase operation from three days a week to seven days a week and to share a facility, we anticipate that charitable licensees will have increased gross receipts. Therefore, the license classes for bingo and punch boards/pull-tabs were expanded to support the higher gross receipts.

Reasons Supporting Proposal: See Purpose and Summary above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 486-3466; Implementation: Rick Day, Lacey, (360) 486-3446; and Enforcement: Bob Berg, Lacey, (360) 486-3452.

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 Summary above.

Proposal Changes the Following Existing Rules: See Purpose and Summary 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.

RCW 34.05.328 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: DoubleTree Guest Suites Southcenter, 16500 Southcenter Parkway, Seattle, WA 98199, (206) 575-8220, on November 15, 2002, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by November 1, 2002, TDD (360) 486-3637, or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by November 1, 2002.

Date of Intended Adoption: November 15, 2002.

Susan Arland  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 01-23-056, filed 11/20/01, effective 1/1/02)

**WAC 230-04-202 Fees—Bona fide charitable/non-profit organizations.** Bona fide charitable and nonprofit organizations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
<b>1. AMUSEMENT GAMES</b>		
	(Fee based on annual gross gambling receipts)	
* Class A	Premises only	\$ ((53)) 54
Class B	Up to \$ 10,000	\$ ((53)) 54
Class C	Up to \$ 25,000	\$ ((285)) 294
Class D	Up to \$ 50,000	\$ ((457)) 472
Class E	Over \$ 50,000	\$ ((797)) 822
* Allows a charitable or nonprofit organization to enter into a contract with Class "B" or above commercial amusement game licensee to locate and operate amusement games on their premises.		

<b>2. BINGO GROUP</b>		(Fee based on annual gross gambling receipts)		VARIANCE *	FEE
Class A	Up to \$	15,000	\$ 1,000		\$ ((53)) 54
Class B	Up to \$	50,000	\$ 1,000		\$ ((166)) 171
Class C	Up to \$	100,000	\$ 2,000		\$ ((339)) 350
Class D	Up to \$	250,000	\$ 4,000		\$ ((915)) 944

PROPOSED

PROPOSED

2. BINGO GROUP

	(Fee based on annual gross gambling receipts)	VARIANCE *	
Class G	Up to \$ 1,500,000	\$ 23,000	\$ ((4,467)) <u>4,612</u>
Class H	Up to \$ 2,000,000	\$ 30,000	\$ ((5,967)) <u>6,162</u>
Class I	Up to \$ 2,500,000	\$ 38,000	\$ ((7,455)) <u>7,700</u>
Class J	Up to \$ 3,000,000	\$ 45,000	\$ ((8,945)) <u>9,238</u>
Class K	Up to \$ 3,500,000	\$ 53,000	\$ ((10,934)) <u>10,364</u>
Class L	Up to \$ 4,000,000	\$ 60,000	\$ ((11,479)) <u>11,846</u>
((Class M and above	Over \$ 4,000,000	Net applicable	<u>12,906</u> )
Class M	Up to \$ 4,500,000	\$ 65,000	\$ 13,330
Class N	Up to \$ 5,000,000	\$ 70,000	\$ 14,500
Class O	Up to \$ 5,500,000	\$ 75,000	\$ 16,000
Class P	Up to \$ 6,000,000	\$ 80,000	\$ 17,500
Class Q	Up to \$ 7,000,000	\$ 85,000	\$ 21,000
Class R	Up to \$ 8,000,000	\$ 90,000	\$ 24,000
Class S	Up to \$ 9,000,000	\$ 95,000	\$ 27,000
Class T	Up to \$ 10,000,000	\$ 100,000	\$ 30,000
Class U	Up to \$ 11,000,000	\$ 105,000	\$ 33,000
Class V	Up to \$ 12,000,000	\$ 110,000	\$ 36,000
Class W	Up to \$ 14,000,000	\$ 115,000	\$ 42,000
Class X	Over \$ 14,000,000	\$ 120,000	\$ 48,000

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

3. CARD GAMES

Class A	General (Fee to play charged)	\$ ((574)) <u>589</u>
Class B	Limited card games - hearts, rummy, pitch, pinochle, and cribbage (Fee to play charged)	\$ ((166)) <u>171</u>
Class C	Tournament only - no more than ten consecutive days per tournament	\$ ((53)) <u>54</u>
Class D	General (No fee to play charged)	\$ ((53)) <u>54</u>

4. FUND-RAISING EVENT

Class A	One event - not more than 24 consecutive hours	\$ ((339)) <u>350</u>
	First time applicant	
	*Previously licensed applicant	\$ ((200)) <u>206</u>
Class B	One event - not more than 72 consecutive hours	\$ ((574)) <u>589</u>
	First time applicant	
	*Previously licensed applicant	\$ ((350)) <u>361</u>
Class C	Additional participant in joint event (not lead organization)	\$ ((166)) <u>171</u>

4. FUND-RAISING EVENT

Class D	Limited fund-raising event (one event - not more than six consecutive hours)	
	First time applicant	\$ ((150)) <u>154</u>
	**Previously licensed applicant	\$ ((100)) <u>103</u>
Class E	Fund-Raising Event Equipment Distributor - rents or leases equipment for fund-raising event or recreational gaming activity for no more than ten times per year***	\$ ((226)) <u>233</u>
Class F	Fund-Raising Event Equipment Distributor - rents or leases equipment for fund-raising event or recreational gaming activity more than ten times per year.	\$ ((574)) <u>589</u>

\* Provides for a reduced fee when charitable and nonprofit organizations apply for an additional Class A or Class B fund-raising event.

\*\* Provides for a fee reduction when charitable and nonprofit organizations apply for an additional Class D limited fund-raising event.

\*\*\* Charitable and nonprofit organizations licensed to conduct fund-raising events may rent their equipment up to four occasions during the term of the license without getting licensed as a distributor.

5. PUNCH BOARDS/PULL-TABS

	(Fee based on annual gross gambling receipts)	VARIANCE*
Class A	Up to \$ 50,000	\$ 5,000 \$ ((544)) <u>561</u>
Class B	Up to \$ 100,000	\$ 5,000 \$ ((974)) <u>1,002</u>
Class C	Up to \$ 200,000	\$ 10,000 \$ ((1,832)) <u>1,892</u>
Class D	Up to \$ 300,000	\$ 10,000 \$ ((2,663)) <u>2,750</u>
Class E	Up to \$ 400,000	\$ 10,000 \$ ((3,440)) <u>3,552</u>
Class F	Up to \$ 500,000	\$ 10,000 \$ ((4,153)) <u>4,288</u>
Class G	Up to \$ 600,000	\$ 10,000 \$ ((4,812)) <u>4,970</u>
Class H	Up to \$ 700,000	\$ 10,000 \$ ((5,416)) <u>5,594</u>
Class I	Up to \$ 800,000	\$ 10,000 \$ ((6,162)) <u>6,162</u>
Class J	Up to \$ 1,000,000	\$ 20,000 \$ ((6,765)) <u>6,986</u>
Class K	Up to \$ 1,250,000	\$ 25,000 \$ ((7,509)) <u>7,756</u>
Class L	Up to \$ 1,500,000	\$ 25,000 \$ ((8,204)) <u>8,470</u>
Class M	Up to \$ 1,750,000	\$ 25,000 \$ ((8,774)) <u>9,058</u>

5. PUNCH BOARDS/PULL-TABS

	(Fee based on annual gross gambling receipts)		VARIANCE*
Class N	Up to \$	2,000,000	\$ 25,000 \$ ((9,290)) 9,594
<del>Class O</del>	Over	\$ 2,000,000	Non-applicable \$ 10,208
Class O	Up to	\$ 2,500,000	\$ 30,000 \$ 10,542
Class P	Up to	\$ 3,000,000	\$ 35,000 \$ 11,200
Class Q	Up to	\$ 4,000,000	\$ 40,000 \$ 13,200
Class R	Up to	\$ 5,000,000	\$ 50,000 \$ 15,000
Class S	Up to	\$ 6,000,000	\$ 60,000 \$ 17,000
Class T	Up to	\$ 7,000,000	\$ 70,000 \$ 19,000
Class U	Up to	\$ 8,000,000	\$ 80,000 \$ 21,000
Class V	Over	\$ 8,000,000	\$ 80,000 \$ 23,000

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

6. RAFFLES

	(Fee based on annual gross gambling receipts)		
Class A	Up to	\$ 5,000	\$ ((53)) 54
Class B	Up to	\$ 10,000	\$ ((466)) 171
Class C	Up to	\$ 25,000	\$ ((339)) 350
Class D	Up to	\$ 50,000	\$ ((571)) 589
Class E	Up to	\$ 75,000	\$ ((915)) 944
Class F	Over	\$ 75,000	\$ ((1,370)) 1,414

7. COMBINATION LICENSE

CLASS A	Allows gross gambling receipts of up to \$ 25,000 from bingo, \$ 7,500 from raffles, and \$ 7,500 from amusement games, not to exceed \$ 30,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((103)) 106
CLASS B	Allows gross gambling receipts of up to \$ 60,000 from bingo, \$ 15,000 from raffles, and \$ 15,000 from amusement games, not to exceed \$ 75,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((268)) 276

7. COMBINATION LICENSE

CLASS C	Allows gross gambling receipts of up to \$ 125,000 from bingo, \$ 30,000 from raffles, and \$ 30,000 from amusement games, not to exceed \$ 150,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ ((619)) 639
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8. SEPARATE PREMISES

BINGO	Per occasion (see WAC 230-04-300)	\$ 26
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9. PERMITS

AGRICULTURAL FAIR-BINGO	(See WAC 230-04-191)	\$ 26
RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-25-330 and 230-02-505)	\$ ((53)) 54

10. CHANGES

NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320) (Date or time)	\$ 26
FRE	(See WAC 230-04-325)	\$ 26
LICENSE CLASS	(See WAC 230-04-260)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26

11. SPECIAL FEES

INVESTIGATION	(See WAC 230-04-240)	As required
REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-08-017)	\$ 26
EXCEEDING LICENSE CLASS	(See WAC 230-04-260)	As required
REVIEW, INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required

12. SIX-MONTH PAYMENT

PLAN	(See WAC 230-04-190)	\$ 26
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AMENDATORY SECTION (Amending WSR 01-23-056, filed 11/20/01, effective 1/1/02)

**WAC 230-04-203 Fees—Commercial stimulant and other business organizations.** All persons seeking to operate gambling activities shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

PROPOSED

PROPOSED

LICENSE TYPE	DEFINITION	FEE
<b>1. CARD GAMES</b>		
Class B	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage (Fee to play charged)	\$ ((170)) <u>175</u>
Class C	Tournament only, no more than ten consecutive days per tournament.	
C-5	Up to five tables	\$ ((170)) <u>175</u>
C-10	Up to ten tables	\$ ((308)) <u>318</u>
C-15	Up to fifteen tables	\$ ((513)) <u>529</u>
Class D	General - Up to five tables (No fee to play charged)	\$ ((54)) <u>55</u>
Class E	*General (Fee to play charged)	
E-1	One table only	\$ ((409)) <u>422</u>
E-2	Up to two tables	\$ ((704)) <u>727</u>
E-3	Up to three tables	\$ ((1,172)) <u>1,210</u>
E-4	Up to four tables	\$ ((2,350)) <u>2,426</u>
E-5	Up to five tables	\$ ((3,534)) <u>3,650</u>
Additional tables up to a maximum of fifteen may be authorized for an additional per table fee of \$ ((1,027)) <u>1,060</u> .		
*In addition to the above initial license fee, the commission will assess all applicants/licensees the actual costs that exceed the license fee for conducting the initial investigation and inspection, any follow-up reviews or investigations involved in the approval of activities and schemes.		
Class F	Enhanced card room activities endorsement - Includes alternative fee collections (per hand; pot rake) and use of player-supported jackpot schemes.	
	Annual license fee	\$ ((1,540)) <u>1,590</u>

<b>2. CARD GAMES - HOUSE-BANKED</b>		
	All tables within a card room operating any house-banked card game shall be licensed under this license class.	
	*Annual license fee	\$ ((6,166)) <u>6,368</u>
	Per table fee (up to fifteen tables)	\$ ((1,540)) <u>1,590</u>

\*The commission will assess all applicants the actual costs for conducting the initial license investigation and premises inspection. Any post licensing follow-up reviews, inspections, internal control evaluations or subsequent phases of operation shall also be charged actual costs. Licensees will be evaluated and charged for these additional authorizations/phases on an individual case by case basis.

<b>3. COMMERCIAL AMUSEMENT GAMES</b> (Fee based on annual gross gambling receipts)		
* Class A	Premises only	** \$ ((292/\$ 133)) <u>301/\$137</u>
Class B	Up to \$ 50,000	\$ ((409)) <u>422</u>

LICENSE TYPE	DEFINITION	FEE
Class C	Up to \$ 100,000	\$ ((1,052)) <u>1,086</u>
Class D	Up to \$ 250,000	\$ ((2,350)) <u>2,426</u>
Class E	Up to \$ 500,000	\$ ((4,122)) <u>4,256</u>
Class F	Up to \$ 1,000,000	\$ ((7,074)) <u>7,306</u>
Class G	Over \$ 1,000,000	\$ ((8,850)) <u>9,140</u>

\* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.

\*\* Provides for a fee reduction of \$159 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.

4. PUNCH BOARDS/ PULL-TABS	(Fee based on annual gross gambling receipts)		VARIANCE*
Class A	Up to \$ 50,000	\$5,000	\$ ((559)) <u>577</u>
Class B	Up to \$ 100,000	\$5,000	\$ ((998)) <u>1,030</u>
Class C	Up to \$ 200,000	\$10,000	\$ ((1,882)) <u>1,942</u>
Class D	Up to \$ 300,000	\$10,000	\$ ((2,736)) <u>2,826</u>
Class E	Up to \$ 400,000	\$10,000	\$ ((3,534)) <u>3,650</u>
Class F	Up to \$ 500,000	\$10,000	\$ ((4,268)) <u>4,408</u>
Class G	Up to \$ 600,000	\$10,000	\$ ((4,946)) <u>5,108</u>
Class H	Up to \$ 700,000	\$10,000	\$ ((5,566)) <u>5,748</u>
Class I	Up to \$ 800,000	\$10,000	\$ ((6,132)) <u>6,332</u>
Class J	Up to \$ 1,000,000	\$20,000	\$ ((6,952)) <u>7,180</u>
Class K	Up to \$ 1,250,000	\$25,000	\$ ((7,718)) <u>7,970</u>
Class L	Up to \$ 1,500,000	\$25,000	\$ ((8,428)) <u>8,704</u>
Class M	Up to \$ 1,750,000	\$25,000	\$ ((9,014)) <u>9,310</u>
Class N	Up to \$ 2,000,000	\$25,000	\$ ((9,548)) <u>9,862</u>
((Class O	Over \$ 2,000,000	Nonapplicable	\$10,492)
Class O	Up to \$ 2,500,000	\$30,000	\$10,836
Class P	Up to \$ 3,000,000	\$35,000	\$11,200
Class Q	Up to \$ 4,000,000	\$40,000	\$13,200
Class R	Up to \$ 5,000,000	\$50,000	\$15,000
Class S	Up to \$ 6,000,000	\$60,000	\$17,000
Class T	Up to \$ 7,000,000	\$70,000	\$19,000
Class U	Up to \$ 8,000,000	\$80,000	\$21,000
Class V	Over \$ 8,000,000	\$80,000	\$23,000

LICENSE TYPE	DEFINITION	FEE
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\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

<b>5. PUNCH BOARD AND PULL-TAB SERVICE BUSINESS</b>		
	(See WAC 230-04-133) *Initial application fee	\$ ((241)) <u>217</u>
	Additional associate	\$ ((132)) <u>136</u>
	Renewal	\$ ((52)) <u>53</u>

\*Includes up to two associates.

<b>6. DISTRIBUTOR</b> (Fee based on annual gross sales of gambling related supplies and equipment)		
(a)	Class A Nonpunch board/pull-tab only	\$ ((586)) <u>605</u>
	Class B Up to \$ 250,000	\$ ((1,172)) <u>1,210</u>
	Class C Up to \$ 500,000	\$ ((1,762)) <u>1,818</u>
	Class D Up to \$ 1,000,000	\$ ((2,350)) <u>2,426</u>
	Class E Up to \$ 2,500,000	\$ ((3,060)) <u>3,160</u>
	Class F Over \$ 2,500,000	\$ ((3,768)) <u>3,890</u>

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.

(b)	<b>FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR</b>	
	Class A Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$ ((232)) <u>239</u>
	Class B Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$ ((586)) <u>605</u>

<b>7. GAMBLING SERVICE SUPPLIER</b>		
	(See WAC 230-04-119)	\$ ((610)) <u>630</u>

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.

An annual fee of \$ ((129)) 136 shall be charged for each new contract initiated by the gambling service supplier.

<b>8. LINKED BINGO PRIZE PROVIDER</b>		
	(See WAC 230-04-126)	\$ ((3,920)) <u>4,048</u>

<b>9. MANUFACTURER</b> (Fee based on annual gross sales of gambling related supplies and equipment)		
Class A	Pull-tab dispensing devices only	\$ ((586)) <u>605</u>
Class B	Up to \$ 250,000	\$ ((1,172)) <u>1,210</u>
Class C	Up to \$ 500,000	\$ ((1,762)) <u>1,818</u>
Class D	Up to \$ 1,000,000	\$ ((2,350)) <u>2,426</u>

LICENSE TYPE	DEFINITION	FEE
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Class E	Up to \$ 2,500,000	\$ ((3,060)) <u>3,160</u>
Class F	Over \$ 2,500,000	\$ ((3,768)) <u>3,890</u>

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional activities or product lines, compliance suitability evaluations, and renewal of licenses when travel cost is incurred to complete the investigation.

<b>10. PERMITS</b>		
AGRICULTURAL FAIR/SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ ((170)) <u>175</u>
RECREATIONAL GAMING ACTIVITY (RGA)		
	(See WAC 230-02-505 and 230-25-330)	\$ ((54)) <u>55</u>
MANUFACTURER'S SPECIAL SALES PERMIT		
	(See WAC 230-04-115)	*\$ ((205)) <u>211</u>

\*The two hundred ((five)) eleven dollar fee is nonrefundable, whether the sales permit is approved or not. In addition, an applicant may be assessed additional fees incurred to process and determine suitability.

<b>11. CHANGES</b>		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
BUSINESS	(Same owners)	\$ ((54)) <u>55</u>
CLASSIFICATION	(See WAC 230-04-340)	
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
CORPORATE STOCK/LIMITED LIABILITY COMPANY SHARES/UNITS	(See WAC 230-04-360)	\$ ((54)) <u>55</u>
LICENSE TRANSFERS	(See WAC 230-04-125 and 230-04-340)	\$ ((54)) <u>55</u>

<b>12. SPECIAL FEES</b>		
INVESTIGATION IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-04-240)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-08-017)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-030)	As required
EXCEEDING LICENSE CLASS	(See WAC 230-04-260)	\$ 26
REVIEW, INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required

PROPOSED

PROPOSED

LICENSE TYPE	DEFINITION	FEE
SPECIAL SALES PERMITS	(See WAC 230-04-115)	As required
ELECTRONIC CARD FACSIMILE TABLE IDENTIFICATION	(See WAC 230-08-017)	*\$ ((350)) <u>361.51</u>
STAMP	* Annually, for each separate table	
13. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 26

**AMENDATORY SECTION** (Amending WSR 01-23-056, filed 11/20/01, effective 1/1/02)

**WAC 230-04-204 Fees—Individuals.** Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. CHARITABLE OR NON-PROFIT GAMBLING MANAGER	Original	\$ ((166)) <u>171</u>
	Renewal	\$ ((80)) <u>82</u>
	Change of Employer	\$ ((80)) <u>82</u>
2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE	Original	\$ ((232)) <u>239</u>
	Renewal	\$ ((142)) <u>146</u>
3. COMMERCIAL GAMBLING MANAGER	Original	\$ ((170)) <u>175</u>
	Renewal	\$ ((82)) <u>84</u>
	Change of Employer	\$ ((82)) <u>84</u>
4. DISTRIBUTOR'S OR GAMBLING SERVICES SUPPLIER REPRESENTATIVE	Original	\$ ((232)) <u>239</u>
	Renewal	\$ ((142)) <u>146</u>
5. MANUFACTURER'S REPRESENTATIVE	Original	\$ ((232)) <u>239</u>
	Renewal	\$ ((142)) <u>146</u>
6. PUBLIC CARD ROOM EMPLOYEE	<b>CLASS A - Performs duties as defined in WAC 230-02-415 in a class E card room.</b>	
	Original	\$ ((170)) <u>175</u>
	Renewal	\$ ((82)) <u>84</u>
	<b>CLASS B - Performs duties as defined in WAC 230-02-415 in enhanced and house-banked card rooms.</b>	
	Original, in-state	\$ ((230)) <u>237</u>

LICENSE TYPE	DEFINITION	FEE
	Original, out-of-state	\$ ((286)) <u>295</u>
	Renewal	\$ ((142)) <u>146</u>
	Transfer/Additional Employee/Conversion/ Emergency Waiver Request	\$ ((56)) <u>57</u>
7. OTHER FEES		
CHANGE OF NAME	(See WAC 230-04-310)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OUT-OF-STATE RECORDS INQUIRY	(See WAC 230-04-240)	As required

**AMENDATORY SECTION** (Amending WSR 01-23-056, filed 11/20/01, effective 1/1/02)

**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.

**Documenting equipment transfers.**

(1) Each licensee that transfers leases or provides gambling equipment shall document the transaction by completing an invoice or other written record setting forth the information required by WAC 230-08-040.

**ID stamps to be affixed to equipment.**

(2) Identification and inspection services stamps obtained from the commission shall be used to identify gambling equipment and shall be permanently and conspicuously affixed to all equipment and devices designated by the commission. Once attached, identification and inspection services stamps shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

**Equipment/devices requiring ID stamps.**

- (3) 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;
  - (d) Coin or token-activated amusement games operated at any Class A amusement game license location;
  - (e) Electronic bingo card daubers;
  - (f) Electronic card facsimile table; and
  - (g) Other gambling equipment or devices, as determined by the director.

**Purchasing and affixing ID stamps.**

(4) 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 (10) and (11) of this section;

**Fees for ID stamps.**

(5) 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 and two cents;~~
  - ~~(iii) Progressive jackpot pull tab series ten dollars and twenty seven cents per series;~~
  - ~~(iv) Pull tab series with carry over jackpots one dollar and two cents;~~
- ~~(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 two dollars and seventy nine cents annually.~~
- ~~(c) Disposable bingo cards:~~
  - ~~(i) Sets of individual cards or sheets of cards twenty seven cents;~~
  - ~~(ii) Collations of cards one dollar and thirteen cents;~~
  - ~~(iii) Cards used to play for linked bingo prizes forty one 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 and sixty nine cents annually;~~
- ~~(e) Electronic bingo card daubers ten dollars and twenty seven cents annually;~~
- ~~(f) Electronic card facsimile table three hundred fifty dollars annually for each table;~~
- ~~(g) Other equipment or devices the actual cost of inspection or approval, as determined by the director.))~~

<u>Equipment Type</u>	<u>Definition</u>	<u>Fee</u>
<b>(a) Punch boards and pull tabs</b>		
(i) Standard	Wagers fifty cents and below	\$ .27
(ii) Standard	Wagers over fifty cents	\$1.05
(iii) Progressive jackpot pull tab series	Per series	\$10.60
(iv) Pull tab series with carry-over jackpots	Per series	\$1.05
<b>(b) Pull-tab dispensing devices</b>		
(i) Mechanical and electro-mechanical		\$ .27

<u>Equipment Type</u>	<u>Definition</u>	<u>Fee</u>
(ii) Electronic	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	\$106.17
<b>(c) Disposable bingo cards</b>		
(i) Sets of individual cards or sheets of cards		\$ .27
(ii) Collations of cards		\$1.16
(iii) Cards used to play for linked bingo prizes	Fee is per 250 cards Fee is per 5000 cards	\$ .42 \$8.49
<b>(d) Coin or token-activated amusement games</b>		
Operated at any Class A amusement game license location		\$26.53
(e) Electronic bingo card daubers		\$10.60
(f) Electronic card facsimile table		\$361.51
(g) Other equipment or devices		The actual cost of inspection or approval, as determined by the director

**PROPOSED**

**ID stamps valid for one year - exception.**

(6) 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.

**Affixing stamps - shipping and packaging.**

(7) 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.

**Location of ID stamps on equipment/devices.**

(8) 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;

(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; and

(e) **Electronic facsimile card table** - 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 card facsimiles. The records entry labels shall not be affixed to table and may be discarded.

#### **ID stamps shall only be affixed to approved devices.**

(9) 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.

#### **Licensed owners may purchase ID stamps.**

(10) 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.

#### **Replacing worn ID stamps on pull-tab dispensing devices.**

(11) 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.

#### **Recordkeeping and replacing damaged stamps.**

(12) 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.

### **WSR 02-17-049 PROPOSED RULES BOARD OF ACCOUNTANCY**

[Filed August 15, 2002, 9:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-04-063.

Title of Rule: WAC 4-25-640 Clients' confidential information.

Purpose: To include firm owners in the confidentiality requirements and, while requiring CPAs maintain information as confidential, ensure a client-relationship is not established by way of preengagement discussions with prospective clients.

Statutory Authority for Adoption: RCW 18.04.055(2).

Statute Being Implemented: RCW 18.04.055(2).

Summary: Prohibits CPAs, CPA firms, CPA firm owners, and employees of CPAs or CPA firms from disclosing any confidential client information without the consent of the client; requires CPAs, CPA firms, and CPA firm owners to return to clients original records and any working papers that constitute part of the client's records and are not otherwise available to the client.

Reasons Supporting Proposal: E2SSB 5593 that passed through the 2001 legislative session significantly revised the Public Accountancy Act (chapter 18.04 RCW). The Board of Accountancy needs to revise this rule to implement the revisions to chapter 18.04 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 711 South Capitol Way, #400, Olympia, (360) 586-0163.

Name of Proponent: Washington State Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board's goal is to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

Specifically, this amendment incorporates parts of statute (RCW 18.04.390 and [18.04.]405) into the board's rules of professional conduct. The rule prohibits Washington CPAs from disclosing any confidential client information without the consent of the client; clarifies when the rule does not affect a CPA's disclosure of client information, and outlines a CPA's obligations with respect to the records of a cli-

ent in a clear format. This standard of professional conduct is needed to protect the public by ensuring privacy and record accessibility.

Proposal Changes the Following Existing Rules:

- Moves the definition of client to the first paragraph and made it applicable to the entire rule.
- Adds firm owners to those required to comply with the rule.
- Changes all references to "CPA" to "licensee" making this rule applicable to licensed CPAs, CPA firms and permit holders.
- Excludes certificateholders from the provisions of this rule by using the term "licensee."
- To clarify the current requirements, changes the word "shall" to "must."

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Wyndham Garden Hotel - SeaTac, 18118 Pacific Highway South, SeaTac, WA, on October 25, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by October 18, 2002, TDD (800) 833-6384 or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, CPA, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9194, by October 22, 2002.

Date of Intended Adoption: October 25, 2002.

August 8, 2002

Dana M. McInturff, CPA  
Executive Director

**AMENDATORY SECTION** (Amending WSR 93-22-046, filed 10/28/93, effective 11/28/93)

**WAC 4-25-640 Clients' confidential information.** (1) The term "client" as used throughout this section includes former and current clients. For purposes of this section, a client relationship has been formed when confidential information has been disclosed by a prospective client in an initial interview to obtain or provide professional services.

(2) **Confidential client communication.** (~~The term "client" as used throughout this section shall include a former, current, or prospective client.~~) A licensee (~~or any partner, officer, shareholder~~), firm owner, or employee of a licensee (~~shall~~) must not without the consent of the client or the heirs, successors or personal representatives of the client disclose any confidential communication or information pertaining to the client obtained in the course of performing professional services.

This rule does not:

(a) Affect in any way a licensee's, firm owner's, or employee's obligation to comply with a (~~validly~~) lawfully issued subpoena or summons (~~enforceable by order of a court~~); (~~or~~)

(b) Prohibit disclosures in the course of a quality review of a licensee's (~~professional~~) attest services; (~~or~~)

(c) Preclude a licensee, firm owner, or employee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board. However, a licensee (~~or any partner, officer, shareholder~~), firm owner, or employee of a licensee (~~shall~~) must not disclose or use to their own advantage any confidential client information that comes to their attention in carrying out their official responsibilities; or

(d) Preclude a review of client information in conjunction with a prospective purchase, sale, or merger of all or part of a CPA's practice.

(~~(2)~~) (3) **Client records.** (~~A licensee shall~~) Licensees and firm owners must furnish to (~~his or her~~) their client or heirs, successors or personal representatives, upon request and reasonable notice:

(a) A copy of the licensee's or firm owner's working papers, including electronic documents, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client, that the licensee or firm owner removed from the client's premises or received for the client's account, including electronic documents; but the licensee or firm owner may make and retain copies of such documents of the client when they form the basis for work done by the licensee or firm owner.

Licensees and firm owners must not refuse to return client records, including electronic documents, pending client payment of outstanding fees.

## WSR 02-17-050

### PROPOSED RULES

### BOARD OF ACCOUNTANCY

[Filed August 15, 2002, 9:51 a.m.]

Supplemental Notice to WSR 02-13-022.

Preproposal statement of inquiry was filed as WSR 01-22-037.

Title of Rule: WAC 4-25-530 Fees.

Purpose: To remove references to "permits" and "permitholders," set the fee for a certificateholder to convert to a licensee, consider a fee increase for candidates of another state to take the CPA examination in Washington state, and consider fee increase for applications to take the CPA examination.

Statutory Authority for Adoption: RCW 18.04.055, [18.04].065, [18.04].105 (1)(e) and (3).

Statute Being Implemented: RCW 18.04.055, [18.04].065, [18.04].105 (1)(e) and (3).

Summary: Increases the fees to take the uniform CPA examination, increases the fee for proctored candidates, replaces references to "permits" and "permitholders" with "practice privilege," replaces reference to CPA "certificate" to CPA "wall document," and clarifies that no fee is charged to certificateholders converting to a license.

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Reasons Supporting Proposal: The AICPA has increased the exam-grading fee by \$5.00 per section of the exam. CPA examination services has asked that they be allowed to pass this increase on to candidates. The fee for proctored candidates should be increased to be equitable with other exam fee increases. "Permit" language is being changed to "practice privilege" for consistency with the statute. The fee for certificateholders converting to a license was inadvertently left out of the amended rule (effective December 1, 2001). Currently, board policy establishes the fee as \$0.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 711 South Capitol Way, #400, Olympia, (360) 586-0163.

Name of Proponent: Primarily the Washington State Board of Accountancy, CPA Examination Services, private, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board's goal is to:

- Promote clarity.
- Ensure effective communication.
- Ensure fairness in interpretation and application of the rules.
- Promote efficiencies through minimizing gray areas.

Specifically, RCW 18.04.065 directs the board to "set its fees at a level adequate to pay the costs of administering this chapter" (that is, chapter 18.04 RCW, the Accountancy Act).

Proposal Changes the Following Existing Rules: Increases the fee for CPA examination applications as follows:

- First-time from \$264 to \$284.
- Reexamination, four sections from \$239 to \$259.
- Reexamination, two sections from \$172 to \$182.
- Reexamination, one section from \$149 to \$154.
- Increases the fee for proctored candidates from \$90 to \$110.
- Replaces references to "permits" and "permitholders" with "practice privilege."
- Replaces reference to CPA "certificate" to CPA "wall document."
- Clarifies that no fee is charged to certificateholders converting to a license.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Wyndham Garden Hotel - SeaTac, 18118 Pacific Highway South, SeaTac, WA, on October 25, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by October 18, 2002, TDD (800) 833-6384 or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, CPA, Executive Director, Washington State Board of

Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by October 22, 2002.

Date of Intended Adoption: October 25, 2002.

August 8, 2002

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 01-22-036, filed 10/30/01, effective 12/1/01)

**WAC 4-25-530 Fees.** The board shall charge the following fees:

(1)	CPA examination applications:	
(a)	First-time . . . . .	<del>\$(264))</del> <u>284</u>
(b)	Reexamination, four sections . . .	<del>\$(239))</del> <u>259</u>
(c)	Reexamination, two sections . . .	<del>\$(172))</del> <u>182</u>
(d)	Reexamination, one section . . . .	<del>\$(149))</del> <u>154</u>
(e)	Administration of examination for out-of-state applicants . . . . .	<del>\$(90))</del> <u>110</u>
(2)	<del>((Application for))</del> <u>Initial</u> individual license, <del>((permit to))</del> <u>practice privilege</u> , individual license through reciprocity, or registration as a resident nonlicensee firm owner . . . . .	\$300
(3)	Renewal of license, certificate, <del>((permit to))</del> <u>practice privilege</u> , or registration as a resident nonlicensee firm owner . . . . .	\$200
(4)	CPA firm license and renewal fee (sole proprietorships with no employees are exempt)	\$200
(5)	Amendment to firm license . . . .	\$25
(6)	Copies of records, per page exceeding fifty pages . . . . .	\$0.50
(7)	Printed listing of CPA exam candidates . . . . .	\$75
(8)	Computer diskette listing of licensees, certificateholders, <del>((permitholders))</del> <u>grants of practice privilege</u> , and registered resident nonlicensee firm owners and CPA exam candidates . . . . .	\$75
(9)	Applications for reinstatement of license, <del>((permit to))</del> <u>practice privilege</u> , certificate, or registration as a resident nonlicensee owner . . . .	\$450
(10)	Replacement CPA <del>((certificates))</del> <u>wall document</u> . . . . .	\$50

(11)	Quality assurance review program fee (includes monitoring reviews for up to two years) . . . . .	\$400
(12)	Late fee . . . . .	\$100
(13)	Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) . . . . .	\$35
(14)	<u>Application for certificateholder to convert to a license . . . . .</u>	<u>\$0</u>

on August 2, 2002. The proposed rules included amending chapter 36-12 WAC, Professional boxing; chapter 36-13 WAC, Professional wrestling; and chapter 36-14 WAC, Professional martial arts.

If you have questions or comments, please contact (360) 664-6649.

Trudie Touchette  
Acting Administrator

Note: The board may waive late filing fees for good cause.

**WSR 02-17-058**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
[Filed August 15, 2002, 11:35 a.m.]

Continuance of WSR 02-14-157.

Preproposal statement of inquiry was filed as WSR 01-10-068.

Title of Rule: Residential use of state-owned aquatic lands.

Purpose: To continue the intended date of adoption from September 3, 2002, to October 1, 2002.

Statutory Authority for Adoption: RCW 79.90.080.

Statute Being Implemented: Chapter 79.90 RCW.

Name of Agency Personnel Responsible for Drafting: Kristin Swenddal, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1124; Implementation and Enforcement: Loren Stern, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1100.

Name of Proponent: Washington State Department of Natural Resources, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See original CR-102 (WSR 02-14-157).

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

Submit Written Comments to: Kristin Swenddal, 1111 Washington Street S.E., Olympia, WA 98504, e-mail Kristin.swenddal@wadnr.gov, fax (360) 902-1786, by August 20, 2002.

Date of Intended Adoption: October 1, 2002.

August 14, 2002

Doug Sutherland

Commissioner of Public Lands

**WSR 02-17-059**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed August 15, 2002, 2:42 p.m.]

The Department of Licensing hereby withdraws the proposed rules filed under WSR 02-16-060 filed with your office

**WSR 02-17-062**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 01-13—Filed August 16, 2002, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-01-129.

Title of Rule: Water Conservancy Boards (WCBs) rule, chapter 173-153 WAC. In 2001, legislation (ESHB 1832) substantially changed the existing statute, chapter 90.80 RCW, regarding WCBs. The proposed rule amendments are intended to make the rule consistent with the amended statute and provide clear guidance to WCBs and ecology staff supporting them.

Purpose: The proposed rule amendments are intended to make the rule consistent with the amended statute and provide clear guidance to WCBs and the ecology staff supporting them.

Other Identifying Information: WCBs are separate units of local governments established by county legislative authorities to process applications to change existing water rights. Chapter 90.80 RCW and chapter 173-153 WAC authorize local boards to process water right change applications to assist ecology and provide a localized service to the community.

Statutory Authority for Adoption: RCW 90.80.40 [90.80.040].

Statute Being Implemented: Chapter 90.80 RCW, Water Conservancy Boards.

Summary: The proposed rule amendments are intended to make the rule consistent with the amended statute and provide clear guidance to WCBs and the ecology staff supporting them.

Reasons Supporting Proposal: The proposal makes the rule consistent with the authorizing statute, as amended by the legislature in 2001, and clarifies existing language in the rule.

Name of Agency Personnel Responsible for Drafting: Janet Carlson, Ecology Headquarters, Lacey, (360) 407-6274; Implementation and Enforcement: Janet Carlson/Regional Staff, Lacey, Bellevue, Yakima, Spokane, (360) 407-6274.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes procedures the Department of

PROPOSED

Ecology, WCBs, applicants for water rights transfers, and counties will follow to implement chapter 90.80 RCW. The proposed rule amendments are intended to make the rule consistent with the amended statute and provide clear guidance to WCBs and the ecology staff supporting them.

The rule will affect counties, which are authorized under chapter 90.80 RCW to create WCBs with final approval by the director of ecology as well as appoint the board commissioners. Counties may also choose to dissolve a board. The rule provides counties with a procedure for implementing these actions. This rule also effects ecology and WCBs. Chapter 90.80 RCW authorizes ecology to review the records of decision on water right transfers made by WCBs. The department provides technical assistance if requested as well as specific training for all board commissioners. The rule provides ecology staff with procedures and guidelines when implementing these responsibilities.

Chapter 90.80 RCW authorizes WCBs to make records of decisions on water right transfer applications. They are also required to operate under certain operational statutes such as the Open Public Meetings Act, chapter 42.30 RCW, and the Public Records Act, chapter 42.17 RCW. The rule provides WCBs with guidance as they accept, investigate, and make decisions on water right transfer applications.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will not differentially impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. This rule does not subject a violator to a penalty or sanction; does not establish, alter or revoke a qualification or standard for the issuance, suspension or revocation of a license or permit; and does not make a new or significant amendment to a policy or regulatory program. This rule establishes procedures the Department of Ecology, WCBs, applicants for water rights transfers, and counties will follow to implement chapter 90.80 RCW. The proposed rule amendments are intended to make the rule consistent with the amended statute and provide clear guidance to WCBs and the ecology staff supporting them.

Hearing Location: Spokane Falls Community College, Student Union Building, #17 Lounge A-B, 3410 West Fort George Wright Drive, Spokane, on Tuesday, September 24, 2002, at 7:00 p.m.; at the Hal Holmes Center, 210 North Ruby, Ellensburg, on Wednesday, September 25, 2002, at 7:00 p.m.; and at the Department of Ecology, 300 Desmond Drive, Basement Auditorium, Lacey, on Thursday, September 26, 2002, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Christine Corrigan by September 18, 2002, TDD (360) 407-6006 or (360) 407-6607.

Submit Written Comments to: Janet Carlson, Water Conservancy Board Coordinator, Water Resources Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail jaca461@ecy.wa.gov, fax (360) 407-6574, by October 4, 2002.

Date of Intended Adoption: December 7, 2002.

August 15, 2002

Linda Hoffman

Deputy Director

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-010 What are the purpose and authority(+) of this chapter?** The purpose of this chapter is to establish procedures the department of ecology (ecology) ~~((and)),~~ water conservancy boards ~~((conservancy boards)),~~ applicants, concerned agencies, and the public will follow in implementing chapter 90.80 RCW ~~((, and in implementing RCW 90.03.380, 90.03.390, and 90.44.100, which govern the granting of water right transfers)).~~ Chapter 90.80 RCW authorizes establishment of water conservancy boards and vests them with certain powers relating to water right transfers.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-020 ~~((Applicability.))~~ To what does this chapter apply?** These procedures apply to the establishment of water conservancy boards ~~((established))~~ in accordance with chapter 90.80 RCW ~~((,))~~ and to ~~((how applications to transfer water rights that are filed with a water conservancy board will be processed)):~~

(1) How such boards will function when processing water right transfer applications that are filed with a board or that are transferred to a board from ecology at an applicant's request;

(2) Reporting requirements of boards;

(3) How ecology will support and interact with boards;

and  
(4) How interested agencies and the public may participate in the board process.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-030 ~~((Definitions.))~~ How are terms defined in this rule?** For the purposes of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

~~((+))~~ "Alternate" means an individual who:

• May serve as an alternate commissioner of a board at the request of the board or the legislative authority or authorities of the county or counties;

• Serves a board in a nonvoting capacity; and

• Cannot take the place of a commissioner on a temporary basis.

"Application" means an application made on an ecology form identified as an Application for Change/Transfer to Water Right, form number 040-1-97 for a transfer of a water right, including those transfers proposed under authority of RCW 90.03.380, 90.03.390 and 90.44.100. ~~((Application generally refers to filings made on an ecology form titled~~

"application for change/transfer of water right," number 040-1-97, or as that form may be amended by ecology in the future.

(2) "Conditional decision" means the conclusion reached by an individual conservancy board regarding approval or denial of an application to transfer an existing water right.

(3)) A board may supplement the application with additional forms or requests for additional documentation. These forms and documentation become a part of the application.

"Board" means a water conservancy board pursuant to chapter 90.80 RCW.

"Commissioner" means an individual appointed to serve as a voting member on a water conservancy board through a written statement by the legislative authority or authorities of the county or counties.

"Consumptive use" means use of water whereby there is a diminishment of the water source.

((4)) "Director" means the director of the department of ecology.

"Ecology" means the department of ecology.

"Ecology regional office" means the water resources program at the ecology regional office designated to a board as the office where the board shall interact as identified within this chapter.

"Geographic area" means an area within the state of Washington in which an established board would have authority to process water right transfer applications. This area is identified by the legislative authority or authorities of the county or counties seeking to establish the water conservancy board. The area may be a single county, more than one county, a single water resource inventory area, or more than one water resource inventory area. If the identified geographic area contains all or part of more than one county, the counties involved must identify a "lead county" for certain administrative purposes.

"Lead county" means the county legislative authority with which ecology will communicate for administrative purposes in cases where a water conservancy board's geographic area includes more than one county legislative authority.

"Nonwater right holder" means, solely for the purpose of satisfying RCW 90.80.050(2) in regard to determining whether a potential water conservancy board commissioner is a "nonwater right holder," any party who:

- Does not meet any of the criteria of a water right holder as defined in this section; or
- Receives water solely through a water distributing entity.

"Record of decision" means the written conclusion reached by a water conservancy board regarding a transfer application, with documentation of each board commissioner's vote on the decision. The record of decision must be on a form provided by ecology and identified as a Record of Decision, form number 040-105.

"Report of examination" means the written explanation, factual findings, and analysis that support a board's record of decision. The report of examination is an integral part of the record of decision. The report of examination must be on a form provided by ecology and identified as

Water Conservancy Board, Report of Examination, form number 040-106.

"Source" means the water body from which water is or would be diverted or withdrawn under an existing water right which an applicant has proposed to be transferred.

((5)) "Transfer" means ((an alteration, in whole or in part, in the point of diversion or withdrawal, purpose of use, place of use, or change or amendment of a water right, or other limitation or circumstance of water use approved in accordance with)) a transfer, change, amendment, or other alteration of part or all of a water right, as authorized under RCW 90.03.380, 90.03.390 or 90.44.100.

"Trust water right" means any water right acquired by the state under chapter 90.38 or 90.42 RCW, for management in the state's trust water rights program.

"Water conservancy board coordinator" means the person designated by the director or his or her designee to coordinate statewide water conservancy board activities, communication, and training, and to advocate for consistent statewide implementation of chapter 90.80 RCW and chapter 173-153 WAC.

"Water right holder" means, solely for the purpose of satisfying RCW 90.80.050(2) in regard to determining whether a potential water conservancy board commissioner is a "water right holder," any individual who asserts that he or she has a water right and can provide appropriate documentation of a privately owned water right which is appurtenant to the land that they own or in which they have a majority interest.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

WAC 173-153-040 ((Creation of)) How is a water conservancy board((s)) created? ((Counties)) All eligible entities identified in this section under subsection (1)(a) of this section are encouraged to consult with ecology when considering ((formation)) creation of a water conservancy board. In accordance with chapter 90.80 RCW, boards may have either three or five commissioners and must be established to serve an identified geographic area, as defined in WAC 173-153-030. A newly established board cannot include in the geographic area in which it will serve any area that overlaps with a geographic area served by an existing board.

(1) Creation of a water conservancy board is accomplished by the following steps:

(a) A resolution or petition is proposed to or by the legislative authority or authorities of a county or counties;

(b) Public notice;

(c) Public hearing(s);

(d) Adoption of a resolution creating the board by the legislative authority or authorities of the county or counties;

(e) When a board is created by more than one county legislative authority, a lead county is designated;

(f) A petition is submitted to the director; and

(g) The director must approve the creation of a board.

Where is the resolution or petition calling for the creation of a board submitted?

(2) A resolution or petition calling for creation of a water conservancy board must be submitted to the ((county)) legislative authority ((calling for formation of a water conservancy board. The)) or authorities of the county or counties in which the board would serve.

**Who can initiate a petition calling for the creation of a board?**

(3) A resolution or petition may be initiated by the following entities:

((i)) (a) The ((county)) legislative authority or authorities of the county or counties which would be served by the board;

((ii)) (b) The legislative authority of an irrigation district, a public utility district that operates a public water system, a reclamation district, a city operating a public water system, or a water-sewer district that operates a public water system;

((iii)) (c) The governing body of a cooperative or mutual corporation that operates a public water system serving one hundred or more accounts;

((iv)) (d) Five or more water right((s)) holders ((who divert water for use in the county)), in the geographic area which would be served by the board, who divert or withdraw water for a beneficial use, or whose nonuse of water is due to a sufficient cause or an exemption pursuant to RCW 90.14.140; or

((v)) (e) Any combination of the above((;)).

**What information must be included in the proposed resolution or petition calling for the creation of a board?**

(4) The resolution or petition must include:

((i)) (a) A statement ((of)) describing the need for the board;

((ii)) (b) Proposed bylaws that will govern the operation of the board;

((iii) An) (c) Identification of the geographic ((boundaries where there is an initial interest in transacting water sales or transfers)) area within which the board would serve; and

((iv)) (d) A description of the proposed method(s) for funding the operation of the board((;

(e) A public hearing must be held by the county legislative authority on the proposed creation of the board((;)).

**What notice is given to the public regarding the proposed creation of a board?**

(5) A public notice must be published in a newspaper of general circulation in the county or, if the board would serve more than one county, a public notice must be published in a newspaper of general circulation in each county in which the board would serve. The notice(s) must be published not less than ten days((, nor)) and not more than thirty days((;)) before the date of a public hearing ((to be held by the county legislative authority)) on the proposed creation of the ((water conservancy)) board. The notice(s) shall describe the ((time, date, place and purpose of the hearing, as well as the)):

(a) Time;

(b) Date;

(c) Place;

(d) Purpose of the hearing; and

(e) Purpose of the board.

Notice must be sent to the ecology((s)) regional office at the time of publication of the public notice, and an effort ((should)) shall be made to ensure that any watershed planning unit ((of)) and Indian tribe with an interest in water rights in the ((county)) area to be served by the board also receives the notice((;)).

**How many public hearings must be held for the creation of a board?**

(6) At least one public hearing on the proposed creation of the board must be held by the legislative authority of each county in which the board would serve.

**What must be included in the adopted resolution which establishes a board?**

(7) If the legislative authority or authorities of the county or counties decide to establish a board after the public hearing(s) a resolution must be adopted by the ((county)) legislative authority or authorities of the county or counties, approving the creation of ((a water conservancy)) the board((; and

(f) The county legislative authority shall identify and select county residents who wish to participate on the county's water conservancy board.

(2) Ecology will approve or deny creation of a water conservancy board within forty five days of receiving((;)). The resolution must describe or include:

(a) The need for the board;

(b) The geographic area to be served by the board;

(c) The method or methods which will be used to fund the board;

(d) Whether the proposed board will consist of three or five commissioners;

(e) The designated lead county if a board is proposed which would serve in more than one county; and

(f) A finding that the creation of the board is in the public interest.

**What is included in a petition to ecology for the creation of a board?**

(8) The petition submitted to ecology to create the board must include the following:

(a) A copy of ((a)) the resolution or petition to or by the ((county)) legislative authority or authorities of the county or counties calling for the ((formation of a water conservancy board)) creation of a board. If a board is proposed which would serve in more than one county, the resolution shall be provided by the lead county as designated under subsection (7)(e) of this section. If five water right((s)) holders who divert or withdraw water for ((use in the county initiated the petition, it must include their names, addresses, and documentation as to the water rights held by the petitioners. Documentation may include the permit number, certificate number, or claim number of the petitioner's water right. The petition must include a description of how the water conservancy board will be funded;

(b) An affidavit of publication for the public notice that appeared in a newspaper of general circulation in the county not less than ten days nor more than thirty days before the date of the public hearing on the proposed creation of the board;

~~(e))~~ beneficial use, or whose nonuse of water is due to a sufficient cause or exempt pursuant to RCW 90.14.140, in the county or counties which initiated the petition, the petition must also include the names and addresses of the petitioners;

~~(b)~~ A summary of the public testimony presented during the public hearing(s) conducted by the ((county)) legislative authority or authorities of the county or counties in response to the resolution or petition to ((form a water conservancy)) create a board. The summary shall ((include a title and a date for)) be clearly identified and include the date of the hearing;

~~((d))~~ (c) A copy of the resolution adopted by the ((county)) legislative authority or authorities of the county or counties approving the creation of a water conservancy board. The resolution must include ((a method for funding the proposed water conservancy board)) all elements described in subsection (7) of this section; and

~~((e))~~ (d) A copy of the board's proposed bylaws.

~~((3) Ecology))~~ What is the process for the director to approve or deny the creation of a water conservancy board?

(9) Upon submission to the water conservancy board coordinator of the required documentation pursuant to subsection (8) of this section, the director will determine ((if)) whether the creation of a water conservancy board will further the purposes of the law and ((will)) be in the public interest. The public interest includes, but is not limited to, whether ecology has sufficient staffing resources to provide the necessary training, monitoring, and technical assistance to the board and to make timely responses to the board's ((anticipated conditional)) records of decisions ((on applications)).

~~((4) Based on its determination, ecology will approve or deny the formation of the water conservancy board. If formation of a water conservancy board is approved, ecology will include a description of the training requirements as outlined in WAC 173-153-050 for water conservancy board members in its approval.~~

~~(5)(a) Ecology may revoke legal authority of a board to make conditional decisions in the following circumstances:~~

~~(i) If the board fails to render a conditional decision for a period of not less than two years; or~~

~~(ii) If the board demonstrates a pattern of ignoring legal principles and requirements in its processing of applications or in its conditional decisions; or~~

~~(iii) If requested by the county legislative authority that called for the board's formation.~~

~~(b) The board will be allowed thirty days to respond to any revocation before it becomes effective. Ecology may reverse the revocation based upon the board response.)~~ (10) The director's determination regarding creation of the board shall be made within forty-five days of receiving all items listed in subsection (8) of this section.

(11) If creation of a board is approved, ecology will include in its notice of approval any unique conditions or provisions under which the approval is made, if any, and a description of the initial training requirements for board commissioners as outlined in WAC 173-153-050.

## NEW SECTION

**WAC 173-153-042 How are water conservancy board commissioners appointed and the length of their terms determined? How do counties notify ecology of board commissioner's appointments and terms?**

(1) Upon approval of a new board by ecology, or upon approval of restructuring the number of commissioners on an existing board, the legislative authority of the county or the lead county shall submit to ecology's water conservancy board coordinator a written statement identifying the individuals appointed to the board. The statement must include:

(a) The name, mailing address, and phone number or other contact information of the commissioners;

(b) The terms of office of the commissioners; these terms of office must be staggered as described in RCW 90.80.050(1).

**What is the responsibility of the county or lead county when a board commissioner's term expires or a board position becomes vacant?**

(2) Upon the expiration of a board commissioner's term, the appropriate legislative authority or authorities of the county or counties shall either:

(a) Reappoint the incumbent commissioner; or

(b) Appoint a new commissioner to the board. A written statement including the information as described in subsection (1) of this section shall be submitted to ecology's water conservancy board coordinator.

(3) In the event a board position becomes vacant, the legislative authority or authorities of the county or counties shall appoint a new commissioner in accordance with RCW 90.80.050(2). A statement as described in subsection (1) of this section must be submitted to ecology's water conservancy board coordinator. The new commissioner shall fill the vacancy only for the remainder of the unexpired term and, upon completion of the unexpired term, may be reappointed, as described in subsection (2) of this section, to serve a full six-year term.

**What are the terms of board commissioners?**

(4) Initial terms of commissioners appointed to a newly created board shall be staggered as described in RCW 90.80.050.

(5) Upon the expiration of the initially appointed commissioners' terms, all subsequent appointments shall be for six-year terms.

(6) The initial terms of office of board commissioners on a restructured board shall be staggered as set forth in RCW 90.80.050. As each of the commissioners' term of office expires, newly or reappointed commissioners shall all be appointed to six-year terms. However, in order to maintain staggered terms, regardless of the date on which such commissioners may be appointed or reappointed, the expiration of all commissioners' terms shall be the same day and month as the expiration of the term of office of the first commissioner appointed to the board, varying only in the year of expiration.

PROPOSED

**NEW SECTION****WAC 173-153-043 How can a board's authority be revoked or the board dissolved? Revocation:**

(1)(a) Ecology may revoke legal authority of a board to make any decisions regarding water right transfers for reasons which include, but are not limited to, the following:

(i) If the board fails to issue a record of decision for a period of two years or more from the date the board was approved or from the date that the last record of decision was issued; or

(ii) If the board demonstrates a pattern of ignoring statutory and regulatory requirements in its processing of applications or in its records of decision; or

(iii) If requested by the legislative authority or authorities of the county or counties that called for the board's formation.

(b) The board will be allowed thirty days to respond to any revocation before it becomes effective. Ecology may reverse the revocation based upon the board response.

**Dissolution:**

(2)(a) The legislative authority of a county or lead county may adopt a resolution to dissolve a board.

(b) Ecology may petition the legislative authority of the county or lead county, with a copy to the board, for dissolution of a board.

(c) Upon resolution by the legislative authority of the county or lead county to approve the dissolution of a board, the board will be allowed thirty days after the date of the resolution to respond to the petition for dissolution.

(d) The resolution by a county or lead county to approve the dissolution of a board will become effective thirty days after adoption of the resolution.

(e) The legislative authority of the county or lead county may reverse the dissolution based upon the board's response.

**NEW SECTION**

**WAC 173-153-045 What is the process for restructuring a board?** (1) A board may be restructured as to the number of commissioners on the board and the geographic area of its jurisdiction.

(2) A board, a county legislative authority, or a lead county legislative authority may request to restructure an existing board within its geographical jurisdiction. It is suggested that the legislative authority or authorities of the county or counties and the existing board communicate and work cooperatively during the board restructuring process.

(3) The legislative authority or authorities of the pertinent county or counties shall hold a public hearing and adopt a resolution including:

(a) The manner of restructuring and the need for restructuring the board;

(b) The number of commissioners to serve on the board;

(c) The proposed geographic area of jurisdiction of the board;

(d) If the proposed geographic area of jurisdiction is restructured to include more than one county legislative authority, the legislative authorities of each county included within the restructuring shall identify a lead county; and

(e) A summary of the public testimony presented during the public hearing(s) conducted by the legislative authority or authorities of the county or counties in response to the resolution to restructure a board. The summary shall be clearly identified and include the date of the hearing.

(4) Upon submission to the water conservancy board coordinator of the required documentation pursuant to subsection (3) of this section, the director will determine whether the restructuring of a board will further the purposes of the law and be in the public interest as described in WAC 173-153-040(10).

(5) The director's determination to approve or deny restructuring of the board shall be made within forty-five days of receiving all items listed in subsection (3) of this section.

(6) If the board restructuring is approved, ecology will include in its notice of approval any unique conditions or provisions under which the approval is made, if any, and shall identify the date the restructuring of the board will take effect. The director shall also identify any additional training required of the board if it assumes jurisdiction of a new geographic area.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-050 What are the training requirements(\*) for board commissioners? What training is required for newly appointed board commissioners?**

(1) ((Before participating in any conditional decision of a water conservancy board, every member is required to complete a training program provided by ecology-)) Every commissioner of a board shall complete a training program provided by ecology before participating in any decision concerning a water right transfer application being considered by the board. Attendance at trainings for new commissioners shall be limited to board commissioners, their administrative staff, board alternates, and individuals providing training. Due to the complexity of the training and the need to provide adequate time to focus on questions from board commissioners, the number of participants attending each training session shall be left to the discretion of the water conservancy board coordinator. Training for new commissioners shall be held at least once in the spring and once in the fall depending on, but not limited to:

(a) Whether ecology has sufficient staffing resources to provide the necessary training; and/or

(b) Whether there are sufficient numbers of board commissioners needing training.

(2) Successful completion of the training program will consist of:

(a) ((Completing)) Receiving at least thirty-two hours of instruction, from or sponsored by ecology, regarding hydrology, state water law, state water policy, administrative and judicial case law developments, field practices, evaluation of existing water rights, and ((applied)) practical experience working with ecology staff on applications for ((transfer-of)) water right((s-with-ecology-staff)) transfers; and

(b) Demonstrating an understanding of course materials during training, and demonstrating sufficient mastery of the training curriculum ((by passing)) through an examination ((given)) administered by an ecology employee upon completion of ((the minimum)) training.

~~((2) Ecology will certify in writing to the appropriate county legislative authority the successful completion of the training program for water conservancy board members and staff.))~~

(3) If a board is restructured to modify the geographic area, the director may require additional training of all board commissioners;

(4) Upon a water conservancy board commissioner's or alternate's successful completion of the training, ecology will certify such completion in writing to the county or lead county of the geographic area served by the board. A copy of this letter shall also be sent to the board.

#### Are there continuing education requirements for board commissioners?

(5) After completing one year of service on a water conservancy board, ((members must each year complete)) each following year prior to the anniversary of their appointment to the board, commissioners must complete an additional eight hours of continuing education ((directed)) provided or approved by ecology. Each commissioner shall complete the minimum continuing education requirement before participating in any decision concerning a water right transfer application being considered by a board. Continuing education may include, but is not limited to, readings, a seminar or conference, or field experience ((en)) regarding, but not necessarily limited to, subjects such as state water law, state water policy, administrative and judicial case law developments, field practices, ((the)) evaluation of existing water rights, ((or)) and hydrology.

(6) Ecology may, at its discretion, and in response to ((demand)) requests, provide training ((semiannually)) periodically. Ecology may also combine training for more than one board.

#### How can a board commissioner receive credit for continuing education not provided or sponsored by ecology?

(7) Continuing education training requirements under subsection (5) of this section may be fulfilled through training not provided or sponsored by ecology. However, such training will be accepted only if it is reported to ecology on a form provided by ecology and identified as the Water Conservancy Board Training Credit Request Form, form number 040-104, and approved by ecology as appropriate training.

(8) Board commissioners are encouraged to report to the water conservancy board coordinator all relevant continuing education received.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

WAC 173-153-060 What is the scope of authority of a water conservancy board((or))? (1) A board has authority to:

(a) Evaluate water right transfer applications and issue records of decision and reports of examination for water right transfers;

(b) Act upon the transfer of water rights to the state trust water right program, when doing so is associated with an application to transfer a water right. Boards are encouraged to immediately contact ecology for technical assistance when acting on changes involving trust water rights;

(c) Establish and maintain a water right transfer information exchange program regarding the sale and lease of water rights; and

(d) Perform other activities as may be authorized under chapter 90.80 RCW, subject to other applicable state laws and regulations.

#### How does a board process a water right change application?

(2) A ((water conservancy)) board may accept for processing an application ((for)) to transfer ((of)) a surface or ground water right ((for processing)) if the water right is currently diverted, withdrawn, or used within((;)) or, if approved, ((with)) would be diverted, withdrawn, or used within the boundaries of the ((county)) geographic area in which the board has jurisdiction, exceptions to this are stated in subsection (7) of this section. The application may be for a permanent or ((seasonal)) temporary((;)) use.

(a) The board shall investigate the application and ((make a determination)) determine whether the proposal should be approved or denied and, if approved, under what conditions, if any, the approval should be granted. ((In this process))

(b) As part of the process described in subsection (2)(a) of this section, boards should determine whether a watershed planning unit is involved in planning related to the source of water that would be affected by the application ((and;)) being considered. If so, the board should notify the planning unit of the application, and consider comments from the watershed planning unit prior to issuing its ((conditional)) record of decision.

~~((2)(a) Applications for transfers that propose to use water from the same source must generally be processed in the order in which they were filed. Exceptions are outlined in chapter 173-152 WAC.~~

~~((b)) (3) Decisions on applications must be made by a board in the order in which the applications were originally filed with the board ((or with ecology, if the applications were first filed with ecology)). Exceptions are ((as)) outlined in ((WAC 173-152-050 or as follows:~~

~~(i) Applications to alleviate public health and safety emergencies, as specified in WAC 173-152-050(1), may be processed before competing applications; and~~

~~(ii) If review of an application has begun and the board determines that gathering more information than is available at the time of the review is required, the board need not await the availability of the additional information before reviewing the next application awaiting action.~~

~~(e) A conservancy)) RCW 90.03.380 and chapter 173-152 WAC.~~

(4) Boards must take into consideration the possible effect of a proposed transfer on the availability of water for

~~((any applications for new water rights, as well as)), or possible impairment of, previously filed transfer applications for water from the same source regardless of the order in which applications are processed. This includes any applications for transfers ((that were previously)) filed with ecology ((for water from the same source as the application under consideration by the)) or any other water conservancy board. Ecology will cooperate with ((conservancy)) boards to resolve any problems associated with conflicting applications. ((The availability of water for senior applicants, including those applicants who have filed transfer applications with ecology rather than a conservancy board, must not be impaired, regardless of the order in which applications are processed.~~

~~(3) The~~ (5) Neither the annual quantity nor the instantaneous quantity of water appropriated under a water right may ~~((not))~~ be expanded. For agricultural use, the acreage irrigated may not be expanded, except in ~~((limited))~~ the circumstances allowed in RCW 90.03.380, in which the annual consumptive use under the water right is not increased.

~~((4))~~ (6) As described in RCW 90.66.065, under a family farm permit, surplus waters made available through water-use efficiency may, subject to laws including WAC 173-152-110, be transferred to any purpose of use that is a beneficial use of water.

(7) Any water right or portion of a water right that has not previously been put to actual beneficial use cannot be transferred, except as authorized by RCW 90.44.100~~((Transfer of previously unused ground water rights under RCW 90.44.100 is limited to changing the place of use and the point of withdrawal.~~

~~(5) No applicant may be compelled to apply for a transfer with a conservancy board. Applicants have the option of applying directly to ecology rather than a water conservancy board), limited only to change to place of use and point of withdrawal and pursuant to RCW 90.03.395 and 90.03.397.~~

#### **Where can an applicant file a water right change application?**

(8) If a board has been established in an area where an applicant wishes to apply for a water right transfer, applicants have the option of applying either directly to ecology or to a board.

#### **What happens if two boards have overlapping jurisdictions?**

(9) Overlapping jurisdiction occurs because boards may transfer rights into and out of their geographic area. Water conservancy boards may negotiate inter-board agreements to determine which board will act in instances of overlapping jurisdiction. Any such agreement must be filed with the water conservancy board coordinator within fifteen days of its effective date.

(10) In circumstances in which more than one board may have authority to process water right transfers in a particular area, but the boards have not negotiated an inter-board agreement as specified in subsection (9) of this section, an applicant may file an application with either board. For example, if one board has authority to transfer the applicant's water right out of its jurisdiction, while another board has authority to transfer the water right into its jurisdiction, the applicant can apply to either board.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

#### **WAC 173-153-070 What does an applicant need to know about filing an application for transfer of a water right((-)? How are applications accepted for processing by a board?**

~~(1) ((Water conservancy boards may accept applications for transfer of water rights.)) Ecology will provide water right transfer application forms and applicant instructions to ((water conservancy)) boards, which will make them available to ((prospective applicants)) the public upon request. All applications to ((the water conservancy)) a board must be made using the water right application for change/transfer form supplied by ecology, form number 040-1-97.~~

(2) Boards and ecology shall inform all applicants that the decision to file a transfer application with a ~~((conservancy))~~ board rather than directly with ecology is solely at the discretion of the applicant~~((The conservancy board and ecology will inform any prospective applicants that they have the option of filing either with the board or with ecology.~~

~~(2) The~~, provided a board is active in the area addressed by the transfer application.

(3) A water right transfer application is considered filed when it is received by a board commissioner, or a designated administrative support person for a board.

(4) An application may propose the transfer of no more than one water right.

(5) A majority vote of a quorum of a board is required to accept an application for processing.

#### **What must a complete application include?**

~~(6) Boards shall ensure that ((the)) applications ((is)) submitted directly to them are complete and legible ((and is accompanied by the minimum ten-dollar examination fee required by RCW 90.03.470(1). The board may establish and charge additional fees in accordance with RCW 90.80-060(2).~~

~~(3) The original application form)). A complete application shall:~~

(a) Include the minimum ten-dollar examination fee required by RCW 90.03.470(1).

(b) Include any fees that may be established and charged by a board in accordance with RCW 90.80.060(2).

(c) Contain the information requested on the application form as applicable.

(d) Be accompanied by such maps and drawings, in duplicate, and such other data, as may be required by the board. Such accompanying data shall be considered as part of the application as described in RCW 90.03.260.

(7) A board may request that an applicant provide additional information as part of the application by requiring, for example, that the applicant complete additional forms supplemental to the standard application or that applicant prepare and/or provide specific reports regarding aspects of the application.

#### **How is an application number assigned to a water right transfer application filed with a board?**

(8) The board shall assign a unique number to a water right transfer application upon acceptance of the application by the board.

(9) The number assigned by the board to the water right transfer application shall be written in ink within the space provided on the application for the application number.

(10) The water right transfer application, public notice, record of decision, and report of examination produced by the board in processing the application shall reference the board-assigned number.

(11) The unique application number is assigned in accordance with the following three-part format:

(a) The first part of the board-assigned application number will identify the board that has accepted the application as follows:

(i) Boards having jurisdiction within a geographic area that is based upon a county boundary or the boundary of multiple counties will begin all application numbers with the first four letters of the name of the county or of the lead county. For example, a board with jurisdiction within Kittitas County will begin each application number with the letters "KITT."

(ii) Boards that have jurisdiction within a geographic area that is based upon a water resource inventory area (WRIA) or multiple WRIsAs will use the number of the WRIA of jurisdiction or, in the case of multi-WRIA boards, the WRIA of jurisdiction associated with the water right.

(b) The second part of the board-assigned application number will be the last two digits of the year in which the application was accepted. For example, applications that are accepted during the year 2003 will use the digits "03."

(c) The third part of the board-assigned application number will be a sequential two-digit number beginning with the number "01" for the first application accepted after the effective date of this rule and beginning with number "01" for the first application accepted by the board during each subsequent calendar year.

(d) A dash (-) will be used to separate the three parts of the application number as provided within (a), (b), and (c) of this subsection. For instance, the first application accepted by the Kittitas County water conservancy board during the year 2003 will be assigned number KITT-03-01.

**Are applications before a board considered dual-filed with ecology?**

(12) The board must forward the complete original application form upon which the board has legibly written the board-assigned application number in the space provided for that purpose and the statutory state application fee (~~must be forwarded by the conservancy board~~) to the (~~appropriate~~) ecology regional office within five (~~working~~) business days of the date (~~of receipt~~) the board accepts the application for processing.

(13) Within thirty (~~working~~) business days from the date (~~of notice~~) ecology receives the application from the board, ecology will assign a state water right (~~control~~) change application number to the application and inform the (~~water conservancy~~) board of the assigned number. The number assigned by ecology will be used for ecology's internal administrative purposes, including the recording of the application within the state water right record. The ecology-

assigned number need not be used by the board in processing the application, including within the public notice.

(14) Ecology will open and maintain a file (~~relating to~~) regarding the application (~~that will be maintained~~) for permanent recordkeeping. Ecology will inform the applicant if additional state fees are due. The board may not process the application until notified by ecology that all statutorily required application fees have been paid.

(15) Upon acceptance of the application by ecology, the application is considered to be filed with both the board and ecology. However, ecology shall not act on the application unless it is notified by the board that the board has declined to process the application and upon receiving a written request from the applicant that ecology process the application.

**How can responsibility for processing an application previously filed with ecology be transferred to a board?**

(~~(4)~~) (16) If an applicant makes a request to a (~~water conservancy~~) board that an application previously filed with ecology be (~~reviewed~~) considered for processing by that (~~conservancy~~) board, the (~~conservancy~~) board (~~must determine whether it will review the application. If the conservancy board determines that it will review that application, the board shall make a~~) may request (~~to~~) that ecology (~~and ecology shall~~) forward a copy of the application (~~and all relevant documents~~) file to the (~~conservancy~~) board. Ecology will comply with the request and the original application will continue to be on file and maintained at ecology but will not be considered as part of ecology's active workload while the application is being processed by the board.

(17) The board shall notify ecology if it accepts the application for processing. The board will assign an application number in accordance with subsection (10) of this section and inform the ecology regional office in writing of the board's application number within five business days of accepting the application.

**Can a board decide not to accept an application for processing?**

(~~(5)~~) (18) By a majority vote of a quorum of a board, a board may decline to process or to continue processing an application at any time. The board (~~with~~) must inform the applicant of its decision in writing (~~of its decision to decline further consideration of the application~~) within fourteen (~~working~~) business days of making the decision. The board must (~~forward to ecology the working file for the specific transfer and any state application fees that have not previously been forwarded to ecology. The board must also provide a~~), at the same time, send the ecology regional office a copy of the board's written notice to the applicant. If the basis of the board's decision to decline processing the application is not sufficiently clear from the written notice, ecology may request a further written explanation (~~to ecology~~) regarding (~~its~~) the board's decision not to process or finish processing the application. The board must provide this additional written explanation within fifteen days of ecology's request.

(19) If a board declines to process or to continue processing an application, it must inform the applicant that the application may be filed with ecology and advise the applicant of the appropriate ecology office where the application should be filed.

**Who must receive copies of applications being processed by a board?**

~~((6) The)~~ (20) Boards must ensure that copies of (the) application accepted by them for processing are (properly distributed) provided to interested parties in compliance with existing laws, as well as with current ecology memoranda of understanding, policies and other guidance. To assist the boards in this, ecology will provide a list of potentially interested parties which have identified themselves to ecology. Additional interested parties, including Indian tribes, may request copies of applications from boards.

(21) A copy of each application accepted by a board shall be provided to any Indian tribe that has reservation lands or trust lands contiguous with or encompassed within the geographic area of the board's jurisdiction.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-080 What public notice is given on a water right transfer application before a board?**

(1) Upon acceptance by a board of a water right transfer application in accordance with WAC 173-153-070(2), the (water conservancy) board shall publish(, or require the applicant to publish,) a public notice of the proposed water right transfer (of a water right) in accordance with RCW 90.03.280(3). This notice must be published at least once a week for two consecutive weeks in the legal notice section of a newspaper of general circulation in ((at a minimum)) the project area of the county or counties ((of proposed water use, diversion and storage of)) where the application proposes to use, divert, withdraw and/or store water. Ecology must provide the board with a list of newspapers acceptable for this purpose. The board should consider publishing an additional public notice ((may be required)) in other areas that ((may)) could be affected by the transfer proposal. The public notice of each individual application for transfer must include the following information, in the following order:

- (a) The applicant's name and city or county of residence;
- (b) ((Application number assigned by ecology;)) The board's assigned water right change application number;
- (c) The water right priority date;
- (d) A description of the water right to be transferred, including ((any identifying)) the number of any water right document, that embodies the water right such as a permit, certificate or claim filed under chapter 90.14 RCW, the location of the point of diversion or withdrawal(,); the place of use(, and); the purpose(s) of use; the period of use; if for irrigation purposes, the total acres irrigated; and the instantaneous rate and annual quantities ((authorized)) as stated on the water right document;

(e) A description of the proposed transfer(s) to be made, including, when applicable, the proposed location of point(s) of diversion or withdrawal(, place of use, or instantaneous and annual quantities authorized); the proposed place(s) of use; the proposed purpose(s) of use; if for irrigation purposes, the total number of acres to be irrigated; and the instantaneous rate and annual quantities of water associated with the

proposed water right transfer including the description of a transfer that includes only a portion of a water right;

(f) The manner and time limit for filing protests with ecology under RCW 90.03.470 and WAC 508-12-170; and

(g) ((Manner and time limit for intervening before the board under RCW 90.80.070(4).)) The manner for providing written and oral comments or other information to the board, including the board's mailing address and the place, date, and time of any public meeting or hearing scheduled to consider the application.

(2) The board may require the applicant to review and confirm the information in the public notice prior to publication. If the board does so, the applicant assumes responsibility for any errors contained in the description of the application published in the public notice.

(3) The board must send a copy of the public notice ((will be sent)) to the ecology(,s) regional office at the same time the public notice is submitted for publication.

((2)) (4) Before acting on an application, the board must first receive a notarized affidavit of publication from each newspaper in which the public notice regarding the application was published ((verifying)), and the board must verify that publication ((correctly)) occurred correctly. The board must also allow at least thirty days ((for the filing of protests or objections following the last date of publication of the notice before making a final)) following the last date of publication of the notice, to allow for protests or objections to be filed with ecology before the board issues a record of decision.

((3)) (5) The public notice must be republished in all newspapers of original publication when an applicant substantively amends ((the)) an application for a transfer of a water right subsequent to publication of the notice, or when a substantive error or omission occurs in the publication(, the public notice must be republished in all newspapers of original publication, and reviewing agencies). For the purposes of this subsection, the term "substantive error in publication" refers to, but is not limited to, any item identified in subsection (1) of this section that is omitted from or inadequately characterized in the public notice. All parties who were sent the original application and/or public notice must be sent corrected copies of any amended transfer ((proposal)) application.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-090 How can protests and letters of concern or support on a water right transfer application be submitted to a board? Where is a protest submitted regarding a water right transfer application before a board?**

(1) A protest ((of an application that has been filed with a water conservancy board)) against granting a proposed water right change or transfer, as identified in RCW 90.03.470(12), must be received by ecology, with the statutory two-dollar protest fee, within thirty days of the last date of publication of the public notice.

(2) Ecology shall provide a copy of the protest to the appropriate board within five days of receipt of the protest.

(3) In accordance with WAC 508-12-170 and 508-12-220, a board will thoroughly investigate all pertinent protests of a transfer application before the board.

(4) Ecology ~~((will))~~ shall consider all pertinent protests during its review of the board's ~~((conditional))~~ record of decision on the application.

(5) Persons inquiring of the board or ecology regarding protest procedures ~~((will))~~ shall be directed to file the protest with ecology. ~~((Ecology will provide a copy of the protest to the appropriate board.~~

~~(2))~~ (6) Boards must immediately forward to ecology any protests they receive including the two-dollar protest fee.

#### What is included in a valid protest?

(7) A ~~((valid))~~ protest must include:

(a) The name, address and phone number (if any) of the protesting party;

(b) Clear identification of the transfer ~~((proposal))~~ application being protested; and

(c) A statement ~~((regarding))~~ identifying the basis for the protest. ~~((Proper basis for a protest must include:~~

~~(a) The impacts of the proposed transfer on other water rights; or~~

~~(b) The impacts of the proposed transfer on the public interest; or~~

~~(c) A challenge to the potential extent and validity of the water right proposed to be transferred.~~

~~(3) The board must immediately forward to ecology any protests that it receives in error, accompanied by the two-dollar protest fee if it was included with the protest.~~

~~(4))~~ (d) The statutory two-dollar protest fee.

#### What is the difference between a protest and a letter of concern or support?

(8) Any protest received more than thirty days after the last date of publication of the public notice, or without the required fee, will be filed as a letter of concern.

(9) A letter of support is any comment addressing the benefit of the project proposed in an application.

(10) A party who provides a letter of concern or support regarding an application to a water conservancy board is not considered to be a protesting party unless the party has also filed a valid protest with ecology in compliance with this section.

#### Will a protest or letter of concern be considered?

(11) Boards must accept and consider any oral or written comments in evaluating an application, in accordance with chapter 90.80 RCW, this chapter, and board bylaws.

### NEW SECTION

**WAC 173-153-100 How does a water conservancy board operate?** (1) Water conservancy board meetings must be in compliance with the Open Public Meetings Act, chapter 42.30 RCW. Additionally, minutes of the meetings must be recorded pursuant to chapter 42.32 RCW and such minutes must be made available for public review upon request.

(2) At the beginning of any meeting or hearing in which any application to change or transfer a water right is to be dis-

cussed, or upon which a decision is to be made, those individuals in attendance must be informed that any known allegations of conflict of interest must be expressed in that meeting or hearing or their right to do so may be forfeited in accordance with RCW 90.80.120 (2)(a).

(3) A board may adopt and amend its own bylaws through which board meetings, operations, and processes are governed.

#### How can a board be contacted by the public?

(4) Each board must designate at least one primary contact person for communicating with ecology and other entities. The board must inform the water conservancy board coordinator of:

(a) The name of the primary contact;

(b) How to contact that person; and

(c) Any changes to the contact information for the primary contact of the board.

(5) Boards are subject to the Public Records Act, chapter 42.17 RCW and as described in RCW 90.80.135.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

#### WAC 173-153-110 ~~((Examination of application.))~~ What is involved in the examination of an application before a board?

(1) ~~((A water conservancy board shall make its conditional decision on a transfer application based on applicable state law, rules, policies, and ecology guidance. In addition to specific water law, other relevant state laws, including the Growth Management Act, must be considered.))~~ Boards shall base their records of decision and reports of examination regarding a transfer application on applicable state laws and regulations. In addition to specific water law, boards must also consult and consider other relevant state laws, including, but not limited to, the Growth Management Act (chapter 36.70A RCW).

(2) Generally, a board should conduct a field examination of the site(s) ~~((of the proposal,))~~ identified in the transfer application, and clarify any unclear information by contacting ~~((the applicant, and discuss the concerns of protesters and objectors with the persons who filed them))~~ and discussing the information with the applicant or other appropriate persons.

(3) All relevant information must be ~~((collected))~~ identified, discussed, and considered in the board's examination. This may include the need for a board to collect pertinent detailed hydrological or hydrogeological information ~~((may need to be collected or other research conducted or compiled))~~ regarding the site(s) involved in the proposal. Any person providing an engineering, hydrologic, geologic and/or hydrogeological analysis on behalf of an applicant with an application before a board must be licensed in accordance with chapter 18.43 or 18.220 RCW, as applicable. The analysis must be certified by the individual's professional stamp.

(4) A board may require ~~((the))~~ an applicant to provide additional information at the applicant's expense, if that information is necessary to render an adequately informed ~~((conditional))~~ record of decision on ~~((the))~~ an application.

**((3)-A) How are comments and protests considered during the examination of the water right transfer application?**

(5) Boards may also request that commenters or protestors provide additional information regarding their comments if such information is necessary to render an adequately informed record of decision on an application. Boards may also discuss the concerns raised in comments and protests with the persons who filed them.

(6) Boards must consider all comments and protests received about ((the)) a pending application((-In this process, boards should)), whether or not additional information is provided by the protestor or commenter.

(7) Ecology, as is the case with any public agency, may provide formal written or oral comments regarding the application under discussion at a public meeting of the board. However, if ecology does provide formal comments in the context of a public meeting, the comments shall not be taken as giving either technical assistance or direction to the board, any more than any other comments would be so considered.

**What other entities must be consulted when a board examines an application?**

(8) When public interest applies to the application evaluation or when there may be existing rights that could be impaired, boards shall determine whether an Indian tribe, watershed planning unit, or other governmental body is involved in planning or water management related to the source of water that would be affected by the application. If this is found to be the case, the board ((should engage)) shall consult the tribe, watershed planning unit, or other governmental body in the board's effort to obtain information concerning the application.

**((4)-A water conservancy) What other information must the board consider in their examination of the application?**

(9) Boards must evaluate ((the)) an application, including ((the entire water rights record)) all information obtained by the board that is associated with the application, and determine whether or not the transfer as proposed is in accordance with applicable state laws((-rules, policies and guidelines of ecology)) and regulations. The board must also make a tentative determination as to the extent and validity of the water right proposed to be transferred, as well as whether the transfer can be made without injury or detriment to existing rights((-and)). The board must evaluate a transfer proposal pursuant to RCW 90.44.100 as to whether the proposed transfer is ((not)) detrimental to the public interest. Public interest shall not be considered when deciding whether to grant an application for change pursuant to RCW 90.03.380 exclusively.

((5)-A water conservancy) (10) Boards shall ensure that the requirements of the State Environmental Policy Act (SEPA), chapter 43.21C RCW, and the SEPA rules, chapter 197-11 WAC, have been met before finalizing a ((conditional decision, and if determined by the board to be)) record of decision. If a board concludes it is appropriate under WAC 197-11-922 through 197-11-944, the board ((with)) may be the lead agency for SEPA compliance.

((6)) (11) A ((water conservancy)) board shall consult with ecology if it encounters new, unusual, or controversial issues in the course of examining an application. Ecology will provide assistance ((and advice)) as to how to proceed in accordance with existing state laws, rules, ((policy and sound)) and current ecology policies and administrative practices.

((7)-If a geographical area within the jurisdiction of a conservancy board is or becomes the subject of an adjudication conducted by a superior court for the determination of water rights,) (12) When a board receives an application to transfer a water right that is in an area subject to an ongoing general water rights adjudication process, the board shall consult with ecology prior to processing the application. Ecology will seek guidance from the pertinent superior court regarding the court's role in administering the water rights that are subject to the adjudication. ((Thereafter,)) Ecology shall then advise the ((conservancy)) board on whether and how the board may ((proceed to evaluate and make conditional decisions on applications for transfers of water rights that are subject to the adjudication being conducted by the superior court. When a board receives an application for transfer of a water right that is in an area subject to an ongoing general water rights adjudication process, and a public notice has been published, the board must send a copy of the public notice regarding the application to ecology, which will then submit the notice to the court conducting the adjudication. When a board makes a conditional decision on a transfer of a water right that is in an area subject to an ongoing general water rights adjudication process, a copy of the conditional decision must be sent to ecology, which will forward the conditional decision to the court conducting the adjudication)) address the application.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-120 ((Interventions and protests.))**  
**What assistance is available to water conservancy boards?** (1) ((Any water right holder claiming detriment or injury to an existing water right may intervene in the application review process before the water conservancy board. Actions by the water conservancy board are independent from those of ecology. Ecology's final decisions based upon water conservancy board's conditional decisions are subject to administrative and judicial review.

(2) A party who intervenes in a water conservancy board conditional decision is not considered to be a protesting party unless the party has also filed a timely protest with ecology. Protests must be filed with ecology in accordance with WAC 508-12-120 and will be evaluated by ecology concurrently with its review of the water conservancy board conditional decision. Ecology will also consider other objections and comments in the record, including the record of any hearings held by the board, when it makes its review of the board's conditional decision. The director, or his or her designee, shall assign a representative of ecology to be available to provide technical assistance to each board as provided in RCW 90.80.055 (1)(d).

(2) Upon request by a board, an ecology representative will provide technical assistance as the board:

(a) Reviews applications for formal acceptance;

(b) Prepares draft records of decision and reports of examination;

(c) Considers technical factors; and

(d) Considers legal factors affecting the board's development of a record of decision.

(3) A board may request and accept additional technical assistance from ecology.

(4) A board may also request and accept assistance and support from the government or governments of the county or counties in which it operates, as well as from other interested parties.

(5) Ecology recognizes that boards are independent entities with the legal right to make records of decision on water right transfer applications without seeking assistance from ecology. However, should a board desire assistance from ecology in processing an application or regarding its administrative functions, ecology will provide technical assistance upon request of the board. This technical assistance may address issues involved in application processing, including procedural requirements and administrative functions, and can include specific information regarding approaches to resolving particular issues. However, in deference to the independent status of boards, such technical assistance shall be solely in the form of guidance and shall not dictate or otherwise direct any board to reach a specific conclusion regarding any aspect of application processing or of a board's administrative functions.

(6) Technical assistance and training provided to a board is not subject to the Open Public Meetings Act.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

WAC 173-153-130 ((Conditional decision by water conservancy board.)) **How are records of decision and reports of examination made by a water conservancy board?**

(1) A record of decision and report of examination is adopted by a majority vote of a board, as defined in RCW 90.80.070(4). The ((water conservancy)) board's ((conditional)) **record of decision and report of examination** must be in writing, and ((its)) **the record of decision and report of examination** become(s) part of the public record.

(2) ((For applications that are proposed to be denied, the water conservancy board will issue)) **When a board proposes to deny an application, in whole or in part, the board must issue to both the applicant and ecology a record of decision and report of examination denying the transfer, or a portion of the transfer, subject to review and final determination by ecology.**

(3) ((For applications for transfer that are proposed to be affirmed, the water conservancy board will issue the applicant)) **When a board proposes to approve an application, the board must issue to both the applicant and ecology a record of decision and a ((certificate of conditional approval)) report of examination approving the transfer, subject to review and final approval by ecology.**

### What is included in a record of decision?

(4) The record of decision ((along with either the certificate of conditional approval or the notice of denial will each address the following)) **must be prepared on a form provided by ecology and identified as the Record of Decision, form number 040-105, and must include the conclusion of the board as to whether the application is denied or approved and a record of the individual vote or abstention of each participating commissioner or that a commissioner has recused him or herself.**

### What is included in a report of examination?

(5) It is the responsibility of the water conservancy board to ensure that all issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination.

(6) The report of examination will consist of a form provided by ecology and identified as Water Conservancy Board Report of Examination, form number 040-106, documenting and summarizing the basic facts associated with the decision. This shall include:

(a) Within a section entitled "background":

(i) A description of the water right proposed for transfer ((to include the ecology assigned)), including the board-assigned water right change application number, and the board's tentative determination as to the validity and quantification of the right, ((together with a description of)) as well as the historical water use information that was considered by the board;

(ii) ((A description of any protests, objections or comments, including comments provided by other agencies, Indian tribes, or other interested parties, and the board's analysis of each issue considered, including the name and address of individual intervenors;

(iii) A discussion explaining compliance)) **An explanation of how the board complied with the State Environmental Policy Act; and**

((b)) (iii) A description of any previous change decisions associated with the water right.

(b) Within a section entitled "comments and protests": **A description of any protests, and written or oral comments, including:**

(i) The names and addresses of the protestors or commenters;

(ii) A description of the issues raised; and

(iii) The board's analysis regarding each issue raised.

(c) Within a section entitled "investigation":

(i) **A description of the project proposed by the applicant, including any issues related to development, such as the applicant's proposed development schedule and an analysis of the effect of the proposed transfer on other water rights, pending applications for changes or transfers, and instream flows established under state law;**

(ii) A narrative description of any other water rights or other water uses associated with both the current and proposed place of use and an explanation of how those other rights or uses will be exercised in ((harmony)) **conjunction with the right proposed to be transferred;**

(iii) If the proposed transfer is authorized under RCW 90.44.100, an analysis of ((the effect of)) the transfer ((on)) as to whether it is detrimental to the public interest, including impacts on any watershed planning activity. Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively;

(iv) Any ((conditional decision or conclusion)) information indicating that an existing water right or portion of a water right has been relinquished or abandoned due to nonuse and the basis for the determination;

(v) A description of the results of any geologic, hydrogeologic, or other scientific investigations that were considered by the board and how this information contributed to the board's conclusions;

~~((e))~~ (d) Within a section entitled "conclusions": A list of conclusions that the board drew from the information ((related to)) compiled regarding the transfer proposal. Conclusions must, at a minimum, describe:

(i) Whether, and to what extent, a valid water right exists;

(ii) Any relinquishment or abandonment of the water right associated with the water right transfer application as discussed in subsection (6)(d)(i) of this section;

(iii) The result, as adopted by the board, of any hydraulic analysis done related to the proposed water right transfer;

(iv) The board's conclusions of issues raised by any comments and protests received;

(v) Whether the transfer proposal will impair existing rights of others; and

(vi) If the proposed transfer is authorized pursuant to RCW 90.44.100, whether it is detrimental to the public interest. Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively;

~~((d))~~ (e) Within a section entitled "((conditional)) decision": A complete description of the board's ((conditional)) decision, fully and comprehensively addressing the entire application proposal;

~~((e))~~ (f) Within a section entitled "provisions":

(i) Any conditions and limitations recommended ((for inclusion in an approval or)) as part of an approved transfer, and/or any other corrective action necessary to maintain the water use in compliance with state laws ((or rules)) and regulations;

(ii) ((A description of)) Any requirement to mitigate adverse effects ((on other water rights, the water source, or the public interest)) of the project. Mitigation may be proposed by the applicant or the board and be required in the board's decision; and

(iii) A schedule for development and completion of the water right transfer ((to a water right)), if approved in part or in whole, that includes a definite date for completion of the transfer and ((the)) application of the water to an authorized beneficial use.

~~((5))~~ A water conservancy board's conditional decision and certificate is not a final authorization to transfer the water right. Only after ecology has approved the conditional decision and has issued an order authorizing the transfer, or has failed to act within the time frame established in RCW 90.80.080, is the applicant allowed to initiate the transfer of

the water right.)) (7) Ecology may request additional information from the applicant or water conservancy board regarding the application and the board's decision, in addition to the requirements of subsection (6) of this section.

(8) A board's record of decision must clearly state that the applicant is not permitted to proceed to act on the proposal until ecology makes a final decision affirming, in whole or in part, the board's recommendation. However, if ecology does not act on a board's recommendation within the time frame established in RCW 90.80.080, the applicant is allowed to initiate the water right transfer pursuant to the board's record of decision after that period of time has expired. It is advised that the applicant not proceed until the appeal period of ecology's decision is complete, in compliance with WAC 173-153-180.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

WAC 173-153-140 ((Notification of conditional decision)) **What is the process for notifying parties of a record of decision and report of examination? Who is notified of a board's record of decision and report of examination?**

(1) ~~((The water conservancy board shall send notice of its conditional decision as to whether the transfer should be approved or denied, by mail to the applicant, ecology, to any person who protested or objected to the transfer, to any persons who requested notice of its conditional decision, and to any commenting agency or tribe. The board shall transmit notification of its conditional decisions to all parties on the same day, and will note that it has been sent to ecology. Ecology shall identify the location designated for submission of the board's conditional decision.~~

(2) Boards must fully document their process of arriving at a conditional decision regarding water right applications. All original public documents received or developed by a water conservancy board and used during its deliberations for decision making for each application for transfer of a water right must be sent, with a clear copy of the conditional decision, to ecology at the location designated by ecology for permanent recordkeeping, within seven working days after the board has rendered its conditional decision. The board must retain a copy of all documents; any documents used in reaching a conditional decision regarding a water right transfer application must not be destroyed or disposed of, except as allowed by state statute.

(3) Any comments or objections that are received by the water conservancy board on its conditional decision within thirty days after a final decision is issued by ecology must be forwarded to ecology within five working days, at the location designated for submission of the board's determination.)) Ecology shall identify to all boards the ecology regional office designated for receipt of each board's records of decision. Boards shall hand deliver or send by mail records of decision and reports of examination to:

(a) The applicant;

(b) The ecology regional office;

(c) Any person who protested the transfer;

(d) Any person who requested notice of the board's record of decision;

(e) Any tribe with reservation or trust lands contiguous with or wholly or partly within the area of jurisdiction of the board; and

(f) Any commenting agency or tribe.

**How is the record of decision and report of examination transmitted?**

(2) The board shall simultaneously mail to all parties identified in subsection (1) of this section a paper copy of its record of decision and report of examination, and documents supporting the decision, within five business days of the board's decision. The board shall state to the parties receiving the record of decision and report of examination that it has been simultaneously sent to ecology. Whenever boards have the capacity to do so, they must transmit a signed electronic copy of the record of decision and report of examination to the ecology regional office on the same day that copies of the decision are mailed or hand-delivered. The paper copy of the transmittal must include:

(a) The record of decision;

(b) The report of examination;

(c) The application;

(d) Public notices; and

(e) Attachments to the application.

(3) As stated in WAC 173-153-130, boards must fully document their process of arriving at a record of decision regarding water right transfer applications. Once the board has concluded its work on a water right transfer application, the board must submit to ecology, not less than seven days or more than fourteen days after the completion of ecology's review period, any remaining original documents not previously submitted to ecology in accordance with subsection (2) of this section, and any documents received or developed by the board related to its deliberations regarding the application upon which it has made a decision. All documents submitted shall be clearly marked with the board-assigned water right change application number on the water right transfer application pursuant to WAC 173-153-070(7). As noted, the original versions of these documents must be provided to ecology; copies are not acceptable for submission. These documents must be sent to the ecology regional office designated by ecology. The board may retain a copy of all of the above-mentioned documents. Any documents used in reaching a record of decision regarding a water right transfer application must not be destroyed or disposed of, except as allowed by state statute. After the board completes its business on a water right transfer application, and upon submission to ecology of all records related to the application file, ecology shall be responsible for public records requests related to that file.

(4) Any comments received by a board regarding its record of decision within thirty days after ecology's final decision must be forwarded to ecology within five business days of the board's receipt of such comments by the board. These comments must be submitted by the board to the ecology regional office.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-150 What is ecology's review process of ~~(the)~~ a board's ~~(conditional)~~ record of decision~~(?)~~?**

(1) Upon receipt of a record of decision and report of examination, ecology shall document and acknowledge the date of receipt of such documents in writing to the issuing board. Ecology will post on its Internet site, generally within five business days, the record of decision, documenting the vote and signature of all board commissioners who participated in the decision, and the report of examination. For boards with the capacity to send signed documents electronically, ecology will post the record of decision and the report of examination generally within three business days of receiving the electronic version. The posted document will be referenced by both the board-assigned application number and by the ecology-assigned application number.

**How does ecology review the record of decision?**

(2) Ecology will review ~~(conditional decisions or~~ approvals and denials) all records of decisions made by water conservancy boards. Upon receipt of a ~~(conditional)~~ record of decision made by a ~~(water conservancy)~~ board, ecology will review ~~(the conditional)~~:

(a) The record of decision for compliance with state water laws and ~~(rules, policies or guidelines. As part of this review, ecology will also consider agency and tribal comments, any protests or objections filed by parties alleging that one or more of their water rights would be impaired by the transfer, and any other comments received regarding the conditional decision by the board.~~

~~(2))~~ regulations;

(b) The record developed by the board in processing the application; and

(c) Any other relevant information.

(3) In reviewing a board's decision, ecology may consider any letters of concern or support received within thirty days of the date ecology receives the board's record of decision.

(4) Ecology will not evaluate the internal operations of a board as it reviews a board's record of decision. Exceptions are to the extent that such review is necessary to determine whether the board's decision was in compliance with state laws and regulations concerning water right transfers, including possible cases of a conflict of interest as identified in RCW 90.80.120.

**What are ecology's potential review responses and how are the responses made?**

(5) Ecology may affirm, reverse, or modify the ~~(conditional)~~ records of decision ~~(of the)~~ made by boards. Ecology's decision will be made in the form of a written administrative order and must be issued within forty-five days of receipt of the board's ~~(conditional)~~ record of decision by the ecology regional office, except that the forty-five-day time period may be extended an additional thirty days by ecology's director, or his or her designee, or at the request of the board or applicant in accordance with RCW 90.80.080. If ecology ~~(fails to act)~~ does not act on the record of decision within the forty-five-day time period, or within the extension period, the board's ~~(conditional)~~ record of decision becomes final.

~~((The forty five day time period may be extended an additional thirty days by ecology's director upon the written consent of the parties to the transfer.~~

(3) ~~If ecology modifies the conditional decision by the water conservancy board, ecology shall send a notice of modification of the conditional decision that specifies which parts of the conditional decision it was in agreement with, and which parts of the conditional decision it has modified. If ecology reverses the conditional decision by the conservancy board, ecology shall send a notice of reversal of the conditional decision with an explanation of the reversal.~~

(4) ~~Ecology will send notice of its decision to all parties on the same day. Notice of ecology's decision will be sent by mail within five working days to the water conservancy board, the applicant, any person who protested or intervened before the board, persons who requested notice of its decision, the Washington department of fish and wildlife, and any affected Indian tribe.~~

(5) ~~If ecology fails to act within the specified time after receipt of the board's conditional decision, the board's action is final. The conservancy board shall notify ecology, the applicant, and any parties that have expressed interest to the conservancy board about the application, of ecology's failure to act. If ecology concurs that the review period has lapsed, ecology will send a notice to the board that the conditional decision is final.)~~ (6) Ecology may issue an order affirming a board's decision. If ecology modifies the record of decision made by a board, ecology shall issue and send to the applicant and the board an order containing its modification of the record of decision. The order shall specify which part(s) of the record of decision ecology has modified. If ecology reverses the record of decision by the board, ecology shall send the applicant and the board an order reversing the record of decision with a detailed explanation of the reasons for the reversal.

#### Under what conditions may ecology remand a record of decision to a board?

(7) Ecology may consider conflict of interest issues during its final review of a board's record of decision. In accordance with chapter 90.80 RCW, if ecology determines that a commissioner should have been disqualified from participating in a decision on a particular application under review, the director, or his or her designee, must remand the record of decision to the board for reconsideration and resubmission of the record of decision. Upon ecology's remand, the disqualified commissioner shall not participate in any further board review of that particular application.

(8) Ecology's decision on whether to remand a record of decision under this section may only be appealed at the same time and in the same manner as an appeal of ecology's decision to affirm, modify, or reverse the record of decision after remand.

#### Can a board withdraw its record of decision from ecology?

(9) If ecology has not yet formally acted on a record of decision by a board, a board may withdraw the record of decision during the period allowed for ecology's review. If a board withdraws a record of decision, ecology shall remove the record of decision from its Internet site and post a notice

that the decision has been withdrawn. All of the associated documents submitted to ecology by the board with the record of decision will be returned to the board. A board may withdraw the record of decision under the following conditions:

(a) The board must follow chapter 42.30 RCW, the Open Public Meetings Act, in making a decision to withdraw the record of decision; and

(b) The board must send a notice of withdrawal of a record of decision to ecology on a form provided by ecology and identified as Decision to Withdraw a Record of Decision, form number 040-107.

#### Who is notified of ecology's order relating to a record of decision?

(10) Ecology will send its order to all parties on the same day. The order must be sent by mail, within five business days of ecology reaching its decision, to:

(a) The board;

(b) The applicant;

(c) Any person who protested;

(d) Persons who requested notice of ecology's decision;

(e) The Washington department of fish and wildlife;

(f) Any affected Indian tribe; and

(g) Any affected agency.

#### What is the process should ecology fail to act on a record of decision?

(11) Except as specified in subsection (5) of this section, if ecology fails to act within the specified time after receipt of the board's record of decision, the board's record of decision becomes the final order of ecology. If a board concludes that the time allowed for ecology to issue its order has lapsed, the board shall notify ecology, the applicant, any protestors, and any parties that have expressed interest to the board about the application that the time period has lapsed. If ecology agrees that the review period has lapsed, ecology will send an order to the board, and all entities listed in subsection (10) of this section, stating that the record of decision is final. If ecology disagrees with the board's conclusion, ecology shall work with the board to establish the beginning date of the review period based upon the date of receipt of the record of decision and report of examination by the ecology regional office.

AMENDATORY SECTION (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

#### WAC 173-153-160 ((Perfection of a transfer approval)) When is a board-approved water right transfer that has been affirmed by ecology complete? Who provides documentation of the transfer when it is completed?

(1) When an ((approved)) affirmed transfer has been ((perfected)) completed and the transferred water right has been put to beneficial use, the person authorized to transfer ((a)) the water right must submit satisfactory evidence to ecology showing the transfer has been completed in accordance with ((the)) ecology's order authorizing the transfer of the water right. Upon verification of the extent of development as authorized, ecology will issue a change certificate, superseding permit, or a superseding certificate to the water right holder(s) to document that the approved transfer was

accomplished ~~((upon verification of the extent of development as authorized))~~. When evaluating the proposed water right transfer application, the board will consider and address in the report of examination any issues pertaining to completion of the development or the application of the water to a beneficial use of water as it is proposed to be changed.

**Who receives a copy of the document identifying the perfection of the transfer approval?**

(2) When ~~((the))~~ a document ~~((is issued))~~, as described in subsection (1) of this section, is issued to the applicant, ecology shall provide a copy to the ~~((conservancy))~~ appropriate board for its records, if requested by the board. The document ~~((will))~~ shall also be recorded, at the applicant's expense, by the county or counties in which the ~~((use of))~~ water is ~~((made))~~ authorized for use.

**What happens if the approved transfer is not completed within the development schedule or if the change authorization is canceled?**

(3) If development of the approved transfer is not completed in accordance with the development schedule that accompanies the approval, extensions may be requested in accordance with RCW 90.03.320, and will be ~~((processed under standard procedures))~~ evaluated by ecology.

~~((3))~~ (4) If the person authorized to transfer a water right fails to accomplish the transfer in accordance with the authorization, or any subsequent extensions granted by ecology, and does not receive an extension from ecology, or fails to comply with the requirements of the transfer authorization, ecology will cancel the transfer authorization ~~((and the water right will revert to the original configuration, less any quantity that was relinquished for nonuse in connection with ecology's review of the conservancy board's conditional decision))~~. Upon cancellation of the transfer authorization, ecology will evaluate the water right to make a tentative determination as to the present validity of the water right and the conditions under which the water right can legally be exercised.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-170 What are a board's reporting requirements?** Boards are required to submit reports to ecology on their activities at the end of October of each ~~((even-numbered))~~ year. The reports must be submitted to the water conservancy board coordinator on a form provided by ecology each year and must include information about board activities during the previous ~~((twenty-four))~~ twelve months. The reports shall contain the following information:

**Water right transfer application data:**

(1) Information about applications to the board, to include ~~((the following))~~:

(a) The number of applications filed with the board, identified by water resources inventory area (WRIA);

(b) ~~((Number of applications that received a public hearing to hear intervenors;))~~ The number of records of decision withdrawn from ecology by the board;

(c) The number of ~~((conditional))~~ records of decision ~~((s))~~ approving or partially approving an application;

(d) The number of ~~((conditional))~~ records of decision ~~((s))~~ denying an application;

(e) ~~((Number of applications for transfer of surface or ground water;~~

~~((f) Number of applications to transfer a claim or certificate;~~

~~((g))~~ The number of records of decision remanded back to the board from ecology;

(f) The number of applications received by the board, distinguishing between requests to transfer surface water and ground water;

(g) The number of applications to transfer a water right documented by a claim;

(h) The number of applications to transfer a water right documented by a certificate;

(i) The number of applications proposing transfer related to trust water;

(j) The number of applications filed directly with the ~~((conservancy))~~ board, and the number transferred from ecology to the board; and

~~((h))~~ (k) The number of hearings held within other counties other than the county or counties which established the board, when water rights were proposed to be ~~((changed between counties-))~~ transferred from one county to another.

**Operational information about the boards:**

(2) Information about the operations of the board, to include ~~((the following))~~:

(a) ~~((Chairperson of the board;~~

~~((b))~~ The chair of the board;

(b) The primary contact of the board;

(c) The board address, phone, and/or e-mail;

(d) The board commissioners' names and their terms of office;

(e) The regular meeting location, if any;

(f) The regular meeting schedule, if any;

(g) Any changes in membership of the board, including background and contact information for any new ~~((members))~~ commissioners;

~~((e))~~ (h) Current fees ~~((of))~~ and changes to ~~((previous))~~ previously set fees;

~~((d))~~ (i) Training received other than from ecology;

~~((e))~~ (j) Ownership of ~~((any properties))~~ property by the ~~((conservancy))~~ board;

~~((f))~~ (k) Water marketing activities ~~((and any related fees))~~;

~~((g))~~ (l) Number of staff ~~((that are))~~ employed by the board, and number of staff that provide volunteer service to ~~((s))~~ the board; and

~~((h))~~ (m) Any litigation in which the board is involved.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-180 ~~((Appeals.))~~ What actions may be appealed under this chapter?** Any person aggrieved by ecology's decision to approve or disapprove the establishment or restructuring of a ~~((conservancy))~~ board, or by an ecology ~~((s decision))~~ order to affirm, reverse ~~((of))~~ modify ~~((the determination of a conservancy board on an application~~

for transfer of a water right), or remand a record of decision made by a board, may appeal the decision or order to the state pollution control hearings board in accordance with chapter 43.21B RCW.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-190 Existing rights are not affected.** Nothing in this chapter is intended to impair any existing water rights.

**AMENDATORY SECTION** (Amending Order 98-11, filed 11/17/99, effective 12/18/99)

**WAC 173-153-200 Will ecology review ((of)) this chapter((s)) in the future to determine if changes are necessary?** This chapter ((must)) may be reviewed by ecology whenever new information, changing conditions, or statutory modifications make it ((necessary)) prudent to consider revisions. In carrying out such a review ((of this chapter)), ecology shall consult with existing ((conservancy)) boards.

**WSR 02-17-074**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
[Filed August 19, 2002, 10:16 a.m.]

Original Notice.

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

Title of Rule: Administrative rules.

Purpose: These rules govern the actions of the Columbia River Gorge Commission.

Other Identifying Information: 350-16.

Statutory Authority for Adoption: RCW 43.97.015, ORS 197.150.

Statute Being Implemented: U.S.C. 544c(b).

Summary: The proposed amendments bring the commission's procedural rules into compliance with the more restrictive statutory provisions of Washington and Oregon.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Martha Bennett, Executive Director, White Salmon, Washington, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, 16 U.S.C. 544c(b).

Explanation of Rule, its Purpose, and Anticipated Effects: The changes bring commission rule 350-16 (administrative rules) into consistency with the more restrictive of Washington and Oregon statutory state law. The rule addresses internal procedures used by the Gorge Commission.

Proposal Changes the Following Existing Rules: The changes bring this rule into consistency with the more restrictive of Washington and Oregon statutory law.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have no economic effect; the changes address only the Gorge Commission's internal procedures.

RCW 34.05.328 does not apply to this rule adoption. The changes relate only to internal governmental operations.

Hearing Location: The Discovery Center, 5000 Discovery Drive, The Dalles, OR, on October 8, 2002, at 9:00 a.m.

Submit Written Comments to: Martha Bennett, Executive Director, fax (509) 493-2229, by October 8, 2002.

Date of Intended Adoption: October 8, 2002.

August 15, 2002

Robert K. McIntyre

Rules Coordinator

**AMENDATORY SECTION**

**350-16-003. Description of Organization; Service of Order; Effect of Not Putting Order in Writing.**

(1) In addition to other rulemaking requirements imposed by law, the commission shall publish a description of its organization and the methods whereby the public may obtain information or make submissions or requests.

(2) The commission shall appoint a rules coordinator and file a copy of that appointment annually with the Oregon Secretary of State and Washington Code Reviser. The rules coordinator shall:

(a) Maintain copies of all rules adopted by the agency and be able to provide information to the public about the status of those rules;

(b) Provide information to the public on all rulemaking proceedings of the agency; and

(c) Keep and make available the mailing list required by 350-16-004(7).

*ORS 183.330 and RCW 34.05.31*

(32) An order shall not be effective as to a person or party unless it is served upon him either personally or by mail. This subsection is not applicable in favor of any person or party who has actual knowledge of the order.

(43) An order is not final until it is reduced to writing.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION**

**350-16-004. Notice Requirements for Rule Adoption; Temporary Rule Adoption, or Amendment; Substantial Compliance Required.**

(1) The commission shall prepare a semiannual agenda for rules under development. The commission shall file the agenda with the Oregon Secretary of State and Washington Code Reviser for publication in the states' registers not later than January 31st and July 31st of each year. Not later than three days after its publication in the states' registers, the commission shall send a copy of the agenda to each person

who has requested receipt of a copy of the agenda. RCW 34.05.314

(2) When applicable under Washington law, the commission shall prepare a statement of inquiry on the form provided by the Washington Code Reviser, that shall be: filed with the Washington Code Reviser for publication in the state's register at least thirty days before the date the agency files notice of proposed rule making, sent to any party that has requested receipt of the agency's statements of inquiry, and published on the Commission's website or other similar means of electronic communication. RCW 34.05.310(1)

(3~~4~~) Prior to the adoption, amendment or repeal of any rule, the commission shall give notice of its intended action:

(a) In the manner established by rule adopted by the commission, which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

(b) In the Oregon bulletin and Washington register at least ~~21~~ days prior to the commencement of any commission action; and ORS 183.335 (1)(b)

(c) At least 28 days before the effective date, to persons who have requested notice pursuant to subsection (9) of this section; and, ORS 183.335 (1)(c) No later than three days after publication in the register and bulletin, to persons who have requested notice pursuant to subsection (7) of this section.

(d) On its website or other similar means of electronic communication.

(4~~2~~)(a) The notice required by subsection (3~~4~~) of this section shall state the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

(b) The commission shall include with the notice of intended action given under subsection (3~~4~~) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(C) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the commission in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list;

(D) A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.

(E) A statement of the anticipated effects of the proposed rule;

(F) A statement whether the rule is necessary as a result of federal law or a court decision;

(G) An indication of the person or persons proposing the rule;

(H) The date on which the commission intends to adopt the rule; and

(I) The commission personnel responsible for implementation and enforcement of the rule, with office location and telephone number.

(J) If an advisory committee is not appointed, or an opportunity for interested parties to participate in the rule-making process prior to publication of the proposed rule has not been provided, an explanation as to why no advisory committee or participation by interested persons was used to assist the agency in drafting the rule. ORS 183.335 (2)(b)(F); RCW 34.05.310 (3)(b)

(5~~3~~) When the commission proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views at a public hearing. The commission shall consider fully any written or oral submissions, including all submissions received by facsimile, telephonic communication, or electronic mail. RCW 34.05.325(3)

(6~~4~~) Upon request of an interested person received within 15 days after commission notice pursuant to subsection (2~~1~~) of this section, the commission shall postpone the date of its intended action no less than ~~21~~ nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action. Nothing in this subsection shall preclude the commission from adopting a temporary rule pursuant to subsection (7~~5~~) of this section. ORS 183.335(4)

(7~~5~~) Notwithstanding subsections (1) to (6~~4~~) of this section, the commission may adopt or amend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the commission prepares:

(a) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interests of the parties concerned and the specific reasons of its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need; and

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the commission in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspections.

(8~~6~~) A rule adopted or amended under subsection (7~~5~~) of this section is temporary and may be effective for a period of not longer than ~~120~~ 90 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (6~~4~~) of this section. RCW 34.05.350(2); ORS 183.335 (6)(a)

(9~~7~~) Any person may request in writing that the commission mail to the person copies of its notice of intended action given pursuant to subsection (3~~4~~) of this section. Upon receipt of any request the commission shall acknowledge the

request, establish a mailing list and maintain a record of all mailings made pursuant to the request. The commission may establish procedures for establishing and maintaining the mailing lists current and, by rule, establish fees necessary to defray the costs of mailings and maintenance of the lists.

(108) This section does not apply to public contracts and purchasing.

(119) No rule is valid unless adopted in substantial compliance with the provisions of this section in effect on the date the rule is adopted.

(1240) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an agency need not be based upon or supported by an evidentiary record.

(13) The commission may correct its failure to substantially comply with the requirements of subsections (4) and (7) of this section in adoption of a rule by an amended filing, so long as the noncompliance did not substantially prejudice the interests of persons to be affected by the rule. However, this subsection does not authorize correction of a failure to comply with subsection (3)(b)(D) of this section requiring inclusion of a fiscal impact statement with the notice required by subsection (1) of this section. ORS 183.335(12)

(14) When the commission establishes a deadline for comment on a proposed rule under the provisions of subsection (4) of this section, the commission may not extend that deadline for another agency or person unless the extension applies equally to all interested agencies and persons. An agency shall not consider any submission made by another agency after the final deadline has passed. ORS 183.335(14)

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **AMENDATORY SECTION**

### **350-16-009. Notice, Hearing and Record in Contested Cases; Informal Dispositions; Hearings Officer; Statement of Ex Parte Communications.**

(1) In a contested case hearing, all parties shall be afforded an opportunity for hearing after notice of not less than 20 days, served personally or by registered or certified mail.

(2) The notice shall include:

(a) A statement of the party's right to hearing, or a statement of the time and place of the hearing;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved; and

(d) A short and plain statement of the matters asserted or charged;

(e) Unless otherwise ordered by the presiding officer, the names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(f) The official file or other reference number and the name of the proceeding;

(g) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(h) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with this chapter; and

*RCW 34.05.434(2)*

(i) Any other matters considered desirable by the agency.  
*RCW 34.05.434(4)*

(3) Parties may elect to be represented by counsel and to respond and present evidence and argument on all issues involved.

(4) The commission may adopt rules of procedure governing participation in contested cases by person appearing as limited parties.

(5) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

(6) An order adverse to a party may be issued upon default only upon prima facie case made on the record of the commission. When an order is effective only if a request for hearing is not made by the party, the record may be made at the time of issuance of the order, and if the order is based only on material included in the application or other submissions of the party, the commission may so certify and so notify the party, and such material shall constitute the evidentiary record of the proceeding if hearing is not requested. The commission shall serve a default order upon the defaulted party or the party's attorney, if any.

(7) Within seven days after service of a default order under subsection (6) of this section, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. At the commencement of the hearing, the officer presiding shall explain the issues involved in the hearing and the matters that the parties must either prove or disprove.

(8) Testimony shall be taken upon oath or affirmation of the witness form when received. The officer presiding at the hearing shall administer oaths or affirmatives to witnesses.

~~(9) A presiding officer who receives an ex parte communication during the pendency of a proceeding shall place on the record of the proceeding all written communications received, all written responses to the communications and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record. repetitive, see 350-16-016 below~~

(940) The officer presiding at the hearing shall insure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues property before the presiding officer in the case.

~~(1011)~~ The record in a contested case shall include:

- (a) All pleadings, motions and intermediate rulings.
- (b) Evidence received or considered.
- (c) Stipulations.
- (d) A statement of matters officially noticed.
- (e) Questions and offers of proof, objections and rulings thereon.
- (f) A statement of any ex parte communications on a fact in issue made to the officer presiding at the hearing.
- (g) Proposed findings and exceptions.
- (h) Any proposed, intermediate or final order prepared by the commission or a hearings officer.

~~(1112)~~ A verbatim oral, written or mechanical record shall be made of all motions, rulings and testimony. The record need not be transcribed unless requested for purposes of rehearing or court review. The commission may charge the party requesting transcription, unless the party files an appropriate affidavit of indigency.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **AMENDATORY SECTION**

### **350-16-014. Evidence in Contested Cases.**

(1) Irrelevant, immaterial or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude commission action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their ~~serous~~ serious affairs shall be admissible. The commission shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

(2) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to an except as provided in subsection (4) of this section no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(3) Every party shall have the right of cross examination of witnesses who testify and shall have the right to submit rebuttal evidence. Persons appearing in a limited party status shall participate in the manner and to the extent prescribed by rule of the commission.

(4) The commission may take notice of judicially cognizable facts, and may take official notice of general, technical or scientific facts within its specialized knowledge. Parties shall be notified at any time during the proceeding but in any event prior to the final decision of material officially noticed and the sources of the materials and they shall be afforded an opportunity to contest the facts so noticed. The commission may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

(5) No sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence.

(6) The commission may, at its discretion, be represented at the hearings by the Attorney General of Washington or Oregon.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **AMENDATORY SECTION**

### **350-16-016. Commission Statement of Ex Parte Communications; Notice.**

(1) A presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any person employed by the agency without notice and opportunity for all parties to participate, except as provided in this subsection:

(a) Where the ultimate legal authority of an agency is vested in a multimember body, and where that body presides at an adjudication, members of the body may communicate with one another regarding the proceeding;

(b) Any presiding officer may receive aid from legal counsel, or from staff assistants who are subject to the presiding officer's supervision; and

(c) Presiding officers may communicate with other employees or consultants of the agency who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.

(d) This subsection does not apply to communications required for the disposition of ex parte matters specifically authorized by statute.

(2) Unless required for the disposition of ex parte matters specifically authorized by statute or unless necessary to procedural aspects of maintaining an orderly process, a presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding, with any person not employed by the agency who has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.

(3) Unless necessary to procedural aspects of maintaining an orderly process, persons to whom a presiding officer may not communicate under subsections (1) and (2) of this section may not communicate with presiding officers without notice and opportunity for all parties to participate.

(4) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5) of this section.

(5) Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the matter unless a party moves the admission of any portion of the record for purposes of establishing

a fact at issue and that portion is admitted pursuant to 350-16-014.

(6) Any commissioner who receives an ex parte communication during the pendency of a proceeding shall place on the record of the proceeding all written communications received, all written responses to the communications and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner received an ex parte communication. The commissioner, or the Chair or presiding officer, shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record.

(7) The Chair or presiding officer shall consider the position of the parties and, after review of the matter, make a recommendation to the Commission to ensure fairness and the appearance of fairness is maintained. The member of the Commission who was the subject of the ex parte contact may voluntarily step down from hearing the matter. The Commission may also request the member of the Commission to participate in the appeal or proceedings or the member of the Commission step down from hearing the matter, and the Chair or presiding officer may seal the portions of the record pertaining to the communication by protective order.

(8) The agency shall, and any party may, report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law.

RCW 34.05.455

~~Any commissioner who receives an ex parte communication during the pendency of a proceeding shall place on the record of the proceeding all written communications received, all written responses to the communications and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the commissioner received an ex parte communication. The commissioner shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record.~~

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### 350-16-017. Appearance of Fairness

Members of the Commission shall comply with Washington's appearance of fairness doctrine in appeals and proceedings under this rule and under Rules 350-60 et seq. and Rules 350-70 et seq.

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

## AMENDATORY SECTION

### 350-16-0187. Proposed Order by Hearings Officer; Amendment by Commission; Exemptions.

(1) Except as otherwise provided in subsections (1) to (3) of this section, unless a hearings officer is authorized or required by law or commission rule to issue a final order, the hearings officer shall prepare and serve on the commission and all parties to a contested case hearing a proposed order, including recommended findings of fact and conclusions of law. The proposed order shall become final after the 30th day following the date of service of the proposed order, unless the commission within that period issues an amended order.

(2) The commission may by rule specify a period of time after which a proposed order will become final that is different from that specified in subsection (1) of this section.

(3) If the commission determines that additional time will be necessary to allow the commission adequately to review a proposed order in a contested case, the commission may extend the time after which the proposed order will become final by a specified period of time. The commission shall notify the parties to the hearing of the period of extension.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### 350-16-0198. Orders in Contested Cases.

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) A final order shall be accompanied by findings of fact and conclusions of law, and the reasons and basis therefore, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction. Any findings based substantially upon credibility of evidence or demeanor of witnesses shall be so identified. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of facts and as to each ultimate fact required to support the commission's order.

(3) The commission shall serve in writing any final order within 90 days after the hearing or after the submission of any additional memoranda, briefs or proposed findings. The commission shall notify the parties to a proceeding of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

(4) Every final order shall include a citation of the statutes under which the order may be appealed.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 02-17-075**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
 [Filed August 19, 2002, 10:17 a.m.]

Original Notice.

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

Title of Rule: Public records.

Purpose: These rules govern the actions of the Columbia River Gorge Commission.

Other Identifying Information: 350-12.

Statutory Authority for Adoption: RCW 43.97.015, ORS 197.150.

Statute Being Implemented: U.S.C. 544c(b).

Summary: The proposed amendments bring the commission's procedural rules into compliance with the more restrictive statutory provisions of Washington and Oregon.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Martha Bennett, Executive Director, White Salmon, Washington, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, 16 U.S.C. 544c(b).

Explanation of Rule, its Purpose, and Anticipated Effects: The changes bring commission rule 350-12 (public records) into consistency with the more restrictive of Washington and Oregon statutory state law. The rule addresses internal procedures used by the Gorge Commission.

Proposal Changes the Following Existing Rules: The changes bring this rule into consistency with the more restrictive of Washington and Oregon statutory law.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have no economic effect; the changes address only the Gorge Commission's internal procedures.

RCW 34.05.328 does not apply to this rule adoption. The changes relate only to internal governmental operations.

Hearing Location: The Discovery Center, 5000 Discovery Drive, The Dalles, OR, on October 8, 2002, at 9:00 a.m.

Submit Written Comments to: Martha Bennett, Executive Director, fax (509) 493-2229, by October 8, 2002.

Date of Intended Adoption: October 8, 2002.

August 15, 2002

Robert K. McIntyre  
Rules Coordinator

### **AMENDATORY SECTION**

#### **350-12-002. Right to inspect public records.**

Every person has a right to inspect any public record of the commission, except as otherwise expressly provided by 350-12-006g.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

### **AMENDATORY SECTION**

#### **350-12-005. ~~Certified copies~~ Forms of public records, fees.**

(1) The custodian of any public record which a person has a right to inspect shall give the person, on demand, a certified copy of it, if the record is of a nature permitting such copying, or shall furnish reasonable opportunity to inspect or copy.

(2) If a public record is maintained in a machine readable or electronic form, the custodian shall provide copies of the public record in the form requested, if available. If the public record is not available in the form requested, it shall be made available in the form in which it is maintained. ORS 192.440(2)

~~(2) The Commission will establish a schedule of fees to reimburse it for its actual costs in making such records available except for requests from government agencies and the media. This applies to both regular and certified copies of records.~~

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

### **AMENDATORY SECTION**

#### **350-12-006. Fees.**

The Commission will establish a schedule of fees to reimburse it for its actual costs in making such records available except for requests from government agencies and the media, and for routine notices and agendas. This applies to both regular and certified copies of records.

### **NEW SECTION**

#### **350-12-007. Prompt response required**

The Commission shall respond promptly to requests for public records. Within five business days of receiving a public records request, the Commission shall respond by (1) providing the record; (2) acknowledging that the Commission has received the request and providing a reasonable estimate of the time the Commission will require to respond; or (3) denying the public record request. Additional time to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the Commission may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the Commission need not respond to the original request. Denials of requests must be accompanied by a written statement of the specific reasons for denial. RCW 42.17.320

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

**AMENDATORY SECTION****350-12-0068. Public records exempt from disclosure.**

(1) The following public records are exempt from disclosure under 350-12-001 to 350-12-0068 unless the public interest requires disclosure in the particular instance:

(a) Records of the commission pertaining to litigation to which the commission is a party if the complaint has been filed, or if the complaint has not been filed, if the commission shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation;

(b) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or service or to locate minerals or other substances, having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it;

(c) Investigatory information compiled for criminal law purposes, except that the record of an arrest or the report of a crime shall not be confidential unless and only so long as there is a clear need in a particular case to delay disclosure in the course of a specific investigation. Nothing in this paragraph shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purpose of this paragraph, the record of an arrest or the report of a crime includes, but is not limited to:

(A) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(B) The offense with which the arrested person is charged;

(C) The conditions of release;

(D) The identity of and biographical information concerning both complaining party and victim;

(E) The identity of the investigation and arresting agency and the length of the investigation;

(F) The circumstances of arrest, including time, place, resistance in apprehending fugitives from justice;

(G) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(d) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the examination is given and if the examination is to be used again;

(e) Information relating to the appraisal of real estate prior to its acquisition;

(f) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections;

(g) Investigatory information relating to any complaint filed relating to unlawful employment practices until such time as the complaint is resolved, or a final administrative determination is made;

(h) Investigatory information relating to any complaint filed relating to unfair labor practices;

(i) Information concerning the location of archaeological sites or objects, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist activity or attraction; and

(j) A personnel discipline action, or materials or documents supporting that action.

(k) Sensitive fish, wildlife, and plant data obtained by or created by the Gorge Commission. However, sensitive fish, wildlife and plant data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive fish, wildlife, and plant data includes:

(1) The nesting sites or specific locations of endangered, threatened or sensitive species listed in the Management Plan or otherwise designated by the appropriate agencies in Oregon and Washington;

(2) Radio frequencies used in or locational data generated by telemetry studies;

(3) Other location data that could compromise the viability of a specific fish, wildlife or plant population and where one or more of the following criteria are met:

(A) The species has a known commercial or black market value

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

*ORS 192.501(13) and RCW 42.17.310 Note that under Oregon law this is a conditional exemption, but that under Washington law, the exemption is absolute. Also, Oregon law exempts plant information from disclosure, but Washington law does not.*

(2) The following public records are exempt from disclosure under 350-12-001 to 350-12-0068:

(a) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the commission shows that in the particular instance the public interest in encouraging frank communication between officials and employees of the commission clearly outweighs the public interest in disclosure;

(b) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy;

(c) Information submitted to the commission in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the commission has obliged itself in good faith

not to disclose the information, and when the public interest would suffer by the disclosure;

(d) Any public records or information the disclosure of which is prohibited by federal or state law or regulations;

(e) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged;

(f) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(3) If any public record contains material which is not exempt under subsection (1) or (2) of this section, as well as material which is exempt from disclosure, the commission shall separate the exempt and nonexempt material and make the nonexempt material available for examination.

~~(4) Student records required by state or federal law are exempt from disclosure.~~

(4) An individual may submit a written request to a public body not to disclose a specified public record indicating the home address or personal telephone number of the individual. A public body shall not disclose the specified public record if the individual demonstrates to the satisfaction of the public body that the personal safety of the individual or the personal safety of a family member residing with the individual is in danger if the home address or personal telephone number remains available for public inspection.

(a) A request described in subsection (1) of this section shall remain effective until the public body receives a written request for termination but no later than five years after the date that a public body receives the request.

(b) A public body may disclose a home address or personal telephone number of an individual exempt from disclosure under subsection (1) of this section upon court order, on request from any law enforcement agency or with the consent of the individual.

(c) A public body shall not be held liable for granting or denying an exemption from disclosure under this section or any other unauthorized release of a home address or personal telephone number granted an exemption from disclosure under this section.

ORS 192.445

(5) Notwithstanding the exemptions in 350-12-008 (1) and (2), public records that are more than 25 years old shall be available for inspection. ORS 192.495

(6) Notwithstanding 350-12-001 through 350-12-008, the Commission shall not disclose records in violation of a user agreement or license that prohibits the Commission from disclosing such records. The Commission shall refer persons to the creator of the record if the Commission has obtained the records through agreement or license, or for which the Commission was charged a fee, other than a nominal fee for reimbursement of duplicating costs, for the record.

(75) Disclosure of information in violation of Rule 350-12-006(2) is grounds for assessment of a civil penalty pursuant to Rule 350-30 et seq.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 02-17-076  
PROPOSED RULES  
COLUMBIA RIVER  
GORGE COMMISSION**

[Filed August 19, 2002, 10:19 a.m.]

Original Notice.

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

Title of Rule: Conflict of interest.

Purpose: These rules govern the actions of the Columbia River Gorge Commission.

Other Identifying Information: 350-14.

Statutory Authority for Adoption: RCW 43.97.015, ORS 197.150.

Statute Being Implemented: U.S.C. 544c(b).

Summary: The proposed amendments bring the commission's procedural rules into compliance with the more restrictive statutory provisions of Washington and Oregon.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Martha Bennett, Executive Director, White Salmon, Washington, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, 16 U.S.C. 544c(b).

Explanation of Rule, its Purpose, and Anticipated Effects: The changes bring commission rule 350-14 (conflict of interest) into consistency with the more restrictive of Washington and Oregon statutory state law. The rule addresses internal procedures used by the Gorge Commission.

The commission is particularly interested in receiving comments to this rule in regard to the proposed definition of "assist."

Proposal Changes the Following Existing Rules: The changes bring this rule into consistency with the more restrictive of Washington and Oregon statutory law.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have no economic effect; the changes address only the Gorge Commission's internal procedures.

RCW 34.05.328 does not apply to this rule adoption. The changes relate only to internal governmental operations.

Hearing Location: The Discovery Center, 5000 Discovery Drive, The Dalles, OR, on October 8, 2002, at 9:00 a.m.

Submit Written Comments to: Martha Bennett, Executive Director, fax (509) 493-2229, by October 8, 2002.

Date of Intended Adoption: October 8, 2002.

August 15, 2002

Robert K. McIntyre

Rules Coordinator

**AMENDATORY SECTION**

**Columbia River Gorge Commission**

**Division Chapter 350**

**Chapter Division 14**

**Conflict of Interest, ~~Ex Parte Contact~~, Appearance of Fairness**

**Amended July 21, 1998**

**Amendments effective November 24, 1998**

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION**

**350-14-001. Definitions for 350-14-001 to 350-14-005.**

As used in these rules, unless the context requires otherwise:

(1) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person. "Assist" does not include referring another person to other persons or sources of advice and information.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain.

(3) "Business with which the person is associated" means any business of which the person or a member of the person's household is a director, officer, owner or employee, or any corporation in which the person or a member of the person's household owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.

(4) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or a member of the person's household, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of a state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged.

(5) "Gift" means something of economic value given to a public official or member of the official's household without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not

extended to others who are not public officials on the same terms and conditions; and something of economic value given to a public official or member of the official's household for valuable consideration less than that required from others who are not public officials. However, "gift" does not mean:

(a) Campaign contributions.

(b) Gifts from relatives.

(c) The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity.

(6) "Honoraria" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event at which the public official appears in an official capacity.

(7) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital, forgiveness of indebtedness, or anything of economic value.

(8) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the vote of a person acting in the capacity of a public official.

(9) "Member of household" means the spouse of the public official and any children of either who reside with the public official.

(10) "Public official" means any person who is serving in a governmental capacity for the Columbia River Gorge Commission as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

(11)(a) "Transaction involving the Commission" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that a current or former public official, as defined in this division, believes, or has reason to believe:

(i) Is, or will be, the subject of Commission action; or

(ii) Is one to which the Commission is or will be a party;

or

(iii) Is one in which the Commission has a direct and substantial proprietary interest.

(b) "Transaction involving the Commission" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the Commission that is the basis for the claim, case, or lawsuit.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

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**AMENDATORY SECTION****350-14-002. Application.**

Nothing in these rules is intended to affect:

- (1) Any other statute or rule requiring disclosure of economic interest by ~~an~~ a public official or public employee.
- (2) Any statute or rule prohibiting or authorizing specific conduct on the part of any public official or public employee.

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION****350-14-003. Code of Ethics.**

The following actions are prohibited regardless of whether potential conflicts of interest are announced or disclosed pursuant to 350-14-004:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official or a member of the household of the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has any official position or over which the official exercises any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts to any public official or candidate therefore or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has any official position or over which the official exercises any authority.

(6)(a) Except in the course of official duties or incident to official duties, a public official, as defined in this division, may not assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the Commission:

(1) In which the public official has at any time participated; or

(2) If the transaction involving the Commission is or has been under the official responsibility of the public official within a period of two years preceding such assistance.

(b) No public official may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (a) or (c) of this section.

(c) A business entity of which a public official is a partner, managing officer, or employee shall not assist another person in a transaction involving the Commission if the public official is prohibited from doing so by subsection (a) of this section.

(d) This chapter does not prevent a public official from assisting, in a transaction involving the Commission:

(1) The public official's parent, spouse, or child, or a child thereof for whom the public official is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the public official did not participate in the transaction; or

(2) Another employee involved in disciplinary or other personnel administration proceedings.

RCW 42.52.040

**AMENDATORY SECTION****350-14-006. Ex Parte Contact**

~~(1) Members of the Commission shall not have ex parte contact, i.e. discussion of specific issues regarding a pending land use permit, with applicants or interested parties seeking a land use permit, or opponents to the permit, while the application or appeal thereto is pending under a land use ordinance for the Scenic Area.~~

~~(3) Members of the Commission shall place on the record of the appeal or proceedings under these rules any ex parte contact set forth in subsection (2). The Chair or presiding officer shall notify all parties to the appeal or proceeding. The Chair or presiding officer shall consider the position of the parties and, after review of the matter, make a recommendation to the Commission to ensure the appearance of fairness is maintained. The member of the Commission who was the subject of the ex parte contact may voluntarily step down from hearing the matter. The Commission may also request the member of the Commission to participate in the appeal or proceedings or the member of the Commission step down from hearing the matter.~~

*"Ex parte contact" is different than a "conflict of interest." Conflicts of interest are applicable for all business of the Commission. Ex parte contacts are only applicable for quasi-judicial matters (also called contested cases). This section is also repetitive of 350-16-009(9) (proposed for deletion) and 350-16-016. This section need only appear in the Commission's rules governing quasi-judicial matters.*

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION****350-14-007. Appearance of Fairness**

~~(1) Members of the Commission shall comply with the appearance of fairness in appeals and proceedings under Rules 350-60 et seq. and Rules 350-70 et seq.~~

*The appearance of fairness doctrine is only applicable for quasi-judicial matters (also called contested cases). This*

section should appear in the Commission's rules governing quasi-judicial matters.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Columbia River Gorge Commission and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 02-17-077**  
**PROPOSED RULES**  
**COLUMBIA RIVER**  
**GORGE COMMISSION**  
 [Filed August 19, 2002, 10:20 a.m.]

Original Notice.

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

Title of Rule: Open meetings.

Purpose: These rules govern the actions of the Columbia River Gorge Commission.

Other Identifying Information: 350-11.

Statutory Authority for Adoption: RCW 43.97.015, ORS 197.150.

Statute Being Implemented: U.S.C. 544c(b).

Summary: The proposed amendments bring the commission's procedural rules into compliance with the more restrictive statutory provisions of Washington and Oregon.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Martha Bennett, Executive Director, White Salmon, Washington, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, 16 U.S.C. 544c(b).

Explanation of Rule, its Purpose, and Anticipated Effects: The changes bring commission rule 350-11 (open meetings) into consistency with the more restrictive of Washington and Oregon statutory state law. The rule addresses internal procedures used by the Gorge Commission.

Proposal Changes the Following Existing Rules: The changes bring this rule into consistency with the more restrictive of Washington and Oregon statutory law.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have no economic effect; the changes address only the Gorge Commission's internal procedures.

RCW 34.05.328 does not apply to this rule adoption. The changes relate only to internal governmental operations.

Hearing Location: The Discovery Center, 5000 Discovery Drive, The Dalles, OR, on October 8, 2002, at 9:00 a.m.

Submit Written Comments to: Martha Bennett, Executive Director, fax (509) 493-2229, by October 8, 2002.

Date of Intended Adoption: October 8, 2002.

August 15, 2002

Robert McIntyre

Rules Coordinator

**AMENDATORY SECTION**

**350-11-003. Meetings of commission to be open to public; location of meetings**

(1) All meetings of the commission shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by 350-011-0001 to 350-11-010. A member of the public shall not be required, as a condition of attending a meeting, to give his or her name other information, complete a questionnaire or fulfill any other condition precedent. RCW 42.30.040

(2) No quorum of the commission shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by 350-11-001 to 350-11-010.

(3) The commission shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced. However, the fact that organizations with restricted membership hold meetings at the place shall not restrict its use by the commission if use of a place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the commission shall be held within the geographic boundaries over which the commission has jurisdiction, or at the administrative headquarters of the commission or at the other nearest practical location. Training sessions may be held outside the jurisdiction so long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies shall be held within the geographical boundaries over which one of the participating public bodies has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action.

(5) Notwithstanding the requirements of section (4) above, committee meetings may be held in any location where the committee deems it useful.

(6) Meetings of the commission shall be held in locations that are accessible to the disabled.

(7) Upon request of a hearing impaired person, the commission shall make a good faith effort to have an interpreter for hearing impaired persons provided at a regularly scheduled meeting. The person requesting the interpreter shall provide the commission at least 48 hours' notice of the request, shall provide the name of the requester, sign language preference and any other relevant information the commission may require. As used in this subsection, "good faith effort" includes, but is not limited to, contacting the Oregon Disabilities Commission, the Washington Aging and Adult Services Administration, or other state or local government or community service agency that maintains a list of qualified interpreters and arranging for the referral of one or more such persons to provide interpreter services. ORS 192.630 (5)(e)

(8) It shall be considered discrimination on the basis of disability for commission to meet in a place inaccessible to the disabled, or upon request of a hearing impaired person, to fail to make a good faith effort to have an interpreter for hearing impaired persons provided at a regularly scheduled meeting. The sole remedy for discrimination on the basis of dis-

PROPOSED

ability shall be as provided in Commission Rule 350-11-008. ORS 192.630 (5)(a)

(89) Voting by the commission shall take place in public and each member's vote shall be recorded as it is cast. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter. RCW 43.30.060(2)

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **AMENDATORY SECTION**

### **350-11-004. Public notice required; special notice for executive sessions, special or emergency meetings**

(1) The commission shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by the commission. RCW 42.30.070.

(2) The Commission shall file with the Secretary of State in Oregon and the Code Reviser in Washington a schedule of the time and place of such meetings on or before January of each year for publication in the states' registers. Notice of any change from such meeting schedule shall be published in the states' registers for distribution at least twenty days prior to the rescheduled meeting date. For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule. RCW 42.30.075

(34) The commission shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of the commission to consider additional subjects.

(42) If an executive session only will be held, the notice shall be given to the members of the commission, the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

(53) No special meeting shall be held without at least 24 hours' notice to the members of the commission, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. The call and notice of the meeting shall specify the time and place of the meeting and the business to be transacted. Final disposition shall not be taken on any other matter at a special meeting of the Commission. RCW 42.30.080

(6) The commission shall not adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the pro-

visions of this subsection shall be null and void. RCW 43.30.060(1)

(74) The commission may adjourn or continue a meeting to a time and place specified in an order of adjournment or continuance. Written notice of the adjournment or continuance shall be provided in accordance with subsection (3) above. A copy of the order of adjournment or continuance shall be conspicuously posted immediately after adjournment or continuance on the door where the meeting was held.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## **AMENDATORY SECTION**

### **350-11-006. Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits**

(1) The commission can hold executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization for the holding of such executive session. Executive session may be held:

(a) To consider the employment of a public officer, employee, staff member or individual agent. The exception contained in this paragraph does not apply to:

(A) ~~The filling~~ filling of a vacancy in an elective office;

(B) The filling of a vacancy on any public committee, commission or other advisory group;

(C) The consideration of general employment policies;

(D) The employment of the chief executive officer, other public officers, employees and staff members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and ~~their~~ there has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the commission in meetings open to the public in which there has been opportunity for public comment.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing;

(c) To conduct deliberations with persons designated by the commission to carry on labor negotiations;

(d) To conduct deliberations with persons designated by the commission to negotiate real property transactions;

(e) To consider records that are exempt by law from public inspection;

(f) To consider preliminary negotiations involving matters of trade or commerce in which the commission is in competition with governing bodies in other states or nations;

(g) To consult with counsel concerning the legal rights and duties of the commission with regard to current litigation or litigation likely to be filed;

(h) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the commission, the employment-related performance of the chief executive officer of the commission, a public officer, employee or staff

member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the commission in meetings open to comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member shall not include a general evaluation of any agency goal, objective or operation of any directive to personnel concerning agency goals, objectives, operations or programs;

(i) To carry on negotiations with private persons or business regarding proposed acquisition, exchange or liquidation of public investments.

(2) Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Subsequent sessions of the negotiations may continue without further public notice.

(3) Representatives of the news media shall be allowed to attend executive sessions other than those held under paragraph (c) of subsection (1) of this section relating to labor negotiations but no information that is the subject of the executive session shall be disclosed. The Commission shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation. ORS 192.670(4)

(4) No executive session may be held for the purpose of taking any final action or making any final decision.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### 350-11-007.

#### **Meetings by Means of Telephonic or Electronic Communication.**

(1) Any meetings, including an executive session, of the commission which is held through the use of telephone or other electronic communication shall be conducted in accordance with 350-11-001 to 350-11-010006.

(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the commission shall make available to the public at least one place where the public can listen to the communication at the time it occurs by means of speakers or other devices. The place provided may be a place where no member of the commission is present.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### 350-11-008. **Enforcement of 350-011-0001 to 350-001-0007; effect of violation on validity of decision of the commission, liability of members**

(1) Any person affected by a decision of the commission may commence a suit in the circuit court or superior court of

the county in which the commission ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of 350-11-001 to 350-11-007, by members of the commission, or to determine the applicability of 350-11-001 to 350-11-007 to matters or decisions of the commission. The court may order such equitable relief as it deems appropriate in the circumstances. A decision made in violation of 350-11-001 to 350-11-007 is voidable. ORS 192.680(1) ~~A decision shall not be voided if other equitable relief is available. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney's fees at trial and on appeal, by the commission.~~

(2) If the court makes a finding that a violation of 350-11-001 to 350-11-007 has occurred under subsection (1) of this section and that the violation is the result of wilful misconduct by any member or members of the commission, that member or members shall be jointly and severally liable to the commission for the amount paid by the commission under subsection (1) of this section.

(3) Each member of the commission who attends a meeting of the commission where action is taken in violation of any provision of this division, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the circuit court or superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense. RCW 42.30.120(1)

(4) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. If the commission prevails in an action in the courts for a violation of this chapter, it may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause. RCW 42.30.120(2)

(5) The provisions of this section shall be the exclusive remedy for an alleged violation of 350-11-001 to 350-11-007.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Columbia River Gorge Commission and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 02-17-079

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed August 19, 2002, 3:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-110.

Title of Rule: WAC 458-20-165 ((Laundries, dry cleaners)) Laundry and dry cleaning, linen and uniform supply, self-service ((laundries and dry cleaners)) and coin-operated laundry services.

**Purpose:** To explain the tax-reporting responsibilities of persons conducting business activities related to laundry, dry cleaning, linen and uniform supply, and coin-operated laundry services.

**Statutory Authority for Adoption:** RCW 82.32.300.

**Statute Being Implemented:** RCW 82.04.050, 82.04.-190, 82.04.220, 82.08.020, and 82.12.020 as they apply to sales of laundry, dry cleaning, and uniform and linen supply services.

**Summary:** This rule discusses the business and occupation (B&O), sales, and use tax reporting responsibilities of persons conducting laundry and/or dry cleaning services, linen and uniform supply services, and persons providing coin-operated laundry facilities. The rule explains the place of sale for purposes of collecting and/or reporting the retail sales and B&O taxes. In addition, the rule explains when persons conducting these activities are purchasing tangible personal property for resale or as a consumer. The rule also addresses the use tax reporting responsibilities of persons who acquire laundry and/or dry cleaning services or linen and uniform supply services without the payment of retail sales tax.

**Reasons Supporting Proposal:** To incorporate chapter 186, Laws of 2001, and chapter 367, Laws of 2002.

**Name of Agency Personnel Responsible for Drafting:** JoAnne Gordon, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6121; **Implementation:** Alan Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and **Enforcement:** Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

**Name of Proponent:** Department of Revenue, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule explains the application of the B&O, retail sales, and use taxes to laundries, dry cleaners, self-service laundries, and linen and uniform supply services. The rule explains that charges for the use of coin-operated laundry facilities provided for the exclusive use of tenants at apartment houses, rooming houses, and mobile home parks are not subject to retail sales tax and that gross income from such charges is subject to the service and other activities B&O tax. It also explains that charges for the use of other coin-operated laundry facilities, such as those provided for use by the general public or persons staying at transient lodging facilities are subject to the retailing B&O and retail sales tax. The rule explains that laundry services provided to nonprofit health care facilities are not subject to sales tax and that the income derived from providing such services is subject to the service and other activities B&O tax. The rule also explains that persons who acquire laundry and/or dry cleaning services or linen and uniform supply services without the payment of retail sales tax owe use tax.

The purpose of revising this rule is to incorporate recent legislation, chapter 186, Laws of 2001, and chapter 367, Laws of 2002. Chapter 186, Laws of 2001, explains that linen and uniform supply services include a mix of retailing activities that may occur at multiple locations. The legislature determined that these activities had been incorrectly

sited for tax purposes and provided that the place of sale for linen and uniform supply services is the location where the items are delivered to the customer. Before this legislation, the location where the laundering activity was performed was considered the place of sale for sales tax purposes. Chapter 367, Laws of 2002, provides that persons who acquire certain retail services without the payment of retail sales tax are subject to use tax.

The department anticipates that revising the rule will assist persons providing uniform and linen supply services to properly comply with their tax reporting responsibilities.

**Proposal Changes the Following Existing Rules:** This proposal is to amend an existing rule, WAC 458-20-165, Laundries, dry cleaners, and self-service laundries and dry cleaners as described above.

To better reflect the rule's subject matter, the department proposes to change the title of the rule to "Laundry and dry cleaning, linen and uniform supply, self-service, and coin-operated laundry services." To provide the information in a more user-friendly manner, the department also proposes to restructure the information provided in this rule. As a result, the information provided in the existing rule has been "~~((struck out))~~" in its entirety and "underlining" indicates the proposed language. This approach has been used to make it easier for the reader to accurately identify and understand the language that is actually being proposed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328.

**Hearing Location:** Capitol Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on October 8, 2002, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

**Submit Written Comments to:** JoAnne Gordon, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail joanneg@dor.wa.gov, by October 8, 2002.

**Date of Intended Adoption:** October 15, 2000 [2002].

August 19, 2002

Alan R. Lynn, Rules Coordinator  
Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 99-13-052, filed 6/9/99, effective 7/10/99)

**WAC 458-20-165 (~~Laundries, dry cleaners~~) Laundry and dry cleaning, linen and uniform supply, self-service (~~laundries and dry cleaners~~) and coin-operated laundry services.** (1) **Introduction.** This rule discusses the application of the business and occupation (B&O), retail sales, and use taxes to laundries, dry cleaners, (~~((pickup and delivery services, and self-service laundries and dry cleaners.~~

Persons selling laundry and/or dry cleaning services are generally making retail sales, except when making sales to nonprofit health care facilities or providing coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks. RCW 82.04.050.

(2) Definitions. The following definitions apply to this rule.

(a) A "laundry or dry cleaning business" includes operating a plant or establishment, or contracting with others, for laundering, cleaning, dyeing, pressing, and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, and rugs. Laundry or dry cleaning businesses include self-service businesses which provide coin-operated and noncoin-operated laundry or dry cleaning facilities. This term also includes pickup and delivery laundry services performed by persons operating in their own respective names and not as commissioned agent for another laundry business.

(b) A "laundry or linen supply service" is the activity of providing customers with a supply of items such as clean linen, uniforms, and towels, whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. The term includes supply services operating their own cleaning establishments as well as those contracting with other laundry or dry cleaning businesses.

(c) "Nonprofit health care facilities" means facilities operated by nonprofit organizations providing diagnostic, therapeutic, convalescent, or preventive inpatient or outpatient health care services. The term includes, but is not limited to, nonprofit hospitals, nursing homes, and hospices.

(3) Business and Occupation Tax. Business and occupation tax applies as follows:

(a) Retailing. Persons operating laundry or dry cleaning businesses are generally taxable under the retailing classification upon the gross proceeds of sales, without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

The gross proceeds of sales include charges for cleaning and for sales of soap, bleach, fabric softener, laundry bags, hangers, and other tangible personal property to consumers. Charges for alterations are also subject to the retailing classification. See "retail sales tax" below for a more detailed explanation of the charges included in the retailing classification.

(b) Wholesaling. Tax is due under the wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning businesses. The laundry or dry cleaning business purchasing these services should provide a resale certificate to the seller. See WAC 458-20-102 (Resale certificates).

(c) Service and other activities. Effective June 11, 1998, any person making sales of laundry services to a nonprofit health care facility is taxable under the service and other activities B&O classification on the gross income received for such services. For the period of July 1, 1993-June 10, 1998, the service and other activities B&O tax applied only to sales of laundry services to members by nonprofit associations composed exclusively of nonprofit hospitals.

(i) Effective July 1, 1998, the service and other activities B&O tax applies to charges for the use of coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks which are provided for the exclusive use of tenants. Chapter 275, Laws of 1998. Prior to this date these charges were considered a retail sale.

(ii) Persons who collect and distribute laundry or dry cleaning as a commissioned agent for one or more laundry or dry cleaning businesses, and who act as an independent contractor rather than as an employee, are liable for service B&O tax on their gross commissions. See WAC 458-20-150 for the recordkeeping requirements for showing agency status.

(4) Retail Sales Tax. Laundry and dry cleaning businesses, including self-service or coin-operated laundries or dry cleaners, and laundry or linen supply services are required to collect the retail sales tax upon the total charge made to the consumer for laundry and dry cleaning service or laundry or linen supply service.

(a) Persons in Washington who provide laundry or linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (e.g., uniforms, linen, and towels) to nonresidents. Conversely, persons located outside the state of Washington who provide laundry or linen supply services to consumers in this state are not making retail sales in this state. The laundering service is performed outside Washington state and is exempt from Washington's B&O and retail sales taxes.

(b) Prior to July 1, 1998, charges made for the use of coin-operated laundry facilities provided for the exclusive use of tenants in apartment houses, rooming houses, or mobile home parks were retail sales. This income is subject to the service and other activities B&O tax effective July 1, 1998. (Chapter 275, Laws of 1998.) Charges for the use of coin-operated laundry facilities in hotels, motels, trailer camps, and other locations providing lodging or camping facilities to transients remain subject to the retail sales tax.

(c) Laundry and dry cleaning businesses providing services through commissioned agents should collect and remit the retail sales tax to the department.

(i) If the agent is a hotel or an apartment house billing guests or tenants for laundry or dry cleaning services, the hotel or apartment house should collect the retail sales tax on the total charge for the laundry or dry cleaning and remit the payment to the laundry or dry cleaning business. The laundry or dry cleaning business is responsible for remitting the tax to the department.

(ii) If the agent is a commissioned driver, the laundry or dry cleaning business can bill the customer directly for the services or the driver can collect the payment from the customer and remit the payment to the laundry or dry cleaning business. In either case, the retail sales tax must be collected on the total charge made to the customer and the laundry or dry cleaning business is responsible for remitting the tax to the department.

(d) In most cases the retail sales tax must be stated separately from the selling price or collected separately from the buyer. (See RCW 82.08.050.) An exception is made for coin-

~~operated sales. The seller may deduct the tax from the total amount received in coin-operated machines to arrive at the net amount which becomes the measure of the tax.~~

~~(e) In general, the place of sale for purposes of local sales tax is the place the laundry or dry cleaning services are performed. See WAC 458-20-103 and 458-20-145.~~

~~(i) If a laundry or dry cleaning business contracts with another laundry or dry cleaning business to do the cleaning, the place of sale is the location of the laundry or dry cleaning business used by the customer to drop off and pickup the laundry.~~

~~(ii) If a laundry or dry cleaning business uses a commissioned agent such as a hotel, an apartment house, or a commissioned driver for pickup and delivery of the articles to be cleaned, the place of sale is the location of the laundry or dry cleaning business which does the cleaning.~~

~~(f) Sales to laundries or dry cleaning businesses and laundry or linen supply services of soaps, cleaning solvents, and other articles or substances consumed in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Retail sales tax also applies to sales of equipment such as washing machines, irons, and furniture, and supplies such as hand tools, sewing notions, scissors, spotting brushes, and stationery.~~

~~(g) Sales to laundry and dry cleaning businesses of dyes, fabric softeners, starches, sizing, and similar articles or substances, which become ingredients of the articles cleaned, are generally sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap, and similar property rented or supplied to customers as a part of the service rendered are generally wholesale sales.~~

~~Persons selling laundry services to nonprofit health care facilities are considered consumers of all items used in providing such services. RCW 82.04.190 (2)(a). As a result, sales of items such as dyes, fabric softeners, linens, and uniforms to these persons are retail sales and subject to the retail sales tax.~~

~~(h) Sales to self-service or coin-operated laundries of any items the laundries give to their customers are retail sales. Sales of soap, bleach, fabric softener or other supplies to self-service or coin-operated laundries for resale to their customers are wholesale sales. A sale is for resale if the self-service business sells the supplies to customers separate from the charge for the use of the laundry appliances. The laundry or dry cleaning business should provide a resale certificate to the seller as provided in WAC 458-20-102.~~

~~(5) Deferred Sales or Use Tax. With respect to purchases by laundries or dry cleaning businesses and laundry or linen supply services, if the seller fails to collect the appropriate retail sales tax, the buyers are required to pay the retail sales tax (commonly referred to as the "deferred sales tax" or use tax to the department)) laundry pickup and delivery services, self-service laundries and dry cleaners, and linen and uniform supply services. It also discusses the tax treatment of laundry services provided to nonprofit health care facilities and income received from coin-operated laundry facilities.~~

(2) What is a laundry or dry cleaning service? A "laundry or dry cleaning service" is the activity of laundering, cleaning, dyeing, and pressing of articles such as clothing, linens, bedding, towels, curtains, drapes, and rugs. It also includes incidental mending or repairing. The term applies to services operating their own cleaning establishments as well as those contracting with other laundry or dry cleaning services. It also includes pickup and delivery laundry services performed by persons operating in their independent capacity and not as agent for another laundry or dry cleaning service.

(a) Sales of laundry or dry cleaning services. The gross proceeds of sale and selling price of laundry or dry cleaning services provided to consumers are subject to the retailing B&O tax and retail sales tax, respectively. No deduction is available for commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service. RCW 82.04.070 and 82.08.010. The retailing B&O and retail sales taxes also apply to sales of soap, bleach, fabric softener, laundry bags, hangers, and other tangible personal property to consumers.

The wholesaling B&O tax applies to the gross proceeds of sale from laundry or dry cleaning services performed for persons reselling these services. The seller must obtain a resale certificate from the buyer to document the wholesale nature of any sale as provided in WAC 458-20-102 (Resale certificates).

(b) Place of sale. For the purposes of determining a seller's responsibility to remit B&O tax and/or to collect and remit retail sales tax, the place of sale for laundry and dry cleaning services is the place the laundering or dry cleaning is performed. RCW 82.14.020(4) and 82.04.050. For example, a laundry or dry cleaning service located in Washington must collect sales tax from an Oregon resident who brings clothing items to the business for laundering or dry cleaning. In addition, the gross proceeds are subject to the retailing B&O tax. Even though the customer resides in Oregon, both taxes apply because the laundering or dry cleaning occurs in Washington.

(i) Seller hiring third-party to perform services. A customer may purchase laundry or dry cleaning services from a seller who hires another person to perform the actual cleaning activity. In such cases, the customer will drop off and pick up the clothing or other articles to be cleaned at the seller's business location. The place of sale with respect to this sale is the seller's location where the customer drops off and picks up the articles.

(ii) Seller using agent for pickup and delivery. If a person providing laundry or dry cleaning services uses an agent such as a hotel or a driver for pickup and delivery of the articles to be cleaned, the place of sale is the seller's location where the cleaning is performed.

(c) Purchases at wholesale. The purchase of tangible personal property for resale as tangible personal property or as a component or ingredient of the cleaned article is a purchase at wholesale. Such purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as discussed by WAC 458-20-102 (Resale certificates).

The following are examples of items that may be purchased at wholesale:

(i) Dyes, fabric softeners, starches, sizing, and similar articles or substances that become ingredients of the articles cleaned; and

(ii) Soap, bleach, fabric softener, laundry bags, hangers, and other tangible personal property that are not used in performing a laundry or dry cleaning services but are resold as tangible personal property.

(d) Purchases subject to retail sales or use tax. A laundry or dry cleaning business that acquires tangible personal property for use as a consumer must pay retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect the appropriate retail sales tax. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

The following are examples of purchases by a laundry or dry cleaning service that are subject to retail sales tax or use tax:

(i) Soaps, cleaning solvents, and other articles or substances that do not become ingredients of the articles cleaned;

(ii) Equipment such as washing machines, dryers, presses, irons, fixtures, and furniture;

(iii) Supplies such as hand tools, sewing notions, scissors, spotting brushes, and stationery; and

(iv) Items given to customers without charge.

(3) What are linen and uniform supply services? "Linen and uniform supply services" means the activity of providing customers with a supply of clean linen, towels, uniforms, gowns, protective apparel, clean room apparel, mats, rugs, and/or similar items whether ownership of the item is in the person operating the linen and uniform supply service or in the customer. RCW 82.08.0202. It also means the supply of diapers and bedding. "Linen and uniform supply services" includes supply services operating their own cleaning establishments as well as those contracting with other laundry or dry cleaning businesses.

A person providing linen and uniform supply services performs a number of different activities, often at multiple locations. Many of these activities are the same types of activities performed by a person providing laundry or dry cleaning services, such as: Laundering, dry cleaning, pressing, incidental mending, and/or pickup and delivery. Additional activities not generally performed by a person providing laundry or dry cleaning services may include: Providing linen and uniform items customized by application of the customer's business name, company logo, employee names, etc.; measuring and/or issuing uniforms to the customer's employees; repairing or replacing worn or damaged linen and uniform items; and/or performing various administrative functions for the customer, such as inventory control.

(a) Sales of linen and uniform supply services. The gross proceeds of sale and selling price from linen and uniform supply services provided to consumers are subject to the retailing B&O tax and retail sales tax, respectively. No deduction is available for commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service. RCW 82.04.070 and 82.08.010.

(b) Place of sale. Effective July 1, 2001, for the purposes of determining a seller of linen and uniform supply services' responsibility to remit B&O tax and to collect and

remit retail sales tax, the place of sale is the place of delivery to the customer. For periods before July 1, 2001, the place of sale was the location at which the laundering activity was performed.

For assistance with determining appropriate local sales and use tax rates, the department's geographic information system (GIS) provides a mapping and address lookup system. The system is available on the department's Internet site at: <http://dor.wa.gov>.

(c) Purchases at wholesale. The purchase of tangible personal property for resale as tangible personal property or as a component or ingredient of the cleaned article is a wholesale sale. Such purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as discussed by WAC 458-20-102 (Resale certificates).

The following are examples of items that may be purchased at wholesale:

(i) Linen, uniforms, towels, cabinets, hand soap, and similar property rented or supplied to customers as a part of the laundry and linen supply service; and

(ii) Dyes, fabric softeners, starches, sizing, and similar articles or substances that become ingredients of the articles being cleaned.

(d) Purchases subject to retail sales or use tax. A linen or uniform supply service that acquires tangible personal property for use as a consumer must pay retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect the retail sales tax. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

The following are examples of purchases by a linen or uniform supply service that are subject to retail sales tax or use tax:

(i) Soaps, cleaning solvents, and other articles or substances that do not become ingredients of the articles cleaned;

(ii) Equipment such as washing machines, dryers, presses, irons, fixtures, and furniture; and

(iii) Supplies such as hand tools, sewing notions, scissors, spotting brushes, and stationery.

(4) Customer's responsibility to remit use tax. Effective July 1, 2002, chapter 367, Laws of 2002, imposes the use tax on certain retail services acquired by consumers without payment of the retail sales tax. Such services include installing, repairing, cleaning, altering, imprinting, or improving tangible personal property. Thus, a consumer must report and pay use tax directly to the department when a seller of laundry or dry cleaning services or linen and uniform supply services fails to collect the retail sales tax.

For example, a person with a restaurant location in Vancouver and another in Portland, Oregon, contracts with an Oregon business for linen and uniform supply services. Each week, the linen and uniform supply service delivers clean linens and uniforms and picks up soiled items for both locations at the person's Portland location. The person's Vancouver location turns in soiled uniforms and linens and receives its supply of clean items at the person's Portland location. The person is responsible for reporting and paying use tax on the value of the linen and uniform supply services used by its

Vancouver location. For further discussion about use tax, refer to WAC 458-20-178.

**(5) Laundry agents collecting and distributing laundry.** Persons who collect and/or distribute laundered or dry cleaned items as an agent for a provider of laundry services, dry cleaning services, or linen and uniform supply services are liable for the service and other activities B&O tax on their gross commissions. See WAC 458-20-159 for the record-keeping requirements for showing agency status. The person providing the laundry service, dry cleaning services, or linen and uniform supply service must collect and remit to the department retail sales tax on the total charge made to the customer (see subsections (2) and (3) of this rule).

**(6) Self-service and coin-operated laundry facilities.** Charges for the use of self-service or coin-operated laundry facilities are subject to the retailing B&O and retail sales taxes, except as discussed below. Likewise sales of soap, bleach, fabric softener and other supplies to consumers are subject to the retailing B&O tax and retail sales tax. For most sales, the law requires a seller to separately state the retail sales tax from the selling price. However, the law allows a seller to deduct the tax from the total amount received in coin-operated machines to arrive at the net amount that becomes the measure of the tax. RCW 82.08.050 and 82.08.080.

**(a) Coin-operated laundry facilities for the exclusive use of tenants.** Effective July 1, 1998, the definition of a retail sale excludes charges for the use of coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks when the facilities are provided for the exclusive use of tenants. RCW 82.04.050 (2)(a). As a result, charges for the use of these facilities are not subject to the retailing B&O tax or the retail sales tax. However, the gross proceeds of sale received from these facilities is subject to the service and other activities B&O tax. Before July 1, 1998, these charges were retail sales and subject to the retailing B&O tax and retail sales tax.

Charges for the use of coin-operated laundry facilities in hotels, motels, trailer camps, and other locations providing lodging or camping facilities to transients remain subject to the retailing B&O and retail sales taxes. Persons providing transient lodging should refer to WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, trailer camps, etc.).

**(b) Place of sale.** For the purposes of determining a seller's responsibility to remit B&O tax and/or to collect and remit retail sales tax, the place of sale with respect to charges for the use of a self-service or coin-operated laundry facility is the location of the facility.

**(c) Purchases at wholesale.** The purchase of tangible personal property for resale as tangible personal property is a purchase at wholesale. Such purchases are not subject to retail sales tax when the buyer provides a resale certificate to the seller as discussed by WAC 458-20-102 (Resale certificates). Thus, purchases of soap, bleach, fabric softener and other supplies for resale to customers separate from charges for the use of the laundry facilities are wholesale purchases.

**(d) Purchases subject to retail sales or use tax.** A coin-operated laundry facility that acquires tangible personal

property for use as a consumer must pay retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect the appropriate retail sales tax. For further information about use tax, refer to WAC 458-20-178 (Use tax).

The following are examples of purchases by a coin-operated laundry facility that are subject to retail sales tax or use tax:

(i) Washing machines, dryers, fixtures, and furniture; and

(ii) Items given to customers without charge.

**(7) Laundry services performed for nonprofit health care facilities.** For the purpose of this rule, "nonprofit health care facilities" means facilities operated by nonprofit organizations providing diagnostic, therapeutic, convalescent, or preventive inpatient or outpatient health care services. The term includes, but is not limited to, nonprofit hospitals, nursing homes, and hospices.

**(a) Sales of laundry services to nonprofit health care facilities.** Effective July 1, 1998, the definition of a retail sale specifically excludes sales of laundry services to nonprofit health care facilities. As a result, charges for laundry services provided to these facilities are not subject to retail sales tax or the retailing B&O tax. However, effective July 1, 1998, the gross proceeds of sale received for providing laundry services to nonprofit health care facilities is subject to the service and other activities B&O tax. For the period of July 1, 1993, through June 10, 1998, the service and other activities B&O tax applied only to sales of laundry services to members by nonprofit associations composed exclusively of nonprofit hospitals.

**(b) Purchases subject to retail sales or use tax.** Persons providing laundry services to nonprofit health care facilities are considered consumers of all items used in providing such services. RCW 82.04.190. As a result, purchases of items such as dyes, fabric softeners, linens, and uniforms are subject to the retail sales tax. The same is true for purchases of washing machines, dryers, fixtures, furniture, and other items of tangible personal property. The buyer must remit retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department when the seller fails to collect the appropriate retail sales tax. For further information about the use tax, refer to WAC 458-20-178 (Use tax).

WSR 02-17-080

PROPOSED RULES

YAKIMA REGIONAL  
CLEAN AIR AUTHORITY

[Filed August 19, 2002, 3:57 p.m.]

Title of Rule: Amendment 1, Regulation 1 of the Yakima Regional Clean Air Authority.

Purpose: To conform Regulation 1 to chapter 173-400 WAC, adopted August 15, 2001, and facilitate adoption into the state implementation plan (SIP).

Other Identifying Information: Federal Clean Air Act Amendments (FCAA).

Statutory Authority for Adoption: FCAAA of 1990, section 110.

Statute Being Implemented: FCAAA, Parts C & D.

Summary: See adoption history table in the cover pages for a listing of the repealed sections and appendices, amended appendix, and the replacement regulations.

Reasons Supporting Proposal: The U.S. Environmental Protection Agency, Region 10, is requiring the state and local new source review rules to be added to the SIP. This is a part of that SIP submittal.

Name of Agency Personnel Responsible for Drafting: Charles M. Stansel, 6 South 2nd Street, Room 1016, Yakima, WA 98901, (509) 574-1410; Implementation: Les Ornelas, 6 South 2nd Street, Room 1016, Yakima, WA 98901, (509) 574-1410; and Enforcement: Gary Pruitt, 6 South 2nd Street, Room 1016, Yakima, WA 98901, (509) 574-1410.

Name of Proponent: Yakima Regional Clean Air Authority, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, governmental.

Rule is necessary because of federal law, FCAAA Section 110. This is the statute requiring SIP submittals.

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment removes sections, appendices, and definitions from Regulation 1 that are replicated in chapter 173-400 WAC, RCW 70.94.640 and [70.94.]645, and 40 C.F.R. parts 51, 60, 61, and 63.

Proposal does not change existing rules. The requirements in superior rules remain the same.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply to local air pollution control authorities.

RCW 34.05.328 does not apply to this rule adoption. Does not apply to local air pollution control authorities.

Hearing Location: Yakima County Courthouse, Room B33, 128 North 2nd Street, Yakima, WA 98901, on October 9, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Linda Dixon by 12 noon, (509) 574-2215.

Submit Written Comments to: Yakima Regional Clean Air Authority, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, fax (509) 574-1411, by October 9, 2002.

Date of Intended Adoption: Local adoption October 9, 2002.

August 16, 2002

Les Ornelas

Air Pollution Control Officer

**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 02-18 issue of the Register.

**WSR 02-17-082**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed August 19, 2002, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-03-092.

Title of Rule: Amending WAC 388-550-2800 Inpatient payment methods and limits, 388-550-4800 Hospital payment method—State-only programs, 388-550-5300 Payment method—STHFPDSH, 388-550-5350 Payment method—CTHFPDSH, and 388-550-6000 Payment—Outpatient hospital services.

Purpose: The proposed amendments will:

- Provide clarifying language regarding enhanced payments for trauma care and grants administered by MAA.
- Clarify rate-setting methods related to state-administered rates and payment methods and the hospital outpatient payment rate and payment methods.
- Identify payment methods for critical access hospitals (CAHs) and long-term acute care (LTAC) hospitals.
- Remove language that identifies the percentage of funding from the legislatively appropriated pool assigned to the state teaching financing program disproportionate share hospital (STHFPDSH) and the county teaching hospital financing program disproportionate share hospital (CTHFPDSH).

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500, 74.09.035(1), and 43.88.290.

Statute Being Implemented: RCW 74.08.090, 74.09.500, 74.09.035(1), and 43.88.290.

Summary: The amendments (1) clarify and update language concerning enhanced payments for trauma care and grants administered by MAA, and rate-setting methods related to state-administered rates and payment methods and the hospital outpatient payment rate and payment methods; (2) add language to identify department rate setting and payment methods for CAH and LTAC hospitals; (3) allow the state greater flexibility to maximize federal funds participation in DSH funding and allows hospitals to stay within their individual hospital DSH caps each year by removing language that identifies the percentage of funding from the legislative appropriated pool assigned to STHFPDSH and CTHFPDSH.

Reasons Supporting Proposal: To update rule content to reflect current department policy and business practices.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Larry Linn, P.O. Box 45510, Olympia, WA 98504, (360) 725-1856.

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 proposed rules provide clarifying language regarding enhanced payments for trauma care and grants administered by MAA. The proposed rules also clarify and update rate-setting methods related to state-administered rates and payment methods and the hospital outpatient payment rate and payment methods. In addition, the proposed rules allow hospitals to stay within their individual disproportional

tionate share hospital (DSH) caps each year by removing language that identifies the percentage of funding from the legislatively appropriated pool assigned to the state teaching financing program disproportionate share hospital (STHFP-DSH) and the county teaching hospital financing program disproportionate share hospital (CTHFPDSH).

The purpose of the rules is to adopt into permanent rule clarifying language regarding enhanced payments for trauma care and grants administered by MAA and to update and clarify current department policy and business practices.

The anticipated effects are (1) to allow the department to be in compliance with state law that prohibits officers or employees of the state from intentionally overexpending any appropriation made by law; (2) to provide clear language for rate-setting methods related to state-administered rates and payment methods and the hospital outpatient payment rate and payment methods; (3) to identify reimbursement methods for CAH and LTAC hospitals; and (4) to allow the state greater flexibility to maximize federal funds participation in DSH funding and the hospitals to stay within their individual hospital DSH caps each year.

Proposal Changes the Following Existing Rules: The proposed rules state that the department may enhance payments or provide annual grants to certain hospitals for trauma services provided under the trauma care program. The rules change the verbiage "state-only" to "state-administered" and add CAH and LTAC hospitals where appropriate to update and reflect current department policy. Language is added to clarify rate-setting methods related to state-administered rates and payment methods and the hospital outpatient payment rate and payment methods. The language that identifies the percentages of funding from the legislatively appropriated pool assigned to STHFPDSH and CTHFPDSH is changed to "an annually determined amount."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) regarding these rule changes. A copy of the CBA can be obtained from Larry Linn, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 753-4338, e-mail linnld@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not sooner than September 25, 2002.

August 16, 2002  
 Brian H. Lindgren, Manager  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-2800 Inpatient payment methods and limits.** (1) The department reimburses hospitals for Medicaid inpatient hospital services using the rate setting methods identified in the department's approved state plan that includes:

Method	Used for
<u>Diagnoses related group (DRG) negotiated conversion factor</u>	Hospitals participating in the Medicaid hospital selective contracting program under waiver from the federal government
DRG cost-based conversion factor	Hospitals not participating in or exempt from the Medicaid hospital selective contracting program
Ratio of costs-to-charges (RCC)	Hospitals or services exempt from DRG payment methods
Fixed per diem rate	Acute physical medicine and rehabilitation (Acute PM&R) Level B ( <del>(contracted)</del> ) facilities <u>and long-term acute care (LTAC) hospitals</u>
<u>Cost settlement</u>	<u>MAA-approved critical access hospitals (CAHS)</u>

(2) The department's annual aggregate Medicaid payments to each hospital for inpatient hospital services provided to Medicaid clients will not exceed the hospital's usual and customary charges to the general public for the services (42 CFR § 447.271). The department recoups annual aggregate Medicaid payments that are in excess of the usual and customary charges.

(3) The department's annual aggregate payments for inpatient hospital services, including state-operated hospitals, will not exceed the estimated amounts that the department would have paid using Medicare payment principles.

(4) When hospital ownership changes, the department's payment to the hospital will not exceed the amount allowed under 42 U.S.C. Section 1395x (v)(1)(O).

(5) Hospitals participating in the medical assistance program must annually submit to the medical assistance administration:

(a) A copy of the hospital's HCFA 2552 Medicare Cost Report; and

(b) A disproportionate share hospital application.

(6) Reports referred to in subsection (5) of this section must be completed according to:

(a) Medicare's cost reporting requirements;

(b) The provisions of this chapter; and

PROPOSED

(c) Instructions issued by MAA.

(7) The department requires hospitals to follow generally accepted accounting principles unless federally or state regulated.

(8) Participating hospitals must permit the department to conduct periodic audits of their financial and statistical records.

(9) ~~((Payments for trauma services may be enhanced per WAC 246-976-935))~~ Under WAC 246-976-935, MAA may:

(a) Enhance payments for trauma care provided to a client under a Title XIX Medicaid program when the trauma:

(i) Qualifies under the trauma program; and

(ii) Care is provided in a nongovernmental hospital designated by the department of health (DOH) as a trauma services center.

(b) Provide an annual grant for trauma services to:

(i) A governmental hospital certified by DOH as a trauma services center; and

(ii) An MAA-approved critical access hospital (CAH).

(10) The department reimburses hospitals for claims involving clients with third-party liability insurance:

(a) At the lesser of either the DRG:

(i) Billed amount minus the third-party payment amount;

or

(ii) Allowed amount minus the third-party payment amount; or

(b) The RCC allowed payment minus the third-party payment amount.

AMENDATORY SECTION (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-4800 Hospital payment methods—State(~~-only~~) administered programs.** (1) ~~((The medical assistance administration (MAA):~~

~~(a) Calculates payments to hospitals for covered services provided to eligible clients under the state-only MI and medical care services programs using one of the following payment methods:~~

~~(i) Diagnosis-related group (DRG); or~~

~~(ii) Ratio of costs to charges (RCC) methodologies; and~~

~~(b) Calculates the respective state-only program RCC rate and cost based conversion factor (CBCF) by reducing:~~

~~(i) The hospital's Title XIX inpatient RCC rate by the hospital's ratable; and~~

~~(ii) The hospital's Title XIX DRG CBCF.~~

~~(2) To calculate ratables, MAA:~~

~~(a) Adds a hospital's Medicare and Medicaid revenues, to the value of the hospital's charity care and bad debts. MAA deducts the hospital's low-income disproportionate share hospital (LIDSH) revenue from this total to arrive at the hospital's community care dollars; then~~

~~(b) Subtracts revenue generated by hospital-based physicians from total hospital revenue. Both revenues are as reported in the hospital's HCFA-2552 cost report; then~~

~~(c) Divides the amount derived in step (2)(a) by the amount derived in step (2)(b) to obtain the ratio of community care dollars to total revenue; then~~

~~(d) Subtracts the result of step (2)(c) from 1.000 to obtain the hospital's ratable. The hospital's Title XIX CBCF is mul-~~

~~tiplied by (1 minus the ratable), and that result is multiplied by the equivalency factor (EF) to calculate the state-only CBCF. The hospital's Title XIX RCC rate is multiplied by (1 minus the ratable) to calculate the state-only program RCC.~~

~~(e) The payments for services under the state-only MI and medical care services programs are mathematically represented as follows:~~

~~State-only program RCC = Title XIX RCC x (1 minus the ratable) x EF~~

~~State-only program CBCF = Title XIX Conversion Factor x (1 minus the ratable) x EF~~

~~(3) MAA updates each hospital's ratable annually on August 1.~~

~~(4) MAA:~~

~~(a) Uses the EF to hold the DRG reimbursement rates for the state-only programs at their current level prior to any rebasing. MAA applies the EF only to the Title XIX DRG CBCFs, not to the Title XIX RCCS. The EF does not apply when the DRG rate change is due to the application of an inflation factor.~~

~~(b) Calculates a hospital's equivalency factor as follows:~~

~~EF = (Current state-only program CBCF divided by (Title XIX CBCF) multiplied by (1 minus the ratable))~~

~~(5) When a client eligible for the MI program or medical care services program has a trauma that qualifies under the trauma program, the hospital is reimbursed the full Medicaid reimbursement amount when care has been provided in a nongovernmental hospital designated by the department of health (DOH) as a trauma services center. MAA gives an annual grant for trauma services to governmental hospitals certified by DOH)) Except as provided in subsection (2) of this section, the medical assistance administration (MAA) uses the ratio of costs-to-charges (RCC) and diagnosis-related group (DRG) payment methods described in this section to reimburse hospitals at reduced rates for covered services provided to clients eligible under the following state-administered programs:~~

~~(a) Medically indigent (MI) program;~~

~~(b) General assistance unemployable (GAU) program;~~

~~(c) Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program; and~~

~~(d) Involuntary Treatment Act (ITA)-Q program. (The ITA-Q program covers ITA services for non-Medicaid eligible clients.)~~

~~(2) MAA exempts the following services from the state-administered programs' payment methods and reduced rates:~~

~~(a) Detoxification services when the services are provided under an MAA-assigned provider number starting with "thirty-six." (MAA reimburses these services using the Title XIX Medicaid RCC payment method.)~~

~~(b) Program services provided by MAA-approved critical access hospitals (CAHs) to clients eligible under state-administered programs. (MAA reimburses these services through cost settlement as described in WAC 388-550-2598.)~~

~~(3) MAA determines:~~

~~(a) A state-administered program RCC payment by reducing a hospital's Title XIX Medicaid RCC rate using the hospital's ratable.~~

~~(b) A state-administered program DRG payment by reducing a hospital's Title XIX Medicaid DRG cost based~~

conversion factor (CBCF) using the hospital's ratable and equivalency factor (EF).

(4) MAA determines:

(a) The RCC rate for the state-administered programs mathematically as follows:

State-administered programs' RCC rate = current Title XIX Medicaid RCC rate x (one minus the current hospital ratable)

(b) The DRG conversion factor (CF) for the state-administered programs mathematically as follows:

State-administered programs' DRG CF = current Title XIX Medicaid DRG CBCF x (one minus the current hospital ratable) x EF

(5) MAA determines payments to hospitals for covered services provided to clients eligible under the state-administered programs mathematically as follows:

(a) Under the RCC payment method:

State-administered programs' RCC payment = state-administered programs' RCC Rate x allowed charges

(b) Under the DRG payment method:

State-administered programs' DRG payment = state-administered programs' DRG CF x all patient DRG relative weight (to include any necessary high-cost outlier payment)

(6) To calculate a hospital's ratable that is applied to both the Title XIX Medicaid RCC rate and the Title XIX Medicaid DRG CBCF used to determine the respective state-administered program's reduced rates, MAA:

(a) Adds the hospital's Medicaid revenue (Medicaid revenue as reported by department of health (DOH) includes all Medicaid revenue and all other medical assistance revenue) and Medicare revenue to the value of the hospital's charity care and bad debts, all of which is taken from the most recent complete calendar year data available from DOH at the time of the ratable calculation; then

(b) Deducts the hospital's low-income disproportionate share hospital (LIDSH) revenue from the amount derived in (a) of this subsection to arrive at the hospital's community care dollars; then

(c) Subtracts the hospital-based physicians revenue that is reported in the hospital's most recent HCFA-2552 Medicare cost report received by MAA at the time of the ratable calculation, from the total hospital revenue reported by DOH from the same source as discussed in (a) of this subsection, to arrive at the net hospital revenue; then

(d) Divides the amount derived in (b) of this subsection by the amount derived in (c) of this subsection to obtain the ratio of community care dollars to net hospital revenue (also called the preliminary ratable factor); then

(e) Subtracts the amount derived in (d) of this subsection from 1.0 to obtain the hospital's preliminary ratable; then

(f) Determines a neutrality factor by:

(i) Multiplying hospital-specific Medicaid revenue that is reported by DOH from the same source as discussed in (a) of this subsection by the preliminary ratable factor; then

(ii) Multiplying that same hospital-specific Medicaid revenue by the prior year's final ratable factor; then

(iii) Summing all hospital Medicaid revenue from the hospital-specific calculations that used the preliminary ratable factor discussed in (f)(i) of this subsection; then

(iv) Summing all hospital revenue from the hospital-specific calculations that used the prior year's final ratable factor discussed in (f)(i) of this subsection; then

(v) Comparing the two totals; and

(vi) Setting the neutrality factor at 1.0 if the total using the preliminary ratable factor is less than the total using the prior year's final ratable factor; or

(vii) Establishing a neutrality factor that is less than 1.0 that will reduce the total using the preliminary ratable factor to the level of the total using the prior year's final ratable factor, if the total using the preliminary ratable factor is greater than the total using the prior year's ratable factor; then

(g) Multiplies, for each specific hospital, the preliminary ratable by the neutrality factor to establish hospital-specific final ratables for the year; then

(h) Subtracts each hospital-specific final ratable from 1.0 to determine hospital-specific final ratable factors for the year; then

(i) Calculates an in-state-average ratable and an in-state-average ratable factor used for new hospitals with no prior year history.

(7) MAA updates each hospital's ratable annually on August 1.

(8) MAA:

(a) Uses the equivalency factor (EF) to hold the hospital specific state-administered programs' DRG CF at the same level prior to rebasing, adjusted for inflation; and

(b) Calculates a hospital's EF as follows:

EF = State-administered programs' prior DRG CF divided by current Title XIX Medicaid DRG CBCF x (one minus the prior ratable)

(9) Effective December 1, 1991, for hospital admissions of clients eligible under the state-administered MI program, MAA:

(a) Further reduces RCC and DRG payments to a hospital for covered services provided to clients eligible under the MI program by multiplying the respective payment referred to in subsection (5) of this section by ninety-seven percent; and

(b) Applies this payment reduction to the medically indigent disproportionate share hospital (MIDSH) payment methodology in accordance with section 3(b) of the "Medicaid Voluntary Contributions and Provider-Specific Tax Amendment of 1991."

(10) Under WAC 246-976-935, MAA may:

(a) Enhance payments for trauma care provided to a client eligible under the MI program or GAU program when the trauma:

(i) Qualifies under the trauma program; and

(ii) Care is provided in a nongovernmental hospital designated by DOH as a trauma services center.

(b) Provide an annual grant for trauma services to:

(i) A governmental hospital certified by DOH as a trauma services center; and

(ii) An MAA-approved critical access hospital (CAH).

AMENDATORY SECTION (Amending WSR 99-14-025, filed 6/28/99, effective 7/1/99)

**WAC 388-550-5300 Payment method—STHFPDSH.**

(1) The medical assistance administration (MAA) considers a hospital eligible for the state teaching hospital financing program disproportionate share hospital (STHFPDSH) program if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(b) and (4);
- (b) Is a state-owned university or public corporation hospital (border area hospitals are excluded);
- (c) Provides a major medical teaching program, defined as a program in a hospital with more than one hundred residents and/or interns; and
- (d) Has a Medicaid inpatient utilization rate (MIPUR) of at least twenty percent.

(2) MAA, using a prospective payment method:

(a) Pays hospitals ~~((deemed eligible under))~~ meeting the criteria in subsection (1) of this section a STHFPDSH payment from the legislatively appropriated pool specifically designated for disproportionate share hospital (DSH) payments to state and county teaching hospitals.

(b) Limits STHFPDSH payments to eligible hospitals to ~~((seventy percent))~~ an annually determined amount of the legislatively appropriated pool for DSH payments to state and county teaching hospitals. MAA establishes the annual amount by identifying the amount of available DSH funding the hospital has within its individual hospital DSL cap as determined through hospital data used for the prospective payment method.

AMENDATORY SECTION (Amending WSR 99-14-025, filed 6/28/99, effective 7/1/99)

**WAC 388-550-5350 Payment method—CTHFP-**

**DSH.** (1) The medical assistance administration (MAA) considers a hospital eligible for the county teaching hospital financing program disproportionate share hospital (CTHFPDSH) payment if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(b) and (4);
- (b) Is a county hospital in Washington state (border area hospitals are excluded), so designated by the county in which located;
- (c) Provides a major medical teaching program, defined as a program in a hospital with more than one hundred residents and/or interns; and
- (d) Has a low-income utilization rate (LIUR) of at least twenty-five percent.

(2) MAA, using a prospective payment method:

(a) Pays hospitals ~~((considered eligible under))~~ meeting the criteria in subsection (1) of this section a CTHFPDSH payment from the legislatively appropriated pool specifically designated for disproportionate share hospital (DSH) payments to state and county teaching hospitals.

(b) Limits CTHFPDSH payments to eligible hospitals to ~~((thirty percent))~~ an annually determined amount of the legislatively appropriated pool for DSH payments to state and county teaching hospitals. MAA establishes the annual

amount by identifying the amount of available DSH funding the hospital has within its individual hospital DSH cap as determined through historical data used for the prospective payment method.

AMENDATORY SECTION (Amending WSR 99-14-028, filed 6/28/99, effective 7/1/99)

**WAC 388-550-6000 Payment—Outpatient hospital**

**services.** (1) ~~((+))~~ Excluding nonallowable revenue codes and the services specified in subsection (2) ((below)) of this section, MAA determines ((allowable costs for hospital outpatient services by the application of the hospital specific outpatient ratio of costs to charges (RCC).

~~((b) MAA does not pay separately for ancillary hospital services which are included in the hospital's RCC reimbursement rate))~~ payment and reimburses for outpatient hospital services by multiplying a hospital's outpatient rate by the allowed charges on the hospital's outpatient claim. MAA's rate-setting method for a hospital outpatient rate is described in WAC 388-550-4500.

(2) ~~MAA ((pays the lesser of billed charges or MAA's published maximum allowable fees for the following outpatient services))~~ excludes the following outpatient services from the outpatient rate reimbursement method described in subsection (1) of this section and reimburses for these services the lesser of the hospital billed charges or MAA's maximum allowable fees:

- (a) Laboratory/pathology;
- (b) Radiology, diagnostic and therapeutic;
- (c) Nuclear medicine;
- (d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;
- (e) Physical therapy;
- (f) Occupational therapy;
- (g) Speech/language therapy; ~~((and))~~
- (h) Sleep studies;
- (i) Synagis; and
- (j) Other hospital services as identified and listed in MAA's published ((by the department)) fee schedule.

(3) ~~((MAA is not responsible for payment of hospital care and/or services provided to a client enrolled in a MAA-contracted, prepaid medical plan when the client fails to use:~~

~~((a) For a nonemergent condition, a hospital provider under contract with the plan;~~

~~((b) In a bona fide emergent situation, a hospital provider under contract with the plan; or~~

~~((c) The provider whom MAA has authorized to provide and receive payment for a service not covered by the prepaid plan, but covered under the client's medical assistance program))~~ For outpatient observation room, the department reimburses the lesser of the:

(a) Allowed charges multiplied by the hospital outpatient rate; or

(b) Administrative day rate described in WAC 388-550-4500 (8)(a).

(4) ~~((Providers or managed care entities that charge Medicare beneficiaries excess amounts are subject to sanctions as listed in 42 U.S.C. 1320A-7b(d)(1). These sanctions~~

include a fine of up to twenty five thousand dollars or imprisonment of up to five years, or both:

(5) ~~MAA considers a hospital stay of twenty-four hours or less as an outpatient short stay. MAA does not pay an outpatient short stay under the DRG system except when it involves one of the following situations))~~

The department considers hospital stays of twenty-four hours or less outpatient short stays and uses the outpatient payment method to reimburse a hospital for these stays. However, when an outpatient short stay involves one of the following situations, the department uses inpatient payment methods to reimburse a hospital for covered services:

- (a) Death of a client;
- (b) Obstetrical delivery;
- (c) Initial care of a newborn; or
- (d) Transfer of a client to another acute care hospital.

~~((6) MAA does not pay for patient room and ancillary services charges beyond the twenty-four period for outpatient stays-~~

~~(7) MAA does not cover short stay unit, emergency room facility, and labor room charges in combination when these billing periods overlap-~~

~~(8) MAA requires that the hospital's bill to the department shows the admitting, principal, and secondary diagnoses. Include the attending physician's name and MAA provider number-~~

~~(9) Payments for trauma services may be enhanced per WAC 246-976-935))~~

(5) Under WAC 246-976-935, MAA may:

(a) Enhance payments for trauma care provided to a client eligible under the medically indigent MI program or a Title XIX Medicaid program when the trauma:

- (i) Qualifies under the trauma program; and
- (ii) Care is provided in a nongovernmental hospital designated by the department of health (DOH) as a trauma services center.

(b) Provide an annual grant for trauma services to:

- (i) A governmental hospital certified by DOH as a trauma services center; and
- (ii) An MAA-approved critical access hospital (CAH).

(6) The department uses the outpatient payment method to reimburse covered inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are not related to the admission. Inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are related to the admission are paid according to WAC 388-550-2900(12).

(7) For a client enrolled in an MAA-contracted Healthy Options managed care plan, the plan is responsible to reimburse a hospital provider for hospital services that the plan covers. MAA reimburses for a service not covered by the managed care plan only when:

(a) The service is included in the scope of coverage under the client's medical assistance program;

(b) The service is medically necessary as defined in WAC 388-550-1050; and

(c) The provider has a current core provider agreement with MAA and meets applicable MAA program requirements in other published WACs.

(8) The department does not reimburse for:

(a) Room and ancillary services charges beyond the twenty-four hour period for outpatient short stays; or

(b) Emergency room, labor room, observation room, and other room charges in combination when billing periods for these charges overlap.

(9) In order to be reimbursed for covered outpatient hospital services, hospitals must bill MAA according to the conditions of payment under WAC 388-502-0100, time limits under WAC 388-502-0150, and other applicable published issuances. In addition, MAA requires hospitals to bill outpatient claims using the line item date of service and the appropriate revenue codes, CPT codes, and modifiers listed in MAA's published fee schedule. A hospital's bill to the department must show the admitting, principal, and secondary diagnoses and include the attending physician's name and MAA-assigned provider number.

**WSR 02-17-083**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed August 19, 2002, 4:21 p.m.]

Original Notice.

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

Title of Rule: WAC 388-526-2610 MAA hearings for clients and 388-526-2620 MAA hearings for providers/vendors.

Purpose: MAA is instituting a process to review initial administrative hearing decisions in situations where a client, a provider, or MAA wishes to appeal the administrative law judge's initial decision. This process is being instituted because the DSHS board of appeals will no longer review MAA administrative hearing decisions.

Other Identifying Information: These rules are being proposed without prior filing of a CR-101, preproposal statement of inquiry. The proposed rules are exempt from filing a CR-101 notice under RCW 34.05.310 (4)(g)(i) "This section does not apply to... rules that adopt, amend or repeal... a procedure, practice or requirement relating to agency hearings."

Statutory Authority for Adoption: RCW 34.05.020, 34.05.461, 34.05.470, and 34.05.473.

Statute Being Implemented: RCW 34.05.020, 34.05-461, 34.05.470, and 34.05.473.

Summary: See Title of Rule above.

Reasons Supporting Proposal: The rules will maintain the option for clients, providers, and the agency to request a review of an administrative law judge's initial hearing decision.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 45503, 925 Plum Street, Olympia, WA 98504-5533, (360) 725-1344; Implementation and Enforcement: Evelyn J. Cantrell, P.O. Box 45503, 925 Plum Street, Olympia, WA 98504-5533, (360) 725-1254.

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: MAA is instituting a process to review initial administrative hearing decisions in situations where a client, a provider, or MAA wishes to appeal the administrative law judge's (ALJ) initial decision. This process is being instituted because the DSHS board of appeals will no longer review MAA administrative hearing decisions. Will maintain the status quo wherein a client or a provider or the agency can request a review of an ALJ's hearing decision.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not cause an economic impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule does not meet the definition of a significant legislative rule under RCW 34.05.328 (5)(c)(iii), which states, "Significant rules are rules other than a procedural or interpretive rule." The proposed rule is a procedural rule as defined in RCW 34.05.328 (5)(c)(i)(A), which states, "A procedural rule is a rule that... adopts, amends, or repeals any procedure, practice or requirement relating to any agency hearings."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not sooner than September 25, 2002.

August 16, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 00-21-062, filed 10/16/00, effective 11/16/00)

**WAC 388-526-2610 ((Prehearing reviews)) Medical assistance administration (MAA) hearings for clients ((who request a fair hearing))**. (1) A medical assistance administration (MAA) client who does not agree with ((a department decision regarding)) an MAA denial of medical ((or)), dental, or transportation services has a right to a fair hearing under chapter 388-02 WAC. All of the rules and definitions of that chapter apply except that:

(a) ~~((See chapter 388-538 WAC for hearing requests regarding managed care plans;~~

~~(b) See chapter 388-542 WAC for hearing requests regarding the children's health insurance program (CHIP);~~

~~(e) See WAC 388-502-0165 for requests for noncovered services.~~

~~(2) When a fair hearing is requested, either the client or MAA has the right to request and the client receive a medical assessment appropriate to the nature of the decision from one or more professionally qualified persons who are not a party to the action being appealed. WAC 388-538-120 applies to clients who are managed care enrollees.~~

~~(3) After receiving a request for a fair hearing, MAA may request additional information from the client, the provider, or the department. After MAA reviews the available information, the result may be:~~

~~(a) A reversal of the initial department decision;~~

~~(b) Resolution of the client's issue(s); or~~

~~(c) A fair hearing conducted per chapter 388-02 WAC))~~

A party may request that MAA review an initial order when a party disagrees with or wants a change in an initial order, other than correcting a clerical error;

(b) The process for requesting a review of an initial order is the same process set out in WAC 388-02-0560 to 388-02-0600, except that MAA performs the review and a party sends the request for review to MAA's assistant secretary:

Assistant Secretary

Medical Assistance Administration

Department of Social and Health Services

P.O. Box 45500

Olympia, WA 98504-5500

(c) The assistant secretary or its designee may review the request and enter a final order;

(d) The person reviewing the request for review will be termed the reviewing officer;

(e) The reviewing officer has the same decision-making authority as an administrative law judge (ALJ), but must consider that when the ALJ adjudicated the case the ALJ had an opportunity to observe the witnesses and determine whether their testimony was credible; and

(f) If a party does not agree with the final order, the party may request a reconsideration of the final order under WAC 388-02-0605 to 388-02-0635, except that the party must direct the request for reconsideration to the reviewing officer who issued the final order. The reviewing officer will reconsider the final order.

(2) See chapter 388-538 WAC for hearing requests regarding managed care plans, except that the exceptions in subsections (1)(a) through (f) of this section apply.

(3) See chapter 388-542 WAC for hearing requests regarding the state children's health insurance program (S-CHIP), except that the exceptions in subsections (1)(a) through (f) of this section apply.

(4) See WAC 388-502-0165 for hearing requests for noncovered services.

(5) When a fair hearing is requested, either the client or MAA has the right to request and the client receive a medical assessment appropriate to the nature of the decision from one or more professionally qualified persons who are not a party to the action being appealed. WAC 388-538-120 applies to clients who are managed care enrollees.

(6) After receiving a request for a fair hearing, MAA may request additional information from the client, the pro-

vider, or the department. After MAA reviews the available information, the result may be:

- (a) A reversal of the initial department decision;
- (b) Resolution of the client's issue(s); or
- (c) A fair hearing conducted per chapter 388-02 WAC.

#### NEW SECTION

**WAC 388-526-2620 Medical assistance administration (MAA) hearings for providers or vendors.** A medical assistance administration (MAA) provider or vendor entitled to an administrative hearing under RCW 43.20B.675, except nursing homes under chapter 74.46 RCW, has a right to an administrative hearing under chapter 388-02 WAC except that:

(1) A party may request that MAA review an initial order when a party disagrees with or wants a change in an initial order, other than correcting a clerical error;

(2) The process for requesting a review of an initial order is the same process set out in WAC 388-02-0560 to 388-02-0600, except that MAA performs the review and a party sends the request for review to MAA's assistant secretary:

Assistant Secretary  
Medical Assistance Administration  
Department of Social and Health Services  
P.O. Box 45500  
Olympia, WA 98504-5500

(3) The assistant secretary or its designee may review the request and enter a final order;

(4) The person reviewing the request for review will be termed the reviewing officer;

(5) The reviewing officer has the same decision-making authority as an administrative law judge (ALJ), but must consider that when the ALJ adjudicated the case the ALJ had an opportunity to observe the witnesses and determine whether their testimony was credible; and

(6) If a party does not agree with the final order, the party may request a reconsideration of the final order under WAC 388-02-0605 to 388-02-0635, except that the party must direct the request for reconsideration to the reviewing officer who issued the final order. The reviewing officer will reconsider the final order.

#### **WSR 02-17-086**

#### **WITHDRAWAL OF PROPOSED RULES LIQUOR CONTROL BOARD**

(By the Code Reviser's Office)

[Filed August 20, 2002, 8:37 a.m.]

WAC 314-02-010, 314-02-015, 314-02-020, 314-02-025, 314-02-030, 314-02-033, 314-02-035, 314-02-045, 314-02-050, 314-02-055, 314-02-115, 314-02-125, 314-02-130, 314-02-190 and 314-02-196, proposed by the Liquor Control Board in WSR 02-04-115 appearing in issue 02-04 of the State Register, which was distributed on February 20, 2002, is withdrawn by the code reviser's office under RCW

34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### **WSR 02-17-087**

#### **WITHDRAWAL OF PROPOSED RULES LIQUOR CONTROL BOARD**

(By the Code Reviser's Office)

[Filed August 20, 2002, 8:37 a.m.]

WAC 314-11-025, proposed by the Liquor Control Board in WSR 02-04-110 appearing in issue 02-04 of the State Register, which was distributed on February 20, 2002, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### **WSR 02-17-088**

#### **PROPOSED RULES UTILITIES AND TRANSPORTATION COMMISSION**

[Docket No. A-020405—Filed August 20, 2002, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-10-055.

**Title of Rule:** The proposed rules would establish a new standard for calculating the interest on customer deposits in chapter 480-70 WAC, Solid waste; chapter 480-90 WAC, Gas operations; chapter 480-100 WAC, Electric operations; and chapter 480-110 WAC, Water companies. In addition, the proposed rules would amend WAC 480-100-148 Service responsibility, to clarify current language that may unintentionally prevent electric utilities from suspending service for reasonable periods in order to repair meters.

**Purpose:** See Explanation of Rule below.

**Statutory Authority for Adoption:** RCW 80.01.040 and 80.04.160.

**Summary:** See Explanation of Rule below.

**Name of Agency Personnel Responsible for Drafting:** Sharyn Bate, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1295; **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 adopt the one-year Treasury Constant Maturity calculated by the U.S. Treasury, and published in the Federal Reserve's Statistical Release H.15 on

January 15 of each year as the standard for calculating the interest on deposits of solid waste, gas, electric and water customers.

The proposal would also amend WAC 480-100-148 Service responsibility, by deleting the language "other than meters" to clarify utility liability if changes or repairs to meters are necessary.

The proposal would streamline the process for calculating the interest on customer deposits by utilities since the interest rate can automatically be determined. It would eliminate the need to await notice from the commission authorizing the interest rate change, and it would eliminate the need for commission staff to administer the process.

Proposal Changes the Following Existing Rules: The affected WACs are:

- WAC 480-70-411 Solid waste, establishing credit and deposits.
- WAC 480-90-113 Gas, residential deposit requirements.
- WAC 480-90-118 Gas, nonresidential deposit requirements.
- WAC 480-100-113 Electric, residential deposit requirements.
- WAC 480-100-118 Electric, nonresidential deposit requirements.
- WAC 480-110-335 Water, establishment of credit and deposits.

The current rules use the interest rate of the fifty-two week treasury bill that has been discontinued. The proposed rules use the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of each year as the rate. Additionally, the proposed rules remove the requirement that the commission will advise the utilities each year of the specific rate by mail because under the proposal the new rate will be a reference rather than a calculation. Language in the above rules has been redrafted to parallel language across the four industries. These revisions do not change the substance of the rules.

- WAC 480-100-148 (2)(d), service responsibility.

The draft language revises WAC 480-100-148 (2)(d), service responsibility by deleting the language "other than meters."

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules streamline the process for determining the yearly interest rate to be applied to customer deposits. In addition, the proposed rules eliminate the need for commission staff to administer the process. Because there will not be any increase in cost resulting from the proposed rules, a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

Hearing Location: Commission Hearing Room 206, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on September 25, 2002, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Mary DeYoung by Monday, September 23, 2002, 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 September 11, 2002. Please include Docket No. A-020405 in your communication.

Date of Intended Adoption: September 25, 2002.

August 20, 2002

Carole J. Washburn  
Secretary

AMENDATORY SECTION (Amending Docket No. TG-990161, General Order No. R-479, filed 3/23/01, effective 4/23/01)

**WAC 480-70-411 Establishing credit and deposits.**

Prepayments made to secure temporary drop-box service are not subject to the provisions of this rule. Refer to WAC 480-70-416 for provisions related to prepayments.

(1) **Establishing credit - residential service.** A company (~~(must)~~) may not collect a security deposit if an applicant for residential service can establish satisfactory credit by any one of the following:

(a) The applicant had prior service with the company or another solid waste collection company for at least six of the twelve months before the application date and:

((\*) (i) Service was not canceled for nonpayment;

((\*) (ii) The customer received no more than one delinquency notice; and

((\*) (iii) References with the other company (~~(may be)~~) (if applicable) can quickly and easily be checked. ((A)) The company may request that the references from the previous company be in writing.

(b) The applicant had consecutive employment during the prior twelve months with no more than two employers and is currently employed or has a regular source of income.

(c) The applicant owns or has a legal interest in the premises being served.

(d) The applicant can furnish a satisfactory guarantor who will be responsible for payment of solid waste bills in the event of cancellation or default by the customer, in a specified amount, not to exceed the amount of the (~~(required)~~) cash deposit required.

(e) The applicant personally produces at the company's business office two major credit cards, or other credit references that the company (~~(may)~~) can quickly and easily check, that demonstrate a satisfactory payment history.

(2) **Establishing credit - commercial service.** A company may require an applicant for commercial service (~~(may be required)~~) to demonstrate that ((#)) the applicant is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(3) **Deposit requirements.** A company may require a deposit (~~(when)~~) if:

((\*) (a) The applicant has failed to establish a satisfactory credit history as outlined in subsections (1) and (2) of this section;

PROPOSED

(\*) (b) The applicant's service from another solid waste company was canceled for failure to pay amounts owing when due during the twelve months before the application date;

(\*) (c) The applicant has an unpaid, overdue balance owing for similar service from the solid waste company to which application is being made or from any other solid waste company;

(\*) (d) Two or more delinquency notices have been served on the applicant by any solid waste company during the prior twelve months; ~~((and))~~ or

(\*) (e) The application is ~~((to begin or continue))~~ for beginning or continuing service to a residence where a prior customer still lives and owes a past due bill to the ~~((solid waste))~~ company.

(4) ~~((Amount of))~~ **Deposit amount.** Deposits required for a customer or location must not exceed:

<del>((Company billing period:</del>	<b>Maximum deposit amount allowed:</b>
<b>Monthly</b>	<b>Two-twelfths of the estimated annual billing</b>
<b>Bimonthly</b>	<b>Three-twelfths of the estimated annual billing</b>
<b>Trimonthly (quarterly)</b>	<b>Four-twelfths of the estimated annual billing.))</b>

(a) Two-twelfths of the estimated annual billings for companies billing monthly;

(b) Three-twelfths of estimated annual billings for companies billing bimonthly;

(c) Four-twelfths of estimated annual billings for companies billing trimonthly.

(5) **Transfer of deposit.** When a customer moves to a new address ~~((in))~~ within the company's service territory, the deposit plus accrued interest, less any outstanding past-due balance owing from the old address, must be transferred to the new address or refunded.

(6) **Interest on deposits.** ~~((Interest on deposits collected from applicants or customers must:~~

(a) ~~Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. The commission will annually mail a notice to solid waste collection companies advising them of the specific rate.~~

(b) ~~Earn the calculated interest rate during January 1 through December 31 of the subsequent year.~~

(c) ~~Be computed from the time of deposit and compounded annually.))~~ Companies that collect customer deposits must pay interest on those deposits calculated:

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the company will use the rate posted on the next following business day; and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

~~(7) ((Extended payment arrangement of deposits. When an applicant or customer is required to pay a deposit but is unable to pay the entire deposit in advance of starting or continuing service, the company must allow the applicant or customer to pay on the following schedule:~~

~~▲ Fifty percent of the deposit must be paid before service;~~

~~▲ Twenty five percent must be paid in each of the next two months.))~~ **Deposit payment arrangements.** The company must allow an applicant or customer the option of paying fifty percent of the deposit prior to service, and paying the remaining balance in equal amounts over the next two months, on the dates mutually agreed upon between the applicant or customer and the company. The company and applicant or customer may make other mutually acceptable deposit payment arrangements.

(8) **Receipt for deposit.** A company must furnish a receipt to each applicant or customer for the amount deposited.

(9) **When refund of deposits is required.** A company must refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.

(a) **"Satisfactory payment"** means a customer has paid for service for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(\*) (i) The company has not started a cancellation process against the customer; and

(\*) (ii) The company has ~~((issued))~~ sent no more than two delinquency notices ~~((of delinquency))~~ to the customer.

(b) **Termination of service.** When service is ~~((anceled))~~ terminated, the company must return to the customer the ~~((amount then on))~~ deposit amount plus accrued interest, less any amounts due ~~((to))~~ the company by the customer.

(10) ~~((Refund of deposits, manner))~~ **How deposits are refunded.** ~~((A))~~ The company must refund any deposit ~~((;))~~ plus accrued interest, ~~((in the manner chosen))~~ as indicated by the customer at the time of deposit, or as modified by the customer on a later date ~~((The customer must choose)),~~ one of the following methods:

(a) A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment, as described above; or

(b) A credit applied to the customer's account for service beginning in the thirteenth month.

(11) **Additional deposit.** ~~((Nothing in this rule prevents the requiring of a larger deposit or a new deposit when conditions warrant. A company requiring a new or larger deposit must specify the reasons in writing to the customer. Any requirement for a new or larger deposit must comply with the standards in this rule.))~~ If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsections (1) and (2) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

AMENDATORY SECTION (Amending Docket No. UG-990294, General Order No. R-484, filed 5/3/01, effective 6/3/01)

**WAC 480-90-113 Residential service deposit requirements.** (1) **Deposit criteria for residential customers.** A gas utility may collect a deposit from its own customers for residential service only if:

(a) At any time during the prior twelve months, the utility has sent the customer three or more delinquency notices;

(b) The utility has disconnected the customer's residential service for nonpayment; or

(c) There is a prior customer living at the residence who owes a past-due bill to the utility for service at that address.

(2) **Deposit criteria for residential applicants.** A utility may collect a deposit from an applicant for residential service only if:

(a) The applicant has met any of the conditions described in subsection (1) of this section as a prior customer of the utility or as a customer of another natural gas utility;

(b) The applicant is not able to demonstrate continuous employment during the prior twelve consecutive months and ~~((is))~~ neither is currently employed nor has a regular source of income;

(c) The applicant does not own or is not purchasing the premises to be served;

(d) There is a prior customer living at the residence who owes a past-due bill to the utility at that address; or

(e) The applicant has an unpaid, overdue balance owing to any electric or gas utility for residential service.

(3) **Deposit amount.** ~~((The utility may require a deposit not to))~~ Deposits required for a customer or location must not exceed ((the amount of)):

(a) ~~((For utilities billing monthly, two-twelfths of the service location's estimated annual usage; or~~

~~(b) For utilities billing bimonthly, three-twelfths of the service location's estimated annual usage.))~~ Two-twelfths of the estimated annual billings for utilities billing monthly; or

(b) Three-twelfths of estimated annual billings for utilities billing bimonthly.

(4) **Deposit payment arrangements.** The utility must allow an applicant or customer the option of paying fifty percent of the deposit prior to service, and paying the remaining balance in equal amounts over the next two months, on the dates mutually agreed upon between the applicant or customer and the utility. The utility and applicant or customer may make other mutually acceptable deposit payment arrangements.

(5) **Alternative to deposit.** The utility must allow any applicant or customer who indicates an inability to pay a deposit:

(a) To prepay any service initiation fees and reasonably estimated regular service charges or budget billings at periods corresponding to the utility's regular billing periods for the length of time during which a deposit would ordinarily be required. The utility must then bill the applicant or customer in a normal fashion; or

(b) To furnish a satisfactory guarantor. A guarantor must be considered satisfactory if the guarantor has at least estab-

lished credit with the utility as outlined in this section. A utility may, at its discretion, accept a guarantor that does not meet the requirements of this section. If the customer has been disconnected, the guarantor is responsible for the amount stated on the disconnection notice, not to exceed the amount of the deposit as defined in subsection (3) of this section unless the guarantor has agreed to guarantee an additional amount as specified in subsection (7) of this section; or

(c) To notify the utility of the inability to pay a deposit as provided in WAC 480-90-143, Winter low-income payment program; or

(d) The opportunity to provide a reference from a similar utility that can ~~((be))~~ quickly and easily be checked if the conditions in subsection (1) of this section cannot be met.

(6) **Transfer of deposit.** When a customer moves to a new address within the utility's service territory, the deposit~~((s))~~ plus accrued interest ~~((and))~~, less any outstanding balance owing from the old address, must be transferred to the new address or refunded.

(7) **Additional deposit.** If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsection (1) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

(8) **Deposit payment date.** Any deposit or additional deposit amount required after service is established is due and payable not earlier than 5:00 p.m. of the sixth business day after notice if the deposit requirement notice is mailed from within the states of Washington, Oregon, or Idaho, or the ninth business day if mailed from outside the states of Washington, Oregon, and Idaho. If the utility delivers the notice to the customer in person, the deposit or additional deposit amount is due and payable not earlier than 5:00 p.m. of the sixth business day from the date of delivery.

(9) **Interest on deposits.** ~~((Interest on deposits collected from applicants or customers must:~~

~~(a) Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1st of each year through November 30th of the following year. The commission will advise the utility each year of the specific rate;~~

~~(b) Earn the calculated interest rate as determined in (a) of this subsection from January 1st through December 31st of the subsequent year;~~

~~(c) Be computed from the date of deposit to the date of refund or when applied directly to the customer's account; and~~

~~(d) Be compounded or paid annually.))~~ Utilities that collect customer deposits must pay interest on those deposits calculated:

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusi-

ness day, the utility will use the rate posted on the next following business day; and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

(10) When refund of deposits is required. ~~((Deposits plus accrued interest must be applied to the customer's account or refunded at the customer's request when there has been satisfactory payment or upon termination of service.))~~ A utility must apply deposits plus accrued interest to the customer's account, or refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.

(a) "Satisfactory payment" ~~((—Satisfactory payment is established when the))~~ means a customer has paid for service ((during)) for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(i) The utility has not ((initiated)) started a disconnection ((proceedings)) process against the customer; and

(ii) The utility has sent no more than two delinquency notices to the customer.

(b) Termination of service. ~~((Upon termination of))~~ When service is terminated, the utility must return to the customer the deposit amount plus accrued interest, less any amounts due the utility by the customer.

(11) How deposits are refunded. ~~((Any deposit plus accrued interest must be made available to the customer not later than fifteen calendar days following completion of twelve months of satisfactory payment or the cancellation of service. Refunds must be:~~

(a) Applied to the customer's account for service beginning in the thirteenth month; or

(b) At the customer's request, paid in the form of a check either delivered by mail or given to the customer in person at the utility's local business office.)) A utility must refund any deposit plus accrued interest as indicated by the customer at the time of deposit, or as modified by the customer on a later date, using one of the following methods:

(a) A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment, as described above; or

(b) A credit applied to the customer's account for service beginning in the thirteenth month.

**AMENDATORY SECTION** (Amending Docket No. UG-990294, General Order No. R-484, filed 5/3/01, effective 6/3/01)

**WAC 480-90-118 Nonresidential services deposit requirements.** (1) **Deposit criteria for nonresidential customers.** A utility may require an applicant for nonresidential service ((may be required)) to demonstrate that ((it)) the applicant is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(2) **Deposit amount.** ~~((The utility may require a deposit not to))~~ Deposits required for a customer or location must not exceed ((the amount of)):

(a) ((For utilities billing monthly, two twelfths of the service location's estimated annual usage; or

(b) For utilities billing bimonthly, three twelfths of the service location's estimated annual usage.)) Two twelfths of the estimated annual billings for utilities billing monthly; or

(b) Three twelfths of estimated annual billings for utilities billing bimonthly.

(3) **Transfer of deposit.** When a customer moves to a new address within the utility's service territory, the deposit((;)) plus accrued interest ((and)), less any outstanding balance owing from the old address, must be transferred to the new address or refunded.

(4) **Additional deposit.** ~~((Nothing in this section will prevent the requirement of a larger deposit, a new deposit, or other alternative forms of a deposit when conditions warrant. Should a new, larger, or alternative form of deposit be required, the reason must be specified in writing to the customer.))~~ If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsection (1) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

(5) **Deposit payment date.** Any deposit or additional deposit amount required after service is established is due and payable not earlier than 5:00 p.m. of the sixth business day after notice if the deposit requirement notice is mailed from within the states of Washington, Oregon, or Idaho, or the ninth business day if mailed from outside the states of Washington, Oregon, and Idaho. If the utility delivers the notice to the customer in person, the deposit or additional deposit amount is due and payable not earlier than 5:00 p.m. of the sixth business day from the date of delivery.

(6) **Interest on deposits.** ~~((Interest on deposits collected from applicants or customers must:~~

(a) Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1st of each year through November 30th of the following year. The commission will advise the utility each year of the specific rate;

(b) Earn the calculated interest rate as determined in (a) of this subsection during January 1st through December 31st of the subsequent year;

(c) Be computed from the date of deposit to the date of refund or when applied directly to the customer's account; and

(d) Be compounded or paid annually.)) Utilities that collect customer deposits must pay interest on those deposits calculated:

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the utility will use the rate posted on the next following business day; and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

(7) **When refund of deposits is required.** (~~Deposits plus accrued interest must be applied to the customer's account or refunded at the customer's request when there has been satisfactory payment or upon termination of service.~~) A utility must apply deposits plus accrued interest to the customer's account, or refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.

(a) "Satisfactory payment" (~~(Satisfactory payment is established when the)~~) means a customer has paid for service (during) for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(i) The utility has not (~~(initiated)~~) started a disconnection (proceedings) process against the customer; and

(ii) The utility has sent no more than two delinquency notices to the customer.

(b) Termination of service. (Upon termination of) When service is terminated, the utility must return to the customer the deposit amount plus accrued interest, less any amounts due the utility by the customer.

**AMENDATORY SECTION** (Amending Docket No. UE-990473, General Order No. R-482, filed 5/3/01, effective 6/3/01)

**WAC 480-100-113 Residential services deposit requirements.** (1) **Deposit criteria for current residential customers.** An electric utility may collect a deposit from its own customers for residential service only if:

(a) At any time during the prior twelve months, the utility has sent the customer three or more delinquency notices;

(b) The utility has disconnected the customer's residential service for nonpayment; or

(c) There is a prior customer living at the residence who owes a past-due bill to the utility for service at that address.

(2) **Deposit criteria for residential applicants.** A utility may collect a deposit from an applicant for residential service only if:

(a) The applicant has met any of the conditions described in subsection (1) of this section as a prior customer of the utility or as a customer of another electric utility;

(b) The applicant is not able to demonstrate continuous employment during the prior twelve consecutive months and neither is currently employed nor has a regular source of income;

(c) The applicant does not own or is not purchasing the premises to be served;

(d) There is a prior customer living at the residence who owes a past-due bill to the utility at that address; or

(e) The applicant has an unpaid, overdue balance owing to any electric or gas utility for residential service.

(3) **Deposit amount.** (~~The utility may require a deposit not to~~) Deposits required for a customer or location must not exceed (the amount of):

(a) (~~For utilities billing monthly, two twelfths of the service location's estimated annual usage; or~~

(b) For utilities billing bimonthly, three twelfths of the service location's estimated annual usage.) Two twelfths of the estimated annual billings for utilities billing monthly; or

(b) Three twelfths of estimated annual billings for utilities billing bimonthly.

(4) **Deposit payment arrangements.** The utility must allow an applicant or customer the option of paying fifty percent of the deposit prior to service, and paying the remaining balance in equal amounts over the next two months, on the dates mutually agreed upon between the applicant or customer and the utility. The utility and applicant or customer may make other mutually acceptable deposit payment arrangements.

(5) **Alternative to deposit.** The utility must allow any applicant or customer who indicates an inability to pay a deposit:

(a) To prepay any service initiation fees and reasonably estimated regular service charges or budget billings at periods corresponding to the utility's regular billing periods for the length of time during which a deposit would ordinarily be required. The utility must then bill the applicant or customer in a normal fashion; or

(b) To furnish a satisfactory guarantor. A guarantor will be considered satisfactory if the guarantor has at least established credit with the utility as outlined in this section. A utility may, at its discretion, accept a guarantor that does not meet the requirements of this section. If the customer has been disconnected, the guarantor is responsible for the amount stated on the disconnection notice, not to exceed the amount of the deposit as defined in subsection (3) of this section unless the guarantor has agreed to guarantee an additional amount as specified in subsection (7) of this section; or

(c) To notify the utility of the inability to pay a deposit as provided in WAC 480-100-143, Winter low-income payment program; or

(d) The opportunity to provide a reference from a similar utility that can (~~be~~) quickly and easily be checked if the conditions in subsection (1) of this section cannot be met.

(6) **Transfer of deposit.** When a customer moves to a new address within the utility's service territory, the deposit (~~(s)~~) plus accrued interest (~~(and)~~), less any outstanding balance owing from the old address, must be transferred to the new address or refunded.

(7) **Additional deposit.** If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsection (1) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

(8) **Deposit payment date.** Any deposit or additional deposit amount required after service is established is due and payable not earlier than 5:00 p.m. of the sixth business day after notice, if the deposit requirement notice is mailed from within the states of Washington, Oregon, or Idaho, or the ninth business day if mailed from outside the states of Washington, Oregon, and Idaho. If the utility delivers the notice to the customer in person, the deposit or additional deposit amount is due and payable not earlier than 5:00 p.m. of the sixth business day from the date of delivery.

(9) **Interest on deposits.** (~~Interest on deposits collected from applicants or customers must:~~

(a) ~~Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1st of each year through November 30th of the following year. The commission will advise the utility each year of the specific rate;~~

(b) ~~Earn the calculated interest rate as determined in (a) of this subsection during January 1st through December 31st of the subsequent year;~~

(c) ~~Be computed from the date of deposit to the date of refund or when applied directly to the customer's account; and~~

(d) ~~Be compounded or paid annually. Utilities that collect customer deposits must pay interest on those deposits calculated:~~

(a) ~~For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the utility will use the rate posted on the next following business day; and~~

(b) ~~From the date of deposit to the date of refund or when applied directly to the customer's account.~~

(10) **When refund of deposits is required.** (~~Deposits plus accrued interest must be applied to the customer's account or refunded at the customer's request when there has been satisfactory payment or upon termination of service. A utility must apply deposits plus accrued interest to the customer's account, or refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.~~

(a) ~~"Satisfactory payment" (Satisfactory payment is established when the) means a customer has paid for service (during) for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:~~

(i) ~~The utility has not (initiated) started a disconnection (proceedings) process against the customer; and~~

(ii) ~~The utility has sent no more than two delinquency notices to the customer.~~

(b) ~~Termination of service. (Upon termination of) When service is terminated, the utility must return to the customer the deposit amount plus accrued interest, less any amounts due the utility by the customer.~~

(11) **How deposits are refunded.** (~~Any deposit plus accrued interest must be made available to the customer no later than fifteen calendar days following completion of twelve months of satisfactory payment or the cancellation of service. Refunds must be:~~

(a) ~~Applied to the customer's account for service beginning in the thirteenth month; or~~

(b) ~~At the customer's request, paid in the form of a check either delivered by mail or given to the customer in person at the utility's local business office. A utility must refund any deposit plus accrued interest as indicated by the customer at the time of deposit, or as modified by the customer on a later date, using one of the following methods:~~

(a) A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment, as described above; or

(b) A credit applied to the customer's account for service beginning in the thirteenth month.

**AMENDATORY SECTION** (Amending Docket No. UE-990473, General Order No. R-482, filed 5/3/01, effective 6/3/01)

**WAC 480-100-118 Nonresidential service deposit requirements.** (1) **Deposit criteria for nonresidential customers.** A utility may require an applicant for nonresidential service ((may be required)) to demonstrate that ((it) the applicant is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(2) **Deposit amount.** (~~The electric utility may require a deposit not to~~) Deposits required for a customer or location must not exceed ((the amount of):

(a) ~~((For utilities billing monthly, two-twelfths of the service location's estimated annual usage; or~~

(b) ~~For utilities billing bimonthly, three-twelfths of the service location's estimated annual usage.)) Two-twelfths of the estimated annual billings for utilities billing monthly; or~~

(b) Three-twelfths of estimated annual billings for utilities billing bimonthly.

(3) **Transfer of deposit.** When a customer moves to a new address within the utility's service territory, the deposit((;)) plus accrued interest ((and)), less any outstanding balance owing from the old address, must be transferred to the new address or refunded.

(4) **Additional deposit.** (~~Nothing in this section will prevent the requirement of a larger deposit, a new deposit, or other alternative forms of a deposit when conditions warrant. Should a new, larger, or alternative form of deposit be required, the reason must be specified in writing to the customer.)) If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsection (1) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.~~

(5) **Deposit payment date.** Any deposit or additional deposit amount required after service is established is due and payable not earlier than 5:00 p.m. of the sixth business day after notice, if the deposit requirement notice is mailed from within the states of Washington, Oregon, or Idaho, or the ninth business day if mailed from outside the states of Washington, Oregon, and Idaho. If the utility delivers the notice to the customer in person, the deposit or additional deposit amount is due and payable not earlier than 5:00 p.m. of the sixth business day from the date of delivery.

(6) **Interest on deposits.** (~~Interest on deposits collected from applicants or customers must:~~

(a) ~~Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury~~

bills, computed from December 1st of each year through November 30th of the following year. The commission will advise the utility each year of the specific rate;

(b) ~~Earn the calculated interest rate as determined in (a) of this subsection during January 1st through December 31st of the subsequent year;~~

(c) ~~Be computed from the date of deposit to the date of refund or when applied directly to the customer's account; and~~

(d) ~~Be compounded or paid annually.)) Utilities that collect customer deposits must pay interest on those deposits calculated:~~

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the utility will use the rate posted on the next following business day; and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

(7) When refund of deposits is required. ((Deposits plus accrued interest must be applied to the customer's account or refunded at the customer's request when there has been satisfactory payment or upon termination of service.)) A utility must apply deposits plus accrued interest to the customer's account, or refund deposits plus accrued interest when there has been satisfactory payment, as defined in (a) of this subsection, or when service is terminated.

(a) "Satisfactory payment" ~~((Satisfactory payment is established when the))~~ means a customer has paid for service ~~((during))~~ for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(i) The utility has not ~~((initiated))~~ started a disconnection ~~((proceedings))~~ process against the customer; and

(ii) The utility has sent no more than two delinquency notices to the customer.

(b) Termination of service. ~~((Upon termination of))~~ When service is terminated, the utility must return to the customer the deposit amount plus accrued interest, less any amounts due the utility by the customer.

AMENDATORY SECTION (Amending Docket No. UE-990473, General Order No. R-482, filed 5/3/01, effective 6/3/01)

**WAC 480-100-148 Service responsibility. (1) Customer responsibility.** The customer must notify the electric utility, in writing, prior to all changes to the customer's equipment or usage that will materially affect the service to be rendered. The customer must give such notice within a reasonable time so the utility can provide the necessary facilities and acquire additional power supply, if needed. The charge for such necessary facilities, if any, must be in accordance with the utility's filed tariff.

(2) **Electric utility responsibility.** Each electric utility:

(a) Must install and maintain monitoring equipment at appropriate locations within its system in order to determine the operating characteristics of the system. The commission may require the utility to provide additional equipment in

connection with performing special investigations, if economically feasible;

(b) Must promptly notify all affected customers of any substantial change to the service that would affect the efficiency of operation or the adjustment of the customer's equipment. If an adjustment to the customer's equipment is necessary, the cost may be recovered in accordance with the utility's tariff, except that, when the customer has been notified of a change in service prior to receiving service or when such change is required by law, the customer must bear all costs in connection with making changes to the customer's own equipment.

(c) Must maintain its plant in such a condition that will enable it to furnish safe, adequate, and efficient service.

(d) Must make those efforts that are reasonable under the circumstances to avoid interruptions of service and, when such interruptions occur, to reestablish service with a minimum of delay. Interruptions as used in this subsection do not refer to the discontinuance of service to those customers receiving service under an interruptible service schedule.

When it is necessary for an electric utility to make repairs to or to change its facilities ~~((other than meters))~~, the utility may, without incurring any liability, suspend service for such periods as may be reasonably necessary and in such a manner as to minimize the inconvenience to customers. When practicable, such interruption will be during the working hours regularly maintained by the utility. The utility must individually notify police and fire departments affected by such a suspension. All customers affected by a scheduled interruption associated with facilities other than meters, will be given notification through newspapers, radio announcements, or other means at least one day in advance.

(e) Must keep a record of all interruptions of service affecting a substantial number of customers, including in such record the location, the date and time, the duration, and, as accurately as possible, the cause of each interruption. Utilities must submit copies of such records to the commission upon request.

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

**WAC 480-110-335 ((Establishment of)) Establishing credit and deposits. (1) ((Establishment of)) Establishing credit - residential.** A company ~~((must))~~ may not collect a security deposit if an applicant for residential ~~((water))~~ service can establish satisfactory credit by any one of the following ~~((factors))~~:

(a) The applicant had prior service with the ((water)) company ((within the prior)) or another water company for twelve months before the application date and:

(i) ~~((At least twelve consecutive months with no more than one delinquency notice; and~~

~~((ii) The))~~ Service was not disconnected for nonpayment~~((-~~

~~((b) Prior residential water service));~~

(ii) The customer received no more than one delinquency notice; and

(iii) References with ~~((another water))~~ the other company~~((, as demonstrated in (a) of this subsection, for which references may be))~~ ~~(if applicable)~~ can quickly and easily be checked. The ~~((water))~~ company may request that the references ~~((be in writing))~~ from the previous ~~((water))~~ company~~((;))~~ be in writing.

~~((e) Full-time)~~ (b) The applicant had consecutive employment during the prior twelve months with no more than two employers~~((;))~~ and ~~((the applicant))~~ is currently employed or has a regular source of income~~((;))~~.

~~((d) Ownership of)~~ (c) The applicant owns or has a legal interest in the premises being served~~((;))~~.

~~((e) Furnishing)~~ (d) The applicant can furnish a satisfactory guarantor who will be responsible for payment of water service bills in the event of disconnection or default by the customer, in a specified amount, not to exceed the amount of the cash deposit required~~((;))~~.

~~((f) Producing, in person)~~ (e) The applicant personally produces at the ~~((water))~~ company's business office~~((;))~~ two major credit cards, or other credit references~~((;))~~ that the company can quickly and easily check, that demonstrate a satisfactory payment history.

(2) ~~((Establishment of))~~ **Establishing credit - nonresidential.** A company may require an applicant for nonresidential water service ~~((may be required))~~ to demonstrate that ~~((#))~~ the applicant is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(3) **Deposit requirements.** A ~~((deposit may be required when))~~ company may require a deposit if:

(a) The applicant has failed to establish a satisfactory credit history as outlined in subsections (1) or (2) of this section;

(b) ~~((During the prior twelve months, the applicant's service from another water company has been disconnected for failure to pay amounts owing when due;))~~ The applicant's service from another water company was disconnected for failure to pay amounts owing when due during the twelve months before the application date;

(c) ~~((There is))~~ The applicant has an unpaid, overdue balance owing for similar service from the water company to which application is being made or from any other water company;

(d) Two or more delinquency notices have been served ~~((upon))~~ on the applicant by any water company during the prior twelve months; or

(e) The application is for ~~((the initiation or continuation of))~~ beginning or continuing service to a residence where a prior customer still lives and owes a past due bill to the ~~((water))~~ company.

(4) ~~((Amount of))~~ **Deposit amount.** ~~((Required))~~ Deposits required for a customer or location must not exceed:

(a) Two-twelfths of the estimated annual billings ~~((for that customer or location))~~ for companies billing monthly;

(b) Three-twelfths of estimated annual billings for companies billing bimonthly;

(c) Four-twelfths of estimated annual billings for companies billing trimonthly.

(5) **Transfer of deposit.** When a customer moves to a new address within the ~~((water))~~ company's service territory,

the deposit ~~((must be transferable))~~ plus accrued interest, less any outstanding past-due balance owing from the old address, must be transferred to the new address or refunded.

(6) **Interest on deposits.** ~~((Interest on deposits collected from applicants or customers must:~~

(a) ~~Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. The commission will advise the water company each year of the specific rate by mail.~~

(b) ~~Earn the calculated interest rate during January 1 through December 31 of the subsequent year.~~

(c) ~~Be computed from the time of deposit to the time of refund or total application of the deposit and must be compounded annually.~~

(7) ~~Extended payment arrangement of deposits. When an applicant or customer is required to pay a deposit but is unable to pay the entire deposit in advance of connection or continuation of service, the applicant or customer must be allowed to pay fifty percent of the deposit prior to service, with the remaining balance payable in equal amounts over the next two months.~~

(8) ~~Cash payments. When payment is made in person and in cash, a receipt must be furnished to each applicant or customer for the amount paid.)~~ Companies that collect customer deposits must pay interest on those deposits calculated:

(a) For each calendar year, at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release H.15 on January 15 of that year. If January 15 falls on a nonbusiness day, the company will use the rate posted on the next following business day; and

(b) From the date of deposit to the date of refund or when applied directly to the customer's account.

(7) **Deposit payment arrangements.** The company must allow an applicant or customer the option of paying fifty percent of the deposit prior to service, and paying the remaining balance in equal amounts over the next two months, on the dates mutually agreed upon between the applicant or customer and the company. The company and applicant or customer may make other mutually acceptable deposit payment arrangements.

(8) **Receipt for deposit.** A company must furnish a receipt to each applicant or customer for the amount deposited.

(9) **When refund of deposits ~~((when))~~ is required.** A company must refund deposits plus accrued interest ~~((must be refunded))~~ when there has been satisfactory payment, as defined in (a) of this subsection, or ~~((upon termination of service))~~ when service is terminated.

(a) "Satisfactory payment"~~((—when))~~ means a customer has paid for service for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

(i) The ~~((water))~~ company has not ~~((initiated))~~ started a disconnection ~~((proceedings))~~ process against the customer; and

(ii) The company has sent no more than two delinquency notices ((of delinquency have been made)) to the customer ((by the water company)).

(b) Termination of service(~~(— upon termination of)~~). When service is terminated, the ((utility)) company must return to the customer the deposit amount ((then on deposit)) plus accrued interest, less any amounts due the ((utility)) company by the customer.

(10) ~~((Refund of deposits method.))~~ How deposits are refunded. The company must refund any deposit((;)) plus accrued interest, ((must be refunded to the customer in accordance with the preference)) as indicated by the customer at the time of deposit, or as modified by the customer on a later date, using one of the following methods:

(a) ~~((In the form of))~~ A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment, as described above; or

(b) A credit applied to the customer's account for service beginning in the ((13th)) thirteenth month.

(11) Additional deposit. ((Nothing in this rule prevents the requirement of a larger deposit or a new deposit when conditions warrant. Should a larger or new deposit be required, the reasons must be specified in writing to the customer. Any requirement for a new or larger deposit must comply with the standards set forth in this rule.)) If a deposit or additional deposit amount is required after the service is established, the reasons must be specified to the customer in writing. Any request for a deposit or additional deposit amount must comply with the standards outlined in subsections (1) and (2) of this section. If the original deposit was secured by a guarantor and the guarantor does not agree to be responsible for the additional deposit amount, the customer will be held responsible for paying the additional deposit.

**WSR 02-17-090**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Management Services Administration)  
 [Filed August 20, 2002, 4:10 p.m.]

Original Notice.

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

Title of Rule: Amending chapter 388-02 WAC, DSHS hearing rules.

Rules in chapter 388-02 WAC affected by this proposed rule-making notice.

Proposed Action	WAC#	Current Subchapter or WAC Caption
	Subchapter	GENERAL
Amended	388-02-0005	What is the purpose and scope of this chapter?
Amended	388-02-0010	What definitions apply to this chapter?

Proposed Action	WAC#	Current Subchapter or WAC Caption
Amended	388-02-0015	How do the terms in the Administrative Procedure Act (APA) compare to this chapter?
Amended	388-02-0025	Where is the Office of Administrative Hearings located?
	Subchapter	ADMINISTRATIVE LAW JUDGES
Amended	388-02-0215	What is the authority of the ALJ?

Purpose: Proposed rules require administrative law judges (ALJs) of the Office of Administrative Hearings (OAH) to enter final orders for many types of Department of Social and Health Services (DSHS) cases. The rules set forth cases that are subject to review by either the Board of Appeals (BOA) or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

Other Identifying Information: These proposed rules are being filed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 notice is not required for rules that "adopt, amend or repeal ... a procedure, practice or requirement relating to agency hearings." RCW 34.05.310 (4)(g)(i).

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V, section 211, chapter 371, Laws of 2002.

Summary: See Title of Rule above.

Reasons Supporting Proposal: Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brian H. Lindgren, Manager, RPAU, P.O. Box 45850, 4500 10th Avenue S.E., Lacey, WA 98503, (360) 664-6092.

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: Proposed rules require ALJs of the OAH to enter final orders for many types of DSHS cases. The rules set forth cases that are subject to review by either the BOA or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

By statute, department clients have the option of requesting a superior court review of final decision. Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not cause an economic impact on small business. Proposed rules amend procedures for the entry and review of final

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orders for DSHS hearings, and do not create costs for small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules do not meet the definition of a significant legislative rule under RCW 34.05.328 (5)(c)(iii), "Significant rules are rules other than a procedural or interpretive rule." The proposed rules are "procedural rules" defined in RCW 34.05.328 (5)(c)(i)(A), "A 'procedural rule' is a rule that ...adopts, amends or repeals any procedure, practice or requirement relating to any agency hearings." The proposed rules amend procedures for the entry and review of final orders for DSHS hearings.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 20, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0005 What is the purpose and scope of this chapter?** (1) This chapter ((describes)) establishes the general procedures that apply to the resolution of disputes between you and the ((various programs within the)) department of social and health services (DSHS). This chapter establishes procedures only and does not establish a right to a hearing or other dispute resolution process. Other laws or rules, including laws and rules pertaining to specific DSHS programs, determine if you have a right to a hearing or other dispute resolution process. The rules of this chapter ((are intended to)) supplement for DSHS both the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH).

((+)) This chapter:

(a) Establishes rules encouraging informal dispute resolution between DSHS and persons or entities who disagree with its actions;

(b) Regulates all hearings involving DSHS; and

(c) ((Consolidates most DSHS hearing procedural rules into one chapter)) Establishes procedures for the review of initial orders by the DSHS board of appeals (BOA) for cases listed in WAC 388-02-0215 (4)(a); and

(d) Establishes procedures for the reconsideration of final orders entered by OAH and BOA.

(2) ((Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if you have a hearing right, including the APA and DSHS program rules or laws)) Rules in other chapters of title 388 WAC may establish other procedures for the resolution of disputes, including, but not limited to:

(a) Whether an administrative law judge (ALJ) enters an initial or final order for hearings related to specific DSHS programs;

(b) Whether parties may request review of an ALJ's initial order by a DSHS program as provided by WAC 388-02-0215 (4)(b);

(c) Entry of final orders by DSHS programs; and

(d) Reconsideration of final orders by DSHS programs.

(3) Rules in other chapters of title 388 WAC on the resolution of disputes pertaining to specific DSHS ((program hearing rules prevail)) programs take precedence over the rules in this chapter. The rules in this chapter take precedence over the rules in chapter 10-08 WAC.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:

"**Administrative law judge (ALJ)**" means an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"**BOA**" means the DSHS board of appeals.

"**Business days**" means all days except Saturdays, Sundays and legal holidays.

"**Calendar days**" means all days including Saturdays, Sundays and legal holidays.

"**Deliver**" means giving a document to someone in person.

"**Documents**" means papers, letters, writings, or other printed or written items.

"**DSHS**" means the department of social and health services.

"**DSHS representative**" means an employee of DSHS, a DSHS contractor, or an assistant attorney general authorized to represent DSHS in an administrative hearing. DSHS representatives include, but are not limited to, claims officers and fair hearing coordinators.

"**Final order**" means an order that is the final DSHS decision and may not be reviewed by a reviewing officer under RCW 34.05.464.

"**Hearing**" means a proceeding before OAH that gives a party an opportunity to be heard in disputes about DSHS programs. For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Title 388 of the Washington Administrative Code, chapter 10-08 WAC, or other law.

**"Initial order"** is a hearing decision made by an ALJ that may be reviewed by a DSHS reviewing officer per RCW 34.05.464.

**"Mail"** means placing the document in the mail with the proper postage.

**"OAH"** means the office of administrative hearings, a separate state agency from DSHS.

**"Party"** means a person or entity:

- (1) Named in a DSHS action;
- (2) To whom a DSHS action is directed; or
- (3) Allowed to participate in a hearing to protect an interest as authorized by law or rule.
- (4) DSHS is also a party.

**"Prehearing conference"** means a proceeding scheduled and conducted by an ALJ in preparation for a hearing.

**"Prehearing meeting"** means an informal voluntary meeting that may be held before any prehearing conference or hearing.

**"Program"** means a DSHS organizational unit and the services that it provides, including services provided by DSHS staff and through contracts with providers. Organizational units include, but are not limited to, administrations, divisions, and offices.

**"Record"** means the official documentation of the hearing process. The record includes tape recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

**"Review"** means the act of reviewing initial orders and making the final agency decision as provided by RCW 34.05.464.

**"Review judge"** means an attorney employed by the DSHS board of appeals (BOA) who ~~((reviews decisions made by an ALJ and makes a final agency decision. The review judge is the reviewing officer in RCW 34.05.464))~~ is the reviewing officer in RCW 34.05.464 for cases listed in WAC 388-02-0215 (4)(a).

**"Reviewing Officer"** means an employee of DSHS who reviews initial decisions made by an ALJ and makes the final agency decision in cases set forth in WAC 388-02-0215 (4)(a) and (b).

**"Rule"** means a state regulation. Rules are found in the Washington Administrative Code (WAC).

**"Stay"** means an order temporarily halting the DSHS decision or action.

**"You"** means any individual or entity that has a right to be involved with the DSHS hearing process, which includes a party or a party's representative. "You" does not include DSHS or its representative.

**AMENDATORY SECTION** (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0015 How do the terms in the Administrative Procedure Act (APA) compare to this chapter?** To improve clarity and understanding, the rules in this chapter may use different words than the APA or the model rules. Following is a list of terms used in those laws and the terms as used in these rules:

Chapter 34.05 RCW Chapter 10.08 WAC	Chapter 388-02 WAC
Adjudicative proceeding	Different terms are used to refer to different stages of the hearing process, and may include prehearing meeting, prehearing conference, hearing, review, reconsideration and the entire hearing process
Agency	DSHS
Application for adjudicative proceeding	Request a hearing
Enter <del>((Initial order))</del>	Make, send <del>((Hearing decision or order))</del>
Presiding officer	ALJ or review judge
Reviewing officer	Review judge

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

**AMENDATORY SECTION** (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0025 Where is the office of administrative hearings located?** (1)(a) The office of administrative hearings (OAH) headquarters location is:

Office of Administrative Hearings  
 919 Lakeridge Way SW  
 P.O. Box 42488  
 Olympia WA 98504-2488  
 (360) 664-8717  
 (360) 664-8721 (FAX)

(b) The headquarters office is open from 8:00 am to 5:00 p.m. Mondays through Friday, except legal holidays.

(2) OAH field offices are at the following locations:

**Olympia**  
 Office of Administrative Hearings ~~((--SHS))~~  
 2420 Bristol Court SW, 3rd Floor  
 PO Box 42489  
 Olympia, WA 98504-2489  
 (360) 753-2531  
 1-800-583-8271  
 FAX: (360) 586-6563

**Seattle**  
 Office of Administrative Hearings ~~((--SHS))~~  
 1904 3rd Ave., Suite 722  
 Seattle, WA 98101-1100  
 (206) 464-6322  
 1-800-583-8270  
 FAX: (206) 587-5136

**Everett**  
 Office of Administrative Hearings ~~((--SHS))~~  
 2722 Colby, Suite 610  
 Everett, WA 98201-3571

PROPOSED

(425) 339-1921  
1-800-583-8261  
FAX: (425) 339-3907

**Vancouver**

Office of Administrative Hearings ((-SHS))  
800 Franklin Street, 1st Floor  
Vancouver, WA 98660  
(360) 690-7189  
1-800-243-3451  
FAX: (360) 696-6255

**Spokane**

Office of Administrative Hearings ((-SHS))  
((136 S. Arthur St.)) 221 N. Wall Street, Suite 540  
Spokane, WA ((99202-2254)) 99201-0826  
(509) 456-3975  
1-800-366-0955  
FAX: (509) ((533-2473)) 456-3975

**Yakima**

Office of Administrative Hearings ((-SHS))  
32 N 3rd Street, Suite 320  
Yakima, WA 98901-2730  
(509) 575-2147  
1-800-843-3491  
FAX (509) 454-7281

(3) You should contact the Olympia field office under subsection (2), if you do not know the correct field office.

(4) You can obtain further hearing information at the OAH website: [www.oah.wa.gov](http://www.oah.wa.gov)

**AMENDATORY SECTION** (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0215 What is the authority of the ALJ?**

(1) ((Añ)) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, ((añ)) the ALJ may:

- (a) Determine the order for presenting evidence;
- (b) Issue subpoenas or orders directing witnesses to appear or bring documents;
- (c) Rule on objections, motions, and other procedural matters;
- (d) Rule on an offer of proof made to admit evidence;
- (e) Admit relevant evidence;
- (f) Impartially question witnesses to develop the record;
- (g) Call additional witnesses and request exhibits to complete the record;
- (h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;
  - (i) Keep order during the hearing;
  - (j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;
  - (k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;
  - (l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;
  - (m) Decide whether a party has a right to a hearing;
  - (n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) ((Añ)) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order in those cases where the parties may request review of an initial order by a review judge or by a DSHS program.

(a) Cases where the parties may request a review of an initial order by a review judge are those relating to:

(i) Adult family home licenses under RCW 70.128.100 and 70.128.160, and WAC 388-76-705;

(ii) Boarding home licenses under RCW 18.20.190 and WAC 388-78A-030;

(iii) Resident protection program findings under WAC 388-97-077;

(iv) Nursing home licenses under RCW 18.51.054, 18.51.060, 18.51.065, and 74.42.580, and chapter 388-97 WAC;

(v) Domestic violence perpetrator treatment program certification under RCW 26.50.150 and chapter 388-60 WAC;

(vi) Licensing or certification of child foster care homes, programs, facilities, and agencies under chapter 74.15 RCW and chapter 388-148 WAC;

(vii) Child protective services findings of abuse and neglect under RCW 26.44.125 and chapter 388-15 WAC;

(viii) Child day care licenses under chapter 74.15 RCW and WAC 388-10-090, 388-151-090, and 388-155-090;

(ix) Chemical dependency treatment provider certification under RCW 70.96A.090(2) and 43.20A.205 and WAC 388-805-065(3) and 388-805-135;

(x) Community residential services and support certification under WAC 388-820-920;

(xi) Licensed community facilities under RCW 74.15.210 and WAC 388-730-0090;

(xii) Community mental health and involuntary treatment program licenses under WAC 388-865-0480(3).

(b) Cases where the parties may request review of an initial order by a DSHS program are those where review by a DSHS program is provided by statute or by program specific rule.

(5) The ALJ makes the final decision and enters the final order in all cases except those cases set forth in subsection (4)(a) and (b) of this section.

(6) A ((review judge)) reviewing officer has the same authority as an ALJ when presiding at a hearing.

**WSR 02-17-091**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Management Services Administration)

[Filed August 20, 2002, 4:10 p.m.]

Original Notice.

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

Title of Rule: Amending chapter 388-02 WAC, DSHS hearing rules.

Rules in chapter 388-02 WAC affected by this proposed rule-making notice:

Proposed Action	WAC #	Current Subchapter or WAC Caption
	Subchapter	REVIEW JUDGES
Amend	388-02-0600	What is the authority of the review judge?
Amend	Subchapter	REQUESTS FOR RECONSIDERATION OF A REVIEW DECISION
Amend	388-02-0605	What if a party does not agree with a review decision?
Amend	388-02-0610	What is reconsideration?
Amend	388-02-0615	What must a party include in the reconsideration request?
Amend	388-02-0620	What is the deadline for requesting reconsideration?
Amend	388-02-0625	Where does a party send a reconsideration request?
Amend	388-02-0630	How does a party respond to a reconsideration request?
Amend	388-02-0635	What happens after a party requests reconsideration?
Amend	Subchapter	REQUESTS FOR JUDICIAL REVIEW
Amend	388-02-0640	What is judicial review?
Amend	388-02-0645	When must you ask for judicial review?
Amend	388-02-0650	How do you serve your petition for judicial review?

Purpose: Proposed rules require administrative law judges (ALJs) of the Office of Administrative Hearings (OAH) to enter final orders for many types of Department of Social and Health Services (DSHS) cases. The rules set forth cases that are subject to review by either Board of Appeals (BOA) or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

Other Identifying Information: These proposed rules are being filed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 notice is not required for rules that "adopt, amend or repeal ... a procedure, practice or requirement relating to agency hearings." RCW 34.05.310 (4)(g)(i).

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V, section 211, chapter 371, Laws of 2002.

Summary: See Title of Rule above.

Reasons Supporting Proposal: Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brian H. Lindgren, Manager, RPAU, P.O. Box 45850, 4500 10th Avenue S.E., Lacey, WA 98503, (360) 664-6092.

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: Proposed rules require administrative law judges (ALJs) of the OAH to enter final orders for many types of DSHS cases. The rules set forth cases that are subject to review by either BOA or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

By statute, department clients have the option of requesting a superior court review of a final decision. Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not cause an economic impact on small business. Proposed rules amend procedures for the entry and review of final orders for DSHS hearings, and do not create costs for small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules do not meet the definition of a significant legislative rule under RCW 34.05.328 (5)(c)(iii), "Significant rules are rules other than a procedural or interpretive rule." The proposed rules are "procedural rules" defined in RCW 34.05.328 (5)(c)(i)(A), "A 'procedural' rule is a rule that ...adopts, amends or repeals any procedure, practice or requirement relating to any agency hearings." The proposed rules amend procedures for the entry and review of final orders for DSHS hearings.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 20, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0600 What is the authority of the review judge?** (1) A review judge may only review the cases listed in WAC 388-02-0215 (4)(a). A review judge has the

same decision-making authority as an ALJ in ~~((the follow- ing))~~ such cases, but must consider the ALJ's opportunity to observe the witnesses(~~(=~~

- ~~(a) Licensing, certification and related civil fines;~~
- ~~(b) Rate-making proceedings; and~~
- ~~(c) Parent address disclosure).~~

~~(2) ((In all other cases, a review judge may only change the hearing decision if:~~

~~(a) There are irregularities, including misconduct of a party or misconduct of the ALJ or abuse of discretion by the ALJ, that affected the fairness of the hearing;~~

~~(b) The findings of fact are not supported by substantial evidence based on the entire record;~~

~~(c) The decision includes errors of law;~~

~~(d) The decision needs to be clarified before the parties can implement it; or~~

~~(e) Findings of fact must be added because the ALJ failed to make an essential factual finding. The additional findings must be supported by substantial evidence in view of the entire record and must be consistent with the ALJ's findings that are supported by substantial evidence based on the entire record.~~

~~(3))~~ Review judges have the authority to enter final orders for the cases listed in WAC 388-02-0215 (4)(a).

(3) Review judges may remand cases listed in WAC 388-02-0215 (4)(a) to the ALJ for further action.

### **REQUESTS FOR RECONSIDERATION OF ((A- REVIEW-DECISION)) FINAL ORDERS ENTERED BY OAH AND BOA**

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0605 What if a party does not agree with a ((review decision)) final order entered by OAH or BOA?** (1) If a party does not agree with the ((review decision)) final order and wants it ((changed)) reconsidered, the party must ((either)):

(a) Ask the ALJ to reconsider the decision, if the final order was entered by an ALJ; or

~~(b) Ask the review judge to reconsider the decision((; or~~

~~(b) Appeal the review decision to superior court which is judicial review according to WAC 388-02-0640), if the final order was entered by a review judge.~~

~~(2) ((RCW 34.05.510 to 34.05.598 governs how to appeal a review decision to superior court.~~

~~(3))~~ The ((review decision)) final order or the reconsideration decision is the final agency decision. If ((a party disagrees)) you disagree with that decision, ((the party)) you must petition for judicial review to change it.

~~((4) The party))~~ (3) You may ask the court to stay or stop the DSHS action after filing the petition for judicial review.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0610 What is reconsideration?** (1) Reconsideration is:

~~(a) Asking ((the review judge)) an ALJ to reconsider ((the review decision)) a final order entered by the ALJ because the party believes the ALJ made a mistake; and~~

(b) Asking a review judge to reconsider a final order entered by a review judge because the party believes the review judge made a mistake.

(2) If ((the)) a party asks ((the review judge to reconsider the review decision)) for reconsideration of the final order, the reconsideration process must be completed before you ((go to court)) request judicial review. However, you do not need to request reconsideration of a final order before you request judicial review.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0615 What must a party include in the reconsideration request?** The party must make the request in writing and clearly state why the party wants the ((review judge to reconsider the review decision)) final order reconsidered.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0620 What is the deadline for requesting reconsideration?** (1) ((The BOA)) If OAH entered the final order, OAH must receive a written reconsideration request on or before the tenth calendar day after the ((review decision)) final order was mailed.

(2) If BOA entered the final order, BOA must receive a written reconsideration request on or before the tenth calendar day after the final order was mailed.

(3) If a reconsideration request is received after the deadline, the final order will not be reconsidered and the deadline to ask for superior court review continues to run. ((The review judge will not reconsider the review decision.

~~(3) A review judge may extend the deadline))~~

~~(4) OAH or BOA may extend its deadline if a party:~~

- ~~(a) Asks for more time before the deadline expires; and~~
- ~~(b) Gives a good reason for the extension.~~

~~((4))~~ (5) If a party does not request reconsideration or ask for an extension within the deadline, the ((review judge cannot reconsider the review decision)) final order may not be reconsidered and it becomes the final agency decision.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0625 Where does a party send a reconsideration request?** (1) A party must send a written reconsideration request to ((BOA at the address in WAC 388-02-0030)) OAH, if OAH entered the final order, or to BOA, if BOA entered the final order.

(2) After receiving a reconsideration request, OAH or BOA sends a copy to the other parties and representatives giving them time to respond.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0630 How does a party respond to a reconsideration request?** (1) A party does not have to respond to a request. A response is optional.

(2) If a party responds, that party must send a response to OAH, if OAH entered the final order, or to BOA, if BOA entered the final order, by or before the seventh business day after the date OAH or BOA mailed the request to the party.

(3) A party must send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, ~~((the review judge))~~ OAH or BOA may extend ~~((the))~~ its deadline if the party gives a good reason ~~((#))~~ within the deadline in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0635 What happens after a party requests reconsideration?** (1) After OAH or BOA receives a reconsideration request, ~~((#))~~ an ALJ or review judge has twenty calendar days to send a reconsideration decision unless OAH or BOA sends notice allowing the review judge more time.

(2) After OAH or BOA receives a reconsideration request, the ALJ or review judge must either:

- (a) Write a reconsideration decision; or
- (b) Send all parties an order denying the request.

(3) If the ALJ or review judge does not send an order or notice granting more time within twenty days of receipt of the reconsideration request, the request is denied.

**REQUESTS FOR JUDICIAL REVIEW OF FINAL ORDERS**

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0640 What is judicial review?** (1) Judicial review is the process of appealing a final ~~((hearing decision))~~ order to a court.

(2) You may appeal a ~~((review decision))~~ final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. DSHS may not request judicial review.

(3) You must consult RCW 34.05.510 to 34.05.598 for further details of the judicial review process.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0645 When must you ask for judicial review?** (1) You must file your petition for judicial review

with the superior court within thirty calendar days after ~~((BOA))~~ OAH or DSHS mails its final ~~((decision))~~ order.

(2) Generally, you may file a petition for judicial review only after you have completed the administrative hearing process. However, you do not need to file a request for reconsideration of a final order before requesting judicial review.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0650 How do you serve your petition for judicial review?** (1) You must file and serve the petition for judicial review of a ~~((review decision))~~ final order within thirty days after the date it was mailed. You must file your petition for judicial review with the court. You must serve copies of your petition on DSHS, the office of the attorney general, and all other parties.

(2) To serve DSHS, you must deliver a copy of the petition to the secretary of DSHS or to BOA. You may hand deliver the petition or send it by mail that gives proof of receipt. The physical location of the secretary is:

DSHS Office of the Secretary  
OB-2, 4th Floor  
Mail Stop 45010  
14th and Jefferson  
Olympia, WA 98504-5010

The mailing address of the secretary is:

DSHS Office of the Secretary  
P.O. Box 45010  
Olympia, WA 98504-5010

The physical and mailing addresses for BOA are in WAC 388-02-0030.

(3) To serve the office of the attorney general and other parties, you may send a copy of the petition for judicial review by regular mail. You may send a petition to the address for the attorney of record to serve a party. You may serve the office of the attorney general by hand delivery to:

Office of the Attorney General  
670 Woodland Square Loop S.E.  
Lacey, WA 98503

The mailing address of the attorney general is:

Office of the Attorney General  
P.O. Box 40124  
Olympia WA 98504-0124

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-02-0535

Who may ask for a change in a decision?

PROPOSED

**WSR 02-17-092**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Management Services Administration)  
 [Filed August 20, 2002, 4:13 p.m.]

Original Notice.

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

Title of Rule: Amending chapter 388-02 WAC, DSHS hearing rules.

Rules in chapter 388-02 WAC affected by this proposed rule-making notice:

Proposed Action	WAC #	Current Subchapter or WAC Caption
	Subchapter	HEARING DECISIONS
New	388-02-0524	In what cases does the ALJ enter the hearing decision as an initial order?
Amend	388-02-0525	When does a decision become final?
New	388-02-0527	In what cases does an ALJ enter the hearing decision as a final order?
Amend	388-02-0530	What if a party disagrees with the decision?
Repeal	388-02-0535	Who may ask for a change in the decision?
Amend Subheading	Subchapter	CLERICAL ERRORS IN DECISIONS
Amend	388-02-0540	How are clerical errors corrected?
Amend	388-02-0545	How does a party ask for a corrected decision?
Amend	388-02-0550	How much time do the parties have to ask for a corrected decision?
Amend	388-02-0555	What happens when a party requests a corrected decision?
Amend Subheading	Subchapter	REQUESTS FOR REVIEW
Amend	388-02-0560	What is a review?
Amend	388-02-0570	Who may request a review?
Amend	388-02-0575	What must a party request in a review?
Amend	388-02-0580	What is the deadline for requesting a review?
Amend	388-02-0585	Where does a party send a review request?
Amend	388-02-0595	What happens after the response deadline?

**Purpose:** Proposed rules require administrative law judges (ALJs) of the Office of Administrative Hearings (OAH) to enter final orders for many types of Department of Social and Health Services (DSHS) cases. The rules set forth cases that are subject to review by either Board of Appeals (BOA) or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

**Other Identifying Information:** These proposed rules are being filed without prior filing of a CR-101 preproposal statement of inquiry. A CR-101 notice is not required for rules that "adopt, amend or repeal ... a procedure, practice or requirement relating to agency hearings." RCW 34.05.310(4)(g)(i).

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V, section 211, chapter 371, Laws of 2002.

Summary: See Title of Rule above.

**Reasons Supporting Proposal:** Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Brian H. Lindgren, Manager, RPAU, P.O. Box 45850, 4500 10th Avenue S.E., Lacey, WA 98503, (360) 664-6092.

**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:** Proposed rules require administrative law judges (ALJs) of the OAH to enter final orders for many types of DSHS cases. The rules set forth cases that are subject to review by either BOA or DSHS programs. Other changes are made to clarify language or to change procedures so that they are consistent with the revised process.

By statute, department clients have the option of requesting a superior court review of a final decision. Proposed rules would significantly decrease the number of review petitions heard by the DSHS board of appeals. Resulting decreases would help the department reduce expenditures as directed by section 211, chapter 371, Laws of 2002.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not cause an economic impact on small business. Proposed rules amend procedures for the entry and review of final orders for DSHS hearings, and do not create costs for small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules do not meet the definition of a significant legislative rule under RCW 34.05.328 (5)(c)(iii), "Significant rules are rules other than a procedural or interpretive rule." The proposed rules are "procedural rules" defined in RCW 34.05.328 (5)(c)(i)(A), "A 'procedural' rule is a rule that ...adopts, amends or repeals any procedure, practice or requirement relating to any agency hearings." The proposed rules amend procedures for the entry and review of final orders for DSHS hearings.

**Hearing Location:** Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

**Submit Written Comments to:** Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

PROPOSED

Date of Intended Adoption: Not earlier than September 25, 2002.

August 20, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## NEW SECTION

**WAC 388-02-0524** In what cases does the ALJ enter the hearing decision as an initial order? The ALJ must enter the hearing decision as an initial order in cases set forth in WAC 388-02-0215 (4)(a) and (b).

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0525** When ~~((does a decision)) do initial orders become final?~~ ~~((1) In most cases,)~~ If no one requests review ~~((, the hearing decision is final twenty-one calendar days after it is mailed.~~

~~((2) In food stamp cases involving a claim of an intentional program violation, the ALJ decision is preliminary and the review judge sends a final decision whether or not a party requests review.~~

~~((3) If a review request is dismissed, the hearing decision becomes)) of the initial order or if a review request is dismissed, the initial order is final twenty-one ((calendar)) days after ((mailing the hearing decision)) it is mailed.~~

## NEW SECTION

**WAC 388-02-0527** In what cases does the ALJ enter the hearing decision as a final order? In cases not covered by WAC 388-02-0215 (4)(a) and (b), the ALJ must enter the hearing decision as a final order.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0530** What if a party disagrees with the ALJ's decision? (1) If a party disagrees with ~~((a decision))~~ an ALJ's initial or final order because of a clerical error, the party may ask for a corrected decision from the ALJ as provided in WAC 388-02-0540 through 388-02-0555.

(2) If a party disagrees with ~~((the hearing decision))~~ an initial order for a case listed in WAC 388-02-0215 (4)(a) and wants it changed, the party must request review by BOA as provided in WAC 388-02-0560 through 388-02-0595.

~~((3))~~ If a party wants to stay the DSHS action until review of the initial order is completed, the party must request a stay from a review judge.

(3) If a party disagrees with an initial order for a case covered by WAC 388-02-0215 (4)(b) and wants it changed, the party must request review by the DSHS program as provided by DSHS program rules in other chapters of title 388 WAC.

(4) Final orders may not be reviewed by BOA.

(5) If a party disagrees with an ALJ's final order, the party may request reconsideration as provided in WAC 388-

02-0605 through 388-02-0635. You may also petition for judicial review of the final order as stated in WAC 388-02-0640 to 388-02-0650. You do not need to file a request for reconsideration of the final order before petitioning for judicial review. DSHS may not request judicial review.

## CLERICAL ERRORS IN ALJ DECISIONS

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0540** How are clerical errors in ALJ decisions corrected? (1) A clerical error is a mistake that does not change the intent of the decision.

(2) The ALJ corrects clerical errors in ~~((the))~~ hearing decisions by issuing a second decision referred to as a corrected decision or corrected order. Corrections may be made to initial orders and final orders.

(3) Some examples of clerical error are:

(a) Missing or incorrect words or numbers;

(b) Dates inconsistent with the decision or evidence in the record such as using May 3, 1989, instead of May 3, 1998; or;

(c) Math errors when adding the total of an overpayment or a child support debt.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0545** How does a party ask for a corrected ALJ decision? (1) A party may ask for a corrected ALJ decision by calling or writing the OAH office that held ~~((your))~~ the hearing.

(2) When asking for a corrected decision, please identify the clerical error you found.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0550** How much time do the parties have to ask for a corrected ALJ decision? The parties must ask OAH for a corrected decision on or before the tenth calendar day after the ~~((hearing decision))~~ order was mailed.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0555** What happens when a party requests a corrected ALJ decision? (1) When a party requests a corrected ~~((decision))~~ initial or final order, the ALJ must either:

(a) Send all parties a corrected ~~((decision))~~ order; or

(b) Deny the request within three business days of receiving it.

(2) If the ALJ corrects ~~((the hearing decision))~~ an initial order and a party does not request review, the corrected ~~((decision))~~ initial order becomes final twenty-one calendar days after the original ~~((hearing decision))~~ initial order was mailed.

(3) If the ALJ denies a request for a corrected ~~((decision))~~ initial order for a case listed in WAC 388-02-0215 (4)(a) and the party still wants the hearing decision changed, the party must request review from ~~((the board of appeals))~~ BOA.

(4) Requesting a corrected ~~((decision))~~ initial order for a case listed in WAC 388-02-0215 (4)(a) does not automatically extend the deadline to request review of the initial order by BOA. A party may ask for more time to request review when needed.

(5) If the ALJ denies a request for a corrected initial order for a case covered by WAC 388-02-0215 (4)(b) and the party still wants it changed, the party must request review by the DSHS program as provided by DSHS program rules in other chapters of title 388 WAC.

(6) If the ALJ denies a request for a corrected final order and you still want the hearing decision changed, you must request judicial review.

**REQUESTS FOR BOA REVIEW OF INITIAL ORDERS FOR CASES LISTED IN WAC 388-02-0215 (4)(a)**

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0560 What is review?** (1) Review occurs when a party disagrees or wants a change in ~~((the hearing decision))~~ an initial order, other than correcting a clerical error.

(2) A party must request review of an initial order for a case listed in WAC 388-02-0215 (4)(a) from the BOA.

(3) The review judge considers the request, the ~~((hearing decision))~~ initial order, and record, before deciding if the ~~((decision))~~ initial order may be changed.

(4) Review does not include another hearing by the BOA.

(5) BOA may not review final orders.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0570 Who may request review?** (1) Any party may request BOA to review ~~((a hearing decision))~~ an initial order for a case listed in WAC 388-02-0215 (4)(a).

(2) If more than one party requests review, each request must meet the deadlines in WAC 388-02-0580.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0575 What must a party include in the review request?** A party must make the review request in writing and clearly identify the:

(1) Parts of the ~~((hearing decision))~~ initial order with which the party disagrees; and

(2) Evidence supporting the party's position.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0580 What is the deadline for requesting review of cases listed in WAC 388-02-0215 (4)(a)?** (1) BOA must receive the written review request on or before the twenty-first calendar day after the ~~((hearing decision))~~ initial order was mailed.

(2) A review judge may extend the deadline if a party:

(a) Asks for more time before the deadline expires; and

(b) Gives a good reason for more time.

(3) A review judge may accept a review request after the twenty-one calendar day deadline only if:

(a) The BOA receives the review request on or before the thirtieth calendar day after the deadline; and

(b) A party shows good reason for missing the deadline.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0585 Where does a party send a request to review ~~((request))~~ a case listed in WAC 388-02-0215 (4)(a)?** (1) A party must send a ~~((review))~~ request to review a case listed in WAC 388-02-0215 (4)(a) to BOA at the address given in WAC 388-02-0030. A party should also send a copy of the review request to the other parties.

(2) After receiving a party's review request, BOA sends a copy to the other parties, OAH, and representatives giving them time to respond.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0595 What happens after the response deadline?** (1) After the response deadline, the record on review is closed unless there is a good reason to keep it open.

(2) A review judge is assigned to the review after the record is closed. To find out which judge is assigned, call BOA.

(3) After the record is closed, the assigned review judge:

(a) Reviews the case; and

(b) ~~((Sends a review decision))~~ Enters a final order that ~~((either))~~ affirms, changes, dismisses or reverses the ~~((hearing decision))~~ initial order; or

(c) Remands (returns) the case to OAH for further action.

**WSR 02-17-093**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

[Filed August 20, 2002, 4:15 p.m.]

Original Notice.

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

Title of Rule: WAC 388-474-0015 What happens to my categorically needy (CN) medical coverage when my supplemental security income (SSI) cash payment is terminated?

PROPOSED

Purpose: To add the word "review" in subsection (3), which was mistakenly left out of the permanent rule as filed in WSR 02-11-033. The subsection should have read "If you are a terminated SSI or SSI related client, the department will review your disability status when..."

Other Identifying Information: These proposed rules are being filed without prior filing of a CR-101 preproposal statement of inquiry. The proposed rules are exempt from filing a CR-101 notice under RCW 34.05.310 (4)(d), "This section does not apply to ... rules that only correct typographical errors, make address or name changes, or clarify the language of the rule without changing its effect."

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Summary: The change to this rule that explains to SSI and SSI related clients what will happen to their medical coverage when SSI is terminated is a minor change. The word "review" was unintentionally left out of the original filing. This filing will correct that error.

Reasons Supporting Proposal: The correction clarifies the rule without changing its effect.

Name of Agency Personnel Responsible for Drafting: Carole McRae, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3074; Implementation and Enforcement: Pam Raymond, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3087.

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: WAC 388-474-0015 What happens to my categorically needy (CN) medical coverage when my supplemental security income (SSI) cash payment is terminated?

Purpose and Effect: This change will correct a mistake missed at filing. That mistake was leaving a single word out of the text in subsection (3) of this rule filed as WSR 02-11-033. The corrected version will include the word "review."

Proposal Changes the Following Existing Rules: The amendment to this rule is the inclusion of the word "review" originally left out of subsection (3) at the time of filing WSR 02-11-033. The amendment will clarify the language of the rule without changing its effect.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of these rules do not affect small businesses. The rule only affects DSHS client eligibility for services.

RCW 34.05.328 does not apply to this rule adoption. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(iv) which states in part, "[t]his section does not apply to... rules that only correct typographical errors, make address or name changes, or clarify the language of a rule without changing its effect."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6097, TTY (360) 664-6178, e-mail FernAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 16, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-11-033, filed 5/7/02, effective 6/7/02)

**WAC 388-474-0015 What happens to my categorically needy (CN) medical coverage when my Supplemental Security Income (SSI) cash payment is terminated? (1)** Your CN medical coverage (WAC 388-505-0110) continues after an SSI cash payment ends when:

(a) Countable income exceeds the SSI income standard due solely to the annual cost-of-living adjustment (COLA); or

(b) A timely request for a hearing has been filed. CN medical coverage is continued until Social Security Administration (SSA) makes a final decision on the hearing request and on any subsequent timely appeals.

(2) If your SSI ends your CN medical coverage continues for a period of up to one hundred twenty days while the department reviews your eligibility for other cash or medical programs.

(3) If you are a terminated SSI or SSI-related client, the department will review your disability status when:

(a) You present new medical evidence;

(b) Your medical condition changes significantly; or

(c) Your termination from SSI was not based on a review of current medical evidence.

(4) Children terminated from SSI due to loss of disabled status may be eligible for medical benefits under WAC 388-505-0210.

**WSR 02-17-094**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed August 20, 2002, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-126.

Title of Rule: WAC 388-97-550 Initial nursing home license and 388-97-555 Nursing home license renewal.

Purpose: The department is amending these rules to increase nursing home licensing fees from \$127 a bed to \$275 a bed.

Statutory Authority for Adoption: RCW 18.51.050.

Statute Being Implemented: RCW 18.51.050.

Summary: The state legislature, in the "Final Budget - Agency Summary Detail" to ESSB 6387 (chapter 371, Laws of 2002), stated its intent that, "Nursing home licensing fees are to be increased from their current level of \$127 (per bed) per year to \$275, so that those fees will fully cover the cost of the licensing and inspection function, as required by RCW 18.51.050."

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Patricia Hague, AASA, 640 Woodland Square Loop S.E., Lacey, WA 98503, (360) 725-2447.

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 state legislature, in the "Final Budget - Agency Summary Detail" to ESSB 6387 (chapter 371, Laws of 2002), stated its intent that, "Nursing home licensing fees are to be increased from their current level of \$127 (per bed) per year to \$275, so that those fees will fully cover the cost of the licensing and inspection function, as required by RCW 18.51.050." These proposed rules will implement the legislature's directive.

Proposal Changes the Following Existing Rules: Nursing home licensing fees are to be increased from their current level of \$127 per year to \$275 per year.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 18.85.020 (1) a small business is defined as one with fewer than fifty employees and whose purpose is to make a profit. The revisions to chapter 388-97 WAC only impact businesses with fifty or more employees and approximately one third the businesses are nonprofit. Also the proposed revisions to chapter 388-97 WAC are exempt from a small business economic impact statement under RCW 19.85.025(2) and 34.05.310 (4)(f), rules that set or adjust fees or rates pursuant to legislative standards.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules are exempt under RCW 34.05.328 (5)(b) (vi), "rules that set or adjust fees or rates pursuant to legislative standards." Amendments to chapter 388-97 WAC are to raise nursing home license fees from \$127 to \$275 per bed according to standards described in RCW 18.51.050.

Hearing Location: Blake Office Park East (behind Goodyear Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Andy Fernando, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-

5850, fax (360) 664-6185, e-mail Fernaa@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 16, 2002

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-06-028, filed 2/24/00, effective 3/26/00)

**WAC 388-97-550 Initial nursing home license.** (1) A complete nursing home license application must be:

(a) Submitted at least sixty days prior to the proposed effective date of the license on forms designated by the department;

(b) Signed by the proposed licensee or the proposed licensee's authorized representative;

(c) Notarized; and

(d) Reviewed by the department in accordance with this chapter.

(2) All information requested on the license application must be provided. At minimum, the nursing home license application will require the following information:

(a) The name and address of the proposed licensee, and any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee;

(b) The names of the administrator, director of nursing services, and, if applicable, the management company;

(c) The specific location and the mailing address of the facility for which a license is sought;

(d) The number of beds to be licensed; and

(e) The name and address of all nursing homes that the proposed licensee or any partner, officer, director, managerial employee, or owner of five percent or more of the proposed licensee has been affiliated with in the past ten years.

(3) The proposed licensee must be:

(a) The individual or entity responsible for the daily operation of the nursing home;

(b) Denied the license if any individual or entity named in the application is found by the department to be unqualified.

(4) For initial licensure of a new nursing home, the proposed licensee must submit the annual license fee with the initial license application. The nonrefundable nursing home license fee is ~~((one)) two~~ hundred ~~((twenty-seven))~~ seventy-five dollars per bed per year.

(5) If any information submitted in the initial license application changes before the license is issued, the proposed licensee must submit a revised application containing the changed information.

(6) If a license application is pending for more than six months, the proposed licensee must submit a revised application containing current information about the proposed licensee or any other individuals or entities named in the application.

AMENDATORY SECTION (Amending WSR 00-06-028, filed 2/24/00, effective 3/26/00)

**WAC 388-97-555 Nursing home license renewal.** (1) All nursing home licenses must be renewed annually.

(2) License renewals must be:

(a) Submitted at least thirty days prior to the license's expiration date on forms designated by the department;

(b) Signed by the current licensee or the current licensee's authorized representative;

(c) Notarized; and

(d) Reviewed by the department in accordance with this chapter.

(3) The current licensee must provide all information on the license renewal form or other information requested by the department.

(4) The application for a nursing home license renewal must be:

(a) Made by the individual or entity currently licensed and responsible for the daily operation of the nursing home;

(b) Denied if any individual or entity named in the renewal application is found by the department to be unqualified.

(5) The nursing home license renewal fee must be submitted at the time of renewal. The nonrefundable nursing home license renewal fee is ~~((one))~~ two hundred ~~((twenty-seven))~~ seventy-five dollars per bed per year.

(6) In unusual circumstances, the department may issue an interim nursing home license for a period not to exceed three months. The current licensee must submit the prorated nursing home license fee for the period covered by the interim license. The annual date of license renewal does not change when an interim license is issued.

(7) A change of nursing home ownership does not change the date of license renewal and fee payment.

## WSR 02-17-100

### PROPOSED RULES

#### PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed August 21, 2002, 8:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-110.

Title of Rule: Title 181 WAC.

Purpose: Recommendations regarding proposed exceptions to the passage of a basic skills test (WEST-B) required for all applicants to teacher preparation programs and certified teachers from out-of-state applying for a Washington state residency teaching certificate beginning September 1, 2002.

Statutory Authority for Adoption: RCW 28A.410.210, 28A.410.220.

Statute Being Implemented: RCW 28A.410.210, 28A.410.220.

Summary: The proposed rule will grant out-of-state certified teachers applying for a Washington state residency

teaching certificate up to one year to take and successfully pass the WEST-B basic skills test.

Reasons Supporting Proposal: The WEST-B will not be administered outside the state of Washington. Thus certified teachers from out-of-state applying for a Washington state residency teaching certificate need an opportunity to register and take the test once they have relocated to the state. Since out-of-state teachers often seek and obtain a teaching position in Washington prior to relocating, the district should be allowed to provisionally employ these teachers according to State Board of Education rules regarding provisional employment (chapter 79A-128 WAC) until they have adequate opportunity to take the test.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jennifer Wallace, Professional Educator Standards Board, (360) 725-6275.

Name of Proponent: Professional Educator Standards Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule change will allow out-of-state certified teachers applying for a Washington state residency teaching certificate up to one year to take and successfully pass the WEST-B basic skills test and, consistent with existing State Board of Education rules (WAC 79A-128 [WAC 180-79A-128]) which allow districts to provisionally employ these teachers if all other requirements for residency certification have been met.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: ESD 105, Yakima Room, 33 South 2nd Avenue, Yakima, WA 98902, on September 24, 2002, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Pam Abbott by September 9, 2002, TDD (360) 664-3631 or (360) 725-6275.

Submit Written Comments to: Professional Educator Standards Board, P.O. Box 47236, Olympia, WA 98504, fax (360) 586-4548, by September 9, 2002.

Date of Intended Adoption: September 25, 2002.

August 20, 2002

Jennifer Wallace

PESB Executive Director

#### NEW SECTION

**WAC 181-01-001 WEST-B exemption.** Individuals applying for a Washington State residency teaching certificate who have completed a teacher preparation program in another state or country have up to one calendar year from issuance of temporary permit to pass the WEST-B basic skills test, provided that they have completed all other requirements for residency certification other than passage of the WEST-B and are thus eligible for a temporary permit under WAC 180-79A-128.

**WSR 02-17-101**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed August 21, 2002, 8:12 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 02-14-128.

Title of Rule: Chapter 16-400 WAC, Fruit and vegetable inspection fees and chapter 16-458 WAC, Fruit and vegetable inspection district boundaries.

Purpose: The department is proposing permanent rules to replace emergency rules filed on July 2, 2002, that implemented chapter 322, Laws of 2002 (SSB 6254), which affected the department's fruit and vegetable inspection districts and their inspection fees. The department is proposing permanent amendments to chapter 16-400 and 16-458 WAC that are identical to the emergency rule amendments adopted on July 2, 2002.

Statutory Authority for Adoption: Chapters 15.17 and 34.05 RCW.

Statute Being Implemented: Chapter 322, Laws of 2002 (SSB 6254).

Summary: The proposed permanent rule amendments:

- Repeal WAC 16-458-080 Fruit and vegetable district three (Moses Lake district) eliminating the Moses Lake inspection district.
- Amend WAC 16-458-075 Fruit and vegetable district two (Yakima) and WAC 16-458-085 Fruit and vegetable district four (Wenatchee) to divide Moses Lake district three between district two and district four.
- Adopt a new section, WAC 16-400-008, which reduces fees charged for inspection services in the area served by Moses Lake district three (as defined in rule on January 1, 2002) and fees charged for inspection services in the area served by Yakima district two (as defined by rule on January 1, 2002). (For details, see Explanation of Rule below.)

Reasons Supporting Proposal: The 57th legislature enacted and the governor signed (April 2, 2002) SSB 62564 [6254] into law (chapter 322, Laws of 2002). On July 2, 2002, the department filed emergency rules, effective immediately, to implement these statutory changes. Emergency rules expire after one hundred twenty days (October 30, 2002); therefore, permanent rules must be proposed and adopted to replace them.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Program Manager, Olympia, (360) 902-1833.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed permanent rule amendments, which replace the emergency rules filed by the Washington State Department of Agriculture (WSDA) on July 2, 2002, implement chapter 322, Laws of 2002 (SSB 6254) by:

- Repealing WAC 16-458-080 Fruit and vegetable district three (Moses Lake district) to comply with the stat-

utory mandate that the state be divided into not less than two fruit and vegetable inspection districts.

- Amending WAC 16-458-075 Fruit and vegetable district two (Yakima) and WAC 16-458-085 Fruit and vegetable district four (Wenatchee) to divide Moses Lake district three between district two and district four. By eliminating Moses Lake district three the fruit and vegetable inspection program operating expenses will decrease due to the elimination of two management and three clerical positions.
- Adopting a new section, WAC 16-400-008, which reduces fees charged for inspection services in the area served by Moses Lake district three (as defined in rule on January 1, 2002) by 9.5% (except for inspection charges accrued on FV-300 and FV-301 certificates). These fee reductions began July 1, 2002, under emergency rules, and will remain in effect, under the proposed permanent rule amendments, through June 30, 2003, at which time the fees return to the level of fees established in chapter 16-400 WAC. The new section, WAC 16-400-008, also reduces fees charged for inspection services in the area served by Yakima district two (as defined by rule on January 1, 2002) by 12.5% (except for inspection charges accrued on FV-300 and FV-301 certificates). These reductions began July 1, 2002, under the emergency rules, and continue under the proposed permanent rule amendments, until the conditions established in chapter 322, Laws of 2002 (SSB 6254) are met, at which time the fees return to the level of fees established in chapter 16-400 WAC.

Proposal Changes the Following Existing Rules: The proposed permanent rule amendments:

- Repeal WAC 16-458-080 Fruit and vegetable district three (Moses Lake district) eliminating the Moses Lake inspection district.
- Amend WAC 16-458-075 Fruit and vegetable district two (Yakima) and WAC 16-458-085 Fruit and vegetable district four (Wenatchee) to divide Moses Lake district three between district two and district four.
- Adopt a new section, WAC 16-400-008, which reduces fees charged for inspection services in the area served by Moses Lake district three (as defined in rule on January 1, 2002) and fees charged for inspection services in the area served by Yakima district two (as defined by rule on January 1, 2002). (For details, see Explanation of Rule above.)

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed permanent rule amendments do not impose any new costs on the regulated industry, rather, if adopted, they reduce fees charged for inspection services (except for inspection charges accrued on FV-300 and FV-301 certificates) in the area served by Moses Lake district three (as defined in rule on January 1, 2002) and in the area served by Yakima district two (as defined by rule on January 1, 2002).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule adoption because WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Yakima Agriculture Center, 2nd Floor Conference Room, 21 North 1st Avenue, Yakima, WA,

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on September 24, 2002, at 11:00 a.m.; and at WSU Tree Fruit Research Center, 1100 North Western Avenue, Wenatchee, WA, on September 25, 2002, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by September 17, 2002, TDD (360) 902-1996 or (360) 902-1976.

Submit Written Comments to: Jim Quigley, Program Manager, WSDA Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2085, by 5:00 p.m., September 25, 2002.

Date of Intended Adoption: September 27, 2002.

August 21, 2002

Robert W. Gore  
Assistant Director

AMENDATORY SECTION (Amending WSR 99-17-002, filed 8/4/99, effective 9/4/99)

**WAC 16-458-075 Fruit and vegetable district two.**

Fruit and vegetable district two shall consist of Kittitas, Klickitat, Skamania, Yakima (~~and that portion of Benton County lying west of a line running south from the Columbia River known as the center line of Range 27E, and north of Sellards Road from its junction with Range 27E on the east, thence west to the Yakima County line; this includes the Prosser, Kiona, and Benton City areas~~), Pacific, Lewis, Wahkiakum, Cowlitz, Clark, Benton, Franklin, Walla Walla, Columbia, Asotin, Whitman and Garfield counties.

AMENDATORY SECTION (Amending WSR 99-17-002, filed 8/4/99, effective 9/4/99)

**WAC 16-458-085 Fruit and vegetable district four.**

Fruit and vegetable district four shall consist of Grays Harbor, Jefferson, Clallam, Island, Mason, Kitsap, Pierce, Thurston, King, Snohomish, Skagit, Grant, Adams, Ferry, Pend Oreille, Stevens, Spokane, Lincoln, San Juan, Whatcom, Chelan, Douglas and Okanogan counties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-458-080 Fruit and vegetable district three.

NEW SECTION

**WAC 16-400-008 Reduction of inspection fees levied under this chapter.** All inspection fees levied under this chapter shall be reduced as follows:

(1) Fees charged for inspection services in the area served by the Moses Lake District number three (as the district was constituted by rule on January 1, 2002\*) shall be reduced by nine and one-half percent, except for inspection charges accrued on FV-300 and FV-301 certificates. The fee reduction shall begin July 1, 2002, and remain in effect through June 30, 2003, at which time the fees charged shall return to the level of fees adopted in this chapter.

Note: On January 1, 2002, Moses Lake District three consisted of all counties located west of the Cascade Mountains, Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman counties, and that portion of Benton County lying south and east of the Sellards Road, from its junction with Yakima County on the west thence east to the center line of Range 27E, thence north to the Columbia River; this excludes the Benton City, Kiona and Prosser areas.

(2) Fees charged for inspection services in the area served by the Yakima District number two (as the district was constituted by rule on January 1, 2002\*) shall be reduced by twelve and one-half percent, except for inspection charges accrued on FV-300 and FV-301 certificates. The fee reduction shall begin July 1, 2002, and continue until the conditions established in chapter 322, Laws of 2002 (SSB 6254) are met at which time the fees charged shall return to the level of fees adopted in this chapter.

Note: On January 1, 2002, Yakima District two consisted of Kittitas, Klickitat, Skamania, Yakima and that portion of Benton County lying west of a line running south from the Columbia River known as the center line of Range 27E, and north of Sellards Road from its junction with Range 27E on the east, thence west to the Yakima County line; this includes the Prosser, Kiona, and Benton City areas.

**WSR 02-17-102  
PROPOSED RULES  
WASHINGTON STATE PATROL**

[Filed August 21, 2002, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-11-116.

Title of Rule: Chapter 212-12 WAC, State patrol (fire protection), fire marshal standards.

Purpose: To adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050.

Statutory Authority for Adoption: RCW 74.15.050.

Summary: To adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050. Emergency respite centers are licensed by the Department of Social and Health Services and maintained and designated and operated according to the group occupancy classification of LC.

Reasons Supporting Proposal: To be consistent with the Department of Social and Health Services and to adopt the current terminology and standards.

Name of Agency Personnel Responsible for Drafting and Implementation: Mr. Roger Woodside, P.O. Box 42601, Olympia, WA 98504-2601, (360) 705-5763; and Enforcement: Ms. Mary Corso, P.O. Box 42600, Olympia, WA 98504-2600, (360) 753-0404.

Name of Proponent: Washington State Patrol, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Approve of the amendment.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** To adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050. Emergency respite centers are licensed by the Department of Social and Health Services and maintained and designated and operated according to the group occupancy classification of LC.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact made from this amendment.

RCW 34.05.328 does not apply to this rule adoption.

**Hearing Location:** Commercial Vehicle Division Conference Room (G-21), General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on September 26, 2002, at 9:00 a.m.

**Assistance for Persons with Disabilities:** Contact Mr. Mike Palios by September 24, 2002, TDD (253) 536-4270 or (360) 753-5966.

**Submit Written Comments to:** Mr. Roger Woodside, Washington State Patrol, Fire Protection Bureau, P.O. Box 42601, rwwdsi@wsp.wa.gov, fax (360) 753-0395, by September 24, 2002.

**Date of Intended Adoption:** October 1, 2002.

August 12, 2002

Ronal W. Serpas  
Chief

## EMERGENCY RESPITE CENTER—STANDARD FOR FIRE PROTECTION GROUP "LC" OCCUPANCY

### NEW SECTION

**WAC 212-12-200 Purpose.** The purpose of this regulation is to adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050. Emergency respite centers are licensed by the department of social and health services and maintained and designated and operated according to the group occupancy classification of LC.

### NEW SECTION

**WAC 212-12-210 Definitions.** The following definitions shall apply to this regulation:

(1) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen.

Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW.

(2) "Licensing agency" means the Washington state department of social and health services.

(3) "Building official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Building Code, adopted by reference by the State Building Code Act.

(4) "Fire official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Fire Code, adopted by reference by the State Building Code Act.

(5) "Fire chief" means the chief of the fire department providing fire protection services to the emergency respite centers.

(6) "State Building Code Act" means chapter 19.27 RCW, effective January 1, 1975, which establishes statewide building and fire prevention codes and mandates enforcement by each city, town and county.

(7) "Evacuation capability"

- Level II means semiambulatory persons that are physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.

- Level III means persons physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.

### NEW SECTION

**WAC 212-12-220 Applicability.** This regulation applies to all LC facilities licensed or subject to licensure as emergency respite centers by the department of social and health services.

### NEW SECTION

**WAC 212-12-230 Compliance.** All LC facilities designated and licensed as emergency respite centers shall comply with the provisions of this regulation.

### NEW SECTION

**WAC 212-12-240 Inspection.** The licensing agency, upon receipt of an application for a license or at least thirty days before the expiration date of an existing license, shall submit to the director of fire protection in writing, a request for an inspection. The director of fire protection or authorized representative shall make an inspection of the facility, and if it is found that the facility does not comply with the standards contained in this regulation, a written report shall be made to the facility listing the violations found, corrective actions necessary and time allowed for correction. As soon as practicable after the expiration date of the time allowed to effect the corrective measures, a reinspection shall be made to determine compliance.

NEW SECTION

**WAC 212-12-250 Approval.** Upon the completion of the inspection, if the facility is in reasonable compliance with the applicable standards, a notice of approval for licensing shall be forwarded to the licensing agency.

NEW SECTION

**WAC 212-12-260 Right of appeal.** Any person may appeal any decision made by the fire protection bureau under this chapter through the following procedure:

(1) The first level of appeal is to the assistant state fire marshal. The appeal must be submitted in writing to the assistant state fire marshal within thirty days of receipt of the decision in question. The assistant state fire marshal shall reply to the appellant within ten days of receipt of such appeal.

(2) The second level of appeal is to the director of fire protection. If the appellant wishes to appeal the decision of the assistant state fire marshal, he/she shall, within ten days of the receipt of that decision, submit a written appeal to the director of fire protection. The director of fire protection shall reply to the appellant within ten days of receipt of such appeal.

(3) Should this process not satisfy the appellant, he or she may further appeal under chapter 34.05 RCW.

NEW SECTION

**WAC 212-12-270 Local codes.** Approvals are issued or denied on the basis of the applicant's compliance with the director of fire protection's minimum fire and life safety standards. The enforcement of local fire and building codes is the responsibility of the respective fire and building officials.

NEW SECTION

**WAC 212-12-280 Standards.** The following standards shall be applicable to all emergency respite centers licensed as a Group LC Occupancy after the effective date of this regulation.

NEW SECTION

**WAC 212-12-290 Construction requirements.** (1) Emergency respite centers located within a Group LC Occupancy shall comply with the construction requirements for Group LC Occupancies as stated in current Washington state amendment to the 1997 Uniform Building Code.

(2) All rooms used for sleeping and all corridors shall be provided with smoke detectors. Detectors shall be installed in accordance with the approved manufacturer's instructions.

(3) An emergency power system capable of providing pathway lighting for a period of one and one-half hours of time.

NEW SECTION

**WAC 212-12-300 Modernization or renovation.** No construction in either modernization or renovation projects

shall diminish the fire safety features of the facility below the level of new construction, as required elsewhere in this regulation. Alterations or installations of new building services equipment shall be accomplished as near as possible in conformance with the requirements for new construction and shall be approved by the building official, fire official and the director of fire protection.

NEW SECTION

**WAC 212-12-310 Additions.** Any addition shall be separated from any existing nonconforming structure as required in the current edition of the Washington State Building Code.

NEW SECTION

**WAC 212-12-320 Design, operation.** All emergency respite centers shall be so designed, constructed, maintained and operated as to minimize the possibility of a fire emergency endangering the residents or patients. The protection of residents or patients from fire shall be provided by appropriate arrangement of facilities, adequate staffing and careful development of operating and maintenance procedures composed of the following:

- (1) Proper design, construction and separation;
- (2) Provision for detection, alarm and evacuation; and
- (3) Fire prevention and the planning, training and drilling in programs for the notification of fire and the safe evacuation of residents or patients from the building or affected fire area.

NEW SECTION

**WAC 212-12-330 Staffing requirements.** All emergency respite centers shall provide staffing as established by the department of social and health services (DSHS).

NEW SECTION

**WAC 212-12-340 Fire extinguishers.** At least one minimum 2A-10BC rated fire extinguisher shall be provided on each floor level. Additional fire extinguishers may also be required due to area, travel distance or special hazards.

NEW SECTION

**WAC 212-12-350 Lighting.** (1) Illumination of the means of egress shall be continuous during the time that conditions of occupancy require that the means of egress be available for use.

(2) Automatic emergency lighting shall be provided and so arranged as to provide the required illumination automatically in the event of any interruption of normal lighting, such as the failure of public utility or other outside electrical power supply, opening of a circuit breaker or fuse, or any manual act(s) including accidental opening of a switch controlling normal lighting facilities.

(3) Electric battery-operated emergency lights shall use only reliable types of storage batteries, provided with suitable

facilities for maintenance in properly charged condition. Electric storage batteries used in such lights or units shall be approved for their intended use and shall comply with the National Electrical Code, NFPA 70.

#### NEW SECTION

**WAC 212-12-360 Protection from hazards.** Any area used for general storage, and boiler or furnace rooms shall be separated from other parts of the building by construction having a fire-resistance rating conforming to the general construction requirements of the building type.

Central heating plants and other fuel-burning appliances shall be properly maintained and cleaned at frequent intervals. The surrounding area shall be kept free of rubbish and combustible storage.

#### NEW SECTION

**WAC 212-12-370 Sprinkler systems.** An automatic sprinkler system shall be installed throughout every Group LC Occupancy three or more stories in height or licensed for more than sixteen clients. Group LC Occupancies with sixteen or fewer clients, licensed to provide care for more than two clients who have an evacuation capability of II or III, shall be provided with an automatic sprinkler system throughout the facility.

**EXCEPTION:** An automatic sprinkler system need not be installed in any Group LC Occupancy licensed for six or fewer clients regardless of the level of evacuation capability.

Where a sprinkler system is required, a system complying with Uniform Building Code (UBC) Standard 9-1 shall be installed.

**EXCEPTIONS:**

1. An automatic sprinkler system complying with UBC Standard 9-3 may be installed in buildings of four stories or less.
2. Where a Group LC Occupancy is being established by change of occupancy in an existing building not protected by a sprinkler system as is required above for buildings of new construction, an automatic sprinkler system complying with National Fire Protection Association (NFPA) Standard 13d may be installed provided the care facility is licensed for not more than sixteen clients.

Residential or quick-response heads shall be used in all sprinkler systems.

#### NEW SECTION

**WAC 212-12-380 Fire alarm.** Every emergency respite center licensed for sixteen or more residents shall have an approved automatic and manual fire alarm system. Operation of any fire alarm activating device shall automatically, without delay, activate off-site monitoring and accomplish general alarm indication and sound an audible alarm throughout the building or affected portion thereof.

#### NEW SECTION

**WAC 212-12-390 Smoke detection.** Smoke detectors that received their primary power from the building wiring shall be installed in all sleeping rooms, corridors and in areas

separating use areas from sleeping areas. Activation of a smoke detector shall activate the building's fire alarm system and off-site monitoring.

#### NEW SECTION

**WAC 212-12-400 Fire and evacuation plan.** The administration of every emergency respite center shall have in effect and available to all personnel written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. A copy of the evacuation plan shall be posted by each exit. All employees shall be instructed and kept informed respecting their duties under the plan.

#### NEW SECTION

**WAC 212-12-410 Equipment maintenance.** Every required automatic sprinkler system, fire detection and alarm system, exit lighting, fire door and other item of equipment required by this regulation and/or the applicable building and/or fire code shall be continuously maintained in proper operating condition. Equipment shall be tested or operated in accordance with manufacturer's recommendation and/or at sufficient intervals to assure reliability. Records of all tests and inspections shall be maintained for review. Tests and inspections shall be under the supervision of a responsible person.

#### NEW SECTION

**WAC 212-12-420 Severability.** If any provision of this regulation or its application to any person is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected.

### WSR 02-17-103

#### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed August 21, 2002, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-13-139.

Title of Rule: Amending chapter 36-12 WAC, Professional boxing: WAC 36-12-011, 36-12-030, 36-12-100, 36-12-110, 36-12-130, 36-12-140, 36-12-170, 36-12-195, 36-12-200, 36-12-240, 36-12-465 and 36-12-475; amending chapter 36-13 WAC, Professional wrestling: WAC 36-13-010, 36-13-020, 36-13-030, 36-13-040, 36-13-050, 36-13-110, 36-13-120 and 36-13-130; amending chapter 36-14 WAC, Professional martial arts: WAC 36-14-110, 36-14-400 and 36-14-410; and new sections WAC 36-14-105 Guidelines for kickboxing and Muay Thai weight classes—Weight difference and glove weight, 36-14-106 Weighing time, and 36-14-120 Officials compensation fees to be paid by promoter.

Purpose: To set new licensing fees for the chiropractor license and to set new fees to be paid by the promoter to the chiropractor. To set officials compensation fees. To amend, repeal or retain current rules, which may no longer be needed or need further written clarification as per the governor's directive on state rules review.

Statutory Authority for Adoption: RCW 67.08.017, 67.08.105, 43.24.023.

Statute Being Implemented: RCW 67.08.017, 67.08.-105.

Summary: Amend, repeal and add new sections for chapters 36-12, 36-13, and 36-14 WAC for clarification and to set new licensing fees and fees to be paid by promoter.

Reasons Supporting Proposal: Amending, repealing and adding new rules for clarification to ensure the health, safety and welfare of the participants.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Randy Renfrow, 405 Black Lake Boulevard, Building 2, Olympia, WA 98502, (360) 664-6644.

Name of Proponent: Department of Licensing, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Rules to become effective on January 1, 2003.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Due to legislation changes to chapter 67.08 RCW allowing a chiropractor to now be a licensed official at boxing, kickboxing, or martial arts events it is necessary to set new licensing fees for the chiropractor license and fees to be paid by the promoter to the chiropractor. To set officials compensation fees. To amend, repeal and add new sections or retain current rules, which may no longer be needed or need further written clarification as per the governor's directive on state rules review.

Proposed rules will help to ensure the health, safety and welfare of the participant.

Proposal Changes the Following Existing Rules: Proposed rules have been changed to set licensing fees for the new chiropractor license and fees to be paid by the promoter to the chiropractor and to set officials compensation fees. Proposed rules have been amended, repealed, and new sections added.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will not be a burden on the industry due to increased fees or increased workloads.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Building 2, Conference Room 102, Olympia, WA 98502, on September 24, 2002, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Jim Hood by September 23, 2002, TDD (360) 586-2788 or (360) 664-6644.

Submit Written Comments to: Randy Renfrow, Professional Athletic Section, P.O. Box 9026, Olympia, WA 98507-9026, fax (360) 570-4956, by September 23, 2002.

Date of Intended Adoption: September 27, 2002.

August 20, 2002

Alan E. Rathbun

Assistant Director

AMENDATORY SECTION (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-011 Definitions.** The following definitions will be used throughout this WAC:

(1) "Purse" will be defined as the sum of money or other compensation by way of guarantee, percentage or otherwise, paid to a boxer.

(2) "Knockdown" is defined as when a boxer is knocked to the ring canvas by fair blows, hangs helplessly on the ropes, or the ropes prevent his/her fall, or any part of the body other than the soles of the feet touches the ring canvas.

(3) The "outcome of a contest" occurs when the contest has concluded, a determination has been made described in WAC 36-12-130, and the report to the boxing registry required by the federal Boxing Safety Act of 1996 has been submitted.

(4) "Neutral corner" is defined as one of the two corners of a ring that are not assigned to a boxer for a contest.

(5) A "count" is the audible measure of time signaled by the referee to a boxer who has been knocked to the ring canvas by fair blows or to a standing boxer who, in the referee's judgment, is momentarily unable to defend him/herself.

(6) "Scorecard" is defined as the document used by judges to score a contest.

(7) "Ten-point-must system" of scoring is defined as the scoring system used by judges giving ten points to the boxer winning a round and a lesser number of points to the boxer losing a round.

(8) "Foul" is defined as an action by a boxer, identified by the referee that does not meet the definition of "boxing" as described in RCW 67.08.002. Fouls may include, but are not limited to, the following types of contact or acts:

(a) Hitting, a low blow, below the navel or behind the ear;

(b) Hitting an opponent who is knocked down;

(c) Holding an opponent with one hand and hitting with the other;

(d) Holding or deliberately maintaining a clinch;

(e) Wrestling, kicking or roughing;

(f) Pushing an opponent about the ring or into the ropes;

(g) Butting with the head, shoulder, knee, elbow;

(h) Hitting with the open glove, the butt or inside of the hand, or back of the hand, the elbow or the wrist;

(i) Purposely falling down onto the canvas of the ring without being hit or for the purpose of avoiding a blow;

(j) Striking deliberately at that part of the body over the kidneys;

(k) Using the pivot blow (pivoting while throwing a punch) or the rabbit punch (punches thrown to the back of the head and neck areas);

(l) Jabbing the eyes with the thumb of the glove;

(m) Use of abusive language;

(n) Unsportsmanlike conduct causing injury to an opponent that does not meet the definition of "boxing" in RCW 67.08.002;

- (o) Hitting on the break;
- (p) Intentionally spitting out the mouthpiece;
- (q) Hitting on or out of the ropes;
- (r) Holding rope and hitting;
- (s) Biting/spitting;
- (t) Not following referee's instructions;
- (u) Stepping on opponent;
- (v) Crouching below opponent's belt;
- (w) Leaving neutral corner; and
- (x) Corner second shouting.

(9) "Fair blow" is defined as an exchange of blows delivered with the padded knuckle part of the glove to the front or sides of the head and body above the navel.

(10) "Event official" is defined as an official licensed under RCW 67.08.100 as a judge, referee, timekeeper, event physician, and/or inspector and appointed by the department to provide services at a boxing event.

(11) "Manager" is defined as a person licensed under RCW 67.08.100 who contracts with a boxer to receive compensation for service as an agent or representative.

(12) "Second" is defined as a person licensed under RCW 67.08.100 who assists a boxer during a contest.

(13) "Matchmaker" is defined as a person licensed under RCW 67.08.100 who works for a promoter to propose, select or arrange for boxers to participate in a boxing contest.

(14) "Announcer" is defined as a person licensed under RCW 67.08.100 who works for a promoter announcing information to the audience at a boxing event.

(15) "Referee" is defined as an event official and is the chief official supervising a boxing contest.

(16) "Timekeeper" is defined as an event official who keeps the official timing of a contest.

(17) "Judge" is defined as an event official who scores a boxing contest.

(18) "Inspector" is defined as the event official who reports directly to the department and provides overall management of a boxing event.

(19) "Advance notice" is defined as a list of matches for an event submitted by the promoter to the department for approval that includes the names of proposed boxers for a contest, his/her manager or managers and other information that may be required by the department.

(20) "Boxing registry" is defined as the entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers and required under the federal "Professional Boxing Safety Act of 1996."

(21) "Contest" is defined as a fight scheduled between boxers appearing at an event.

(22) "Round" is defined as a two- or three-minute time period during which boxers compete in a boxing contest.

(23) "Net gate proceeds" is defined as the total dollar amount received from the face value of all tickets sold with complimentary tickets excluded.

(24) "Televised" is defined as any simultaneous or delayed visual broadcast of an event delivered through electronic means for viewing.

AMENDATORY SECTION (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-030 Weigh-in.** (1) Boxers shall be weighed within twenty-four hours prior to the scheduled event, at a time and place chosen by the promoter and approved by the department. The weigh-in shall take place in the presence of the department and the promoter or the promoter's representative.

(2) The scales used for weigh-in shall be provided by the promoter and approved by the department.

(3) The weight of each boxer shall be recorded on a form provided by the department and signed by the representative of the department.

(4) If a boxer weighs-in within twenty-four hours, but not less than twelve hours prior to an event's scheduled start time, the boxer shall weigh the weight specified on the boxer/promoter contract referred to in WAC 36-12-360 ~~((6))~~(7). If a boxer weighs more than the weight specified in the boxer/promoter contract, the boxer may:

(a) Lose the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time;

(b) Lose all but two pounds of the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time and lose the final two pounds at least two hours prior to the event's scheduled start time;

(c) Renegotiate the boxer/promoter contract; or

(d) Not do (a) through (c) of this subsection and the contest will be canceled by the department.

(5) If a boxer weighs-in less than twelve hours prior to an event's scheduled start time, the boxer shall weigh the weight specified in the boxer/promoter contract referred to in WAC 36-12-360 ~~((6))~~(7). If a boxer weighs more than two pounds over the weight specified in the boxer/promoter contract, the boxer may:

(a) Lose up to two pounds at least two hours prior to an event's scheduled start time;

(b) Renegotiate the boxer/promoter contract; or

(c) Not do (a) or (b) of this subsection and the contest will be canceled by the department.

AMENDATORY SECTION (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-100 Officials.** (1) The department shall appoint at least two referees, a timekeeper, ~~((#))~~ two event physicians, three judges, and an inspector for each event. Additional event officials may be appointed by the department.

(2) In order to ensure the health and safety of the contestants and officials, licensed event officials not appointed to work at a boxing event shall be admitted to a boxing event without charge by the promoter. These officials shall report to the department immediately upon arriving at the event for appointment as back-up to appointed event officials or for other duties.

(3) Event officials shall dress in appropriate attire.

(a) Judges and inspectors should dress in casual business attire (sport coat and dress slacks) to assure a professional

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appearance. At a minimum, the recommended attire will be dress sport shirt and slacks.

(b) The uniform for referees should consist of:

(i) Black or dark blue trousers;

(ii) Black shoes (boxing shoes or approved soft-soled shoes);

(iii) Light blue button shirt (long or short sleeved); and

(iv) Black bow tie.

(c) Timekeepers should dress in a black and white striped shirt and dress slacks.

**AMENDATORY SECTION** (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-110 Referee's responsibilities/authority.**

(1) The referee's primary responsibility shall be to maintain the safety and welfare of the boxers at all times.

(2) Before starting a contest, the referee shall determine the name of the chief seconds for each boxer. The chief second shall be responsible for the conduct of the boxer's other seconds during the contest.

(3) The referee shall call boxers and their chief seconds into the ring at the beginning of each contest for instructions.

(4) The referee shall not allow any person other than the boxers and the event physician to enter the ring during a round.

(5) The referee shall inspect the boxers' bodies and gloves to make sure that no substances have been applied to the detriment of an opponent.

(6) Referees who are event officials shall pass a physical examination by the event physician within twenty-four hours prior to an event for the purpose of determining their physical ability to referee the contest. If such examination indicates the referee is physically unable to referee the contest, such inability shall be noted on the prefight physical form and immediately be reported to the inspector.

(7) The referee shall have the authority to stop a contest any time he/she thinks it is too one-sided, or if either boxer is in such condition that to continue might subject them to serious injury.

(8) The referee shall not make a disqualification decision based on one unintentional, low-blow foul. However, if two previous warnings for such fouls have resulted in point deductions, the third foul may be grounds for disqualification.

(9) The referee has authority to decide any matters that arise during a contest and are not covered by these rules.

(10) If a boxer receives an injury that the referee thinks shall incapacitate the boxer, the referee shall ask the event physician to examine the boxer. The event physician shall provide the referee with an opinion as to the seriousness of the injury and either the event physician or the referee shall stop the contest if the injury is serious. When a referee calls the event physician into the ring, the referee shall direct the timekeeper to cease keeping time while the event physician examines the boxer.

(11) The referee may penalize a boxer who fouls an opponent during a contest, by charging such boxer with the loss of points. The referee shall immediately notify the judges of the number of points to be deducted.

(12) The referee shall stop the contest if the boxer's chief second determines that a contest should be stopped, and immediately signals the referee by stepping onto the ring apron.

(13) When a boxer resumes boxing after having been knocked down or fallen or slipped to the floor, the referee shall wipe all foreign material from the boxer's gloves.

(14) The referee shall give a boxer injured by a low-blow foul up to five minutes to recover. Should the boxer be unable to continue at the end of the recovery period, the referee shall declare that the boxer has signaled his/her desire to stop boxing as described in WAC 36-12-130 (1)(b)((+))~~(iv)~~.

(15) Prior to an event, each referee shall disclose to the department all considerations, including reimbursement for expenses that will be received from any source for participation in the event. The disclosure shall be made on a form supplied by the department.

(16) A decision rendered at the termination of any contest may be changed by the department if the department determines that one of the following occurred:

(a) There was collusion affecting the result of any contest;

(b) The compilation of the scorecard of the judges shows an error which would mean that the decision was given to the wrong contestant; or

(c) There was a violation of the laws or rules governing contests, which affected the result of any contest.

**AMENDATORY SECTION** (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-130 Outcome of contests.** (1) If a referee stops a contest, he shall render a decision regarding the outcome of the contest as follows:

(a) Win by knockout if:

(i) Boxer has been knocked down by fair blows and cannot arise before completion of the referee's count; or

(ii) Boxer has been knocked down and the referee waves off the count because of urgency to have the event physician examine the boxer.

(b) Win by technical knockout if:

(i) ~~((Boxer suffers any combination of three knock-downs/standing counts in one round;~~

~~((ii)))~~ In the referee's judgment, boxer is outclassed or is unable to continue due to punishment received;

~~((iii)))~~ (ii) Boxer does not resume boxing by the end of a referee's count (excluding knockouts);

~~((iv)))~~ (iii) Cornerman signals referee to terminate the bout; or

~~((v)))~~ (iv) Boxer, after putting forth good effort, signals referee his/her desire to stop boxing.

(c) Win by technical decision ~~((to the boxer who is ahead on at least two of the judges' scorecards))~~ if a contest is stopped after completion of ~~((three))~~ four rounds ~~((of a contest scheduled for less than eight rounds or four rounds of a contest scheduled for eight rounds or more))~~ due to an accidental head butt or foul. At least two of the judges must have the same boxer ahead on points.

(d) ~~((Technical draw))~~ No decision if:

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~~((+))~~ A bout is stopped before the completion of ~~((three))~~ **four** rounds of a contest ~~((scheduled for less than eight rounds or stopped before the completion of four rounds of a contest scheduled for eight rounds or more))~~ due to an accidental head butt or foul; or

~~((+))~~ **(e) Technical draw if:**

A bout is stopped after the completion of ~~((three))~~ **four** rounds of a contest ~~((scheduled for less than eight rounds or a bout is stopped after the completion of four rounds of a contest scheduled for eight rounds or more))~~ due to an accidental head butt or foul and the judges are split (one voting for boxer A, one voting for boxer B, and the third judge with an even score); or

~~((+))~~ **(f) No contest if:**

- (i) The bout is unable to continue due to events other than boxing (fire, riot, ring collapse, etc.); or
- (ii) In the referee's judgment, there appears to be collusion affecting the outcome of the contest.

~~((+))~~ **(g) Disqualification:**

- (i) If points have been deducted from a boxer's scorecard for three separate incidents as described in WAC 36-12-110~~((12))~~ **(11)**;
- (ii) If a boxer, in the referee's judgment, flagrantly fouls an opponent;

(iii) If a boxer quits after putting forth no effort, thereby fostering a sham on the public;

(iv) Second enters the ring during the progress of the bout; or

(v) Following a contest, a boxer tests positive for controlled substances per WAC 36-12-240.

(2) If a contest ends when the scheduled rounds are completed, the outcome of the contest may be as follows:

- (a) Winner by unanimous decision if all three judges agree on the same winner;
- (b) Winner by split decision if two judges agree on winner and the third judge votes for the other boxer;
- (c) Winner by majority decision if two judges agree on winner and the third judge has the score even between the boxers;
- (d) A draw if all three judges have the score even between the boxers or are split (one voting for boxer A, one voting for boxer B, and the third judge with an even score); or
- (e) A majority draw if two of the judges agree that the score is even between the boxers.

**AMENDATORY SECTION** (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-140 Method of counting over a boxer who is down.** (1) The referee ~~((may))~~ shall give an injured boxer a count of eight ~~((seconds at any time))~~ when a knock-down occurs. The referee does not have to continue to count if in the referee's opinion a boxer is unable to continue to box. The referee shall resume a count where it was left off if a boxer attempts to rise after being knocked down and goes down again immediately.

(2) When the referee determines a boxer has been knocked down, the referee shall require the boxers to cease boxing during the count. If the boxer rises prior to, or when the count is completed, the referee shall determine whether

the boxer's reflexes and condition render it appropriate to continue the contest.

(3) If a boxer does not rise when the count of eight is completed, the referee shall continue the count to ten seconds.

(4) If the boxer being given a count by the referee is down on the canvas of the ring when the referee completes counting to ten seconds, the referee shall wave both arms to indicate that the boxer has been knocked out and shall stop the contest. The referee may raise the hand of the opponent indicating that the opponent has won by a knockout.

(5) The referee's counting of seconds is the official count. However, when a boxer is knocked down, the timekeeper shall assist with starting and maintaining an accurate count by striking the edge of the ring platform once each second with a hammer or other equipment or signaling method.

(6) When a boxer is knocked down, the referee shall direct the opponent to move to the farthest neutral corner of the ring. If the opponent leaves the neutral corner, the referee shall interrupt the count and will not resume the count until the opponent returns to the neutral corner.

~~((If a boxer has been knocked down three times during a round, the referee shall stop the contest.~~

~~((8))~~ **(8)** If a boxer is knocked down and the referee is still counting when three minutes of a round has elapsed, the bell shall not be sounded until the knocked down boxer rises and the referee indicates that the contest will continue. A boxer cannot be saved by the bell at the end of any round.

~~((9))~~ **(8)** If both boxers score simultaneous knock-downs (double knockdown), the referee shall begin a count as in any knockdown. If one contestant does not rise before the count of ten, his opponent shall be declared the winner. If both contestants rise before completion of the count, the bout may continue at the discretion of the referee. If both contestants rise but neither can continue as determined by the referee and/or event physician, the winner will be determined by the scorecards. If neither contestant rises before the count of ten, they will both lose by knockout.

**AMENDATORY SECTION** (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-170 Officials compensation fees to be paid by promoter.** (1) The following minimum fees shall be paid by the promoter of the event to the event officials for nontitle, nontelevised bouts:

Judge	\$75.00
Timekeeper	\$75.00
Referee (preliminary)	\$110.00
Referee (main event)	\$125.00
Physician	\$250.00
<u>Event chiropractor</u>	<u>\$200.00</u>

(2) The following minimum fees shall be paid by the promoter of the event to event officials for nontitle, televised bouts:

PROPOSED

Judges	\$100.00
Timekeepers	\$100.00
Referee (preliminary)	\$135.00
Referee (main event)	\$200.00
Physician	\$250.00
Event chiropractor	\$200.00

(3) In the event of a local, state or regional championship, title fight, or (~~nationally~~) televised fight, event officials shall be paid by the promoter at the respective and prevailing scale of the sponsoring organization. The event officials pay rate shall not be lower than the televised rate established in subsection (2) of this section.

(4) In the event of a championship, title fight, or nationally televised fight, event officials shall be paid by the pro-

moter at the respective and prevailing scale of the sponsoring organization but shall not be lower than the rates established below:

<u>Judges</u>	<u>\$400.00</u>
<u>Timekeepers</u>	<u>\$250.00</u>
<u>Referee (preliminary)</u>	<u>\$450.00</u>
<u>Referee (main event)</u>	<u>\$500.00</u>
<u>Physician</u>	<u>\$300.00</u>
<u>Event chiropractor</u>	<u>\$250.00</u>

(5) In the event of a "world" title bout, the following minimum fees shall be paid by the promoter of the event to event officials:

<u>Officials fees (minimums)</u>	<u>Judges</u>	<u>Timekeepers</u>	<u>Referee</u>	<u>Physician</u>	<u>Event chiropractor</u>
<u>If total purse is up to \$100,000</u>	<u>\$1,000</u>	<u>\$600</u>	<u>\$1,200</u>	<u>\$700</u>	<u>\$500</u>
<u>\$100,000 to \$300,000</u>	<u>\$1,100</u>	<u>\$700</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$600</u>
<u>\$300,001 to \$1,000,000</u>	<u>\$1,800</u>	<u>\$800</u>	<u>\$2,500</u>	<u>\$900</u>	<u>\$700</u>
<u>\$1,000,001 to \$5,000,000</u>	<u>\$2,500</u>	<u>\$900</u>	<u>\$3,000</u>	<u>\$1,000</u>	<u>\$800</u>
<u>Over \$5 million</u>	<u>\$4,500</u>	<u>\$1,000</u>	<u>\$7,500</u>	<u>\$1,500</u>	<u>\$1,000</u>

(6) Travel mileage shall be paid to event officials at the rate listed on schedule A, chapter 10.90.10.b of the *State Administrative and Accounting Manual* as published by the office of financial management.

**AMENDATORY SECTION** (Amending WSR 01-22-029, filed 10/29/01, effective 11/29/01)

**WAC 36-12-195 License fees, renewals and requirements.** (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Manager	-	\$40.00
Referee	-	\$15.00
Boxer	-	\$15.00
Matchmaker	-	\$40.00
Second	-	\$15.00
Inspector	-	\$40.00
Judge	-	\$40.00
Timekeeper	-	\$40.00
Announcer	-	\$40.00
Event physician	-	\$40.00
<u>Event chiropractor</u>	-	<u>\$40.00</u>
Promoter	-	\$50.00

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

(b) Completed physical within one year (boxer and referee only).

(c) Federal identification card (boxer only).

(d) One small current photograph, not more than two years old (boxer only).

(e) Payment of license fee.

(f) Certification from an organization approved by the department under RCW 67.08.100(3) and WAC 36-12-196.

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

**AMENDATORY SECTION** (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-200 Boxers.** (1) Boxers shall be present in the dressing room at the time designated by the department or at least one hour before the scheduled time of the first contest.

(2) Male boxers shall box in boxing shorts, abdominal guard, foul proof protection cup, shoes and custom-made, individually fitted mouthpiece.

(3) Female boxers shall box in boxing shorts, abdominal guard, foul proof protection cup, body shirt, breast protector, shoes and a custom-made, individually fitted mouthpiece. All female boxers must provide a negative pregnancy test within seven days prior to each contest.

(4) Boxers shall not use substances on their body or gloves that might handicap an opponent.

(5) If a boxer cannot box in an event for which the boxer has a contract with a promoter due to a physical disability, the boxer shall be examined by a physician as defined in RCW 67.08.002(11) prior to the scheduled event. The boxer shall report the disability to the department prior to the scheduled contest.

(6) After a boxer boxes in an event, the boxer shall not box again until seven days have passed.

(7) The department may limit the persons allowed in the dressing room of a boxer.

(8) Licensees shall not verbally abuse or have physical contact with any event official.

(9) Boxers shall receive a health and safety disclosure form from the department at the time the department issues the federal identification card required by the federal Professional Boxing Safety Act of 1996 including amendments of 2000.

(10) Copies of the annual physical examination required in RCW 67.08.100(2) shall be provided to the department. The examination shall certify that a boxer is physically fit to safely compete in a boxing contest.

(11) Any professional boxer engaging in amateur events shall be subject to disciplinary action by the department.

AMENDATORY SECTION (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-240 To prevent injury to contestants—Physical qualifications and exams.** (1) A boxer applying for a license to box in this state shall meet the following standards:

(a) Be certified by a physician as described in RCW 67.08.002(11) to be physically fit to safely compete in professional boxing. The examination shall include, but not be limited to:

- (i) Eyesight;
- (ii) Blood pressure;
- (iii) Communicable blood diseases ~~(;)~~ including, but not limited to, HIV, Hepatitis B, and Hepatitis C; and
- (iv) ~~((Drug testing for controlled substances defined in RCW 69.50.101; and~~
- ~~(v))~~ Other physical factors the department determines are necessary to show a boxer is physically fit to ~~((safety))~~ safely compete in professional boxing.

(b) In addition to the requirements of (a) of this subsection, if a boxer is over thirty-six years old, or has lost six consecutive fights, the physical certification in (a) of this subsection must include proof of:

- (i) A complete physical exam ~~((within thirty days of the event))~~ which includes an electroencephalogram (EEG) and an electrocardiogram (EKG); and
- (ii) Any other specialized medical testing that may be determined necessary by the department.

(2) The event physician shall examine boxers and referees within twenty-four hours prior to and immediately following an event to determine that they meet the standards in subsection (1)(a) of this section with the exception of the requirements of ~~((subsection (1)(a)(iv) of this section))~~ RCW 67.08.090(5) unless the department notifies the event physician that drug testing is required following an event.

(3) A boxer who tests positive on a drug test required by RCW 67.08.090(5) or in subsection ~~((1) or))~~ (2) of this section shall not be allowed to box in any event.

(4) When a contestant has been knocked out, none of the handlers are to touch the contestant, except to remove the mouthpiece until the attending physician enters the ring and personally attends the fallen contestant, and issues such instructions as deemed necessary to the contestant's handlers.

AMENDATORY SECTION (Amending WSR 02-03-069, filed 1/11/02, effective 2/11/02)

**WAC 36-12-465 Application of brief adjudicative proceedings.** The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department; and

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal(;

~~(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state guaranteed educational loan or service conditional scholarship).~~

AMENDATORY SECTION (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-12-475 Preliminary record in brief adjudicative proceedings.** (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

~~((3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state guaranteed educational loan or service conditional scholarship shall consist of:~~

~~(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state guaranteed educational loan or service conditional scholarship; or~~

~~(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.)~~

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-010 License fees, renewals and requirements.** (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

<del>(Manager</del>	-	\$	15.00
Referee	-	\$	<del>15.00)</del>
Wrestling participant	-	\$	15.00
Inspector	-	\$	40.00
<del>(Timekeeper</del>	-	\$	<del>40.00)</del>
Announcer			
<u>(nonparticipant)</u>	-	\$	40.00
Event physician	-	\$	40.00
Promoter	-	\$	50.00

(2) ~~((All renewal fees shall be the same fee as each original license fee.))~~ No license fee is required for persons licensed under chapter 36-12 or 36-14 WAC as an inspector, announcer, event physician or promoter.

(3) ~~(Licensing requirements:~~

~~(a) Completed application on form approved by the department.~~

~~(b) Completed physical within one year. All applicants for a participant's license shall be found after examination by a physician to be physically and mentally fit to participate in a wrestling show or exhibition. (Manager, referee, and wrestling participant only.)~~

~~(c) One small current photograph, not more than two years old.~~

~~(d) Payment of license fee.~~

~~(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.~~

~~(5) Any person under the age of eighteen years old shall not be eligible for a license with the department of licensing.)~~ In addition to license requirements found in chapter 67.08 RCW, licensees and applicants shall submit a small photograph of themselves that is not more than two years old.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-020 Definitions.** ~~((The term))~~ "Participant" is defined as ~~((used in this chapter means))~~ any person ~~((actually))~~ engaged physically in the wrestling exhibition or show.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-030 Ring and safety zone.** (1) The promoter shall supply a ring that meets the following standards:

~~(a) The ring shall not be less than ((sixteen feet)) a six-foot square within the ropes ((and the ring floor shall extend beyond the ropes not less than eighteen inches)).~~

~~((2))~~ (b) The ring floor shall be padded to a thickness of at least one inch. A regular one-piece wrestling mat is preferred, although soft padding of a proper thickness may be used, with a top covering of clean canvas tightly stretched and laced to the ring platform.

~~((3))~~ (c) The promoter shall keep the mat and covering in a clean and sanitary condition.

(2) There shall be a six-foot safety zone between the ring and the first row of spectator seats. The floor in the safety zone may be covered by padded floor mats. The safety zone may extend in an aisle from ringside directly to the locker room. The safety zone shall have a barrier approved by the department, which is at least three feet high. The barrier shall be of sufficient strength and durability to prevent the audience from coming in physical contact with the wrestling participants. No person other than security, department representatives, wrestling participants or event licensees shall be permitted in the safety zone during any part of an event unless expressly approved by the department representative. The wrestling participants shall not leave the confines of the safety zone during a match. Wrestling activities which may include any member of the audience will be considered unprofessional conduct and subject to penalties under RCW 67.08.180(5) and 67.08.240.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-040 Department inspector.** (1) ~~((A department))~~ An inspector shall attend all wrestling events ~~((scheduled)). ((He will make sure))~~ The inspector shall ensure all participants are properly licensed and ~~((that))~~ all laws, rules, and regulations are enforced. Wrestling participants scheduled to work at an event shall provide proof of their identity by:

(a) Presenting picture identification to the inspector; and

(b) Signing their legal name that matches the picture identification on a form provided by the inspector.

~~(2) ((The inspector shall forward all reports and the gross revenue tax due from each event to the department office.~~

~~(3) Each))~~ Inspector, other than a department employee, shall receive ((for each event officially attended,)) a fee not to exceed two percent of the net gate of each event up to a maximum of four hundred dollars and a minimum of thirty-five dollars which shall be paid by the promoter.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-050 ((Timekeepers and)) Announcers.** ~~((Timekeepers and))~~ Nonparticipant announcers ~~((will))~~ who will not be actually engaged physically in the wrestling exhibition or show may be provided by the promoter and must be licensed with the department.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-110 Miscellaneous provisions.** (1) Dangerous conduct; punishment. The referee shall not permit physically dangerous conduct or tactics by any participant. Any participant who fails to discontinue such tactics, after being warned by the referee or a department official shall be disqualified and subject to disciplinary action.

(2) Wrestling participants or other licensees shall not engage in the practice known as "juicing." "Juicing" is the practice of using a razor blade or similar contrivance, or any other means to draw blood from oneself, one's opponent, or from any other participant of the wrestling exhibition or show. The referee shall immediately terminate any match in which blood from a participant appears from "juicing," and the participants shall cease the wrestling match and return to the dressing room. Should an accidental cut to a wrestling participant occur, the match may continue but should be concluded as soon as possible at the discretion of the referee.

(3) Duties of licensees. It shall be the duty of the promoter, his/her agents, employees, and the participants in any wrestling show or exhibition to maintain peace, order, and decency in the conduct of any show or exhibition. There shall be no abuse of a department official at any time. Foul and profane language by participants is prohibited.

~~((3))~~ (4) Responsibility of promoter.

(a) Each promoter shall be directly responsible to the department for the conduct of its employees and any violation of the laws, rules, or regulations of the department by any employee of a promoter shall be deemed to be a violation by the promoter.

(b) Promoters are responsible for any violations of the law or department rules by their participants.

~~((4))~~ (5) Postponement or cancellation. A small advance sale of tickets shall not be regarded as a legitimate reason for a postponement or cancellation. Indoor wrestling shows or exhibitions shall not be canceled for any reason except with the approval of the department.

~~((5))~~ (6) Discrimination. Discrimination against any participant in regard to sex, race, color, creed or national origin shall be referred to the human rights commission.

~~((6))~~ (7) Appeals.

(a) Licensees may appeal any suspension or revocation to the department in the manner provided in chapter 34.05 RCW.

(b) Such appeals must be received in the department office within twenty days from the date of the notice sent by the department.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-120 Application of brief adjudicative proceedings.** The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will

be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department; and

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal(~~and~~

~~(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state guaranteed educational loan or service conditional scholarship).~~

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-13-130 Preliminary record in brief adjudicative proceedings.** (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

~~((3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state guaranteed educational loan or service conditional scholarship shall consist of:~~

~~(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state guaranteed educational loan or service conditional scholarship; or~~

~~(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.)~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 36-13-060 Matches.
- WAC 36-13-070 Tickets.
- WAC 36-13-080 Contracts.
- WAC 36-13-090 Records.
- WAC 36-13-100 Buildings.

**Chapter 36-14 WAC**

**PROFESSIONAL MARTIAL ARTS**

**NEW SECTION**

**WAC 36-14-105 Guidelines for kickboxing and Muay Thai weight classes—Weight difference and glove weight.** The following guidelines shall be used for contests unless the department waives the weight difference allowance in writing. Glove weight shall be ten ounces for all weight classes.

Weight Class	Weight Difference Allowance	Weight Difference Allowance
Flyweight	112 pounds to no minimum	not more than 3 lbs.
Super Flyweight	112.1 to 115 pounds	not more than 3 lbs.
Bantamweight	115.1 to 118 pounds	not more than 3 lbs.
Super Bantamweight	118.1 to 122 pounds	not more than 5 lbs.
Featherweight	122.1 to 126 pounds	not more than 5 lbs.
Super Featherweight	126.1 to 130 pounds	not more than 7 lbs.
Lightweight	130.1 to 135 pounds	not more than 7 lbs.
Super Lightweight	135.1 to 140 pounds	not more than 9 lbs.
Welterweight	140.1 to 147 pounds	not more than 9 lbs.
Super Welterweight	147.1 to 154 pounds	not more than 11 lbs.
Middleweight	154.1 to 160 pounds	not more than 11 lbs.
Super Middleweight	160.1 to 167 pounds	not more than 12 lbs.
Light Heavyweight	167.1 to 175 pounds	not more than 12 lbs.
Super Light Heavyweight	175.1 to 183 pounds	not more than 20 lbs.
Cruiserweight	183.1 to 190 pounds	not more than 20 lbs.
Heavyweight	190.1 to 220 pounds	no limit
Super Heavyweight	over 220.1 pounds	no limit

**NEW SECTION**

**WAC 36-14-106 Weighing time.** (1) Participants shall be weighed within twenty-four hours prior to the scheduled event, at a time and place chosen by the promoter and approved by the department. The weigh-in shall take place in the presence of the department and the promoter or the promoter's representative.

(2) The scales used for weigh-in shall be provided by the promoter and approved by the department.

(3) The weight of each participant shall be recorded on a form provided by the department and signed by the representative of the department.

(4) If a participant weighs-in within twenty-four hours, but not less than twelve hours prior to an event's scheduled start time, the participant shall weigh the weight specified on the boxer/promoter contract referred to in WAC 36-12-360(7). If a participant weighs more than the weight specified in the boxer/promoter contract, the participant may:

(a) Lose the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time;

(b) Lose all but two pounds of the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time and lose the final two pounds at least two hours prior to the event's scheduled start time;

(c) Renegotiate the boxer/promoter contract; or

(d) Not do (a) through (c) of this subsection and the contest will be canceled by the department.

(5) If a participant weighs-in less than twelve hours prior to an event's scheduled start time, the participant shall weigh the weight specified in the boxer/promoter contract referred to in WAC 36-12-360(7). If a participant weighs more than two pounds over the weight specified in the boxer/promoter contract, the participant may:

(a) Lose up to two pounds at least two hours prior to an event's scheduled start time;

(b) Renegotiate the boxer/promoter contract; or

(c) Not do (a) or (b) of this subsection and the contest will be canceled by the department.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-14-110 License fees, renewals and requirements.** (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Manager	-	\$ 40.00
Referee	-	\$ 15.00
Kickboxer	-	\$ 15.00
Martial arts participant	-	\$ 15.00
Matchmaker	-	\$ 40.00
Second	-	\$ 15.00
Inspector	-	\$ 40.00
Judge	-	\$ 40.00
Timekeeper	-	\$ 40.00
Announcer	-	\$ 40.00
Event physician	-	\$ 40.00
<u>Event chiropractor</u>	=	<u>\$ 40.00</u>
Promoter	-	\$ 50.00

(2) All renewal fees shall be the same fee as each original license fee.

(3) Licensing requirements:

(a) Completed application on form approved by the department.

- (b) Completed physical within one year (kickboxer, martial arts participant and referee only).
- (c) One small current photograph, not more than two years old (kickboxer and martial arts participant only).
- (d) Payment of license fee.
- (e) Certification from an organization approved by the department under RCW 67.08.100(3).

(4) Applicants may not participate until all licensing requirements are received and approved by the department of licensing.

**NEW SECTION**

**WAC 36-14-120 Officials compensation fees to be paid by promoter.** (1) The following minimum fees shall be paid by the promoter of the event to the event officials for nontitle, nontelevised bouts:

Judge	\$75.00
Timekeeper	\$75.00
Referee (preliminary)	\$110.00
Referee (main event)	\$125.00
Physician	\$250.00
Event chiropractor	\$200.00

(2) The following minimum fees shall be paid by the promoter of the event to event officials for nontitle, televised bouts:

Officials fees (minimums)	Judges	Timekeepers	Referee	Physician	Event chiropractor
If total purse is up to \$100,000	\$1,000	\$600	\$1,200	\$700	\$500
\$100,000 to \$300,000	\$1,100	\$700	\$1,500	\$800	\$600
\$300,001 to \$1,000,000	\$1,800	\$800	\$2,500	\$900	\$700
\$1,000,001 to \$5,000,000	\$2,500	\$900	\$3,000	\$1,000	\$800
Over \$5 million	\$4,500	\$1,000	\$7,500	\$1,500	\$1,000

(6) Travel mileage shall be paid to event officials at the rate listed on schedule A, chapter 10.90.10.b of the *State Administrative and Accounting Manual* as published by the office of financial management.

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-14-400 Application of brief adjudicative proceedings.** The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;

Judges	\$100.00
Timekeepers	\$100.00
Referee (preliminary)	\$135.00
Referee (main event)	\$200.00
Physician	\$250.00
Event chiropractor	\$200.00

(3) In the event of a local, state or regional championship, title fight, or televised fight, event officials shall be paid by the promoter at the respective and prevailing scale of the sponsoring organization. The event officials pay rate shall not be lower than the televised rate established in subsection (2) of this section.

(4) In the event of a championship, title fight, or nationally televised fight, event officials shall be paid by the promoter at the respective and prevailing scale of the sponsoring organization but shall not be lower than the rates established below:

Judges	\$400.00
Timekeepers	\$250.00
Referee (preliminary)	\$450.00
Referee (main event)	\$500.00
Physician	\$300.00
Event chiropractor	\$250.00

(5) In the event of a "world" title bout, the following minimum fees shall be paid by the promoter of the event to event officials:

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal((and

~~(4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service conditional scholarship)).~~

**AMENDATORY SECTION** (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

**WAC 36-14-410 Preliminary record in brief adjudicative proceedings.** (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

PROPOSED

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(b) All documents relied upon by the department in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

~~((3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state guaranteed educational loan or service conditional scholarship shall consist of:~~

~~(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state guaranteed educational loan or service conditional scholarship; or~~

~~(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.))~~

**WSR 02-17-105  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed August 21, 2002, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-102.

Title of Rule: General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance, chapter 296-17 WAC.

Purpose: To streamline and improve efficiency of the application and enrollment process and to add clarity to the due dates and employer participation requirements applicable to retrospective rating.

Statutory Authority for Adoption: RCW 51.18.010.

Statute Being Implemented: Chapter 51.18 RCW.

Summary: Labor and industries is proposing to amend eight sections, establish seventeen new sections and repealing twenty-four existing sections of rule applicable to the retrospective rating plan authorized by RCW 51.18.010.

Reasons Supporting Proposal: Labor and industries is required by RCW 51.18.010 to offer a retrospective rating plan to qualified employers and to organizations that sponsor retrospective rating groups. The requirements contained in

this rule-making proposal are explicitly required by law (chapter 51.18 RCW).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Frank Romero, 7273 Linderson Way, Tumwater, WA, (360) 902-4835.

Name of Proponent: Labor and industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Labor and industries is required by RCW 51.18.010 to adopt rules necessary to implement the retrospective rating plan authorized under RCW 51.18.010. The subject rule proposal establishes participant responsibilities, application and enrollment process, clarifies due dates and simplifies the explanation of the formula used to compute retrospective premium. These changes contained in this rule-making proposal are intended to encourage broad participation by qualified employers and minimize reporting record-keeping requirements of participants.

Proposal Changes the Following Existing Rules: Under existing rules participants are required to submit an original application to labor and industries by a set due date each year. Changes proposed allow a participant to fax or e-mail a copy of the completed application to labor and industries in lieu of the original. The due dates are further clarified by establishing that the application will be considered received on the postmarked date and if the due date falls on a weekend the due date is the following business day. Participants are also relieved from having to submit an application annually to continue participation in retrospective rating.

A separate change allows a sponsoring organization to enter into an agreement with Labor and Industries on how group member's past due premiums will be paid. Under existing rule Labor and Industries withholds the member's pro-rata share of the refund directly from the group refund.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules would clarify the language of the rules governing the retrospective rating program without changing the substance of the program. Where these rules would change the administrative procedures associated with the retrospective rating program, the proposed rules would reduce the existing administrative burden imposed on participants in the program without imposing new burdens. Therefore, these proposed rules would not impose anything more than minor costs on businesses governed by these rules, and under RCW 19.85.030 (1)(a) no small business economic impact statement is required.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to this rule. This section does not apply to this rule proposal because it is a rule that only corrects typographical errors and clarifies language without changing its effect. RCW 34.05.328 (5)(iv).

Hearing Location: Labor and Industries, Office Building, Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98504-4180, on October 8, 2002, at 1 p.m.

Assistance for Persons with Disabilities: Contact Mark Matthies by 5 p.m., October 7, 2002.

Submit Written Comments to: Labor and Industries,  
Attention: Retrospective Rating, P.O. Box 4180, Olympia,  
WA 98504-4180. Note: Written comments must be received  
no later than 5:00 p.m., October 7, 2002.

Date of Intended Adoption: November 20, 2002.

August 21, 2002

Gary Moore  
Director

AMENDATORY SECTION (Amending WSR 00-11-060,  
filed 5/12/00, effective 7/1/00)

**WAC 296-17-90401 Introduction.** ((Retrospective rating is a program designed to encourage workplace safety and accident prevention for employers that insure their workers' compensation obligations with the state fund. The 1999 session of the legislature finding that the goal of workplace safety has been enhanced by retrospective rating determined that the plan provided for in RCW 51.16.035 should be formalized in its own section of law (RCW 51.18.005). By legislative policy (RCW 51.18.010) retrospective rating should encourage broad participation by employers and organizations that sponsor retrospective rating groups.

To implement the retrospective rating plan provided for in RCW 51.18.010 we have developed a series of formal rules found in the Washington Administrative Code (WAC). As required by law these rules are based on recognized principles of insurance. WAC 296-17-90401 through 296-17-90497 contains the general and special rules and rating plan tables applicable to the department's voluntary retrospective rating program. We refer to the individual rules (WACs) as sections and the complete body of sections as the retrospective rating manual. The retrospective rating manual contains sections (WACs) that define or explain:

- Words or phrases that we use;
- The steps you must take to participate in the program;
- How group plans are authorized;
- Why members of a group must be involved in similar business operations;
- The need to have an insurance account with the department and keep it in good standing in order to participate in this voluntary rating plan;
- Workplace safety requirements of the plan;
- Contract restrictions and refund requirements;
- Formulas used to establish retrospective premium;
- Premium size tables;
- Plan tables.)

To implement retrospective rating (retro) provided for in RCW 51.18.010, labor and industries (L&I) has developed a series of rules that can be found in chapter 296-17 of the Washington Administrative Code (WAC). As required by law (chapter 51.18 RCW), the retrospective rating plan is based on recognized principles of insurance.

**Note:** WAC 296-17-90401 through 296-17-90497 contain the general and special rules applicable to retro and the retrospective rating plan.

**What is retrospective rating?** Retro is a voluntary financial incentive workers' compensation insurance program offered by L&I. Retro is designed to reward employers participating in the program that are able to keep their claim

costs below the preselected level they have chosen. Reductions in claim costs are the result of improvements in workplace safety and injured worker outcomes.

**Note:** L&I received legislative authority to offer retro in 1980 (SSB 3169, chapter 129, Laws of 1980) and have offered retro options since 1981. In 1999, the legislature formalized the program in its own section of law (chapter 51.18 RCW) and made retrospective rating a mandatory offering of L&I. (SB 6048, chapter 7, Laws of 1999.)

**What is the reward?** Participating employers who are successful may be refunded a portion of the premiums they paid to L&I.

**Note:** Retro is not for everyone. An employer may be assessed additional premium if they are not committed to improving workplace safety and accident prevention and/or do not take appropriate action to reduce the frequency and severity of accidents to their employees.

**Are there any fees involved?** L&I does not charge fees for this program.

**Note:** Organizations that sponsor retro groups can and often do charge their members fees for their services. These fees are not a requirement of L&I nor are they regulated by L&I.

**Who can participate?** Any employer that insures their workers' compensation insurance obligations with L&I and meets the requirements contained in the retro rules can participate in retro.

AMENDATORY SECTION (Amending WSR 00-11-060,  
filed 5/12/00, effective 7/1/00)

**WAC 296-17-90402 Definitions.** ((In developing the general reporting rules and tables for retrospective rating, we have used certain words or phrases that could have several meanings. Appendix A of this manual contains a list of words or phrases defined by law (Title 51 RCW). To reduce misunderstandings which can result by our use of certain words or phrases not defined in law (Title 51 RCW), we have developed definitions which will govern what these words or phrases mean for purposes of the retrospective rating program.

**Account:** The term "account" means an individual employer's industrial insurance account and related subaccounts, or in the case of a retrospective rating group it means the sponsoring organization's industrial insurance account. For purposes of RCW 51.08.015, the term "retrospective rating account" and "industrial insurance account" shall have the same status.

**Account in good standing:** For an account to be in good standing, the employer and/or group must have:

(a) Submitted all of the required reports and paid all industrial insurance premium payments, assessments, penalties and interest when due and on time. This requirement also includes the payment of other fees, fines, penalties and assessments established by the department such as safety violations and computer access fees. An account may be deemed to be in good standing if the employer or group (organization) is current with a repayment agreement with the department; and

(b) Not participated in the activities described in WAC 296-17-90484 concerning the direct payment of medical services.

A sponsoring organization in addition to the requirements described in (a) and (b) of this subsection must also file the safety plan and reports required in WAC 296-17-90412 and comply with the contract and refund distribution requirements of WAC 296-17-90466 for the group account to be in good standing.

**Adjustment:**—The process of calculating retrospective premium, and any resulting refunds or assessments. For the first adjustment of a coverage period, retrospective premium is compared to the standard premium due. The difference will be refunded if the retrospective premium is lower than the standard premium due. You will be assessed the difference if the retrospective premium is higher than the standard premium due. In subsequent adjustments of the coverage period, the new retrospective premium is compared to the prior retrospective premium to determine the amount of refund or assessment.

**Basic premium ratio (BPR):**—A component of the retrospective rating premium formula, the BPR represents a charge for administrative costs (except claims handling) and an insurance charge which covers the cost of having retrospective premium limited by the selected maximum premium ratio.

**Case reserve:**—The department's estimate of cost associated with a specific claim over the lifetime of the claim.

**Coverage period:**—A twelve month period beginning January 1 and ending December 31, or April 1 through March 31, or July 1 through June 30, or October 1 through September 30. Only claims with a date of injury within the selected coverage period and standard premium due for the same coverage period are used to calculate retrospective premium. The coverage period is selected by the group or individually enrolled employer.

**Developed losses, a.k.a. total incurred losses (developed):**—A component of the retrospective rating premium formula. Based on historical trends we know that the total incurred losses for claims in a coverage period tend to increase over time. This can be the result of claim reopenings, changes in time loss duration, increased medical utilization, etc. The developed losses computation anticipates and distributes these increases among all the participants in a coverage period. Developed losses for pension claims are determined by multiplying their incurred losses by the applicable performance adjustment factor. For nonpension claims, developed losses are determined by multiplying their incurred losses by the applicable loss development factors.

**Evaluation date:**—The date selected by the department in which incurred losses for applicable claims are measured and captured for the purpose of calculating retrospective premium. Changes in incurred losses that occur after an evaluation date will not be considered until the next applicable evaluation date. The first evaluation date is between nine and ten months after the coverage period ends. All subsequent evaluations will occur in twelve month intervals. Beginning with the coverage period October 1, 2000, and all coverage periods thereafter, the number of mandatory evaluations will change from two to three.

**Freeze date:**—See evaluation date.

**Group:**—Employer members of an organization who have agreed to have their retrospective premium calculated using

the combined applicable standard premium and related loss data of the participants as a whole.

**Homogeneity:**—An insurance term used to denote a similarity between two or more business risks. Although it is rare that any two businesses will be identical, similar businesses have similar exposure to occupational injury and disease.

**Incurred losses:**—A term we use to denote a cost component of a claim. For open claims, incurred losses are the total of costs paid to date which have been assigned to a given employer account, or the case reserve established by the department, whichever is greater. For closed claims, incurred losses are the total of costs paid to date which have been assigned to a given employer account, regardless of any case reserve that may have been established.

**Loss conversion factor (LCF):**—A component of the retrospective premium formula, the LCF represents an expense charge for claims handling and the present value of developed losses. LCFs can be found in WAC 296-17-90493 through 296-17-90497.

**Loss development factor (LDF):**—LDFs are actuarially determined factors that are multiplied by incurred losses of nonpension retro claims to produce developed losses. LDFs are unique to each coverage period, but are the same for every nonpension retro claim in the coverage period. They are periodically recalculated. LDFs shown on retro reports have already been adjusted by the applicable performance adjustment factor.

**Loss ratio:**—The numerical result when dividing developed losses by standard premium. The retrospective premium calculation will generate a net refund if the Basic premium ratio (BPR) + (Loss Ratio X the Loss conversion factor (LCF)) is less than 1. The BPR and LCF are determined by the plan picked by the individual enrollee, or in the case of a group by the sponsoring organization and the premium size of the individual enrollee or the group. Once these are picked the group can only influence the loss ratio to determine the amount of refund. The department suggests an evaluation of each claim to determine if there are trends and patterns and that the sponsoring organization implement workplace safety measures to eliminate or reduce loss regardless of the loss ratio.

**Maximum premium ratio (MPR):**—A factor preselected by the organization (group) or individually enrolled employer that determines the maximum retrospective premium requirement for a given coverage period. MPRs can be found in WAC 296-17-90493 through 296-17-90497.

**Member of a group:**—A term used by the department to describe the individual employers that participate in a group plan of a sponsoring organization.

**Minimum premium ratio (MnPR):**—For plans A1, A2 and A3, an actuarially determined factor that determines the minimum retrospective premium requirement for a given coverage period. MnPRs can be found in WAC 296-17-90493 through 296-17-90497.

**Pension claim:**—A claim designated as a fatality or total permanent disability.

**Performance adjustment factor (PAF):**—An actuarially determined factor unique to each retro coverage period which ensures that aggregate refunds reflect the relative perfor-

mance of retro versus nonretro state fund employers plus an investment credit.

**Plan:** A numeric table developed by the department used to calculate the retrospective premium requirement of a group or individually enrolled employer. A group or individually enrolled employer preselects from one of five plans (A, A1, A2, A3 or B). The selected plan (along with the MPR and standard premium volume) determine the minimum premium, basic premium and the loss conversion factor which is applied to the developed losses used in the retrospective premium calculation.

**Premium:** Money paid (due) from an employer for workers' compensation insurance. It does not include money paid as fees, fines, penalties or deposits.

**Qualified employer:** A term used by the department to describe an employer that has an industrial insurance account and that the account is in good standing at the time of enrollment.

**Retrospective premium:** The net premium for a group or individually enrolled employer after an adjustment for a given coverage period, using the formulas and provisions found in WAC 296-17-90491 through 296-17-90497.

**Retrospective rating account:** A term used by the department to describe the industrial insurance account of an employer or a sponsoring organization that participates in retrospective rating.

**Standard premium:** The total accident fund and medical aid fund premiums paid (due) by a group or individually enrolled employer for a given coverage period. The supplemental pension assessment portion of total premiums due (paid) is not included. If the group includes employers subject to the staggered enrollment provision of the retrospective rating rules, the standard premium is the total premiums due (paid) for the calendar months in which they have been accepted into a group.)) To reduce misunderstandings that can result by our use of certain words or phrases, we have developed definitions that govern what these words or phrases will mean for retro purposes.

**Account:** An individual employer's industrial insurance account and related subaccounts, or in the case of a retro group it means the sponsoring organization's industrial insurance account.

**Account in good standing:** A phrase we use when an employer and/or sponsoring organization is current with all payments due L&I and in compliance with L&I laws, rules and regulations at the time of enrollment or reenrollment. For an account to be in good standing you must:

- Have an active L&I industrial insurance account.
- Submit all reports required by L&I when they were due.
- Pay all industrial insurance premium payments, assessments, penalties and interest when due.

**Note:** This requirement also includes the payment of other fees, fines, penalties and assessments established by the department such as safety violations and computer access fees. An account may be deemed to be in good standing if the employer or group (sponsoring organization) is current with an L&I approved written repayment agreement.

- Not participate in the activities described in WAC 296-17-90428 concerning the direct payment of medical services.

**Note:** Organizations that sponsor a group must also file the safety plan when applicable (WAC 296-17-90409) and the annual safety report required in WAC 296-17-90411 to be in good standing.

**Adjustment:** The process of calculating retrospective premium, and any resulting refund or assessment.

**Note:** For the first adjustment of a coverage period, retrospective premium is compared to the standard premium due. The difference will be refunded if the retrospective premium is lower than the standard premium due. You will be assessed the difference if the retrospective premium is higher than the standard premium due. In subsequent adjustments of the coverage period, the new retrospective premium is compared to the prior net retrospective premium to determine the amount of refund or assessment.

PROPOSED

RETROSPECTIVE PREMIUM ADJUSTMENT FOR:

STATE OF WASHINGTON  
DEPT OF LABOR AND INDUSTRIES  
INSURANCE SERVICES  
PROGRAM/SYSTEM A2522235

NOTTA-REAL COMPANY INC  
9999 MAIN ST NW  
SAMSONVILLE, WA 98000

PROPOSED

COVERAGE PERIOD	RETRO ID	ADJUSTMENT NUMBER	ADJUSTMENT DATE	RETROSPECTIVE RATING PLAN	MAXIMUM PREMIUM RATIO
07/01/99 - 06/30/00	999999	2	05/09/02	B	1.45

RETROSPECTIVE PREMIUM CALCULATION

BASIC PREMIUM RATIO	.000	X	STANDARD PREMIUM DUE	204,602		
		PLUS				
LOSS CONVERSION FACTOR	.983	X	TOTAL INCURRED LOSSES (DEVELOPED)	96,334	EQUALS	INDICATED RETROSPECTIVE PREMIUM 94,696
MAXIMUM PREMIUM RATIO	1.45	X	STANDARD PREMIUM DUE	204,602	EQUALS	MAXIMUM PREMIUM 296,673
					≥	301,804 DEVELOPED LOSSES
MINIMUM PREMIUM RATIO	.000	X	STANDARD PREMIUM DUE	204,602	EQUALS	MINIMUM PREMIUM 0
					≤	0 DEVELOPED LOSSES
BREAK-EVEN DEVELOPED LOSSES = 208,140						RETROSPECTIVE PREMIUM 94,696

ADDITIONAL PREMIUM OR REFUND CALCULATION

PRIOR RETROSPECTIVE PREMIUM PAID	135,979	-	RETROSPECTIVE PREMIUM	94,696	EQUALS	OR	ADDITIONAL PREMIUM DUE	0
							PRIOR PREMIUM REFUND	41,283

PRIOR ADJUSTMENTS

ADJ NO	EMPLOYER MEMBERS	SIZE GROUP	STANDARD PREMIUM DUE	TOTAL INCURRED LOSSES (DEVELOPED)	RETRO PREMIUM	REFUND AMOUNT	ADDITIONAL PREMIUM DUE	ADDITIONAL PREMIUM PAID
1.00	2	26	204,602	138,331	135,979	68,623	0	0

**Basic premium ratio (BPR):** A component of the retrospective rating premium formula. The BPR represents a charge for administrative costs (except claims handling) and an insurance charge that covers the cost of having retrospective premium limited by the selected maximum premium ratio.

**Case reserve:** L&I's estimate of the cost associated with a specific claim.

**Coverage period:** A twelve-month period beginning January 1 and ending December 31, or April 1 through March 31, or July 1 through June 30, or October 1 through September 30. Only claims with a date-of-injury within the selected coverage period and the standard premium due for the same coverage period are used to calculate retrospective premium. Effective with the October 1, 2000, coverage period and all subsequent coverage periods thereafter, each coverage period will have three mandatory adjustments and no optional adjustments. The first adjustment will occur nine months after the coverage period has ended. Each subsequent valuation will take place in twelve-month intervals.

**Note:** The coverage period for a retro group is selected by the sponsoring organization and the coverage period of an individual enrollment is selected by the employer.

**Date of enrollment or reenrollment:** A phrase used by L&I to establish when participation in retro begins. The date of enrollment or reenrollment is the first day of the coverage period.

**Note:** A sponsoring organization can add new group members each quarter during the coverage period. We refer to this as "staggered enrollment." Employers seeking to participate in an organization's group after the coverage period has begun must meet all of the application requirements found in WAC 296-17-90413. Staggered enrollment applications must be received in our Tumwater office by the 15th calendar day of the month prior to the selected quarter (i.e., December 15 for January 1; March 15 for April 1; June 15 for July 1; or September 15 for October 1). If the due date falls on a weekend or holiday, the application will be due on the next business day. Employers that participate in a retro group on a staggered enrollment basis are required to participate for the remainder of the coverage period unless they sell or close the enrolled business or become self-insured.

**Developed losses, a.k.a. total incurred losses (developed):** A component of the retrospective rating premium formula. Based on historical trends we know that the total incurred losses for claims in a coverage period tend to increase over time. This can be the result of claim reopenings, changes in time loss duration, increased medical utilization, etc. The developed losses computation anticipates and distributes these increases among all the participants in a coverage period.

**Note:** Developed losses for pension claims are determined by multiplying their incurred losses by the applicable performance adjustment factor. For nonpension claims, developed losses are determined by multiplying their incurred losses by the applicable loss development factors.

**Freeze date:** See valuation date.

**Group:** Employer members of an organization who have agreed to have their retrospective premium calculated using the combined applicable standard premium and related developed loss data of the participants as a whole.

**Homogeneity:** A word used to convey the requirement that retro groups be made up of like businesses.

**Incurred losses:** A cost measure of a claim. For open claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, or the case reserve established by the department, whichever is greater. For closed claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, regardless of any case reserve that may have been established.

**Loss conversion factor (LCF):** A component of the retrospective premium formula, the LCF represents an expense charge for claims handling and the present value of developed losses.

**Note:** LCFs can be found in WAC 296-17-90493 through 296-17-90497.

**Loss development factor (LDF):** These are actuarially determined factors that are multiplied by incurred losses of nonpension retro claims to produce developed losses. LDFs are unique to each coverage period, but are the same for every nonpension retro claim in the coverage period.

**Note:** LDFs are periodically recalculated. LDFs shown on retro reports have already been adjusted by the applicable performance adjustment factor.

**Loss ratio:** The numerical result of dividing developed losses by standard premium.

**Note:** The retrospective premium calculation will generate a net refund if the basic premium ratio (BPR) + (Loss Ratio x the Loss conversion factor (LCF)) is less than 1. The BPR and LCF are determined by the plan selected by the individual enrollee, or in the case of a group by the sponsoring organization and the premium size of the individual enrollee or the group. Once these have been selected the retro group can only influence the loss ratio to determine the amount of refund. L&I suggests an evaluation of each claim to determine if there are trends and patterns and that the sponsoring organization implement workplace safety measures to eliminate or reduce loss regardless of the loss ratio.

**Maximum premium ratio (MPR):** A factor preselected by the organization (group) or individually enrolled employer. The MPR is multiplied by the standard premium (SP) to determine the maximum retrospective premium requirement for a given coverage period.

**Note:** MPRs can be found in WAC 296-17-90493 through 296-17-90497.

**Member of a group:** These are the individual employers that participate in a group plan of a sponsoring organization.

**Minimum premium ratio (MnPR):** An actuarially determined factor applicable to plans A1, A2 and A3. The MnPR is multiplied by the standard premium (SP) to determine the minimum retrospective premium requirement for a given coverage period.

**Note:** MnPRs can be found in WAC 296-17-90494 through 296-17-90496.

**Pension claim:** A claim designated as a fatality or total permanent disability.

**Performance adjustment factor (PAF):** An actuarially determined factor unique to each retro coverage period that ensures that aggregate refunds reflect the relative performance of retro versus nonretro state fund employers.

**Plan:** A numeric table developed by L&I used to calculate the retrospective premium requirement of a group or individually enrolled employer.

**Note:** A group or individually enrolled employer preselects from one of five plans (A, A1, A2, A3 or B). The selected plan (along with the MPR and standard premium volume) determines the minimum premium, basic premium and the loss conversion factor that is applied to the developed losses used in the retrospective premium calculation.

**Premium:** Money paid (due) from an employer for workers' compensation insurance. It does not include money paid as fees, fines, penalties or deposits.

**Qualified employer:** A phrase used by L&I to describe an employer that has an industrial insurance account and that the account is in good standing at the time of enrollment or reenrollment.

**Retrospective premium:** The net premium for a group or individually enrolled employer after an adjustment for a given coverage period. The retrospective premium is determined using the formulas and provisions found in WAC 296-17-90446.

**Standard premium:** A phrase used by L&I to denote the total accident fund and medical aid fund premiums paid (due) by a group or individually enrolled employer for a given coverage period.

**Note:** The supplemental pension assessment portion of total premiums due (paid) is not included. If the group includes employers subject to the staggered enrollment provision of the retro rules, the standard premium is the total accident fund and medical aid fund premiums due (paid) for the calendar months in which they have been accepted into a group.

**Valuation date:** The date selected by L&I in which incurred losses for applicable claims are measured and captured for the purpose of calculating retrospective premium.

**Note:** Changes in incurred losses that occur after the valuation date will not be considered until the next applicable valuation date. The first valuation date is nine months after the coverage period ends. All subsequent valuations will occur in twelve-month intervals.

## NEW SECTION

**WAC 296-17-90404 Employer options.** A qualified employer can participate in retro either as an individual or as a member of a retro group.

**Note:** Organizations that sponsor retro groups can establish enrollment requirements beyond those required by L&I. Employers interested in participating in a group should contact the organization that sponsors the group they are interested in directly for their requirements. Links to these organizations can be found at the retro website ([www.lni.wa.gov/retro/](http://www.lni.wa.gov/retro/)).

## NEW SECTION

**WAC 296-17-90405 Individual retro—Enrollment.**

### **Your responsibility:**

To enroll in an individual retro:

### **You must:**

- Have an active L&I industrial insurance account.

- Keep your L&I industrial insurance account in good standing.
- Enroll all similar businesses that you own or have a controlling interest in.

**Note:** A controlling interest means that you or a common set of owners own more than fifty percent of each business. If you acquire, purchase or start a new or existing business that you report in a separate L&I subaccount during the current coverage period that is of a similar business nature as the business enrolled in retro, the new business or businesses must be enrolled in retro for the remainder of the coverage period.

**Example:** You operate a chain of ten grocery stores. Each store is operated at a different location. You have requested that each store be assigned a special account (sub-account). You must enroll all ten stores in a retro plan. In addition, your company also has a separate administrative office. This office reports under the clerical office classification. You may elect to include your administrative office.

- Participate in retro for the entire coverage period unless you become a self-insured employer, sell or close your business and close your industrial insurance account.

**Note:** This requirement also applies to an employer's participation in a retro group. L&I will use the reported exposure (standard premium and developed losses) of the employer for the portion of the coverage period the business operated in the retrospective premium calculation for the group.

- Have at least a minimum annual standard premium of \$3,202.

- Select the maximum premium ratio and plan (A, A1, A2, A3 or B) that you wish to participate in. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection.

**Note:** Plan and maximum premium ratio choices cannot be changed after the coverage period begins.

- Obey L&I's laws, rules and regulations.
- Complete, sign and return a copy of the "Individual Retrospective Rating Plan Agreement" form to L&I by the due date indicated on the form.

**Note:** Most employers participating in retro do so as a member of a group. If you are interested in participating in a group, you should contact the organization that sponsors the group you are interested in. They can tell you what their requirements are. Some organizations require a minimum standard premium for participation in their group. Any requirements other than those listed above are requirements of the organization that sponsors the retro group and not those of L&I.

Department of Labor & Industries  
 Retrospective Rating  
 PO Box 44180  
 Olympia WA 98504-4180  
 www.lni.wa.gov/retro/



# INDIVIDUAL RETROSPECTIVE RATING PLAN AGREEMENT

*Employer, please complete all blanks*

Indicate plan choice: <input type="checkbox"/> Plan A <input type="checkbox"/> Plan A1 <input type="checkbox"/> Plan A2 <input type="checkbox"/> Plan A3 <input type="checkbox"/> Plan B	Indicate maximum premium ratio selected: <input type="checkbox"/> 1.05 <input type="checkbox"/> 1.30 <input type="checkbox"/> 1.60 <input type="checkbox"/> 1.10 <input type="checkbox"/> 1.35 <input type="checkbox"/> 1.70 <input type="checkbox"/> 1.15 <input type="checkbox"/> 1.40 <input type="checkbox"/> 1.80 <input type="checkbox"/> 1.20 <input type="checkbox"/> 1.45 <input type="checkbox"/> 2.00 <input type="checkbox"/> 1.25 <input type="checkbox"/> 1.50	Firm name, mailing address & location
Indicate coverage period Jan 1 through Dec 31 <input type="checkbox"/> (Dec 15) Apr 1 through Mar 31 <input type="checkbox"/> (Mar 15) Jul 1 through Jun 30 <input type="checkbox"/> (Jun 15) Oct 1 through Sep 30 <input type="checkbox"/> (Sep 15)		Firm's E-mail address
Note: This agreement must be postmarked no later than the due date indicated above. If the due date falls on a weekend or official holiday, it must be postmarked no later than the next business day.		DBA (Doing business as)
Department's outside authorized representative of firm (if any)		UBI (Unified Business Identifier)
As owner, partner or corporate officer of the above business, I would like to enroll in the retrospective rating plan indicated above. Upon acceptance of this agreement by L&I, I understand and agree that:		Employer Account ID (8 digit) including all sub/related accounts
• This agreement will be in effect for the entire coverage period indicated above and for each of the subsequent adjustments required by WAC. • Unless I notify L&I in writing prior to the first day of each subsequent coverage period, L&I will automatically re-enroll my business in the same plan, maximum premium ratio and coverage period. In the event that I want to change plans, maximum premium ratio or coverage period I must complete a new agreement form and submit it to L&I by the due date indicated above. • I will maintain my industrial insurance account in good standing and will comply with L&I laws, rules and regulations.		Employer contact person's name
NOTE: This agreement cannot be changed without the express written consent of L&I.		Employer contact person's phone number
The signature of an owner, partner or corporate officer of the above referenced employer authorized to enter in this agreement is required for the employer to participate in retro.		
Date signed	Employer's name (print)	Employer's signature

**Return original & yellow copies to L&I. Retain pink copy for your file.**  
 If using a window envelope, please check to ensure address below shows through window.



Phone (360) 902-4851

Department of Labor & Industries  
 Retrospective Rating  
 PO Box 44180  
 Olympia WA 98504-4180

A countersigned copy will be returned to you upon acceptance in a retrospective rating plan Department Use ONLY		
Agreement postmarked	Effective date of coverage	Date signed
Date stamp	Comments	
Retrospective rating program administrator (print)		Retrospective rating program administrator (signature)

F250-003-000 individual retrospective rating plan agreement 8-02

PROPOSED

**Note:** If you contact us, we will send you a copy of the agreement form. A copy of the form can also be found at the retro website ([www.lni.wa.gov/retro/](http://www.lni.wa.gov/retro/)).

- Not participate in prohibited activities such as, but not limited to, direct payment of medical services for a job related injury or illness.

**We may require:**

- You to provide us (L&I) with a surety bond or an assignment of savings.

**If required:**

- The surety bond or assignment of savings will be executed on forms authorized by L&I.

**Note:** The surety bond or assignment of savings requirement will be based on the difference between the participants' estimated standard premium and the maximum premium due under the applicable retro plan. If the standard premium falls within two increment ranges, the bond will be at the next higher thousand-dollar increment. The surety bond or assignment of savings must be in full force and effect for the entire coverage and the related adjustment periods.

**Our responsibility:**

Upon receipt of the required forms and documents:

**We will:**

- Review the documents you have submitted and the Individual Retrospective Rating Plan Agreement form for completeness.
  - Verify that your L&I industrial insurance account is in good standing at the time of enrollment.
  - Notify you in writing of our acceptance or denial of your application to participate in retro.

**NEW SECTION**

**WAC 296-17-90407 Reenrollment—Individual retro.**

**Your responsibility:**

To reenroll in an individual retro:

**You must:**

- If before April 1, 2003, complete, sign and send L&I a new "Individual Retrospective Rating Plan Agreement" form by the due date indicated on the form.

**Note:** Beginning with the April 1, 2003, coverage period, and for each subsequent coverage period thereafter, L&I will automatically reenroll you in the same plan and maximum premium ratio that you previously selected provided your L&I industrial insurance account is in good standing at the time of reenrollment and you are in compliance with the requirements and conditions found in WAC 296-17-90405.

- For coverage periods beginning on or after April 1, 2003, complete, sign and send L&I a new Individual Retrospective Rating Plan Agreement form only if you want to change plans, coverage periods or the maximum premium ratio by the due date.

**Note:** If you contact us we will send you a copy of the agreement form. A copy of the form can also be found at the retro website ([www.lni.wa.gov/retro/](http://www.lni.wa.gov/retro/)).

**Our responsibility:**

If you contact us and ask us for assistance:

**We will:**

- Review with you your current premium and losses.
- Answer questions that you have on different plans and maximum premium ratio options you are considering.

AMENDATORY SECTION (Amending WSR 01-23-058, filed 11/20/01, effective 1/1/02)

**WAC 296-17-90409** (~~I understand that there are specific prerequisites that an organization must meet to sponsor a new retrospective rating group plan.~~) New group—Requirements. ((Can you tell me what these requirements are? Yes. Before we can consider an organization's request to sponsor a new retrospective rating group plan they must meet all the following requirements:

(1) The sponsoring organization must have been in existence for at least four years prior to sponsoring a retrospective rating group.

(a) ~~To validate this, the sponsoring organization must provide the department with copies of its articles of incorporation, bylaws and marketing/membership applications or similar material, accompanied with an affidavit certifying that the documents are true and the information contained in the documents is accurate as of the date of submittal.~~

(b) ~~The department will verify this information through contacts with various state, local and federal agencies and other businesses.~~

(2) ~~The sponsoring organization must have been formed for purposes other than that of obtaining or offering insurance coverage or insurance services described in WAC 296-17-90408.~~

(3) ~~Employer members of the proposed retrospective rating group must be dues paying members of the organization. We recognize that some organizations may be funded through member donations and not dues. The intent of this requirement is to ensure that the members of the organization are current members as opposed to potential members. Where an organization's members do not pay dues the organization must provide a list of its current members and a written explanation of how member contributions are determined.~~

(a) ~~An organization seeking to sponsor a group retrospective rating plan must submit a list of its current members that want to participate in the organization's group plan to the department. The membership list must include the effective date of membership for each proposed member and an affidavit signed by an officer of the sponsoring organization certifying the list to be true and accurate as of the date of submittal.~~

(b) ~~Each employer member who wants to participate in the organization's retrospective rating group plan must have an industrial insurance account in good standing with the department.~~

(c) ~~Each employer member who wants to participate in the proposed sponsoring organization's retrospective rating group must provide us with a written request/release. This is to be done on a form provided by the sponsoring organization and approved by the department. Sample forms can be found in Appendix A of this manual. Completion and submission of this application to the department signifies the employer's desire to participate in the organization's retrospective rating group if it is approved. The proposed retrospective rating group membership list must be submitted with the group application of the organization and the other material listed in this section.~~

(d) All employers in the retrospective rating group must be members of the sponsoring entity.

(e) Fifty percent of the members of the proposed retrospective rating group must have been members of the sponsoring organization for one year prior to the group's entrance into the retrospective rating program. We will verify this from the membership information provided to the department in (a) of this subsection.

(4) The sponsoring organization must have an industrial insurance account and the account must be in good standing at all times, including the application process and the coverage and adjustment periods.

(5) The initial premium level of the proposed retrospective rating group must be at least one million five hundred thousand dollars. This will be based on the standard premium of the proposed group members' most current fiscal year (four quarters) of reporting.

(6) The requirements contained in this rule are in addition to any other requirements contained in the retrospective rating manual such as those found in WAC 296-17-90412(2) applicable to an annual safety report and WAC 296-17-90421(2) applicable to selection of an industry group by the sponsoring organization.)) **Your responsibility:**

To sponsor a new retro group after July 25, 1999:

**You must:**

• Have an L&I industrial insurance account and the account must be in good standing at the time of enrollment.

• Be an organization with dues paying members.

**Note:** This requirement is intended to provide a distinction between a business enterprise with clients not permitted to sponsor a retro group and an organization with members that can sponsor one or more retro groups. We recognize that some organizations may be funded through member donations and not dues. If your members do not pay dues, you must provide L&I a written confirmation of this fact when you send in your signed and completed group application.

• Provide L&I with copies of your organization's articles of incorporation, bylaws and marketing/membership applications or similar material.

**Note:** This information is to be submitted with your completed group application.

• Be formed for purposes other than:

– Obtaining or offering insurance coverage or insurance related services.

**Note:** In addition to these prohibitions, an insurer, insurance broker, insurance agent or insurance solicitor may not participate in the formation of a retrospective rating group; or sponsor a retrospective rating group. Since enhancement of workplace safety for the group is a principal requirement of retro, an organization that offers services primarily related to risk management, safety, loss control or claims administration will be deemed to be set up for the sole purpose of participating in retro and will not qualify to sponsor a retro group.

– Sponsoring a retro group and participating in L&I's retrospective rating program.

**Note:** We will verify the purpose(s) of the organization from the information contained in the articles of incorporation, bylaws, contracts and/or advertising material of the organization and contacts with other state agencies.

• Have been in existence for at least four years prior to sponsoring a retro group.

• Submit a written workplace safety and accident prevention plan to L&I.

**Note:** The written safety plan must demonstrate to L&I's satisfaction that formation of the group will substantially improve workplace safety and accident prevention for the group members. The safety plan must be tailored to the business/industry of the group members and include an evaluation of the group members' past claims.

• Cooperate with L&I's claims management activities.

• Obey L&I laws, rules and regulations.

• Complete an Application for Group form and send it to L&I.

**Note:** When you complete this application, you will need to select the single industry or business category that will be applicable to your group, the maximum premium ratio and plan (A, A1, A2, A3 or B) that will apply to the group for the coverage period. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection. Plan and maximum premium ratio choices cannot be changed after the deadline listed below.

<u>Coverage period</u>	<u>Received by</u>
<u>Jan. 1 through Dec. 31</u>	<u>Oct. 31</u>
<u>April 1 through March 31</u>	<u>Jan. 31</u>
<u>July 1 through June 30</u>	<u>April 30</u>
<u>Oct. 1 through Sept. 30</u>	<u>July 31</u>

Department of Labor and Industries  
 Retrospective Rating  
 PO Box 44180  
 Olympia, Washington 98504-4180  
 (360) 902-4851  
 www.LNI.wa.gov/retro/

## APPLICATION FOR GROUP RETROSPECTIVE RATING

PROPOSED

Association name	Assoc. representative's name	E-mail address
Association mailing address and location	Assoc. representative's telephone (including area code)	
	Date association first formed	
City	State	Zip Code+4
Outside authorized representative (if any)		

By submitting this signed and completed Application for Group to L&I the sponsoring organization listed above agrees to all of the following conditions:

- Upon acceptance of our Application for Group by L&I, our organization will sponsor a retrospective rating group in the following business or industry category (check the one category that applies to this group):

**NOTE:** The categories listed below have been abbreviated. A complete description of each category can be found on our web site.

- |  |   |
|--|---|
| <input type="checkbox"/> Agriculture services                    | <input type="checkbox"/> Grocery stores, grocery distribution centers |
| <input type="checkbox"/> Auto, truck & boat, mfg., sales, repair | <input type="checkbox"/> Healthcare, pharmaceutical, laboratories     |
| <input type="checkbox"/> Construction                            | <input type="checkbox"/> Logging & wood products mfg.                 |
| <input type="checkbox"/> Distillation, chemicals, food           | <input type="checkbox"/> Manufacturing, processing, mining            |
| <input type="checkbox"/> Entertainment, hospitality              | <input type="checkbox"/> Retail & wholesale stores and prof. svcs.    |
| <input type="checkbox"/> Facilities, property mgmt., maint.      | <input type="checkbox"/> Temporary help & related services            |
| <input type="checkbox"/> Govt., utilities, schools, healthcare   | <input type="checkbox"/> Transportation & warehousing                 |

- That unless our organization changes plan selection, maximum premium ratio or coverage periods this application will apply to future coverage periods. Our organization understands that we will be required to submit a completed annual agreement to L&I for continued participation and sponsorship of the retrospective rating group covered by this application. In the event that our organization desires to change plan selection, maximum premium ratio or coverage periods we will be required to complete and submit a new Application for Group. We further understand that this new application must be submitted to L&I at least two months prior to the first day of the selected coverage period.
- If requested by L&I our organization will provide L&I with a surety bond or other security deposit. We understand and agree that the surety bond or security deposit will be in an amount equal to our maximum retrospective premium due under this agreement.
- We understand and agree to maintain our L&I industrial insurance account in good standing and that it must be in good standing at the time of enrollment/re-enrollment in order to sponsor a retrospective rating group.
- We will comply with all L&I's laws, rules and regulations.
- We will cooperate with L&I's claim management activities and will participate in L&I workplace safety initiatives.
- We understand and agree that our organization is directly responsible to L&I for any additional premium due from this agreement.
- Our organization will represent all members of the retrospective rating group, if approved, in all matters pertaining to their participation in the above selected retrospective rating group for the selected coverage period and subsequent adjustment periods.
- As the legal representative, the sponsoring organization is responsible for communicating L&I decisions to the members of the group.

**NOTE:** This agreement cannot be changed without the express written consent of L&I and is in effect through the coverage period selected by the sponsoring organization.

**As a part of the application process our organization has selected the following plan, maximum premium ratio and coverage period:**

Plan	Maximum Premium Ratio	Coverage Period

**NOTE:** If this application is for a new group you must send a copy of the articles of incorporation, by-laws, or other information to establish the organization's purpose and which validates membership requirements, and a copy of your Safety Plan.

**Upon receipt of this application, L&I will send the sponsoring organization the following documents and/or information:**

- Group Retrospective Rating Agreement Form.
- Application for Group Membership for each group member.
- Notice of any surety bond or other security deposit, if needed.

**All information given in this application and attachments is true and complete.**

Association President's name (print)	Date signed	Association President's signature

• Send us a cover with letter on your organization's letterhead that lists the documents being enclosed and that the information contained in the documents is accurate as of the date of submittal.

**Sponsoring Organization**

**XXX NE 12th Street**  
**Seattle, Washington**

**Labor and Industries**  
**Retrospective Rating**  
**P.O. Box 44180**  
**Olympia, Washington 98504-4180**

**Enclosed you will find the following documents:**

**Application for Group**  
**Articles of Incorporation and marketing material**  
**Group Safety Plan**

**The information accurately reflects the purpose of our organization and is being provided as part of the application process required of all new retro groups.**

**If you have questions or need other information, feel free to call me.**

**Sincerely,**

**Joe Smith**  
**Executive Director**

**Note:** The new group information must be received in our Tum-water office by 5:00 p.m. (Pacific time) on the due date.

**Our responsibility:**

Upon receipt of the required information:

**We will:**

- Notify you in writing of any deficiency in your workplace safety and accident prevention plan.
- Determine if your organization is qualified to sponsor a new retro group and notify you of our decision.

**NEW SECTION**

**WAC 296-17-90410 New group—Agreement finalized.**

**Our responsibility:**

If we determine that your organization is qualified to sponsor a new retro group:

**We will:**

- Send you a "Group Retrospective Rating Agreement" form that must be signed, completed and returned by the date indicated on the form.
- Send you a blank Application for Group Membership and Authorization for Release of Insurance Data form.

**Note:** You should make copies of the application form and give a copy to each proposed group member. L&I requires an application for each proposed member.

**Your responsibility:**

When you receive the application forms:

**You must:**

- Send L&I a signed and completed Application for Group Membership and Authorization for Release of Insurance Data form for each proposed group member.

**Note:** An owner, partner or corporate officer of each business must sign the Application for Group Membership form.

- Provide L&I with documentation to establish that at least fifty percent of the proposed group members have been members of the sponsoring organization for at least one year prior to the first day of the selected coverage period.

**Note:** The documentation must include the name of the employer member and the date they became a member of the organization.

- Supply L&I with a surety bond if requested to do so.

**Note:** If required the surety bond will be in an amount equal to the difference of the projected standard premium of the retro group and the maximum premium under the plan selected rounded to the nearest thousand dollar increment. If a bond is required it is to be in effect until the coverage period has been finalized. This includes the period related to the annual adjustments of the coverage period and periods covered by any appeal of that coverage period.

- Complete, sign and return to L&I by the due date indicated on the agreement a "Group Retrospective Rating Agreement" form.

**Note:** The "Application for Group Retrospective Rating" form required in WAC 296-17-90409 and the "group retrospective rating agreement" required by this rule are separate forms. Both forms are required of a new group.

Department of Labor and Industries  
Retrospective Rating Program  
PO Box 44180  
Olympia WA 98504-4180  
Phone: (360) 902-4851  
www.LNI.wa.gov/retro/



# GROUP RETROSPECTIVE RATING AGREEMENT

This Agreement is between the Washington State Department of Labor and Industries (L&I) and \_\_\_\_\_ (sponsoring organization) for the twelve month coverage period beginning \_\_\_\_\_ and the related subsequent adjustments.

Terms of this Agreement are as follows:

- The sponsoring organization agrees that the words “organization” and “association” shall have the same meaning.
- The sponsoring organization will represent participating group members in all matters pertaining to their participation in retrospective rating for the period covered by this agreement.
- The sponsoring organization is responsible for notifying participating members of any decision made by L&I that involves the member’s industrial insurance account relative to their participation in retro during the period covered by this agreement.
- Each approved group member who by separate application has agreed to participate in this Group Retrospective Rating Agreement will:
  - Remain a party to this agreement for the above selected coverage period and all subsequent related adjustments.
  - Maintain an industrial insurance account with L&I and will keep the account in good standing.
  - Will earn and retain their individual experience rating based upon their own experience.
- The sponsoring organization will comply with all L&I laws, rules and regulations.
- The sponsoring organization is directly responsible to L&I for any additional retrospective premium arising from this agreement.
- A security deposit or surety bond equivalent to the maximum premium assessment may be required from the sponsoring organization as a condition of participation; to be in effect until the final premium adjustment has occurred and subsequent appeal period has ended.
- L&I may withhold any member’s pro-rata share of the group’s retrospective rating refund to satisfy the member’s industrial insurance account balance when premiums, penalties or assessments are past due.
- This Agreement cannot be changed without the express written consent of L&I.

**NOTE: L&I must receive this completed Agreement no later than the 15<sup>th</sup> day of the month preceding the selected coverage period.**

**DEPARTMENT USE ONLY**

Retrospective Rating Program Administrator (type)	Date Signed
Retrospective Rating Program Administrator (signature)	

**COMPLETED BY ASSOCIATION**

Association President (type)	Date Signed
Association President (signature)	

PROPOSED

- Send these required documents to L&I by the date indicated on the Group Retrospective Rating Agreement form.

**Our responsibility:**

Upon receipt of required information:

**We will:**

- Verify that the sponsoring organization has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.
- Verify that each proposed member has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.

**Note:** An employer with multiple L&I accounts must enroll all businesses that are of a similar business nature in retrospective rating. If we discover that an employer has multiple L&I accounts, we will notify the sponsoring organization of this fact. The sponsoring organization is required to obtain an application from the remaining accounts within thirty days of our notice or none of the employer's accounts will be enrolled in the group.

- Verify that the nature of business of each proposed member falls appropriately within the business/industry category selected by the organization.
- Verify that the proposed new group has a total group standard premium of at least \$1.5 million for the initial coverage period.

**Note:** The group standard premium will be based on the standard premiums of the proposed group members' most current fiscal year (four quarters) of reporting.

- Verify that at least fifty percent of the proposed group members have been members of the sponsoring organization for at least one year prior to group sponsorship.

**Note:** All employers of the proposed retro group must be members of the sponsoring organization.

- Notify you of our decision in writing.

**NEW SECTION**

**WAC 296-17-90411 Existing group.**

**Your responsibility:**

To continue to sponsor an existing retrospective rating group:

**You must:**

- Complete, sign and return the Group Retrospective Rating Agreement form by the date indicated on the agreement form.

**Note:** If you do not want to change plans, maximum premium ratio or coverage periods, you do not need to send in a new application for group retrospective rating for each new coverage period. L&I will assume the same plan, maximum premium ratio and coverage period. If your organization wants to change plans, maximum premium ratio or coverage period, you will need to submit a new application for group retrospective rating by the due date indicated on the application form. In the event that a sponsoring organization wants to change their business or industry category, they must notify L&I either by letter or by completing a new application for group retrospective rating by the due date indicated on the application form.

- Submit a completed and signed "Application for Group Membership and Authorization for Release of Insurance Data" form for each new proposed member.

**Note:** These applications can be submitted throughout the coverage period. See employer group member requirements for

detail of when enrollment begins. If the sponsoring organization changes plans, maximum premium ratios or coverage period, they must secure new applications from each member or get preapproval from L&I if a different method will be used to serve notice to members of the change.

- Provide L&I an annual written report that highlights workplace safety accomplishments of the group during the past coverage year and identifies areas that the group has targeted for improvement during the next coverage period.

**Note:** The written annual safety report is due in the Tumwater office no later than the last day of the month prior to the beginning of the coverage period. If the due date falls on a weekend or holiday, the safety report will be due on the next business day. If you fail to submit the required written report when due, it will result in disqualification of the group. If this occurs, the sponsoring organization can requalify to sponsor the group but must satisfy the requirements applicable to new groups found in WAC 296-17-90409 and 296-17-90410.

**Example of an Association Annual Safety Report**

**Past years accomplishments:**

During the past year the association identified a leading cause of injury for our members was related to the lifting of resident clients.

The association working with professionals and manufacturers in the field identified equipment that eliminates most of the hazards associated with lifting clients.

Working with the Department of Labor and Industries, our association initiated a pilot program at a number of member facilities using the newly identified equipment.

Comprehensive training on equipment use and safety was given to all employees at these facilities. Although the program is experimental at this time and only been in place for five months, we have seen a reduction in back injuries of 20 percent.

**Projected plans:**

The members will implement a zero lift program at each facility in the next twelve months. We anticipate that this will reduce the number of back injuries for our members by 50 percent.

The association will further evaluate member losses associated with back sprains and strains and work with industry experts to further reduce these types of injuries.

- Supply L&I with a surety bond or assignment of savings if requested to do so.

**Our responsibility:**

Upon receipt of the required forms and the annual safety report:

PROPOSED

**We will:**

- Verify that the sponsoring organization's L&I industrial insurance account is in good standing at the time of reenrollment.
- Verify that the individual employer member L&I industrial insurance accounts are in good standing at the time of reenrollment.
- Provide written feedback on the sponsoring organization's annual safety report and if applicable request revisions to the report.

**Note:** The department will notify the sponsoring organization of any concerns or needed changes to the safety report within thirty days of submission of the plan. The sponsoring organization is to submit a response and/or revised safety report as applicable within sixty days of our notification to them of our concerns or needed changes or as otherwise agreed upon by the department.

- Notify the sponsoring organization in writing of our decision to reenroll the group and the group members.
- Notify the sponsoring organization in writing of our decision to deny reenrollment to the group or group members.

**We may:**

- Request the sponsoring organization to post a surety bond or assignment of savings in the amount of the difference between the projected standard premium of the group and the maximum premium under the plan selected.

**Our responsibility:**

If we require a surety bond or assignment of savings:

**We will:**

- Notify you in writing of this decision.

NEW SECTION**WAC 296-17-90413 Individual employer group member requirements—Initial enrollment.****Employer's responsibility:**

To initially enroll in a retro group:

**You must:**

- Be a dues paying member of the organization that sponsors the retro group you wish to join.
- Complete an "Application for Group Membership and Authorization for Release of Insurance Data" form supplied to you by the sponsoring organization.

**Note:** You must send this application to the sponsoring organization by the date requested. Do not send it directly to L&I.

Department of Labor and Industries  
 Retrospective Rating  
 www.lni.wa.gov/retro



**APPLICATION FOR GROUP MEMBERSHIP  
 AND AUTHORIZATION FOR RELEASE OF  
 INSURANCE DATA**

Mail to association
Employer

Retro ID \_\_\_\_\_  
 UBI \_\_\_\_\_  
 Account ID \_\_\_\_\_  
 Include sub accounts   
 Application Deadline \_\_\_\_\_  
 Coverage Year Beginning \_\_\_\_\_

**PROPOSED**

If you have more than one L&I industrial insurance account you must list all accounts that are of a similar business nature on the reverse side of this form and check the sub account box above. If you have questions about this requirement please contact the business association listed above or L&I at (360) 902-4851.

**As a member of the sponsoring organization listed above, this employer applies for enrollment in the retrospective rating group sponsored by the organization. L&I will notify the sponsoring organization of acceptance or denial of your application to participate in the group. It is the responsibility of the sponsoring organization to notify you of this acceptance or denial. As a pre-requisite of enrollment each of your industrial insurance accounts must be in good standing at the time of enrollment or you will not be allowed to participate in retrospective rating.**

**By signing this application, the employer named above agrees with all of the following conditions:**

- L&I will automatically re-enroll the employer as a member of the group in future coverage periods provided the employer's industrial insurance account is in good standing at the time of re-enrollment. If the employer does not want to participate in future coverage periods the employer or sponsoring organization must notify L&I in writing prior to the beginning of the respective coverage period.
- The employer authorizes L&I to furnish the sponsoring organization or their designee with data and information obtained from the employer's industrial insurance account(s).
- The sponsoring organization will represent the employer in all matters applicable to retrospective rating participation and the employer's industrial insurance account(s).
- The employer agrees to comply with L&I rules, regulations and laws and is bound by the terms of the agreement between the sponsoring organization and L&I.
- The employer will cooperate with L&I claims management activities and will participate in the sponsoring organization's claims management and workplace safety initiatives.
- All retrospective rating adjustments that may be earned by the employer will be given to the sponsoring organization. L&I is not involved in the distribution of a group refund to the individual group members except in the case of defunct group.

These conditions are in effect immediately and will remain in effect through the term of any agreement between the sponsoring organization and L&I.

**NOTE: L&I disclaims any interest in any other contract you may enter into with the sponsoring organization as their pre-requisite of your participation in the retrospective rating group that they sponsor, and L&I neither approves or disapproves of any language or provision contained in these other contracts.**

**RETURN this application directly to the above organization.  
 DO NOT send this application directly to L&I.**  
 Signature of an owner, partner or corporate officer of the employer named above is required to participate in this retrospective rating group.

Type or print name		Title
Date	Owner, partner, corporate officer	Signature

- Have an active L&I industrial insurance account and the account must be in good standing at the time of enrollment.

- Comply with L&I laws, rules and regulations.
- Enroll all businesses that you (the employer member)

own or have a controlling interest in and whose nature of business is substantially the same.

**Note:** For purposes of retro, a controlling interest means more than fifty percent ownership in one or more business by the same owner or owners.

**Example:** You operate a chain of ten grocery stores. Each store is operated at a different location. You have requested that each store be assigned a special account. In addition to the ten stores, your company also has a separate administrative office. This office reports under the clerical classification. You must enroll all of your store locations if you are to participate in retro. The sponsoring organization may allow you to include your administrative office in the retro group.

- Authorize the sponsoring organization to represent you in all matters pertaining to your participation in their retro group for the requested coverage period and all subsequent adjustment periods.

#### **Sponsoring organization's responsibilities:**

To enroll new members:

#### **You must:**

- Forward to L&I any application for your retro group that you want L&I to consider by the due date for the selected coverage period or staggered enrollment quarter.

- Represent all proposed and approved group members in all matters pertaining to their participation in your retro group for the requested coverage period and subsequent adjustment periods.

- Communicate L&I decisions directly to the members affected by the decision.

#### **Our responsibilities:**

Upon receipt of an "application for group membership and authorization for release of insurance data":

#### **We will:**

- Verify that the proposed members' business operations consist of substantially similar services and activities of other approved members and are within the business/industry category selected by the sponsoring organization.

- Verify that each proposed member has an active L&I industrial insurance account and that the account is in good standing at the time of enrollment.

- Notify the sponsoring organization in writing of our decision to allow or deny enrollment to any proposed member.

### NEW SECTION

#### **WAC 296-17-90414 Individual employer group member requirements—Reenrollment.**

##### **Employer's responsibility:**

To reenroll in the same retro group:

#### **You must:**

- Maintain your L&I industrial insurance account so that it is in good standing at the time of reenrollment.

**Note:** You do not need to complete a new application for group membership to reenroll in future coverage period and the same retro group. L&I will automatically reenroll you in the existing retro group if your account is in good standing at the time of reenrollment. If you want to discontinue participating in the current retro group, you will need to notify L&I and the sponsoring organization of the retro group that you are leaving us in writing prior to the first day of the new coverage period. If you want to change to a different retro group, you will need to contact the organization that sponsors the group you are interested in and notify L&I in writing of your decision to change retro groups before the applicable enrollment deadline. Failure of an employer to notify L&I of a decision to change groups may result in the employer being enrolled in the former group and not the new group.

- Participate for the entire coverage period unless you sell or close your business.

#### **Sponsoring organization's responsibility:**

To reenroll existing members in your retro group for the next coverage period:

#### **You must:**

- Secure authorization annually from members that want to continue to participate in your retro group.

- Keep these authorizations on file for the selected coverage year and subsequent adjustment periods. These records are to be made available for department inspection upon request.

- Notify L&I in writing of any changes (deletion) of participating members before the first day of the new coverage period.

#### **Our responsibility:**

Unless the participating employer member of a retro group or the sponsoring organization notifies L&I in writing:

#### **We will:**

- Automatically reenroll the employer member in the retro group for each subsequent coverage period provided the employer's L&I industrial insurance account is in good standing at the time of reenrollment.

**Note:** This procedure is intended to reduce the administrative burden on employers associated with the reenrollment process. A sponsoring organization can adopt a similar procedure to eliminate the need of the annual authorization by members. To do this the sponsoring organization must send L&I a letter outlining this intent and then send written notice to all affected members with a copy of the notice to L&I. This notice must indicate the method that a participating member must follow should they wish to not participate in the retro group in the future.

- Provide the organization with a list of businesses that are seeking to withdraw from the retro group they sponsor prior to the beginning date of the coverage period.

**Note:** The organization should contact members to verify the change. Often the member is not seeking to change plans but is simply confused by marketing material of another group. If we do not hear from the employer or the sponsoring organization, we will enroll the employer's business in the new group.

AMENDATORY SECTION (Amending WSR 01-23-058, filed 11/20/01, effective 1/1/02)

**WAC 296-17-90421** (~~Is there a requirement for employer members of an organization to be engaged in substantially similar businesses to participate in the organization's group plan?~~) Sponsoring organization—Retro group business and industry selection. ((1) Yes, Washington law (RCW 51.18.040) requires all retrospective rating groups to be made up of employer members who are engaged in substantially similar business operations when the nature of their services or work activities of employees is considered.

(2) The first step in this process is for the sponsoring organization to select the single retrospective rating group it wishes to sponsor. This is done at the time the application for group is submitted to the department from the broad industry or business category from the table below:

Industry/business group table

- ~~Agriculture and related services.~~
- ~~Automotive, truck and boat, manufacturing, sales, repair and related services.~~
- ~~Construction and related services.~~
- ~~Distillation, chemicals, food and related services.~~
- ~~Entertainment, hospitality and related services.~~
- ~~Facilities, property management, maintenance and related services.~~
- ~~Government, utilities, schools, healthcare and related services.~~
- ~~Grocery stores, grocery distribution centers, bakeries, milk and dairy products processing, delivery to customers and related services.~~
- ~~Healthcare, pharmaceutical, laboratories and related services.~~
- ~~Logging and wood products manufacturing and related services.~~
- ~~Manufacturing, processing, mining, quarrying, and related services.~~
- ~~Retail and wholesale stores and professional services such as banks and law firms and related services.~~
- ~~Temporary help and related services.~~
- ~~Transportation, recycle, warehousing, facility maintenance and related services.~~

The intent of this process is to ensure that the homogeneity requirement of RCW 51.18.040 is met.

~~Example: An organization that was formed to advance the interests of apple growers would select the agriculture and related services business/industry group plan. This organization could sponsor a single group for all its grower members or could offer different performance groups for its grower members.~~

(3) ~~To simplify administration and keep the administrative costs associated with devising a different classification system for the retrospective rating plan to a minimum, the retrospective rating program follows the same classification procedure established by the department to assign workers'~~

~~compensation insurance classifications to an employer (WAC 296-17-31012). This procedure requires employers to be assigned a classification or series of classifications based on the nature of their business, not the occupations or duties of the workers they employ. Only those members whose business undertakings are substantially similar to the industry/business group selected by the organization will be permitted to participate. This grouping technique is fundamental to workers' compensation insurance and is referred to as "homogeneity of risk."~~

~~Example: Having selected the agriculture and related services business/industry grouping the department would verify that the employer members of the apple grower organization were either apple growers or were involved in a related service such as an apple processing operation owned by the grower.)~~ Washington law (RCW 51.18.040) requires retro groups to be made up of employer members who are engaged in substantially similar business operations when the nature of their services or work activities of employees is considered.

Your responsibility:

To ensure that this requirement is met at the time you submit the application for group to L&I:

You must:

• Select the single business or industry category that will apply to the retro group you seek to sponsor from the categories listed below:

- Agriculture and related services.
- Automotive, truck and boat, manufacturing, sales, repair and related services.
- Construction and related services.
- Distillation, chemicals, food and related services.
- Entertainment, hospitality and related services.
- Facilities, property management, maintenance and related services.
- Government, utilities, schools, healthcare and related services.
- Grocery stores, grocery distribution centers, bakeries, milk and dairy products processing, delivery to customers and related services.
- Healthcare, pharmaceutical, laboratories and related services.
- Logging and wood products manufacturing and related services.
- Manufacturing, processing, mining, quarrying, and related services.
- Retail and wholesale stores and professional services such as banks and law firms and related services.
- Temporary help and related services.
- Transportation, recycle, warehousing, facility maintenance and related services.

Example: An organization that was formed to advance the interests of apple growers would select the agriculture and related services business/industry group plan. This organization could sponsor a single group for all its grower members or could offer different performance groups for its grower members.

**Our responsibility:**

Upon receipt of your application for group:

**We will:**

• Update our records to reflect the category selected by the sponsoring organization.

• Screen prospective group members to ensure that their business operations fit appropriately in the category selected.

• Send you a list of the businesses that we determine fit appropriately in the category selected and those that do not.

**Note:** Only those members whose business undertakings are substantially similar to the industry/business group selected by the organization will be permitted to participate. This grouping technique is fundamental to workers' compensation insurance and is referred to as "homogeneity of risk." Once an employer has been approved for a group, they remain approved provided their industrial insurance account is in good standing during the enrollment or re-enrollment process.

**Example:** Having selected the agriculture and related services business/industry grouping, the department would verify that the employer members of the apple grower organization were either apple growers or were involved in a related service such as an apple processing operation owned by the grower.

**NEW SECTION****WAC 296-17-90422 Retro group—Classification assignments.**

• Since retro does not use a unique classification scheme (RCW 51.18.040(5)) and because a classification may fall appropriately into multiple business or industry categories (RCW 51.18.040(4)) L&I does not assign classifications to retro groups.

• L&I approves employers to participate in a retro group by considering the activities and services being provided by employees of the employer. This ensures that the activities and services of the employer's business are substantially similar to the activities and services of the retro group.

**Note:** In the event that a retro group does not exist for an employer seeking to participate in a retro group, L&I will use an analogy approach to identify a possible group or groups that an employer may participate in. This procedure is intended to encourage the broad participation goals of chapter 51.18 RCW.

**NEW SECTION****WAC 296-17-90425 Additional groups.**

• Organizations that sponsored a retro group prior to July 25, 1999, can sponsor an additional group after January 1, 2003.

**Note:** A sponsoring organization can propose to sponsor one additional group every five years. Each new group must meet the requirements found in WAC 296-17-90409.

• Organizations that sponsored a retro group after July 25, 1999, must wait five years after their last group was approved before they can sponsor a new retro group.

**Note:** A sponsoring organization can propose to sponsor one additional group every five years. Each new group must meet the requirements found in WAC 296-17-90409.

• An organization may:

– Divide an existing retrospective rating group into two or more groups provided that the proposed new groups fall within the same business or industry category as the group that is proposed to be divided; or

– Merge existing retrospective rating groups into one business or industry category provided that the proposed merged groups fall within the same business or industry category.

**Note:** Under no circumstance may a sponsoring organization propose more than one retro group or multiple business or industry categories in the same application to L&I.

**NEW SECTION**

**WAC 296-17-90428 Disqualification of a retro group.** A sponsoring organization will forfeit the right to sponsor a retro group if:

• The retro group is required to pay additional net premium assessments in three consecutive coverage periods.

**Note:** The retro group will be placed in probationary status if they are required to pay additional net premium in two consecutive coverage periods. Once a group is placed on probationary status, the department will review the group's workplace safety and accident prevention plan and its methods for cooperation with department claims management activities. Following the review, the department will make recommendations for corrective steps that may be taken to improve the group's performance. In the event that the group's performance is not improved and the same retrospective rating group is required to pay an additional net premium assessment in the third consecutive coverage period, that group shall be denied future enrollment in the state's retrospective rating plan at the next enrollment. In addition, the sponsoring entity of the failed group may not sponsor another group in the same business or industry category for five coverage periods (sixty months) from the ending date of the failed group's last coverage.

• The organization encourages a participating member to pay a medical service provider directly for treatment of participating members' employees.

**Note:** Upon discovery of this violation, L&I will disqualify the retro group affected from further participation in the program and will issue an order and notice of decision to the sponsoring organization outlining the alleged violation. A sponsoring organization found to have participated in this activity will lose their right to ever sponsor a retro group in the future. All refunds earned by a retro group disqualified for this activity and not yet distributed by L&I will be forfeited.

**NEW SECTION****WAC 296-17-90431 Change of ownership.****Your responsibility:**

If you change the legal structure of your business or sell your business:

**You must:**

• Notify us promptly in writing of this change.

**Note:** If the change in ownership is limited to a change in legal structure, we may allow the new entity to continue to be a member of the group without a new application. If on the other hand the change results in new ownership, the new owner(s) will need to reapply if they want to participate in the group plan.

**Example:** A business operated as a sole proprietorship changes their legal structure to a corporation. Assuming the sole proprietor owner owns more than fifty percent of the stock in the corporation, we would allow this business to continue to be a member of the group without a new application.

**Our responsibility:**

Upon receipt of your notification:

**We will:**

- Determine if you need to complete a new application form to continue participation in the retro group.
- Notify the sponsoring organization of the change in the legal structure of your business and whether or not a new application will be needed for the member.

**Sponsoring organization's responsibility:**

If L&I requires a new application for a member:

**You must:**

- Secure the new application from the member and forward it to L&I by the date indicated on the application.

**Note:** If we do not receive the application by the due date, the employer will not be enrolled in your retro group.

**NEW SECTION**

**WAC 296-17-90437 Faxed, e-mail and machine-copied agreements and applications.** L&I may, on a case-by-case basis, accept a faxed copy of the completed application form or an imaged copy via e-mail.

**Your responsibility:**

If for any reason you are unable to return the original signed copy of an application or agreement to L&I by the due date:

**You must:**

- Call L&I at 360-902-4851 during regular business hours (Monday through Friday 8:00 a.m. - 5:00 p.m. Pacific time) to let us know that you are unable to mail the application by the due date.
- Make this call to L&I prior to 5:00 p.m. (Pacific time) on the due date.

**Our responsibility:**

Upon receipt of your call:

**We will:**

- Document your phone call in our files.
- Discuss with you other options such as a faxed or e-mailed copy of the required documents.

**Your responsibility:**

If we agree to accept a copy of the application, agreement form or other documents:

**You must:**

- Fax or e-mail the completed application or agreement form to our Tumwater office by the due date indicated on the original application.
- Maintain the original signed application form in your business files so that we may obtain the original from you in the event an issue of authenticity arises.

**NEW SECTION**

**WAC 296-17-90438 Application, agreements and other required documentation—Due dates.** All applications, agreement forms and required documentation are due in the Tumwater L&I office by 5:00 p.m. (Pacific time) as indicated below. If the due date falls on a weekend or holiday the required documents are due the next business day.

**Note:** Documents sent via the U.S. Postal Service will be considered received by L&I on the day they are postmarked.

**Coverage period - January 1 through December 31**

**Individual employer option**

- Individual retrospective rating plan agreement - due to L&I no later than December 15th.

**Example:** For the coverage period January 1, 2003, through December 31, 2003, the agreement would be due December 15, 2002.

**Retro group**

- Articles of incorporation, bylaws and marketing information - due to L&I no later than October 31st (new group requirement).

**Example:** For the coverage period January 1, 2003, through December 31, 2003, all documents listed that are due October 31st are due October 31, 2002.

- Workplace safety and accident prevention plan - due to L&I no later than October 31st (new group requirement).
- Application for group - due to L&I no later than October 31st (new group requirement).

**Note:** This requirement also applies to an existing group when making changes to current plan, MPR or coverage period.

- Cover letter that lists attached documents - due to L&I no later than October 31st (new group requirement).
- Group respective rating agreement - due to L&I no later than December 15th (new and existing group requirement).

**Example:** For the coverage period January 1, 2003, through December 31, 2003, the documents listed that are due December 15th would be due December 15, 2002.

- Membership verification list - due to L&I no later than December 15th (new group requirement).
- Application for group membership and release of insurance data - due to L&I no later than December 15th (new and existing group requirement).
- Annual safety report - due to L&I no later than December 31st (new and existing group requirement).

**Example:** For the coverage period January 1, 2003, through December 31, 2003, the annual safety report would be due December 15, 2002.

**Coverage period - April 1 through March 31**

**Individual employer option**

- Individual retrospective rating plan agreement - due to L&I no later than March 15th.

**Example:** For the coverage period April 1, 2003, through March 31, 2004, the agreement would be due March 15, 2003.

#### **Retro group**

• Articles of incorporation, bylaws and marketing information - due to L&I no later than January 31st (new group requirement).

**Example:** For the coverage period April 1, 2003, through March 31, 2004, all documents listed that are due January 31st would be due January 31, 2003.

• Workplace safety and accident prevention plan - due to L&I no later than January 31st (new group requirement).

• Application for group - due to L&I no later than January 31st (new group requirement).

**Note:** This requirement also applies to an existing group when making changes to current plan, MPR or coverage period.

• Cover letter that lists attached documents - due to L&I no later than January 31st (new group requirement).

• Group respective rating agreement - due to L&I no later than March 15th (new and existing group requirement).

**Example:** For the coverage period April 1, 2003, through March 31, 2004, all documents listed that are due March 15th are due March 15, 2003.

• Membership verification list - due to L&I no later than March 15th (new group requirement).

• Application for group membership and release of insurance data - due to L&I no later than March 15th (new and existing group requirement).

• Annual safety report - due to L&I no later than March 31st (new and existing group requirement).

**Example:** For the coverage period April 1, 2003, through March 31, 2004, the annual safety report would be due March 31, 2003.

#### **Coverage period - July 1 through June 30**

##### **Individual employer option**

• Individual retrospective rating plan agreement - due to L&I no later than June 15th.

**Example:** For the coverage period July 1, 2003, through June 30, 2004, the agreement would be due June 15, 2003.

##### **Retro group**

• Articles of incorporation, bylaws and marketing information - due to L&I no later than April 30th (new group requirement).

**Example:** For the coverage period July 1, 2003, through June 30, 2004, all documents listed that are due April 30th would be due April 30, 2003.

• Workplace safety and accident prevention plan - due to L&I no later than April 30th (new group requirement).

• Application for group - due to L&I no later than April 30th (new group requirement).

**Note:** This requirement also applies to an existing group when making changes to current plan, MPR or coverage period.

• Cover letter that lists attached documents - due to L&I no later than April 30th (new group requirement).

• Group respective rating agreement - due to L&I no later than June 15th (new and existing group requirement).

**Example:** For the coverage period July 1, 2003, through June 30, 2004, all documents listed that are due June 15th are due June 15, 2003.

• Membership verification list - due to L&I no later than June 15th (new group requirement).

• Application for group membership and release of insurance data - due to L&I no later than June 15th (new and existing group requirement).

• Annual safety report - due to L&I no later than June 31st (new and existing group requirement).

**Example:** For the coverage period April 1, 2003, through March 31, 2004, the annual safety report would be due June 31, 2003.

#### **Coverage period - October 1 through September 30**

##### **Individual employer option**

• Individual retrospective rating plan agreement - due to L&I no later than September 15th.

**Example:** For the coverage period October 1, 2003, through September 30, 2004, the agreement would be due September 15, 2003.

##### **Retro group**

• Articles of incorporation, bylaws and marketing information - due to L&I no later than July 31st of the previous year (new group requirement).

**Example:** For the coverage period October 1, 2003, through September 30, 2004, all documents listed that are due July 31st would be due July 31, 2003.

• Workplace safety and accident prevention plan - due to L&I no later than July 31st of the previous year (new group requirement).

• Application for group - due to L&I no later than July 31st of the previous year (new group requirement).

**Note:** This requirement also applies to an existing group when making changes to current plan, MPR or coverage period.

• Cover letter that lists attached documents - due to L&I no later than July 31st of the previous year (new group requirement).

• Group respective rating agreement - due to L&I no later than September 15th (new and existing group requirement).

**Example:** For the coverage period October 1, 2003, through September 30, 2004, all documents listed that are due September 15th are due September 15, 2003.

• Membership verification list - due to L&I no later than September 15th (new group requirement).

• Application for group membership and release of insurance data - due to L&I no later than September 15th (new and existing group requirement).

- Annual safety report - due to L&I no later than September 30th (new and existing group requirement).

**Example:** For the coverage period October 1, 2003, through September 30, 2004, the annual safety report would be due September 30, 2003.

## NEW SECTION

### **WAC 296-17-90440 Cancellation of participation.**

#### **Your responsibility:**

If you want to discontinue participating in retrospective rating:

#### **You must:**

- Provide L&I written notification of withdrawal.

**Note:** This notification must be received at our Tumwater office by the close of business (5:00 p.m. Pacific time) the day before the new coverage period begins. If the due date falls on a weekend or holiday the signed letter is due on the next business day. You can only withdraw from retro prior to the beginning of a new coverage period. You cannot withdraw from retro during a coverage period except as provided in WAC 296-17-90405 "sale or closure of business," WAC 296-17-90402 "date of enrollment or reenrollment" for staggered enrollment requirements and WAC 296-17-90414.

#### **Our responsibility:**

Upon receipt of your notification to withdraw from retro:

#### **We will:**

- Notify you in writing when your participation in retro will end.

**Note:** This same procedure applies to an organization that sponsors a retro group. The sponsoring organization must notify L&I of members they wish to remove from the retro group.

## AMENDATORY SECTION (Amending WSR 00-11-060, filed 5/12/00, effective 7/1/00)

~~WAC 296-17-90445 ((Can you tell me what happens at the end of a)) Valuation of coverage period((?)), ((1) Between nine and ten months after the coverage period has ended we will do an initial evaluation of the losses for each employer and group participating in retrospective rating. All future evaluation dates for a coverage period will take place approximately twelve months after the initial evaluation date.~~

~~**Example:** Assume that your coverage period began July 1, 1998, and ended June 30, 1999, (twelve calendar months). Our first evaluation date would occur mid April 2000. This is roughly nine and one half months from the last day of the coverage period. Because all retrospective rating plans have three mandatory evaluations, each subsequent evaluation will occur at twelve month intervals.~~

~~(2) On the evaluation date, all claims with a date of injury within the coverage period are evaluated and the incurred losses which have been established for these claims are "captured" or "frozen."~~

~~(3) Because our evaluation is limited to claim status and type, and not the adjudicative decisions surrounding a claim such as, but not limited to, claim allowance, case reserve, wage determination and dependent status, retrospective rating program appeals that concern claims are limited to the~~

~~open or closed status of a claim on the evaluation date. If you are in disagreement with the department over an adjudicative or reserving issue you must appeal that decision at the appropriate time. We can not provide relief in the computation of the retrospective premium unless the disagreement (protest or appeal) produces relief prior to the evaluation date. Ideally, your workplace safety and accident prevention program has been successful and none of your workers were injured during the coverage period. In the event that one or more of your employees were injured you should be working cooperatively with us and their medical caregiver to help the worker recover from the injury and return to the workforce as soon as possible.~~

~~(4) In the adjustment process, captured incurred losses are translated into developed losses using the appropriate loss development and performance adjustment factors. Retrospective premium is then calculated using the requisite formulas and tables in the retrospective rating manual.~~

~~(5) For a given coverage period, each group or individually enrolled employer is subject to three mandatory adjustments. The initial adjustment will occur approximately ten months after the coverage period has ended, with any subsequent adjustment occurring in twelve month intervals.~~

~~(6) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.) **Our responsibility:**~~

~~• Nine months after the coverage period has ended, we will do an initial valuation of the losses for each employer and group participating in retrospective rating.~~

**Note:** Effective with the October 1, 2000, coverage period and all subsequent coverage periods thereafter, each retrospective rating plan has three mandatory valuations and no optional valuations. The first valuation takes place roughly nine months from the last day of the coverage period. Each subsequent valuation will occur at twelve-month intervals from the initial evaluation date.

**Example:** Assume that your coverage period began July 1, 2001, and ended June 30, 2002 (twelve calendar months). Our first valuation date would occur the end of March 2003. This is roughly nine months from the last day of the coverage period.

• On the valuation date, all claims with injury dates that fall within the coverage period are valued and the incurred losses that have been established for these claims are "captured" or "frozen."

**Note:** Our valuation is limited to the open or closed status of a claim on the evaluation date. We do not consider adjudicative decisions (i.e., claim allowance, case reserve, wage determination and dependent status) surrounding a claim in our valuation.

• During the adjustment process we convert the captured incurred loss of each claim into developed losses using the appropriate loss development and performance adjustment factors. Retrospective premium is then calculated using the applicable formulas and tables in the retrospective rating manual.

• Prior to the application of the performance adjustment factor, we will cap the loss value for any one claim or group of claims arising from a single accident that has collective

developed losses in excess of five hundred thousand dollars at a maximum of five hundred thousand dollars.

• Since the standard premium used in the retro calculation is based on premiums reported but not necessarily paid, we will deduct from the standard premium calculation any unpaid member premiums.

**Note:** A sponsoring organization and L&I can enter into an agreement for an alternate debt recovery method.

• Approximately twenty days after the valuation date, if entitled, we will send you your premium refund.

**Note:** If you participate in an individual plan or retro group, we will not issue a refund check if it is less than ten dollars. If a refund is less than ten dollars, we will credit the amount to your industrial insurance account and you can deduct the amount from your next premium payment. All retro group refunds are paid directly to the sponsoring organization. It is the responsibility of the sponsoring organization to distribute any refund to the group members. L&I does not regulate how refunds are distributed to group members.

## NEW SECTION

**WAC 296-17-90446 Retrospective premium calculation.** Retrospective premium is calculated using the following formula:

$$\text{Retrospective premium} = (\text{basic premium ratio} \times \text{standard premium}) + (\text{loss conversion factor} \times \text{developed losses}).$$

**Note:** You can find the basic premium ratios and loss conversion factors in WAC 296-17-90493 through 296-17-90497. Remember to use the preselected plan, maximum premium ratio and standard premium for the coverage period.

**Maximum retrospective premium is calculated using the following formula:**

$$\text{Maximum premium ratio (mpr)} \times \text{standard premium (sp)}$$

**Note:** If the retrospective premium formula produces a value greater than the maximum retrospective premium, the retrospective premium is reduced to the maximum retrospective premium.

**Minimum retrospective premium is calculated using the following formula:**

$$\text{Minimum premium ratio (mnpr)} \times \text{standard premium (sp)}$$

**Note:** The MnPR only applies to plans A1, A2, and A3. If the retrospective premium formula produces a value less than the minimum retrospective premium, the retrospective premium is increased to the minimum retrospective premium.

An employer enrolled in plan A as an individual or an organization sponsoring a group may elect to forego the protection of a maximum premium ratio (MPR).

**Note:** To forego the protection of the MPR, the financial conditions of the employer or sponsoring organization must be such that they could qualify as a self-insurer under the department's certification guidelines. The basic premium ratio will be .058 if the employer/group selects and qualifies for an unlimited maximum retrospective premium.

**AMENDATORY SECTION** (Amending WSR 01-23-058, filed 11/20/01, effective 1/1/02)

**WAC 296-17-90447 ((How are third party, second injury, and occupational disease claims handled for retrospective premium calculations?)) Adjustments to standard premiums after the last mandatory adjustment—Individual employer. ((1) Third party claims.**

Employers that participate in retro are not required to share any of their retro refund with employees nor can they charge employees in the event of an additional assessment.

• We will send you a bill if you owe us additional premium.

**Note:** If you owe additional premium, it is due thirty days after we communicate the decision to you. We will charge penalties on any additional premium not paid when it is due (RCW 51.48.210). If you (employer in an individual plan or sponsoring organization of a retro group) are entitled to a refund for one coverage period and owe additional premiums for another coverage period, we will deduct the additional premiums due L&I from the refund. We will refund the difference to you. In the event that this adjustment still leaves a premium balance due, we will send you a bill for the balance. If an organization sponsors multiple retro groups and one group earns a refund and the other owes additional premium from a retro adjustment, we will deduct the additional premium from the refund due and issue a net refund to the organization for the difference or bill them for the remaining additional premium as applicable.

~~(a) For claims with injury dates prior to July 1, 1996, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of incurred losses until the third party action has been completed.~~

~~(b) For claims with injury dates on or after July 1, 1996, if the department determines that there is a reasonable potential of recovery from an action against a third party, the incurred loss value of the claim shall be reduced by fifty percent until the third party action has been completed. This valuation shall not be retroactively adjusted, regardless of the final outcome of the third party action. After a third party recovery is made, the actual percentage recovery shall be applied to the incurred losses used in future retrospective premium calculations.~~

~~(c) For third party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.~~

~~(2) Second injury claims. The incurred losses of any claim that becomes eligible for second injury relief under the provisions of RCW 51.16.120 shall be reduced by the percentage of relief granted.~~

~~(3) Occupational disease claims. When a claim results from a worker's exposure to an occupational disease hazard, the "date of injury" for retrospective rating purposes shall be the last date of employment involving the exposure to the hazard. In the event it is determined that the last exposure to an occupational disease hazard involves a state fund insured employer the department will prorate the cost of the claim to all state fund employers that exposed the worker to the occupational disease hazard that contributed to the injury. The date of last employment involving exposure to the occupational disease hazard shall be used for the injury date for retrospective premium calculations. Any employer charged with ten percent or more of an occupational disease claim as~~

~~provided in our experience rating plan (chapter 296-17-WAC) will have their prorated share of the incurred losses included in the retro premium calculation if the date of injury (as defined above) falls within the retro coverage period being adjusted.~~

~~(4) Incurred losses determined in subsections (1) through (3) of this section are still subject to development for retrospective premium calculations per the provisions of WAC 296-17-90401 through 296-17-90497.)~~ **Our responsibility:**

If you are audited or your business is reclassified the result of which changes the amount of premium you paid during a coverage period that you participated in retrospective rating:

**We will:**

• Adjust your standard premium to conform to the audit or reclassification results.

• Use your recomputed standard premium to determine your retrospective premium and modify the audit results to reflect the recomputed standard premium.

**Note:** An audit or reclassification of your business can result in a change in refund or assessment.

• Notify you of the results of our decision to recompute your standard premium and the audit results.

• Refund the additional premium as applicable or send you a bill for additional premium based on the revised standard premium.

**Note:** If you owe additional premium, it is due thirty days after we communicate the decision to you. We will charge penalties on any additional premium not paid when it is due (RCW 51.48.210).

**Your responsibility:**

If you disagree with the revised refund or assessment:

**You must:**

• Protest or appeal the decision.

**Note:** Make sure you do this in writing within thirty days of the date we communicate the decision to you. If you fail to do so, our decision is final and binding on you.

**NEW SECTION**

**WAC 296-17-90453 Disputes, protests and appeals.**

**Your responsibility:**

If you disagree with L&I over an adjudicative or reserving issue:

**You must:**

• File a written protest or appeal within sixty days after you receive the decision you disagree with.

• File a written protest or appeal as applicable to the retro adjustment order and notice within thirty days after you receive this order. This will preserve your right to a relief if you prevail in your claim protest or appeal.

**Note:** We cannot provide relief in the computation of the retrospective premium even if your claim protest or appeal produces relief, unless you have also protested or appealed the retro refund/assessment notice and order.

• Send your protest to the address indicated in the order that you are protesting or appealing.

**Note:** Be sure that you file your protest or appeal within the time frame indicated in the order.

• Work cooperatively with L&I and the medical caregivers treating your injured employee(s) so that they can recover from the injury and return to work as soon as possible.

**Our responsibility:**

When we receive notification of your written protest or appeal:

**We will:**

• Monitor the protest or appeal for resolution.

• Recalculate the retrospective premium requirement if the relief you requested is granted and you preserved your rights by protesting the retro order and notice.

• Notify you in writing of our decision.

**Your responsibility:**

If you disagree with L&I over the open status of a claim:

**You must:**

• Notify us in writing immediately when you discover an open claim that you believe should be closed.

**Note:** Every month we will send you a report that details the claims activity related to your individual account if you are in an individual plan. If you discover a claim that you believe should have been closed and is not reflected as such on the report or you believe the information needed to close the claim is available to L&I, you should bring it to our attention immediately. For retro groups we will notify the sponsoring organization that a report is ready to download and the organization can download the report at their leisure. If you discover a claim that you believe should have been closed and is not reflected as such on the report or you believe the information needed to close the claim is available to L&I, you should bring it to our attention immediately. If an employer or sponsoring organization uses a third party administrator, it is the responsibility of the employer or sponsoring organization to forward the reports to the third party administrator. L&I does not distribute retro performance reports to any party other than the employer if an individual plan or organization that sponsors the retro group for group reports.

• Protest or appeal in writing as applicable and within the time specified in the retro adjustment order and notice the claim status you are in disagreement with to preserve your right to the relief you are seeking.

**Note:** Approximately one year after the coverage period has ended, we will notify you of the amount of refund or additional assessment. This notification will be in a legal document referred to as an "order and notice." You should receive an adjustment report that details the status of each claim and their related cost prior to the order and notice.

• Send your written request for reconsideration to:

Labor and Industries

Attention: Retrospective Rating

P.O. Box 44180

Olympia, Washington 98504-4180.

**Our responsibility:**

Upon receipt of your request for reconsideration:

**We will:**

• Review the open status of the claims you specified in your inquiry, protest or appeal.

• Recalculate the retrospective premium requirement if we determine that all of the information necessary to close the claim was in the department's possession at the time of the valuation date.

• Notify you in writing of our decision.

- Provide you instructions on how to request reconsideration or appeal our decision.
- Refund the additional premium or reduce the assessment as applicable.

**Your responsibility:**

If you disagree with L&I's decision:

**You must:**

- Protest or appeal the assessment in writing within the time specified in the retro adjustment order and notice.
- Pay the amount in dispute, or provide a surety bond or an assignment of savings in lieu of the payment pending the outcome of the disagreement and by the due date indicated in the order.

**Note:** You cannot participate in the retrospective rating program unless you pay the assessment, provide a surety bond or assignment of savings. If you have paid the amount covered by the disagreement and it is resolved in your favor, we will refund this money. We will not pay interest on this money. If you owe additional premium, it is due thirty days after we communicate the decision to you. We will charge penalties on any additional premium not paid when it is due (RCW 51.48.210).

- Send your written protest or appeal to:  
Labor and Industries  
Attention: Retrospective Rating  
P.O. Box 44180  
Olympia, Washington 98504-4180.

**Our responsibility:**

Upon receipt of your protest:

**We will:**

- Review the issues outlined in your protest or appeal.
- Notify you in writing of our decision.

AMENDATORY SECTION (Amending WSR 00-11-060, filed 5/12/00, effective 7/1/00)

**WAC 296-17-90484** (~~Can we pay a medical provider directly for medical services provided to one of our workers?) Direct pay of medical bills—Prohibited. ((1) Washington workers' compensation laws do not distinguish first-aid treatment from any other form of medical treatment. Employers that insure their workers' compensation insurance obligations with the state fund are not permitted to pay a medical service provider directly for any work-related injury or illness sustained by one of their workers. Payment of medical services on behalf of state fund insured employers is the sole responsibility of labor and industries.~~

~~(2) If you insure your workers' compensation insurance obligations with the state fund and pay a medical provider directly for services and we discover this, we will remove you from the retrospective rating program effective the date of our notification to you.~~

~~(3) Any employer that has been removed for this practice will be barred from ever participating in the retro program.~~

~~(4) A sponsoring organization that engages in this practice or encourages their members to engage in this practice will be barred from ever sponsoring a retro group and any groups that they currently sponsor will be terminated effective the date of our notification to you.~~

~~(5) In the event that a terminated group or a member of the group was entitled to a refund it will be forfeited.~~

~~(6) Members of a terminated group that owe additional premium will be held responsible for their pro-rata share of the premium assessment.~~

~~(7) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.) Payment of medical services on behalf of state fund insured employers is the sole responsibility of labor and industries. Employers insured by the state fund are prohibited from paying a medical service provider directly for treatment of any work-related injury or illness sustained by one or more of their workers.~~

**Our responsibility:**

If we discover that you have paid a medical service provider directly for medical services related to an industrial injury or work related illness:

**We will:**

• Remove you from the retrospective rating program effective the date of our notification to you.

**Note:** Any employer that has been removed because of this practice will be barred from ever participating in the retro program. If the employer was entitled to a retro refund for any coverage period, it will be forfeited. If an organization that sponsors a retro group participates in this activity or encourages members to pay a medical service provider directly for a work related injury or illness sustained by one or more of their workers, the organization will be barred from ever sponsoring a retro group and will forfeit all retro group refunds not yet distributed by L&I.

**NEW SECTION**

**WAC 296-17-90486 Impartial review of L&I decisions.** L&I determinations applicable to the retrospective rating program are subject to independent review by the board of industrial insurance appeals (chapter 51.52 RCW).

AMENDATORY SECTION (Amending WSR 00-11-060, filed 5/12/00, effective 7/1/00)

**WAC 296-17-90490 Limitation of liability—Indemnification.** (~~With the exception of the provisions found in WAC 296-17-90466 and the required authorization for release of insurance data and group membership enrollment application for each employer account to be enrolled, the department disclaims interest in contracts executed between employer groups and participating group members. The department neither approves nor disapproves of any language contained therein and shall be held harmless for misrepresentation of fact(s) or errors of omission or commission stated in the terms of said contract. The department is released and exempt from liability for any dispute or cause of action between an employer group and participating group members or amongst participating group members arising under the contract.) With exception noted below, L&I disclaims any interest in any contracts executed between a sponsoring organization and their participating group members. L&I neither approves nor disapproves of any language contained therein and shall be held harmless for misrepresentation of fact(s) or errors of omission or commission stated in the terms of said~~

contract. L&I is released and exempt from liability for any dispute or cause of action between a sponsoring organization and their participating group members or amongst participating group members arising under the contract.

**Note:** A sponsoring organization cannot require a participating group member to reenroll in the group's future coverage period as a condition for receiving a refund in a past coverage period.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-17-90403 Can you give me an overview of the retrospective rating program?

WAC 296-17-90406 I understand that there are specific requirements that an employer must meet before they can participate in either individual or group retrospective rating.

WAC 296-17-90408 Can all organizations sponsor a retro group?

WAC 296-17-90412 Are there safety, accident prevention and claim cooperation requirements that an organization must satisfy once the preliminary requirements have been met?

WAC 296-17-90415 Can an organization lose the right to sponsor a retrospective rating group if workplace safety for their members is not improved?

WAC 296-17-90418 I have several businesses that report and pay premiums using separate subaccounts.

WAC 296-17-90424 Does the homogeneity requirement applicable to a group mean that members of the group have to report in the same risk classification?

WAC 296-17-90427 Can you tell me how the authorized classifications for a retrospective rating group plan are determined?

WAC 296-17-90430 After a retrospective rating group plan has been authorized a classification or classifications, can an organization be allowed additional classifications at a later date?

WAC 296-17-90433 Does sponsoring organization have to reapply each

WAC 296-17-90434

WAC 296-17-90436

WAC 296-17-90439

WAC 296-17-90442

WAC 296-17-90448

WAC 296-17-90451

WAC 296-17-90463

WAC 296-17-90466

WAC 296-17-90469

WAC 296-17-90472

WAC 296-17-90475

WAC 296-17-90478

WAC 296-17-90481

year for authorized classifications applicable to their retrospective rating group?

Can an organization sponsor more than one retro group?

We have been approved to sponsor a retrospective rating group.

Does each member of the group have to complete an application?

Is there an application process to enroll in an individual retrospective rating plan?

Is there a maximum loss value for each claim?

If I disagree with the open status of a claim and ask, will you review the status?

If I am successful in reducing my workers' compensation insurance costs, and you inform me that I am entitled to a refund, when will I get the refund?

Do you establish how the refund is to be distributed to members of a group?

If a group is subject to an additional assessment, does the department bill each member of the group for their share?

If a group or individually enrolled employer owes money related to a retrospective rating adjustment, when is it due?

If I am in a dispute with the department over an assessment, claim cost or moneys alleged to be owed to the department, can I participate in the retrospective rating program?

Are employers required to share retrospective rating refunds with their workers?

If a member of a group changes their legal structure or sells their business does the new entity or owner automatically become a member of the group?

**PROPOSED**

WAC 296-17-90491 How is retrospective premium calculated?

**WSR 02-17-110**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed August 21, 2002, 9:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-16-017.

Title of Rule: WAC 388-484-0005 There is a five year (sixty-month) time limit for TANF, SFA and GA-S cash assistance.

Purpose: This rule explains the time limit for cash assistance and how months are counted towards this time limit.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Statute Being Implemented: RCW 74.08.090 and 74.04.510.

Summary: These rules are being modified to: (1) Provide a clear explanation of circumstances under which client benefits will continue when there is disagreement with how the department counted the months on cash assistance towards the time limit; and (2) explain under what circumstances the department will change the number of months that count against the time limit.

Reasons Supporting Proposal: (1) Existing language must be modified to explain the conditions necessary to continue benefits when a client disagrees with how the department counted months toward the time limit; (2) new language must be added to explain the circumstances under which the department will modify the number of months counted toward the time limit.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Veronica Barnes, DEAP, 1009 College S.E., Lacey, WA 98503, (360) 413-3071.

Name of Proponent: Department of Social and Health Services, governmental.

Rule is necessary because of federal law, 42 USC 7.608 (a)(7).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-484-0005 There is a five year (sixty-month) time limit for TANF, SFA and GA-S cash assistance.

Purpose and Effect: (1) Existing language must be modified to explain the conditions necessary to continue benefits when a client disagrees with how the department counted months toward the time limit; (2) new language must be added to explain the circumstances under which the department will modify the number of months counted toward the time limit.

Proposal Changes the Following Existing Rules: This rule explains that:

- Clients receiving TANF, SFA, and GA-S are limited to sixty months of assistance.

- The department does not count some months towards this limit in specific situations.
- The client can request a fair hearing if they disagree with the number of months the department has counted.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients eligibility.

RCW 34.05.328 does not apply to this rule adoption. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which state in part, "[t]his section does not apply to... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on September 24, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by September 20, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernaAX@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., September 24, 2002.

Date of Intended Adoption: Not earlier than September 25, 2002.

August 20, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-12-068, filed 5/31/02, effective 6/1/02)

**WAC 388-484-0005 There is a five year (sixty-month) time limit for TANF, SFA and GA-S cash assistance. (1) What is the sixty-month time limit?**

(a) You can receive cash assistance for temporary assistance for needy families (TANF), state family assistance (SFA), and general assistance for pregnant women (GA-S) for a lifetime limit of sixty months. The time limit applies to cash assistance provided by any combination of these programs, and whether or not it was received in consecutive months.

(b) If you receive cash assistance for part of the month, it counts as a whole month against the time limit.

(c) If you have received cash assistance from another state on or after August 1, 1997, and it was paid for with federal TANF funds, those months will count against your time limit.

(d) The time limit does not apply to diversion cash assistance, support services, food assistance or Medicaid.

**(2) When did the sixty-month time limit go into effect?**

The sixty-month time limit applies to cash assistance received on or after August 1, 1997 for TANF and SFA. Although the GA-S program no longer exists, the time limit

applies to GA-S cash assistance received from May 1, 1999 through July 31, 1999.

**(3) Does the time limit apply to me?**

The sixty-month time limit applies to you for any month in which you are a parent or other relative as defined in WAC 388-454-0010, or a minor parent emancipated through court order or marriage.

**(4) Do any exceptions to the time limits apply to me?**

The department does not count months of assistance towards the sixty-month time limit if you are:

(a) ~~((A nonneedy))~~ An adult caretaker ((relative)), as described in WAC 388-454-0005 through 488-454-0010, who is not a member of the assistance unit and you are receiving cash assistance on behalf of a child;

(b) An unemancipated pregnant or parenting minor living in a department approved living arrangement as defined by WAC 388-486-0005; or

(c) An American Indian or Native Alaskan adult and you are living in Indian country, as defined under 18 U.S.C. 1151, or an Alaskan Native village and you are receiving TANF, SFA, or GA-S cash assistance during a period when at least fifty percent of the adults living in Indian country or in the village were not employed. See WAC 388-484-0010.

**(5) What happens if a member of my assistance unit has received sixty months of TANF, SFA, and GA-S cash benefits?**

Once any adult or emancipated minor in the assistance unit has received sixty months of cash assistance, the entire assistance unit becomes ineligible for TANF or SFA cash assistance, unless you are eligible for an extended period of cash assistance called a TANF/SFA time limit extension under WAC 388-484-0006.

**(6) What can I do if I disagree with how the department has counted my months of cash assistance?**

(a) ~~If you disagree with how ((the department has)) we counted your months of cash assistance, you may ask for a hearing within ninety days of ((receiving notice of the count)) the date we sent you a letter telling you how many months we are counting.~~

~~(b) ((If your cash assistance is terminated after sixty months and you ask for a hearing as provided under chapter 388-02 WAC, your cash assistance will be continued during the course of your initial administrative appeal. You may be required to repay up to sixty days of cash assistance if the department's decision is found to be correct as described in WAC 388-410-0001 (3)(b))) You will get continued benefits (the amount you were getting before the change) if:~~

~~(i) You have used all sixty months of benefits according to our records;~~

~~(ii) Your cash assistance payment has been changed to a Child SafetyNet Payment, as described in WAC 388-310-1650; and~~

~~(iii) You ask for a hearing within the ten-day notice period, as described in chapter 388-458 WAC.~~

(c) If you get continued benefits and the administrative law judge (ALJ) agrees with our decision, you may have to pay back the continued benefits after the hearing, as described in chapter 388-410 WAC.

**(7) Does the department ever change the number of months that count against my time limit?**

We change the number of months we count in the following situations:

(a) You repay an overpayment for a month where you received benefits but were not eligible for any of the benefits you received. We subtract one month for each month that you completely repay. If you were eligible for some of the benefits you received, we still count that month against your time limit.

(b) We did not close your grant on time when the division of child support (DCS) collected money for you that was over your grant amount two months in a row, as described in WAC 388-422-0030.

(c) An ALJ decides at a fair hearing that we should change the number of months we count.

(d) You start getting worker's compensation payments from the department of labor and industries (L&I) and your L&I benefits have been reduced by the payments we made to you.

(e) You participated in the excess real property (ERP) program in order to get assistance and we collected the funds when your property sold.

(f) Another state gave us incorrect information about the number of months you got cash assistance from them.

WSR 02-17-111

PROPOSED RULES

PUGET SOUND

CLEAN AIR AGENCY

[Filed August 21, 2002, 9:42 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Sections 3.11, 3.25, and 6.11 of Regulation I, and Sections 2.02 and 4.01 of Regulation III.

Purpose: To adjust the maximum civil penalty amount for inflation; to update and provide clarification regarding the delegated NSPS and NESHAPs provisions; and to update our references to EPA rules to reflect changes EPA has made.

Other Identifying Information: 3.11 Civil Penalties; 3.25 Federal Regulation Reference Date; 6.11 New Source Performance Standards; 2.02 National Emission Standards for Hazardous Air Pollutants; 4.01 Asbestos Definitions.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: Increases maximum civil penalty amount for inflation, updates and clarifies the delegated NSPS and NESHAPs provisions, and updates references to EPA rules.

Reasons Supporting Proposal: Maximum civil penalty amount needs to be adjusted for inflation; delegation for federal NSPS and NESHAPs needs to be updated and clarified; our references to EPA rules need to be updated.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal would increase the maximum civil penalty amount for inflation; update and clarify the delegation for federal NSPS and NESHAPs by excluding certain sections that do not apply; and update our references to EPA rules that have been changed by EPA.

Proposal Changes the Following Existing Rules: Maximum civil penalty amount would increase for inflation; delegation for federal NSPS and NESHAPs will be updated and clarified; and references to certain EPA rules will be updated to reflect changes that EPA has made.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, on September 26, 2002, at 9:15 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010 by September 19, 2002, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101, fax (206) 343-7522, by September 16, 2002.

Date of Intended Adoption: September 26, 2002.

August 20, 2002

James Nolan

Director - Compliance

(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.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Puget Sound Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## **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 (~~(\$13,663.00)~~) \$13,977.00 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 Clean Air Agency shall be liable for a civil penalty of not more than (~~(\$13,663.00)~~) \$13,977.00 for each day of continued noncompliance.

(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;

**AMENDATORY SECTION****REGULATION I SECTION 3.25 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ~~((2004))~~ 2002.

**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))~~ (excluding Subparts B, S, BB, and AAA) in effect as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference.

**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))~~ (excluding Part 61, Subparts B, H, I, K, Q, R, T, and W; and Part 63, Subpart LL, the provisions of Subpart M pertaining to area source perchloroethylene dry cleaners, and the provisions of Subparts S and MM pertaining to kraft and sulfite pulp mills) in effect as of the federal regulation reference date listed in Section 3.25 of Regulation I herein incorporated by reference.

**AMENDATORY SECTION****REGULATION III SECTION 4.01 ASBESTOS 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) **ASBESTOS** means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

(c) **ASBESTOS-CONTAINING MATERIAL** means any material containing more than one percent (1%) asbestos as determined using the method specified in EPA regulations Appendix ~~((A))~~ E, Subpart ~~((F))~~ E, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(d) **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.

(e) **ASBESTOS PROJECT** means any activity involving the abatement, renovation, demolition, removal, salvage, clean up, or disposal of friable, asbestos-containing material. It includes the removal and disposal of stored, friable, 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.

(f) **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.

(g) **COMPONENT** means any equipment, pipe, structural member, or other item covered or coated with, or manufactured from, asbestos-containing material.

(h) **DEMOLITION** means wrecking, razing, leveling, dismantling, or burning of a structure, making the structure permanently uninhabitable or unusable.

(i) **FRIABLE, ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, can be crumbled, pulverized, 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.

(j) **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.

(k) **NONFRIABLE, ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, cannot be crumbled, pulverized, 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.

(l) **RENOVATION** means altering a facility or a component in any way, except demolition.

(m) **SINGLE-FAMILY RESIDENCE** means any non-multiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is 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.

(n) **SURFACING MATERIAL** means material that is sprayed-on, troweled-on, or otherwise applied to surfaces

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including, but not limited to, acoustical plaster on ceilings, paints, fireproofing materials on structural members, or other materials on surfaces for decorative purposes.

(o) **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 cement siding.

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

**WSR 02-17-118  
PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 21, 2002, 11:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-22-106.

Purpose: To amend WAC 232-12-181.

Statutory Authority for Adoption: RCW 77.12.210.

Statute Being Implemented: RCW 77.12.210.

Summary: WAC revisions incorporate new policy guidance from the Fish and Wildlife Commission designed to provide improved habitat protection on fish and wildlife-managed properties. WAC revision requires grazing permits to include grazing plans that includes a description of ecological impacts, fish and wildlife benefits, a monitoring plan and an evaluation schedule for lands that will be grazed by livestock, and a description of the desired ecological conditions. WAC revision corrects reference to a permit being issued by the department instead of a lease. WAC revision addresses statutory requirements of RCW 77.12.201 which became law in 1993. This led to the establishment of ecosystem standards for department owned and managed agricultural and grazing lands.

Reasons Supporting Proposal: Existing WAC 232-12-181 has not been updated since 1988. Amendments to this WAC make it consistent with other statutes, specifically RCW 77.12.204 that created ecosystem standards for state-managed agricultural and grazing lands in 1994. Existing WAC does not reflect new policy guidance from the commission.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Program, Olympia, (360) 902-2504; Enforcement: Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2932.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The WAC establishes a process for the director to permit domestic livestock use on fish and wildlife-managed properties. The WAC establishes a review process involving

the fish and wildlife commission and department, minimum proposal requirements, habitat standards and criteria to consider and a timeline for review of proposed domestic livestock grazing permits. The purpose of this process is to protect fish and wildlife habitats on Washington Department of Fish and Wildlife (WDFW) managed lands and use domestic livestock where appropriate or needed as a habitat management tool.

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

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

**Small Business Economic Impact Statement**

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: The reporting, record-keeping, and other compliance requirements of the proposed rule are consistent with normal small business record-keeping requirements and similar to what was required under the previous rule. Permittees using WDFW lands for domestic livestock use are still expected to keep accurate records of the number of animals they put onto WDFW lands, when they are turned out and when they are taken off. This has always been necessary for billing purposes by WDFW. Although the burden for monitoring livestock use falls primarily on WDFW personnel, the revised rule requires better monitoring and evaluation. This could be construed to further burden the owner or operator of the livestock operation. This may or may not occur depending on operator's proficiency managing livestock use and distribution on public rangelands.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: None over and above what would have been required before. Knowledge and experience managing a domestic livestock operation including all the recordkeeping, livestock handling capability and personnel and equipment to physically transport or move livestock from one area to another would be required to comply with this rule. Additional professional services could be obtained through the Washington State Cattlemen's Association or Washington State University Cooperative Extension or by hiring a rider to herd animals and monitor use if needed.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: Compliance with the new rule should not have any affect on costs. Some operators may feel that additional livestock monitoring is necessary and therefore feel obligated to hire additional personnel.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No. Some operators may feel that the new rule reduces their opportunities to run livestock on WDFW managed properties. This may or may not occur. For operators that continue to use WDFW properties, their sales or revenues should not be affected.

5. Cost of Compliance for the 10% of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

Livestock operation economics (cattle) is based on the cost of adding weight (gain) to cattle. These costs are affected by the price of feed that in the case of WDFW grazing permits are a function of the condition and availability of range forage on areas allowed for grazing under the permit. WDFW authorizes use by livestock based on animal unit months. Once authorized for use under the permit, livestock utilization and gain should be similar to what was available before the rule change, therefore not creating additional costs for compliance.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: Operators who demonstrate proficiency at managing their livestock operation, under conditions imposed by WDFW through the permit, will in most circumstances be able to renew their permits for another five years.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: This rule will result from Fish and Wildlife Commission policy that is currently under development. The Washington's Cattlemen's Association is currently reviewing the proposed commission policy and will provide comments. In addition, a State Environmental Policy Act review is underway on the proposed development of a commission policy.

8. A List of Industries That Will Be Required to Comply with the Rule: The rule is an agency WAC that controls the issuance of permits to livestock operators to use WDFW lands. This rule could affect any operator of domestic livestock who wishes to use WDFW lands and is issued a permit to do so.

A copy of the statement may be obtained by writing to Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2402, fax (360) 902-2162.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Marcus Whitman Hotel and Conference Center, Six West Rose, Walla Walla, WA, on September 27-28, 2002, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Nancy Burkhart by September 20, 2002, TDD (360) 902-2207 or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Dave Brittell, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2162, by September 18, 2002.

Date of Intended Adoption: September 27, 2002.

August 21, 2002

Evan Jacoby

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 323, filed 11/22/88, effective 12/23/88)

**WAC 232-12-181 Livestock grazing on department of fish and wildlife lands.** All persons wishing to apply for a

grazing (~~(lease)~~) permit should contact the Washington Department of Fish and Wildlife, 600 North Capitol Way, Olympia, Washington 9850(4)(1).

(1) The director is authorized to enter into grazing (~~(leases)~~) permits when the director determines that a grazing (~~(lease)~~) permit will be consistent with the desired ecological condition for those lands and the department's strategic plan (benefit wildlife management programs and will be in the public interest). Except for temporary permits, each grazing (~~(lease)~~) permit shall first be submitted to the commission, which may review the (~~(lease)~~) permit to determine whether it is consistent with the commission grazing policy (will benefit wildlife or improve public hunting, fishing or recreation without adverse impact on wildlife). If, within 30 days, the commission has not disapproved the (~~(lease)~~) permit, the director shall be deemed authorized to enter into that (~~(lease)~~) permit.

(2) The director shall advertise and sell a (~~(license)~~) permit to use department lands for grazing at public auction to the highest bidder. The director is authorized to reject any and all bids if it is determined to be in the best interest of the department to do so. The director may negotiate a grazing (~~(lease)~~) permit without using the public auction process only when the director determines that benefits to wildlife would be equal to or greater than the cash or monetary payments foregone.

(3) The term of each grazing (~~(lease)~~) permit shall be no greater than five years. When an existing (~~(lease)~~) permit expires or is about to expire, and the director wishes to continue to permit grazing on the subject parcel, then a modified public auction process shall be used. A minimum bid based on market value shall be established prior to the public auction. The last previous or the existing (~~(lessee)~~) permittee shall be provided the option of meeting the highest bid made at public auction. The director may grant a term longer than five years only with the prior approval of the commission. The director may permit exceptions to the public auction process only when the director determines that benefits to wildlife would be equal to or greater than the cash or monetary payment foregone.

(4) A temporary permit may be granted by the director to satisfy an immediate, short-term need where benefits to wildlife management programs and the public interest can be demonstrated. The term of a temporary permit shall not exceed two weeks and no fee need be charged.

(5) (~~The director may approve a grazing lease where a grazing management plan which includes objectives and site characteristics, pasture rotation schedule, on-off dates, number of AUM's, and a monitoring plan has been developed by the agency~~) Each grazing permit proposal shall be accompanied by a domestic livestock grazing management plan that includes a description of ecological impacts, fish and wildlife benefits, monitoring plan and an evaluation schedule for lands that will be grazed by livestock, and a description of the desired ecological conditions. The director shall inspect the site of a grazing (~~(lease)~~) permit no less than two times each year. The director shall retain the right to alter provisions of the plan to reduce acreage available or the number of animals using the area when such change is, in the judgment of the director, required to benefit fish or wildlife management,

public hunting and fishing, or other recreational uses. With the exception of temporary permits, ((F)) the director may not enter into any grazing ((lease)) permit not accompanied by a grazing management plan unless the commission has approved it.

(6) The director may cancel a ((lease)) permit (1) for noncompliance with the terms and conditions of the ((lease)) permit, or (2) if the area described in the ((lease)) permit is included in a land use plan determined by the agency to be a higher and better use, or (3) if the property is sold or conveyed, or (4) if damage to wildlife or wildlife habitat occurs.

(7) All lands covered by any grazing permit agreement shall at all times be open to public hunting, fishing and other wildlife recreational uses unless such lands have been closed by action of the commission or emergency order of the director

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

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 02-17-120**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 (Board of Boiler Rules)  
 [Filed August 21, 2002, 11:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-08-090.

Title of Rule: Changes to the Board of Boiler Rules, substantive (chapter 296-104 WAC).

Purpose: The purpose of these rules is to address actions and requests of the Board of Boiler Rules by:

- Clarifying the rules so that they are easier to use and understand;
- Proposing changes to the clearances requirements;
- Establishing variances procedures;
- Requesting that markings be conspicuously located and as close as possible to the boiler or unfired pressure vessel nameplate;
- Changing the testing requirements and referencing the national board's "Rules for Commissioned Inspectors"; and
- Making several other necessary changes identified by the Board of Boiler Rules.

**New Section:**

**WAC 296-104-021 Administration—What is the registration requirement for new standard boilers and unfired pressure vessels?** Moved the requirement that manufacturers' data reports be registered with the National Board of Boiler and Pressure Vessel Inspectors from WAC 296-104-020.

**Amended Sections:**

**WAC 296-104-010 Administration—What are the definitions of terms used in this chapter?** Changes were made to this section to:

- Add references to "unfired" and "reinstallation" were added to clarify the definitions that relate to the permit and types of boilers covered under these rules;
- Add a note to clarify that if the input on a "Hot water heater" exceeds 200,000 BTU/hr that other terms defined in this section applied;
- Clarify the definition of "Certificate of competency" to reference "the National Board Examination for Commissioned Inspectors"; and
- Remove unnecessary language in the definition of "Commission."

**WAC 296-104-020 Administration—What are the filing requirements for boilers and unfired pressure vessels before their installation/reinstallation?** Made clarification changes to this section to add references to "unfired" and "reinstallation." Also, eliminated the provision that manufacturers' data reports be registered with the National Board of Boiler and Pressure Vessel Inspectors as this requirement was moved to the proposed new section WAC 296-104-021.

**WAC 296-104-050 Administration—What examinations must a boiler inspector take?** Made changes to this section to:

- Clarify the provisions relating to when and how many examinations were to be provided;
- Replace the provisions relating to the examination requirements with a reference [to] the requirement that prospective national board commissioned inspector applicants shall meet the minimum requirements as set forth in the national board's "Rules for Commissioned Inspectors," NB263, Revision 8 (4/02); and
- Clarified that the examination application forms are provided by the chief inspector.

**WAC 296-104-060 Administration—When shall inspectors' commissions be issued, suspended, or revoked?** Made clarification changes to this section and decreased the fees to the nearest whole dollar amount. Also, replaced unnecessary language associated with suspending or revoking commissions with a reference to RCW 70.79.180.

**WAC 296-104-125 Inspection—What are the requirements for obtaining a certificate ((fees required)) of inspection?** Made clarification changes to make this section of the rule easier to understand and use.

**WAC 296-104-140 Inspection—How should a state stamp be applied?** Made changes to this section to:

- Reference the definition of inspector defined in WAC 296-104-010;
- Request that markings be conspicuously located and as close as possible to the boiler or unfired pressure vessel nameplate; and

- Eliminate the provision that data sheets be made available at the time of the first inspection if not filed with the national board.

**WAC 296-104-145 Inspection—How are groups of vessels operating as a single unit classified?** Made changes to this section to:

- Change the requirement that vessels be given a letter designation to a serial number;
- Request that markings be conspicuously located and as close as possible to the boiler or unfired pressure vessel nameplate; and
- Add a reference to another section of the rules and clarify the rules so that they are easier to understand and use.

**WAC 296-104-150 Inspection—How are unfired steam boilers classified?** A reference to WAC 296-104-010 was added to this section to refer to the definition of "Unfired steam boilers" in WAC 296-104-010.

**WAC 296-104-151 Inspection—What are the requirements for rental boilers?** Added references and made clarification changes to this section so that it is easier to understand and use.

**WAC 296-104-155 Inspection—What preparations are necessary prior to internal inspections?** Clarified that inspection of the boiler drums will occur at each annual inspection. Also, added another option (installing isolation blinds) to prevent leakage of steam or hot water.

**WAC 296-104-170 Inspection—When are shop inspections required?** Added a reference to WAC 296-104-200 for determining applicable ASME codes.

**WAC 296-104-200 Construction—What are the standards for new construction?** Specified that it is the 1988 edition of ASME CSD-1 code with addenda and moved the reference to this code to a separate subsection.

**WAC 296-104-230 Construction—What are the testing requirements for new boilers or unfired pressure vessels exempted from code requirements for volume, pressure or temperature?** Corrected the title to include references to boilers and unfired pressure vessels.

**WAC 296-104-260 Installation—(~~Clearance front, back and sides.~~) What are the required clearances for boilers?** Made changes to this section to clarify the title and to specify that clearances must be to the manufacturers' recommendation, but in no case may the clearance be less than eighteen inches. Clearances of less than eighteen inches may be reviewed on a case-by-case basis under the new variance procedures in WAC 296-104-270.

**WAC 296-104-270 Installation—(~~What are the requirements for an explosion door~~) How does an owner, user, or installer obtain a variance from clearances?** Made changes to this section to establish variance procedures from the requirements found in WAC 296-104-255, 296-104-260, 296-104-273, and 296-104-320.

**WAC 296-104-273 Installation—(~~Pressure vessel clearances.~~) What are the required clearances for unfired pressure vessels?** Made changes to this section to add references to "unfired" pressure vessels and to make the clearance requirements consistent with the changes in the proposed WAC 296-104-260.

**WAC 296-104-502 Repairs—What are the requirements for nonnuclear boilers and unfired pressure vessel repairs and alterations?** Added a provision to specify that repairs and alterations to nonstandard boilers and pressure vessels, as addressed in WAC 296-104-215, must be authorized by the chief inspector.

**WAC 296-104-700 What are the inspection fees—Certificate fees—Expenses?** Clarified that boiler and pressure vessel installation/reinstallation permit fee excludes inspection and certificate of inspection fee. Also, removed the reference to a reinspection fee as these fees are charged based on the number of hours required to perform the reinspection.

The following sections were renumbered to make the rules easier to follow, understand, and use:

Old WAC Number	New WAC Number
296-104-256	296-104-273
296-104-260	296-104-256
296-104-265	296-104-300
296-104-270	296-104-305
296-104-273	296-104-260
296-104-300	296-104-307
296-104-305	296-104-310
296-104-307	296-104-316
296-104-310	296-104-320
296-104-320	296-104-265

**Repealed Section:**

**WAC 296-104-240 Construction—When are piping components considered unfired pressure vessels?** This section was eliminated as the provisions in this section already exist in WAC 296-104-200.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Statute Being Implemented: Chapter 70.79 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, Tumwater, (360) 902-5270; Implementation and Enforcement: Robb Marvin, Tumwater, (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

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

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Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because these proposed rule changes do not impose any new costs on business.

RCW 34.05.328 does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule changes because the exempt criteria outlined in RCW 34.05.328(5) was met.

Hearing Location: Department of Labor and Industries, Tacoma Field Office, 950 Broadway, Suite 200, Tacoma, WA 98402-4453, on October 1, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Josh Swanson, by September 30, 2002, at (360) 902-6411.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lni.wa.gov, fax (360) 902-5292, by October 1, 2002. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: October 15, 2002.

August 21, 2002

Craig Hopkins, Chair  
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

**WAC 296-104-010 Administration—What are the definitions of terms used in this chapter? "Agriculture purposes"** shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

**"Attendant"** shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

**"Automatic operation of a boiler"** shall mean unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

**"Board of boiler rules" or "board"** shall mean the board created by law and empowered under RCW 70.79.010.

**"Boiler and unfired pressure vessel installation/reinstallation permit,"** shall mean a permit approved by the chief inspector before starting installation or reinstallation of any boiler and unfired pressure vessel in this state.

Owner/user inspection agency's, Washington specials and rental boilers are exempt from "boiler and unfired pressure vessel installation permit."

**"Boilers and/or unfired pressure vessels"** - below are definitions for types of boilers and unfired pressure vessels used in these regulations:

- **"Condemned boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.
- **"Hot water heater"** shall mean a closed vessel designed to supply hot water for external use to the system. All vessels must be listed by a nationally recognized testing agency and shall not exceed any of the following limits:
  - \* Pressure of 160 psi (1100 kpa);
  - \* Temperature of 210 degrees F (99°C);
  - \* Capacity of 120 U.S. gallons (454 liters);
  - \* Input of 200,000 BTU/hr (58.58 kw). Note that if input exceeds 200,000 BTU/hr (58.58 kw), other terms defined in this section may apply.
  - \* Hot water heaters exceeding 200,000 BTU/hr (58.58 kw) must be ASME code stamped.
  - \* Each vessel shall be protected with an approved temperature and pressure safety relief valve.
- **"Low pressure heating boiler"** shall mean a steam or vapor boiler operating at a pressure not exceeding 15 psig or a boiler in which water or other fluid is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy including lined potable water heaters.
- **"Nonstandard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.
- **"Pool heaters"** shall be considered a boiler or unfired pressure vessel unless it meets all of the following criteria:
  - \* Appliance used to heat water for swimming pools and spas.
  - \* A flow switch shall be wired to shut off the heating source under a condition of low flow.
  - \* There are no intervening stop valves on the inlet or outlet side of the unit. Any valves used for maintaining the appliance must be locked open during operation.
  - \* Appliance is equipped with an ASME approved pressure relief device, with no intervening stop valves, set not to exceed the maximum allowable working pressure (MAWP) of the appliance.
  - \* Unit is rated at less than 200,000 BTU/hr, and is operated at pressure and temperature no greater than 160 psig (1100 kpa) and 210°F (99°C), respectively.
  - \* Heating source operation is wired in series with the circulating pump.
  - \* Unit is built to the ASME code or approved by a nationally recognized testing laboratory.
- **"Power boiler"** shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water or other fluid is heated and intended for operation at pressures in excess of 160 psig and/or

temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.

- **"Reinstalled boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.
- **"Rental boiler"** shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.
- **"Second hand boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.
- **"Standard boiler or unfired pressure vessel"** shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.
- **"Unfired pressure vessel"** shall mean a closed vessel under pressure excluding:
  - \* Fired process tubular heaters;
  - \* Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
  - \* Piping whose primary function is to transport fluids from one location to another;
  - \* Those vessels defined as low pressure heating boilers or power boilers.
- **"Unfired steam boiler"** shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

**"Certificate of competency"** shall mean a certificate issued by the state board of boiler rules to a person who has passed ~~((an examination prescribed by the board of boiler rules))~~ the National Board Examination for Commissioned Inspectors.

**"Code, API-510"** shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

**"Code, ASME"** shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

**"Code, NBIC"** shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Ves-

sel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

**"Commission"** shall mean an annual ~~((state commission))~~ commission card issued to a person in the employ of the state, an insurance company or a company owner/user inspection agency holding a certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

**"Department"** as used herein shall mean the department of labor and industries of the state of Washington.

**"Director"** shall mean the director of the department of labor and industries.

**"Domestic and/or residential purposes"** shall mean serving a private residence or an apartment house of less than six families.

**"Existing installations"** shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

**"Inspection, external"** shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

**"Inspection, internal"** shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels less than 36" inside diameter shall constitute an internal inspection.

**"Inspector"** shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

- **"Chief inspector"** shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.
- **"Deputy inspector"** shall mean an inspector appointed under RCW 70.79.120.
- **"Special inspector"** shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

**"Nationwide engineering standard"** shall mean a nationally accepted design method, formulae and practice acceptable to the board.

**"Owner"** or **"user"** shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

**"Owner/user inspection agency"** shall mean an owner or user of boilers and/or pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

**"Place of public assembly"** or **"assembly hall"** shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

"Special design" shall mean a design using nationwide engineering standards other than the codes adopted in WAC 296-104-200 or other than allowed in WAC 296-104-230.

AMENDATORY SECTION (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

**WAC 296-104-020 Administration—What are the filing requirements for boilers and unfired pressure vessels before their installation/reinstallation? A "boiler and pressure vessel installation/reinstallation permit," as defined in WAC 296-104-010 shall be submitted by the owner or agent and approved by the chief inspector. ((Manufacturers' data reports on boilers and pressure vessels shall be registered with the National Board of Boiler and Pressure Vessel Inspectors.))**

#### NEW SECTION

**WAC 296-104-021 Administration—What is the registration requirement for new standard boilers and unfired pressure vessels? Manufacturers' data report for new "standard boilers and unfired pressure vessels" shall be registered with the National Board of Boiler and Pressure Vessel Inspectors.**

AMENDATORY SECTION (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-050 Administration—What examinations must a boiler inspector take? ((Examination for certificate of competency shall be held at locations selected by the board, four times each year, namely, the first Wednesday and following Thursday of the months of March, June, September and December. Special examinations may be held when considered necessary by the board.**

**Applicants for examination shall have had at least three years practical experience in the construction, maintenance, repair or operation of high pressure boilers or unfired pressure vessels as a mechanical engineer, steam engineer or boiler maker, or shall have had at least three years experience as an inspector of high pressure boilers and/or unfired pressure vessels. A credit of two years of the required experience will be given to applicants holding an engineering degree from a recognized college of engineering.)) In order to qualify as a prospective National Board Commissioned Inspector an applicant shall meet the minimum requirements as set forth in the national board's "Rules for Commissioned Inspectors," NB263, Revision 8 (4/02).**

Application for examination for certificate of competency shall be in writing upon a form to be furnished by the ((director)) chief inspector stating the school and education of the applicant, a list of employers, period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected.

If the applicant's history and experience meet with the approval of the board of boiler rules, the candidate shall be given ((a written examination. The test will deal with Wash-

ington state boilers and unfired pressure vessels law as well as the construction, installation, operation, maintenance and repair of boilers and/or unfired pressure vessels and their appurtenances)) the national board and Washington state examinations. If the applicant is accepted on the merits of ((this)) the national board examination, a certificate of competency will be issued by the chief inspector.

Examinations shall be held at locations and times when considered necessary by the board of boiler rules. The examinations may be offered four times each year, namely, the first Wednesday and following Thursday of the months of March, June, September and December. Special examinations may be held when considered necessary by the board.

AMENDATORY SECTION (Amending WSR 02-12-021, filed 5/28/02, effective 6/28/02)

**WAC 296-104-060 Administration—When shall inspectors' commissions be issued, suspended, or revoked? The chief inspector shall issue a commission as a deputy or special inspector in accordance with RCW 70.79.120 and 70.79.130.**

The deputy inspector commission shall be held by the chief inspector. The deputy inspector commission shall be valid for one year and may be renewed annually at the request of the chief inspector. The fee for the special inspector commission is (((\$25.60)) twenty-five dollars. The special inspector commission shall be held at the home office of the employing company and shall be valid for one year and may be renewed annually at the request of the employing company for a fee of (((\$10.20)) ten dollars. ((The deputy inspector commission shall be held by the chief inspector. The deputy inspector commission shall be valid for one year and may be renewed annually at the request of the chief inspector.)) Inspectors shall carry identifying commission cards while they are inspecting. The state or employing company shall return the commission and the identifying commission card at once to the chief inspector when the inspector to whom the commission was issued is no longer in its employ, or at the request of the chief inspector.

((The chief inspector may suspend or revoke a certificate of competency and commission issued to an inspector upon written notice to the inspector and to the inspector's employer for:

- ~~Incompetency or untrustworthiness;~~
- ~~Willful falsification of any matter or statement contained in the application, or in the report of any inspection; or~~
- ~~For other sufficient reason.~~

~~The holder of a certificate of competency is entitled to a hearing before the board prior to the revocation or suspension of the certificate of competency. A person whose commission has been suspended, except for untrustworthiness, may apply to the board for reinstatement. A person whose commission has been revoked, except for untrustworthiness, may apply to the board to take a new examination for a commission after ninety days from the date of the revocation.)) An inspector's commission may be suspended or revoked in accordance with RCW 70.79.180.~~

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-125 Inspection—What are the requirements for obtaining a certificate ((fees required)) of inspection?** ((If upon inspection a boiler or unfired pressure vessel is found to be suitable for use and to conform to these rules and regulations)) Before a certificate of inspection as defined in RCW 70.79.290 is issued, a boiler or unfired pressure vessel must be inspected by an inspector and have all necessary permits. In addition, the owner or user shall pay ((certificate)) the fees ((as)) scheduled in WAC 296-104-700 directly to the chief inspector. The inspection process is not complete until the certificate of inspection is posted.

If the owner or user of each boiler or unfired pressure vessel required to be inspected refuses to allow an inspection to be made, or refuses to pay the above fee, the certificate of inspection shall be suspended by the chief inspector until the owner or user complies with the requirements.

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-140 Inspection—How should a state stamp be applied?** Upon completion of the installation, all boilers and unfired pressure vessels shall be inspected by ~~((the chief inspector, a deputy inspector, or a special))~~ an inspector as defined in WAC 296-104-010. At the time of this inspection, each boiler or unfired pressure vessel shall be marked with a serial number of the state of Washington followed by the letter "W." The marking should be conspicuously located and as close as possible to the boiler or unfired pressure vessel nameplate.

~~((Data sheets shall be made available at the time of first inspection if not filed with the national board.))~~

Washington special numbers when assigned by the chief inspector shall be preceded by the letters "WS."

All rental boilers used in the state of Washington shall be marked with the serial number of the state of Washington followed by the letters "WR." This will indicate that the boiler is a rental unit.

The state of Washington markings, numbers and letters, referenced above, shall not be less than 5/16 inches in height and shall not be concealed by lagging or paint and shall be exposed at all times.

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-145 Inspection—How are groups of vessels operating as a single unit classified?** A group of unfired pressure vessels operating as a single unit such as the vessels in a refrigeration system, evaporators, ironers and paper machines ~~((may be given one number, designating the different vessels of the unit as a b c, etc. The inspector's report shall cover all pressure vessels in the system individually. One certificate shall be issued for the unit))~~ shall have an individual state serial number marked on each boiler or unfired pressure vessel. The marking should be conspicuously located and as close as possible to the boiler or unfired

pressure vessel nameplate. The certificate ((charge)) of inspection fee shall be as outlined in ((RCW 70.79.290)) WAC 296-104-700, for each vessel of the system.

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-150 Inspection—How are unfired steam boilers classified?** Unfired steam boilers as defined in WAC 296-104-010 operating at pressures of 50 psi or more shall be inspected as power boilers. Unfired steam boilers operating at less than 50 psi shall be inspected as unfired pressure vessels.

**AMENDATORY SECTION** (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

**WAC 296-104-151 Inspection—What are the requirements for rental boilers?** Every rental boiler used in the state of Washington will have an internal inspection ~~((completed))~~ as defined in WAC 296-104-010 witnessed by an inspector once a year. An ((operating)) external inspection ((under pressure)) as defined in WAC 296-104-010 shall be ((conducted)) witnessed by an inspector at each and every rental location before being placed into service. Rental boilers shall also meet the requirements of WAC 296-104-265.

A rental boiler, which has never been in rental service in the state of Washington, shall meet the requirements of WAC 296-104-256. Each ~~((operating))~~ inspection will be reported to the state of Washington ~~((using the standard inspection form))~~ in accordance with WAC 296-104-040, and a copy of this report will be posted on the rental boiler.

~~((Inspections will be the responsibility of the rental boiler owner but may be completed by the user's special inspector.))~~ It is the responsibility of the rental boiler owner to arrange for all required inspections.

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-155 Inspection—What preparations are necessary prior to internal inspections?** The owner or user shall prepare a boiler for internal inspection in the following manner or as required by the inspector:

(1) Water shall be drawn off and the boiler thoroughly washed.

(2) All manhole and handhole plates and wash-out plugs and water column connections shall be removed, the furnace and combustion chambers thoroughly cooled and cleaned.

(3) All grates of internally fired boilers shall be removed.

(4) At each annual inspection brickwork shall be removed as required by the inspector in order to determine the condition of the boiler headers, drums, furnace, supports, or other parts.

(5) The steam gauge shall be removed for testing or evidence of testing shown.

(6) Any leakage of steam or hot water into the boiler shall be ~~((cut off by))~~ prevented by either disconnecting the pipe or block valve at the most convenient point or installing isolation blinds.

(7) The low water cutout shall be disassembled to such a degree as the inspector shall require.

Unfired pressure vessels shall be prepared for internal inspection to the extent deemed necessary by the inspector.

**AMENDATORY SECTION** (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

**WAC 296-104-170 Inspection—When are shop inspections required?** Shop inspections shall be as required in the ~~((applicable sections of the ASME Code))~~ standards of construction as adopted in WAC 296-104-200. Only inspectors holding a national board commission with the appropriate endorsements and a commission issued by the state of Washington shall make shop inspections in this state. Supervisors of inspectors who perform shop inspections in the state need only a National Board Commission with the appropriate endorsements.

Upon request from a boiler or pressure vessel manufacturer holding an ASME Certificate of Authorization within the jurisdiction, the department shall provide inspection services as required by the ASME Code. The manufacturer receiving such inspection services shall reimburse the department for the time and expenses in accordance with the fee schedule established in WAC 296-104-700.

**AMENDATORY SECTION** (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

**WAC 296-104-200 Construction—What are the standards for new construction?** The standards for new construction are:

(1) ASME Boiler and Pressure Vessel Code, 2001 edition, with addenda Sections I, III, IV, VIII, X ~~((, and CSD-1 (as referenced in WAC 296-104-265(3))))~~;

(2) ASME/ANSI PVHO-1 (Standard for Pressure Vessels for Human Occupancy), 1997 edition; and

(3) ASME CSD-1 1998 edition with addenda (as referenced in WAC 296-104-265(3)); and

(4) Standards of construction approved by the chief inspector and meeting the National Board Criteria for Registration of Boilers, Pressure Vessels and Other Pressure Retaining Items.

These codes and standards may be used on or after the date of issue and become mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2). The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. For nuclear systems, components and parts the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

**AMENDATORY SECTION** (Amending WSR 00-21-024, filed 10/10/00, effective 11/13/00)

**WAC 296-104-230 Construction—What are the testing requirements for new boilers or unfired pressure vessels exempted from code requirements for volume, pres-**

**sure or temperature?** Boilers or unfired pressure vessels that are not required by the codes adopted in WAC 296-104-200 to be built to those codes (except those exempted in the RCWs), shall be tested as follows:

One boiler or unfired pressure vessel of each design and size taken from the manufacturer's stock at random, shall be subjected to a hydrostatic test of twice the rated maximum allowable working pressure in the presence of an inspector holding a national board commission. The boiler or unfired pressure vessel shall withstand the hydrostatic pressure test without leaks and without exceeding 80% of the boiler or unfired pressure vessel material's yield strength. Samples shall be taken from the longitudinal seam and tests made as outlined in Section IX ASME Code for root and face bends and reduced tensile coupons. Upon successfully passing the above tests, the maximum allowable working pressure will be allowed for all boilers or unfired pressure vessels constructed to identical specifications. The company name, serial number, maximum allowable working pressure, and energy input (if applicable) shall be stamped or marked in a permanent manner on each boiler or unfired pressure vessel. A retest shall be made at the inspector's discretion or by the request of the chief inspector. Any unfired pressure vessels containing water and an air cushion designed for less than 300 psi and 210 degree F, in use prior to January 1, 1997, may be accepted by hydrostatically testing them to twice their maximum allowable working pressure.

**AMENDATORY SECTION** (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-260 Installation—~~((Clearance front, back and sides.))~~ What are the required clearances for boilers?** When boilers are replaced or new boilers installed in either existing or new buildings, minimum clearance shall be provided as specified below:

(1) Minimum clearance at sides and back wall shall be ~~((one and one-half feet or at the discretion of the inspector the manufacturers recommended clearances may be used if they allow sufficient room for inspection))~~ the manufacturers' recommendations, but in no case less than eighteen inches. Boilers having manholes shall have five feet clearance from the manhole opening and any wall, ceiling, or piping that will prevent a person from entering the boiler.

(2) Clearance in front and back shall be sufficient for operation, maintenance, and repair.

**AMENDATORY SECTION** (Amending WSR 97-20-109, filed 9/30/97, effective 10/31/97)

**WAC 296-104-270 Installation—~~((What are the requirements for an explosion door))~~ How does an owner, user, or installer obtain a variance from clearances?** ~~((Provide substantial deflectors to divert the blast when explosion doors are located within seven feet of the firing floor or an operating platform.))~~ Variances from WAC 296-104-255, 296-104-260, 296-104-273, and 296-104-320 may be requested. The variance request shall be in writing on an appropriate form approved by the chief inspector, and shall

specify how equivalent safety is to be maintained. The chief inspector may grant the variance provided that safety and accessibility for inspections are acceptable.

**AMENDATORY SECTION** (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-273 Installation—**~~((Pressure vessel clearances.))~~ **What are the required clearances for unfired pressure vessels?** When unfired pressure vessels are replaced or new vessels are installed in either existing or new buildings, ~~((a minimum height of))~~ **manufacturers' recommendations shall be used, but in no case less than** eighteen inches shall be provided between the top of the unfired pressure vessel ~~((proper))~~ and the ceiling and adjacent walls or other structures. All unfired pressure vessels having manholes shall have five feet clearance from manhole openings and any wall, ceiling, or piping that will prevent a person from entering the unfired pressure vessel. ~~((Lesser clearances may be acceptable at the discretion of the inspector.))~~

**AMENDATORY SECTION** (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

**WAC 296-104-502 Repairs—****What are the requirements for nonnuclear boilers and unfired pressure vessel repairs and alterations?** Repairs and alterations to nonnuclear boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102. Additionally, repairs and alterations to nonstandard boilers and pressure vessels, as addressed in WAC 296-104-215, must be authorized by the chief inspector.

Repairs/alterations may be made by:

(1) An organization authorized by the jurisdiction and in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the National Board provided such repairs/alterations are within the scope of the authorization.

(2) An organization authorized by the chief inspector and in possession of a valid ASME Certificate of Authorization provided such repairs/alterations are within the scope of the organization's Quality Control System. The chief inspector may limit or restrict repairs/alterations for cause.

Owner/user special inspectors may only accept repairs/alterations to boilers and unfired pressure vessels operated by their respective companies per RCW 70.79.130.

Documentation of repairs and alterations, in accordance with the requirements of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102, shall be submitted to the department.

**AMENDATORY SECTION** (Amending WSR 02-12-021, filed 5/28/02, effective 6/28/02)

**WAC 296-104-700 What are the inspection fees—Certificate fees—Expenses?** The following fees shall be paid by, or on behalf of, the owner or user upon the comple-

tion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	28.50	22.80
All other boilers less than 500 sq. ft.	34.30	22.80
500 sq. ft. to 2500 sq. ft.	57.20	28.50
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	22.80	11.40
Power boilers:	Internal	External
Less than 100 sq. ft.	28.50	22.80
100 sq. ft. to less than 500 sq. ft.	34.30	22.80
500 sq. ft. to 2500 sq. ft.	57.20	28.50
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	22.80	11.40
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		5.60
All other pressure vessels:		
Square feet shall be determined by multiplying the length of the shell by its diameter.		
	Internal	External
Less than 15 sq. ft.	22.80	17.10
15 sq. ft. to less than 50 sq. ft.	34.30	17.10
50 sq. ft. to 100 sq. ft.	39.90	22.80
For each additional 100 sq. ft. or any portion thereof	39.90	11.40
Certificate of inspection fees: For objects inspected, the certificate of inspection fee is \$ 17.10 per object.		
Boiler and pressure vessel installation/reinstallation permit (excludes inspection <u>and certificate of inspection fee</u> )		\$50.00
Nonnuclear shop inspections, field construction inspections, and special inspection services:		
For each hour or part of an hour up to 8 hours		34.30
For each hour or part of an hour in excess of 8 hours		51.40

PROPOSED

PROPOSED

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:		296-104-273	296-104-260
For each hour or part of an hour up to 8 hours	51.40	296-104-300	296-104-307
For each hour or part of an hour in excess of 8 hours	80.00	296-104-305	296-104-310
		296-104-307	296-104-316
		296-104-310	296-104-320
		296-104-320	296-104-265

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours	34.30
For each hour or part of an hour in excess of 8 hours	51.40

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours	51.40
For each hour or part of an hour in excess of 8 hours	80.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-104-240

Construction—When are piping components considered unfired pressure vessels?

Expenses shall include:

Travel time and mileage: The department shall charge for its inspectors' travel time from their offices to the inspection sites and return. The travel time shall be charged for at the same rate as that for the inspection, audit, or survey. The department shall also charge the current Washington office of financial management accepted mileage cost fees or the actual cost of purchased transportation. Hotel and meals: Actual cost not to exceed the office of financial management approved rate.

~~((Reinspection fee: Same as the fee for the previous inspection during which discrepancies were reported. The fee will be charged only if the discrepancies are not corrected before the reinspection. The fee shall not exceed \$27.40.))~~ Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of \$317.20 must be paid to the department before the board meets to consider the vessel. The board may, at its discretion, prorate the fee when a number of vessels that are essentially the same are to be considered.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
296-104-256	296-104-273
296-104-260	296-104-256
296-104-265	296-104-300
296-104-270	296-104-305

**WSR 02-17-009**  
**EXPEDITED RULES**  
**SECRETARY OF STATE**  
 [Filed August 8, 2002, 4:54 p.m.]

Title of Rule: Chapter 434-670 WAC, Washington state archives local records grant program.

Purpose: To establish rules for administering the archives grant program.

Statutory Authority for Adoption: RCW 36.22.175(1).

Statute Being Implemented: RCW 36.22.175.

Summary: To establish rules governing competitive grant programs for local government agencies.

Reasons Supporting Proposal: Mandate per RCW 36.22.175(1).

Name of Agency Personnel Responsible for Drafting: D. Rae Bradrick, Archives Building, Olympia, 40238, (360) 586-4900; Implementation and Enforcement: Jerry Handfield, Archives Building, Olympia, 40238, (360) 586-2660.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Division of Archives and Records Management within the Office of the Secretary of State has established a competitive grant program to solicit and prioritize project proposals from local governments. These rules govern project eligibility, evaluation, awarding of grants, and other criteria including requirements for records management training for grant recipients.

Proposal does not change existing rules.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Rae Bradrick, Office of the Secretary of State, Archives, 1129 Washington Street S.E., Olympia, WA 98504, AND RECEIVED BY October 21, 2002.

August 8, 2002

Steve Excell

Assistant Secretary of State

**Chapter 434-670 WAC**

**The Washington State Archives Local Records Grant Program**

**NEW SECTION**

**WAC 434-670-010 Washington state archives local records grant program.** The Washington State Archives

Local Records Grant Program, administered by the Office of the Secretary of State, provides financial assistance to local government officials to support records management and preservation efforts, particularly for records of permanent retention. This grants-in-aid program is a significant effort in the overall mission of the program to enhance the quality of archival preservation and public access to records of enduring value. This grant program is governed by this chapter and by RCW 36.22.175.

**NEW SECTION**

**WAC 434-670-020 Eligible and ineligible activities.**

(1) The following activities, including but not limited to, are eligible for support through grants administered pursuant to this chapter:

- a. Planning
- b. Records Management
- c. Preservation
- d. Conservation
- e. Professional consultants
- f. Essential equipment
- g. Reference tools, and
- h. Education
- I. Temporary Personnel

(2) The following activities, including but not limited to, are ineligible for support through grants administered pursuant to this chapter:

- a. Projects already completed
- b. Expenses incurred prior to the grant period
- c. Existing/permanent staff positions
- d. Equipment nonessential to the project
- e. Capital improvements to buildings
- f. Payments to lobbyists
- h. Hospitality expenses
- i. Prizes/awards
- j. Benefit activities (social, fundraisers, etc.)
- k. Educational outreach not available to the public
- l. Tuition reimbursement for academic credit
- m. Activities having a religious purpose
- n. Inventories/guides not available to the public and;
- o. Purchase of manuscripts/records.

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

**NEW SECTION**

**WAC 434-670-030 Eligibility.** Local government entities, including special purpose districts, are eligible to apply for grants under this chapter. Entities other than local governments, such as individuals, state agencies, federal agencies, and private organizations are ineligible, but local public records housed by state agencies may be included in a grant application that is submitted and administered by the local official who has statutory authority over the records.

NEW SECTION

**WAC 434-670-040 Evaluation of proposals.** (1) Washington State Archives staff will review grant applications for completeness, conformity to application requirements, soundness of budget, and relevancy to the objectives of the Washington State Archives Local Records Grant Program. [Staff may also consider, in addition to the factors specified above the potential for widespread citizen use, research value and value for ongoing governmental operation of the proposed project including improvements to existing operations.]

The proposal may be returned to the applicant institution for further development or clarification, prior to application deadline.

(2) A summary will be prepared by the Washington State Archives for each complete application and forwarded to the Oversight Committee. The committee will review the applications at its annual public meeting and make funding recommendations to the Secretary of State.

(3) The Office of the Secretary of State will notify the applicant in writing as to whether the proposal has been funded or rejected.

(4) The Office of the Secretary of State will notify the applicant in writing as to whether the proposal has been funded or rejected.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

NEW SECTION**WAC 434-670-050 Grant application requirements.**

In order to be complete an application must include:

(1) Identification of local government entity and project personnel;

(2) A description of the activity proposed for funding including:

- A. Statement of purpose and goals;
- B. Project summary;
- C. Detailed analysis of plan, discussion of techniques and a timetable;
- D. Project objectives; and
- E. Specific end results or products.

(3) A funding description, including:

- A. Budget layout;
- B. Budget explanation;
- C. Need for outside funding;
- D. Funding of future management and preservation projects; and

E. Local entity's accounting methods and audit procedures.

(4) Relevant Information, including:

- A. Evaluation of results (how will the success or failure be measured);
- B. Statement of any previous actions; and
- C. Description of importance of the project in terms of an overall, long-range record management program

(5) Authorization, including:

- A. Being signed and dated by proper official; and
- B. Identification of preparer of the application.

(6) Support Material, including:

- A. Letter of commitment from the applicant's funding authority;
- B. Resumes of project personnel, consultants, volunteers, etc., and descriptions of their grant-funded duties
- C. Required forms;
- D. Identification of necessary services, equipment, supplies, etc.; and
- E. Other relevant information

NEW SECTION

**WAC 434-670-060 Grant calendar.** (1) The grant period begins on the date of the award issued by the Office of the Secretary of State. Grant projects must be completed in the awarded biennium.

(2) The grant payment and reporting schedule will be approved and published by the Oversight Committee for each grant cycle. All unused grant funds and interest in possession of the grantee must be returned to the Washington State Archives Local Records Grant Program within 60 days of completion.

NEW SECTION

**WAC 434-670-070 Accounting.** Grantees must keep financial records in accordance with the accounting practices generally applicable to their local government accounting practices and apply approved record retention schedules. These records, as public records, shall be subject to inspection by the Washington State Archives staff and the Oversight Committee during regular business hours throughout the grant period. If any litigation, claim, or audit is begun before the end of the retention period, records must be retained until such proceeding is resolved.

NEW SECTION

**WAC 434-670-080 Auditing requirements.** Grantees must comply with the audit requirements set forth in Washington statutes for local government units. The grantee is responsible for ensuring that the Washington State Archives receives copies of the audit report for any audit performed during the grant period or for the following three (3) years. Specific accounting requirements for the Washington State Archives Local Records Grant Program are:

(1) Grant money must be deposited in an auditable, interest-bearing account. Interest received must be applied to the project.

(2) Grant work must be monitored in progress. The Washington State Archives staff may visit the work site for review at any time during the project.

(3) Changes in the approved grant, including changes of personnel, must be requested in writing to the Washington State Archives, Local Records Grant Program.

(4) In the case of default by the grantee, the grant will be revoked and all unused funds must be returned to the Wash-

ington State Archives Local Records Grant Program. The Washington State Archives will notify the grantee of default in writing.

(5) The grantee shall submit a final grant report by June 30.

(6) Grantees must submit copies of all invoices with the final report, and

(7) Grantees must adhere to local and state bid requirements and submit documentation with the final grant report.

#### NEW SECTION

**WAC 434-670-090 Conflicts of interest.** (1) The Washington State Archives Oversight Committee will not consider a proposal where a committee member or a member of the Secretary of State's staff derives compensation from the proposed grant.

(2) A board member shall abstain from reviewing or voting on proposals if she/he is directly or indirectly connected with a proposed project through employment at the same institution, [directly or] indirectly supervises the project, or serves as an unpaid consultant to the project.

**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 02-17-054**  
**EXPEDITED RULES**  
**DEPARTMENT OF HEALTH**

[Filed August 15, 2002, 9:56 a.m.]

Title of Rule: Chapter 246-361 WAC, Cherry harvest camps.

Purpose: Chapter 246-361 WAC implements chapter 70.114A RCW by providing licensing, operation and inspection standards for cherry harvest temporary labor camps.

Other Identifying Information: The proposed rules extend the occupancy period for cherry harvest temporary labor camps to a period of not more than one week prior to commencement of the cherry harvest through one week following the conclusion of the cherry crop harvest in the state.

Statutory Authority for Adoption: RCW 70.114A.110.

Statute Being Implemented: RCW 70.114A.110.

Summary: SB 6328 (passed in 2002 legislative session) amended RCW 70.114A.110 to change the time period of when a cherry camp can be occupied from twenty-one days (plus a week extension) to not more than one week prior to commencement of the cherry harvest through one week following the conclusion of the cherry crop harvest in the state.

Reasons Supporting Proposal: The proposed rules change the cherry harvest camp occupancy period to reflect the legislative change and correct one typographical error. The expedited rule-making process is justified by RCW 35.05.353 [34.05.353] (1)(c) and (d).

Name of Agency Personnel Responsible for Drafting: Yvette Lenz, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98504-7852, (360) 705-6661; Implementation and

Enforcement: Bliss Moore, 2725 Harrison Avenue N.W., Suite 500, Olympia, WA 98504-7852, (360) 705-6660.

Name of Proponent: Department of Health, governmental.

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

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Yvette Lenz, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, AND RECEIVED BY October 22, 2002.

August 14, 2002

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 00-06-082, filed 3/1/00, effective 3/1/00)

**WAC 246-361-010 Definitions.** For the purposes of this chapter, the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

"**Building**" means any structure used or intended for supporting or sheltering any use or occupancy that may include cooking, eating, sleeping and sanitation facilities.

"**Cherry harvest camp**" or "**camp**" means a place, area, or piece of land where dwelling units or camp sites are provided by an operator during the cherry harvest.

"**Common food-handling facility**" means an area designated by the operator for occupants to store, prepare, cook, and eat their own food supplies.

"**Current certificate (first aid)**" means a first-aid-training certificate that has not expired.

"**Department**" means the Washington state department of health and/or the department of labor and industries.

"**Dining hall**" means a cafeteria-type eating-place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, by occupants.

"**Drinking fountain**" means a fixture equal to a nationally recognized standard or a designed-to-drain faucet, which provides potable drinking water under pressure. "Drinking fountain" does not mean a bubble-type water dispenser.

"**Dwelling unit**" means a shelter, building, or portion of a building, that may include cooking and eating facilities, which is:

- Provided and designated by the operator as either a sleeping area, living area, or both, for occupants; and
- Physically separated from other sleeping and common-use areas.

Note: For the purpose of this chapter, a "tent" is considered a dwelling unit.

**"First aid qualified"** means that the person holds a current certificate of first-aid training from the American Red Cross or another course with equivalent content or hours.

**"Food-handling facility"** means a designated, enclosed area for preparation of food.

**"Group A water system"** means a public water system and includes community and noncommunity water systems.

(a) A community water system means any Group A water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five year-round (i.e., more than one hundred eighty days per year) residents.

(b) Noncommunity water system means a Group A water system that is not a community water system. Noncommunity water systems are further defined as:

(i) Nontransient (NTNC) water system that provides service opportunity to twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) Transient (TNC) water system that serves:

- Twenty-five or more different people each day for sixty or more days within a calendar year;
- Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or
- One thousand or more people for two or more consecutive days within a calendar year.

**"Group B water system"** means a public water system: Constructed to serve less than fifteen residential services regardless of the number of people; or constructed to serve an average nonresidential population of less than twenty-five per day for sixty or more days within a calendar year; or any number of people for less than sixty days within a calendar year.

**"Health officer"** means the individual appointed as such for a local health department under chapter 70.05 RCW or appointed as the director of public health of a combined city-county health department under chapter 70.08 RCW.

**"Livestock"** means horses, cows, pigs, sheep, goats, poultry, etc.

**"Livestock operation"** means any place, establishment, or facility consisting of pens or other enclosures in which livestock is kept for purposes including, but not limited to, feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping. Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance may be treated as outside the definition.

**"MSPA"** means the Migrant and Seasonal Agricultural Worker Protection Act (96 Stat. 2583; 29 U.S.C. Sec. 1801 et seq.).

**"Occupant"** means a temporary worker or a person who resides with a temporary worker at the camp site.

**"Operating license"** means a document issued annually by the department of health or contracted health officer authorizing the use of temporary-worker housing.

**"Operator"** means a person holding legal title to the land on which the camp is located. However, if the legal title and the right to possession are in different persons, "operator" means a person having the lawful control or supervision over the camp.

**"Recreational park trailers"** means a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

**"Recreational vehicle"** means a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own (( ~~motive~~)) mode of power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers, but does not include pickup trucks with camper shells, canopies, or other similar coverings.

**"Refuse"** means solid wastes, rubbish, or garbage.

**"Temporary worker"** means an agricultural employee employed intermittently and not residing year-round at the same site.

**"Tent"** means an enclosure or shelter constructed of fabric or pliable material composed of rigid framework to support tensioned membrane that provides the weather barrier.

**"WISHA"** means the Washington Industrial Safety and Health Act, chapter 49.17 RCW, administered by the Washington state department of labor and industries.

**AMENDATORY SECTION** (Amending WSR 00-06-082, filed 3/1/00, effective 3/1/00)

**WAC 246-361-025 Operating license.** A cherry tent camp license is limited to (~~twenty-one days~~) one week before the commencement through one week following the conclusion of the cherry harvest within the state. The operator:

- (1) Must request a license from the department of health or health officer when:
  - (a) The camp will house ten or more occupants;
  - (b) Compliance with MSPA requires a license; or
  - (c) Construction of camp buildings requires a license under chapter 246-359 WAC, Temporary worker housing construction standard.
- (2) Must apply for an operating license at least forty-five days prior to either the use of the camp or the expiration of an existing operating license by submitting to the department of health or health officer:
  - (a) A completed application on a form provided by the department or health officer;

(b) Proof water system is current with all water tests required by chapter 246-290 or 246-291 WAC; and

(c) A fee as specified in WAC 246-361-990.

~~(3) ((May receive a license extension from the department of health for up to seven days when:~~

~~(a) The operator requests an extension for additional days at least three days before the license expiration date; and~~

~~(b) The department in consultation with the local health jurisdiction will determine if an extension would serve to protect the public health.~~

~~(4))) Will receive an operating license for the maximum number of occupants as determined by WAC 246-361-030 when:~~

~~(a) The application requirements from subsection (2) of this section are met;~~

~~(b) The site is in compliance with this chapter as demonstrated by a licensing survey completed by the department; and~~

~~(c) The operator complies with the corrective action plan established by the department.~~

~~((5))) (4) Must post the operating license in a place readily accessible to workers.~~

~~((6))) (5) Must notify the department of health in the event of a transfer of ownership.~~

~~((7))) (6) Must cooperate with the department during on-site inspections.~~

**WSR 02-17-104**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 21, 2002, 9:28 a.m.]

Title of Rule: Chapter 296-27 WAC, Recordkeeping and reporting.

Purpose: The Occupational Safety and Health Administration (OSHA) has proposed delaying the effective dates of sections of their federal record-keeping rule. The Department of Labor and Industries (L&I) is proposing to change our effective dates for those sections to keep our rule consistent with OSHA's.

Other Identifying Information: Amended WAC 296-27-01113 Recording criteria for cases involving occupational hearing loss, section has been rewritten for clarity and ease of use, effective date for record-keeping requirements has been changed to January 1, 2004; WAC 296-27-01117 Recording criteria for cases involving work-related musculoskeletal disorders, effective date for record-keeping requirements has been changed to January 1, 2004; WAC 296-27-01119 Forms, effective date for musculoskeletal disorders not being considered privacy concern cases has been changed to January 1, 2004.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: OSHA has proposed delaying the effective dates of sections of their federal record-keeping rule. L&I is

proposing to change our effective dates for those sections to keep our rule consistent with OSHA's.

Reasons Supporting Proposal: L&I is proposing to change our effective dates to keep our rule consistent with OSHA's rule.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, 29 C.F.R. Volume 67, No. 126.

Explanation of Rule, its Purpose, and Anticipated Effects: OSHA has proposed delaying the effective dates of sections of their federal record-keeping rule. We are proposing to change our effective dates for those sections to keep our rule consistent with OSHA's.

Proposal Changes the Following Existing Rules: The first change to the existing rules will be the effective dates of those rules. The sections for record keeping for hearing loss and musculoskeletal disorders will now be effective January 1, 2004, instead of January 1, 2003.

NOTICE

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY October 21, 2002.

August 21, 2002

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 02-01-064, filed 12/14/01, effective 1/1/02)

**WAC 296-27-01113 Recording criteria for cases involving occupational hearing loss.** (1) Basic requirement. You must record a hearing loss case on the OSHA Log if an employee's hearing test (audiogram) reveals that a recordable threshold shift (RTS) in one or both ears has occurred~~((, you must record the case on the OSHA 300 Log)).~~

(2) Implementation.

(a) ~~((What is a recordable threshold shift? For the period January 1, 2002, through December 31, 2002, a recordable threshold shift, or RTS, is a change in hearing threshold, relative to the most recent audiogram for that employee of an average of 25 decibels (dB) or more at 2000, 3000, and 4000 hertz in one or both ears. Effective January 1, 2003, a recordable threshold shift, or RTS, is a change in hearing threshold, relative to the most recent audiogram for that employee, of an~~

average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz in one or both ears.

(b) How do I determine whether an RTS has occurred? If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

**(e)) How do I evaluate the current audiogram to determine whether a recordable threshold shift has occurred?**

(i) If the employee has never previously experienced a recorded hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recorded hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audio-

gram reflecting the employee's previously recorded hearing loss case.)

(ii) The employee has a recordable threshold shift when:

- There is a change in the hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or greater at 2000, 3000, and 4000 hertz (Hz) in one or both ears.

**AND**

- The employee's overall hearing loss (threshold) is 25 dB or greater (averaged at 2000, 3000, and 4000 Hz) in the same ear as the change.

Note: Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero.

**(b) May I adjust the audiogram results to reflect the effects of aging on hearing?** Yes, when comparing audiogram results for determination of ~~((an RTS))~~ a recordable threshold shift, you may adjust the results for the employee's age when the audiogram was taken using the following tables:

TABLE F-1 - AGE CORRECTION VALUES IN DECIBELS FOR MALES

Years	Audiometric Test Frequency (Hz)				
	1000	2000	3000	4000	6000
20 or younger	5	3	4	5	8
21	5	3	4	5	8
22	5	3	4	5	8
23	5	3	4	6	9
24	5	3	5	6	9
25	5	3	5	7	10
26	5	4	5	7	10
27	5	4	6	7	11
28	6	4	6	8	11
29	6	4	6	8	12
30	6	4	6	9	12
31	6	4	7	9	13
32	6	5	7	10	14
33	6	5	7	10	14
34	6	5	8	11	15
35	7	5	8	11	15
36	7	5	9	12	16
37	7	6	9	12	17
38	7	6	9	13	17
39	7	6	10	14	18
40	7	6	10	14	19
41	7	6	10	14	20
42	8	7	11	16	20
43	8	7	12	16	21
44	8	7	12	17	22
45	8	7	13	18	23
46	8	8	13	19	24
47	8	8	14	19	24

EXPEDITED

48.....	9	8	14	20	25
49.....	9	9	15	21	26
50.....	9	9	16	22	27
51.....	9	9	16	23	28
52.....	9	10	17	24	29
53.....	9	10	18	25	30
54.....	10	10	18	26	31
55.....	10	11	19	27	32
56.....	10	11	20	28	34
57.....	10	11	21	29	35
58.....	10	12	22	31	36
59.....	11	12	22	32	37
60 or older.....	11	13	23	33	38

TABLE F-2 - AGE CORRECTION VALUES IN DECIBELS FOR FEMALES

Years	Audiometric Test Frequency (Hz)				
	1000	2000	3000	4000	6000
20 or younger.....	7	4	3	3	6
21.....	7	4	4	3	6
22.....	7	4	4	4	6
23.....	7	5	4	4	7
24.....	7	5	4	4	7
25.....	8	5	4	4	7
26.....	8	5	5	4	8
27.....	8	5	5	5	8
28.....	8	5	5	5	8
29.....	8	5	5	5	9
30.....	8	6	5	5	9
31.....	8	6	6	5	9
32.....	9	6	6	6	10
33.....	9	6	6	6	10
34.....	9	6	6	6	10
35.....	9	6	7	7	11
36.....	9	7	7	7	11
37.....	9	7	7	7	12
38.....	10	7	7	7	12
39.....	10	7	8	8	12
40.....	10	7	8	8	13
41.....	10	8	8	8	13
42.....	10	8	9	9	13
43.....	11	8	9	9	14
44.....	11	8	9	9	14
45.....	11	8	10	10	15
46.....	11	9	10	10	15
47.....	11	9	10	11	16
48.....	12	9	11	11	16
49.....	12	9	11	11	16
50.....	12	10	11	12	17
51.....	12	10	12	12	17

EXPEDITED

52. ....	12	10	12	13	18
53. ....	13	10	13	13	18
54. ....	13	11	13	14	19
55. ....	13	11	14	14	19
56. ....	13	11	14	15	20
57. ....	13	11	15	15	20
58. ....	14	12	15	16	21
59. ....	14	12	16	16	21
60 or older. ....	14	12	16	17	22

~~((d))~~ You may not use an age adjustment in determining whether the employee's hearing level is 25 dB or greater.

**(c) Do I have to record the hearing loss if I am going to retest the employee's hearing?** No, if you retest the employee's hearing within thirty days of the first test, and the retest does not confirm the RTS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the RTS, you must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing indicates that an RTS is not persistent, you may erase or line-out the recorded entry.

~~((e))~~ **(d) Are there any special rules for determining whether a hearing loss case is work-related?** ~~((Yes, hearing loss is presumed to be work-related if the employee is exposed to noise in the workplace at an 8-hour time-weighted average of 85 dBA or greater. For hearing loss cases where the employee is not exposed to this level of noise, you must use the rules in WAC 296-27-01103 to determine if the hearing loss is work-related.))~~ No. You must use the rules in WAC 296-27-01103 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a preexisting hearing loss, you must consider the case to be work-related.

~~((f))~~ **(e) If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case?** No. If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

(f) Effective January 1, 2004, when you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.

**AMENDATORY SECTION** (Amending WSR 02-01-064, filed 12/14/01, effective 1/1/02)

**WAC 296-27-01117 Recording criteria for cases involving work-related musculoskeletal disorders.**

Note: This section is effective January 1, ~~((2003))~~ 2004. During the period January 1, 2002, through December 31, ~~((2002))~~ 2003, you are required to record work-related injuries and illnesses involving muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs in the same manner that you would any injury or illness required by this chapter. For

entry (M) on the OSHA 300 Log, you must check either the entry for "injury" or "all other illnesses."

(1) Basic requirement. If any of your employees experiences a recordable work-related musculoskeletal disorder (MSD), you must record it on the OSHA 300 Log by checking the "musculoskeletal disorder" column.

(2) Implementation.

**(a) What is a "musculoskeletal disorder" or MSD?** Musculoskeletal disorders (MSDs) are disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs. MSDs do not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include: Carpal tunnel syndrome, Rotator cuff syndrome, De Quervain's disease, Trigger finger, Tarsal tunnel syndrome, Sciatica, Epicondylitis, Tendinitis, Raynaud's phenomenon, Carpet layer's knee, Herniated spinal disc, and Low back pain.

**(b) How do I decide which musculoskeletal disorders to record?** There are no special criteria for determining which musculoskeletal disorders to record. An MSD case is recorded using the same process you would use for any other injury or illness. If a musculoskeletal disorder is work-related, and is a new case, and meets one or more of the general recording criteria, you must record the musculoskeletal disorder. The following table will guide you to the appropriate section of the rule for guidance on recording MSD cases.

(i) Determining if the MSD is work-related. See WAC 296-27-01103.

(ii) Determining if the MSD is a new case. See WAC 296-27-01105.

(iii) Determining if the MSD meets one or more of the general recording criteria:

- Days away from work, see WAC 296-27-01107 (2)(c).
- Restricted work or transfer to another job. See WAC 296-27-01107 (2)(d).
- Medical treatment beyond first aid. See WAC 296-27-01107 (2)(e).

**(c) If a work-related MSD case involves only subjective symptoms like pain or tingling, do I have to record it as a musculoskeletal disorder?** The symptoms of an MSD are treated the same as symptoms for any other injury or illness. If an employee has pain, tingling, burning, numbness or any other subjective symptom of an MSD, and the symptoms are work-related, and the case is a new case that meets the recording criteria, you must record the case on the OSHA 300 Log as a musculoskeletal disorder.

EXPEDITED

**AMENDATORY SECTION** (Amending WSR 02-01-064, filed 12/14/01, effective 1/1/02)

**WAC 296-27-01119 Forms.** (1) Basic requirement. You must use OSHA 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(2) Implementation.

(a) **What do I need to do to complete the OSHA 300 Log?** You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.

(b) **What do I need to do to complete the OSHA 301 Incident Report?** You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(c) **How quickly must each injury or illness be recorded?** You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven calendar days of receiving information that a recordable injury or illness has occurred.

(d) **What is an equivalent form?** An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information listed on the OSHA form.

(e) **May I keep my records on a computer?** Yes, if the computer can produce equivalent forms when they are needed, as described under WAC 296-27-02111 and 296-27-03103, you may keep your records using the computer system.

(f) **Are there situations where I do not put the employee's name on the forms for privacy reasons?** Yes, if you have a "privacy concern case," you may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under WAC 296-27-02111. You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(g) **How do I determine if an injury or illness is a privacy concern case?** You must consider the following injuries or illnesses to be privacy concern cases:

- An injury or illness to an intimate body part or the reproductive system;
- An injury or illness resulting from a sexual assault;
- Mental illnesses;
- HIV infection, hepatitis, or tuberculosis;

- Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (WAC 296-27-01109 for definitions); and

- Other illnesses, effective January 1, 2002, if the employee independently and voluntarily requests that his or her name not be entered on the log. Effective January 1, ((2003)) 2004, musculoskeletal disorders (MSDs) are not considered privacy concern cases.

(h) **May I classify any other types of injuries and illnesses as privacy concern cases?** No, this is a complete list of all injuries and illnesses considered privacy concern cases for the purposes of this section.

(i) **If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy?** Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(j) **What must I do to protect employee privacy if I wish to provide access to the OSHA Forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives?** If you decide to voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives (as required by WAC 296-27-02111 and 296-27-03103), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the forms with personally identifying information only:

(i) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(ii) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(iii) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(3) **Falsification, failure to keep records or reports.**

(a) RCW 49.17.190(2) of the act provides that "whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction be guilty of a gross misdemeanor and be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months or by both."

(b) Failure to maintain records or file reports required by this chapter, or in the detail required by the forms and instructions issued under this chapter, may result in the issuance of citations and assessment of penalties as provided for in WAC 296-800-35002 through 296-800-35052.

**WSR 02-17-107**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 21, 2002, 9:32 a.m.]

Title of Rule: WAC 296-24-125 Temporary labor camps, chapter 296-833 WAC, Temporary housing for workers.

Purpose: Changes to chapter 296-24 WAC, General safety and health standards for temporary labor camps.

The temporary labor camps rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We are proposing to repeal the temporary labor camps rule from chapter 296-24 WAC and proposing it as a new chapter 296-833 WAC. No new requirements have been added.

**Repealed Sections:**

**WAC 296-24-125 Scope and application.**

- The requirements in this section have been moved to WAC 296-833-100.
- This section will be repealed.

**WAC 296-24-12501 What requirements apply to camp sites?**

- The requirements in this section have been moved to WAC 296-833-12501.
- This section will be repealed.

**WAC 296-24-12503 How must camp shelters be constructed?**

- The requirements in this section have been moved to WAC 296-833-12503.
- This section will be repealed.

**WAC 296-24-12504 What electricity must be provided for temporary labor camps?**

- The requirements in this section have been moved to WAC 296-833-12504.
- This section will be repealed.

**WAC 296-24-12505 What requirements apply to the water supply?**

- The requirements in this section have been moved to WAC 296-833-12505.
- This section will be repealed.

**WAC 296-24-12507 Must an employer provide toilet facilities for the camp?**

- The requirements in this section have been moved to WAC 296-833-12507.
- This section will be repealed.

**WAC 296-24-12509 Must sewer lines connect to the public sewer?**

- The requirements in this section have been moved to WAC 296-833-12509.
- This section will be repealed.

**WAC 296-24-12511 What facilities must an employer provide for laundry, handwashing, and bathing?**

- The requirements in this section have been moved to WAC 296-833-12511.
- This section will be repealed.

**WAC 296-24-12513 What lighting must an employer provide for camp buildings?**

- The requirements in this section have been moved to WAC 296-833-12513.
- This section will be repealed.

**WAC 296-24-12515 What requirements apply to refuse disposal?**

- The requirements in this section have been moved to WAC 296-833-12515.
- This section will be repealed.

**WAC 296-24-12517 What cooking and food-handling facilities must be provided in temporary labor camps?**

- The requirements in this section have been moved to WAC 296-833-12517.
- This section will be repealed.

**WAC 296-24-12519 Must an employer provide insect and rodent control?**

- The requirements in this section have been moved to WAC 296-833-12519.
- This section will be repealed.

**WAC 296-24-12521 What first-aid facilities must be available in the camp?**

- The requirements in this section have been moved to WAC 296-833-12521.
- This section will be repealed.

**WAC 296-24-12523 When must an employer report communicable diseases in a camp?**

- The requirements in this section have been moved to WAC 296-833-12523.
- This section will be repealed.

**New Sections:**

**WAC 296-833-100 Scope.**

- The information relating to the scope and application of this rule have been moved to this section.

**WAC 296-833-10010 Summary.**

- The responsibility statement to the employer has been moved to this section.

**WAC 296-833-200 Shelter location and structure requirements.**

- Requirements relating to placement and construction of shelters were moved to this section.

**WAC 296-833-20005 Provide and maintain sufficient grounds and open areas in temporary housing sites.**

- Moved requirements relating to the grounds of the temporary housing area.

**WAC 296-833-20010 Follow these construction requirements for shelters.**

- Moved requirements relating to construction.

**WAC 296-833-300 Utilities employers must provide.**

- Requirements relating to utilities provided by the employer have been moved to this section.

**WAC 296-833-30005 Provide electricity and lighting to temporary housing areas.**

- Moved requirements relating to electricity and lighting.

**WAC 296-833-30010 Provide adequate water.**

- Moved requirements relating to water.

**WAC 296-833-30015 Provide toilet facilities.**

- Moved requirements relating to toilets.

**WAC 296-833-30020 Follow local regulations for sewage disposal.**

- Moved requirements relating to sewage.

**WAC 296-833-400 Service facilities: Food preparation, dining, bathing, laundry and handwashing.**

- Requirements relating to providing of service facilities have been moved to this section.

**WAC 296-833-40005 Provide service buildings for laundry, handwashing and bathing.**

- Moved requirements relating to laundry, handwashing and bathing facilities.

**WAC 296-833-40010 Provide cooking, food-handling, and dining facilities.**

- Moved requirements relating to cooking/food handling facilities.

**WAC 296-833-500 Waste disposal and pest control.**

- Requirements relating to waste disposal and pest control have been moved to this section.

**WAC 296-833-50005 Follow proper waste disposal procedures.**

- Moved requirements relating to waste disposal.

**WAC 296-833-50010 Control insects, rodents and other pests.**

- Moved requirements relating to insects and rodents.

**WAC 296-833-600 Employee first aid and communicable disease reporting.**

- Requirements relating to providing first aid facilities and reporting communicable disease have been moved to this section.

**WAC 296-833-60005 Provide first-aid facilities.**

- Moved requirements relating to first aid.

**WAC 296-833-60010 Report communicable diseases.**

- Moved requirements relating to communicable diseases.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050, [49.17].060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: This rule making is part of our four-year plan to rewrite for clarity all of chapters 296-24 and 296-62 WAC. The rule language is being clarified to make understanding and application easier. Unnecessary and bureaucratic terminology will be eliminated.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The temporary housing for workers rule applies to employers who chose to provide housing for their temporary workers. As part of our four-year plan to rewrite chapters 296-24 and 296-62 WAC for clarity and ease of use, the temporary labor camps rule has been rewritten and will be repealed from chapter 296-24 WAC and assigned an 800 series number, chapter 296-833 WAC. The language has been clarified and made easier to understand, with unnecessary and outdated terminology eliminated. There was no increase in requirements; no effects of this rule making are anticipated.

Proposal does not change existing rules.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY October 21, 2002.

August 7, 2002

Gary Moore

Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- |                  |  |
|------------------|--|
| WAC 296-24-125   | Temporary labor camps.                 |
| WAC 296-24-12501 | What requirements apply to camp sites? |
| WAC 296-24-12503 | How must camp shelters be constructed? |

EXPEDITED

WAC 296-24-12504	What electricity must be provided for temporary labor camps?
WAC 296-24-12505	What requirements apply to the water supply?
WAC 296-24-12507	Must an employer provide toilet facilities for the camp?
WAC 296-24-12509	Must sewer lines connect to public sewers?
WAC 296-24-12511	What facilities must an employer provide for laundry, handwashing, and bathing?
WAC 296-24-12513	What lighting must an employer provide for camp buildings?
WAC 296-24-12515	What requirements apply to refuse disposal?
WAC 296-24-12517	What cooking and food-handling facilities must be provided in temporary labor camps?
WAC 296-24-12519	Must an employer provide insect and rodent control?
WAC 296-24-12521	What first-aid facilities must be available in the camp?
WAC 296-24-12523	When must an employer report communicable diseases in a camp?

### Chapter 296-833 WAC

#### TEMPORARY HOUSING FOR WORKERS

##### NEW SECTION

**WAC 296-833-100 Scope.** This chapter applies to all employers who provide or require their employees to live in temporary housing.

##### **Exemption:**

This rule does not apply to the agriculture industry.

For agriculture employers, see WAC 296-307-161, Temporary worker housing, and WAC 296-307-163, Cherry harvest camps.

##### NEW SECTION

##### **WAC 296-833-10010 Summary.**

##### **Your responsibility:**

If you choose to provide temporary housing for workers, or require them to live on the grounds in housing they provide themselves, you must make sure the housing facilities meet the requirements of this rule.

##### NEW SECTION

##### **WAC 296-833-200 Shelter location and structure requirements.**

##### **Summary.**

##### **Your responsibility:**

To provide and maintain safe and healthful housing for your temporary workers.

##### **You must:**

Provide and maintain sufficient grounds and open areas in temporary housing sites

##### **WAC 296-833-20005**

Follow these design and equipment requirements for shelters

##### **WAC 296-833-20010.**

##### NEW SECTION

##### **WAC 296-833-20005 Provide and maintain sufficient grounds and open areas in temporary housing sites.**

##### **You must:**

(1) Make sure that all temporary housing sites:

- Are adequately drained and are free from ground depressions in which water may accumulate
- Have no history of flooding
- Do not endanger any domestic or public water supply with their drainage
- Are located at least two hundred feet from a swamp, pool, sink hole, or other surface collection of water unless the water surface can be treated for mosquito control.

(2) Make sure the housing area is large enough to prevent the buildings from being crowded too closely together.

(3) Make sure the principal housing areas for sleeping and food preparation/eating are at least five hundred feet from livestock operations.

**Note:** Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance may be treated as outside the definition.

(4) Make sure that grounds and open areas surrounding the shelters are maintained in a clean and sanitary condition.

##### NEW SECTION

##### **WAC 296-833-20010 Follow these design and equipment requirements for shelters.**

##### **You must:**

(1) Make sure that every shelter in the camp provides protection against the elements.

(2) Make sure each dwelling unit:

- Has at least seventy square feet of floor space for the first occupant and at least fifty square feet of floor space for each additional occupant
- That is designated a family unit has a separate sleeping area for children over six years old
- With designated sleeping room(s) has at least fifty square feet of floor space in the sleeping room for each occupant
- Has at least a seven-foot ceiling
- Has windows:

– Covering a total area equal to at least one-tenth of the floor area

**AND**

– At least one-half of which can be opened for ventilation

• Has each exterior opening screened with 16-mesh material

• Has screen doors with self-closing devices.

(3) Make sure that the floors of each shelter are constructed of wood, asphalt, or concrete.

• Floors must be kept in good repair

• If wooden floors are used, they must be:

– Elevated one foot above ground level at all points to prevent dampness and to permit free air circulation

– Smooth and tight.

**Note:** You may "bank" around outside walls with earth or other suitable material to guard against extreme low temperatures.

(4) Provide beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles in every sleeping room.

• Beds must be at least thirty-six inches away from other beds, both side to side and end to end

• The frame of the bed must keep mattresses at least twelve inches off the floor

• Double-deck bunks must be spaced at least forty-eight inches away from other beds, both side to side and end to end

• The minimum clear space between lower and upper bunks must be at least twenty-seven inches

• Triple-deck bunks are not allowed.

(5) Provide equipment that adequately heats the living area whenever the camp is used during cold weather.

**Note:** All heating, cooking, and water heating equipment must meet state and local ordinances, codes, and regulations concerning installation.

#### NEW SECTION

##### **WAC 296-833-300 Utilities employers must provide.**

###### **Summary.**

###### **Your responsibility:**

To provide utilities to your temporary housing camps.

###### **You must:**

Provide electricity and lighting to temporary housing areas

WAC 296-833-30005

Provide adequate water

WAC 296-833-30010

Provide toilet facilities

WAC 296-833-30015

Follow local regulations for sewage disposal

WAC 296-833-30020.

#### NEW SECTION

##### **WAC 296-833-30005 Provide electricity and lighting to temporary housing areas.**

###### **You must:**

(1) Supply electricity to all:

– Dwelling units

– Kitchen facilities

– Shower/bathroom facilities

– Common areas

– Laundry facilities.

###### **Reference:**

You need to follow additional requirements for electricity and lighting. See WAC 296-800-280, Basic electrical rules, in the safety and health core rules book for more information.

(2) Provide lighting to camp buildings.

• Make sure general lighting and task lighting are adequate for normal daily activities

• Make sure living quarters have:

– One ceiling-type light fixture

**AND**

– One separate floor or wall convenience outlet.

• Make sure laundry rooms, toilet rooms, and other common areas have at least:

– One ceiling light fixture

**OR**

– A wall light fixture.

#### NEW SECTION

##### **WAC 296-833-30010 Provide adequate water.**

###### **You must:**

• Provide a water supply that is adequate and convenient for:

– Drinking

– Cooking

– Bathing

– Laundry purposes.

• Make sure the water supply system is:

– Capable of delivering

■ Thirty-five gallons per person per day to the campsite

■ At a peak rate of two and one-half times the average hourly demand

– Able to supply water to all fixtures at the same time with normal operating pressures

– Approved by the appropriate health authority

– Supply water to each housing area by either:

– Piping water directly to the shelters

– Providing yard hydrants within one hundred feet of the shelters

• Prohibit common drinking cups

• Provide one or more drinking fountain(s) for each one hundred occupants (or fraction of that number) where water under pressure is available.

###### **Reference:**

The construction of drinking fountains must comply with ANSI standard Specifications for Drinking Fountains, Z4.2.1942.

#### NEW SECTION

##### **WAC 296-833-30015 Provide toilet facilities.**

**Note:** For the purposes of this rule, a restroom is a room maintained on the premises for use by employees that contains a toilet. This includes outhouses.

**You must:**

(1) Provide enough toilets for the camp's capacity.

- Toilets and outhouses must be provided in a ratio of one for every fifteen people, with a minimum of two units for any facility shared by men and women.

**Note:** Check with your local jurisdictions for regulations regarding outhouses.

(2) Have enough rest rooms for each sex based on the maximum number of persons the camp is designed to house at any one time.

(3) Provide separate rest rooms for each sex wherever rest rooms are in buildings shared by men and women.

- Distinctly mark the rooms "men" and "women" with:
  - Signs printed in English and in the native language of the persons occupying the camp

**OR**

- Easily understood pictures or symbols.

- If the facilities for each sex are in the same building, they must be separated by:

- Solid walls

**OR**

- Partitions extending from the floor to the roof or ceiling.

(4) Make sure:

- No one has to pass through a sleeping room to reach a rest room

- Rest rooms have a window of at least six square feet opening directly to the outside, or are satisfactorily ventilated

- All outside openings are screened with 16-mesh material

- Fixtures, toilets, chemical toilets, or urinals are not located in a room used for other than toilet purposes

- A rest room is within two hundred feet of the door of each sleeping room

- Any outhouse is at least one hundred feet away from any sleeping room, dining room, lunch area, or kitchen.

(5) Provide urinals as follows:

- One urinal or two linear feet of urinal trough for each twenty-five men

- Construct the floor out of materials that are moisture proof, from the wall and out at least fifteen inches from the outer edge of the urinals

- Have an adequate water flush in urinals when water under pressure is available

- Urinal troughs in outhouses must:

- Drain freely into the pit or vault

**AND**

- Have a drain constructed to exclude flies and rodents from the pit.

(6) Install any new toilets in a rest room.

(7) Make sure:

- There is an adequate supply of toilet paper for each rest room, outhouse, or chemical toilet

- Toilet facilities are:

- Kept in sanitary condition

**AND**

- Cleaned at least daily.

NEW SECTION

**WAC 296-833-30020 Follow local regulations for sewage disposal.**

**You must:**

- Provide sewage disposal systems according to local health jurisdictions.

NEW SECTION

**WAC 296-833-400 Service facilities: Food preparation, dining, bathing, laundry and handwashing.**

**Summary.****Your responsibility:**

To provide facilities for your employees to cook, eat, do laundry, bathe, and wash their hands.

**You must:**

Provide service buildings for laundry, handwashing and bathing

WAC 296-833-40005

Provide cooking, food-handling, and dining facilities

WAC 296-833-40010.

NEW SECTION

**WAC 296-833-40005 Provide service buildings for laundry, handwashing and bathing.**

**You must:**

(1) Make sure that every service building has equipment capable of maintaining a room temperature of at least seventy degrees Fahrenheit.

(2) Make sure an adequate supply of hot and cold running water is provided for bathing and laundry purposes.

(3) Provide:

- One handwash basin

- Per family shelter

**OR**

- Per six persons in shared facilities

- One shower head for every ten persons

- One laundry tray or tub for every thirty persons

- One "deepwell" type sink in each building used for laundry, handwashing, and bathing.

(4) Make sure all:

- Laundry, handwashing and bathing room floors:

- Are moisture-resistant and smooth but not slippery

- Have coved junctions of the curbing and the floor

- Walls and partitions of shower rooms are smooth and moisture-resistant to the height where water splashes.

- Shower baths, shower rooms, or laundry rooms have floor drains to remove wastewater and facilitate cleaning.

(5) Provide facilities for drying clothes.

(6) Keep all service buildings clean.

NEW SECTION**WAC 296-833-40010 Provide cooking, food-handling, and dining facilities.****You must:**

(1) Make sure common cooking and dining areas are of adequate size and are separated from sleeping areas by a door.

(2) Provide enclosed and screened cooking and food-handling facilities for all occupants. The facilities must include:

- A working cook stove or hot plate with at least one cooking surface for every two occupants
  - A sink with hot and cold running potable water under pressure
  - Food storage areas located off the floor
  - Nonabsorbent, easily cleanable food preparation counters
  - Mechanical refrigeration capable of maintaining a temperature of forty-five degrees Fahrenheit or below, with enough space to store perishable food items for all occupants
  - Fire-resistant, nonabsorbent, nonasbestos, and easily cleanable wall coverings close to cooking areas
  - Nonabsorbent, easily cleanable floors
  - At least one ceiling or wall light fixture
  - Lighting adequate for normal food preparation activities
  - Adequate ventilation for cooking facilities.
- (3) Make sure that dining halls:
- Meet the requirements of the department of health's rules in chapter 246-215 WAC, Food service
  - Have no direct openings to living or sleeping areas
  - Have fire-resistant, nonabsorbent, nonasbestos, and easy-to-clean wall coverings adjacent to cooking areas
  - Have nonabsorbent, easy-to-clean floors
  - Have at least one ceiling or wall light fixture
  - Have lighting adequate for normal dining activities.

NEW SECTION**WAC 296-833-500 Waste disposal and pest control.****Summary.****Your responsibility:**

To make sure your temporary housing camps are kept sanitary.

**You must:**

Follow proper waste disposal procedures  
WAC 296-833-50005  
Control insects, rodents, and other pests  
WAC 296-833-50010.

NEW SECTION**WAC 296-833-50005 Follow proper waste disposal procedures. You must:**

- Provide at least one garbage container for each family shelter. Garbage containers must be:
    - Placed on a wooden, metal, or concrete pad
- AND
- Located within one hundred feet of each shelter.

- Provide garbage containers that:
  - Are nonabsorbent
  - Are cleanable OR only used once (for example, a disposable plastic liner)
  - Can be securely closed.
- Make sure garbage containers are kept clean and emptied:– At least twice a week

## AND

- When full.

NEW SECTION**WAC 296-833-50010 Control insects, rodents, and other pests.****You must:**

- Take steps to effectively prevent insects, rodents, and other pests from infesting camp areas
- Carry out a continuing and effective control program where pests have been detected.

NEW SECTION**WAC 296-833-600 Employee first aid and communicable disease reporting.****Summary.****Your responsibility:**

To guard the general health of your employees by providing first-aid facilities and reporting communicable diseases.

**You must:**

Provide first-aid facilities  
WAC 296-833-60005  
Report communicable diseases  
WAC 296-833-60010.

NEW SECTION**WAC 296-833-60005 Provide first-aid facilities.****You must:**

- Provide and maintain adequate first-aid facilities
- AND
- Make sure a person trained in first aid is in charge of the first-aid facilities.

**Reference:**

See WAC 296-800-150, First aid, in the core rules book for requirements for first-aid training and supplies.

NEW SECTION**WAC 296-833-60010 Report communicable diseases.****You must:**

- Immediately report to the local health officer:
  - The name and address of any individual in the camp known to or suspected of having a communicable disease listed in the department of health's list of notifiable conditions, chapter 246-101 WAC
  - Any suspected food poisoning
  - Any unusual occurrence of:
    - Fever

- Diarrhea
- Sore throat
- Vomiting
- Jaundice.

**WSR 02-17-109**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed August 21, 2002, 9:34 a.m.]

Title of Rule: Cherry harvest camps, chapter 296-307 WAC, Safety standards for agriculture, Part L-1.

Purpose: The department is proposing changes to chapter 296-307 WAC, Safety standards for agriculture, as a result of the passage of chapter 23, Laws of 2002 (SB 6328) that was enacted in 2002. This rule proposal adopts the changes enacted in the legislative bill, which are as follows: Changing the cherry tent camp license time frame and eliminating the license extension language in the rule. The rule proposal will also make a housekeeping change to the recreational vehicle definition.

Other Identifying Information: Amending WAC 296-307-16303 Definitions, the proposal will correct a typographical error to the definition of "recreational vehicle"; the word "motive" is being changed to "mode"; WAC 296-307-16310 Operating license; WAC 296-307-16310(1), the proposal changes the cherry tent camp license period to one week before the commencement through one week following the conclusion of the cherry harvest within the state; WAC 296-307-16310(3), the proposal would delete the information explaining how extensions to the original cherry tent camp license are granted. This information is not needed since extensions will not be given.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050, and [49.17].060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The department is proposing changes to chapter 296-307 WAC, Safety standards for agriculture, as a result of the passage of chapter 23, Laws of 2002 (SB 6328) that was enacted in 2002. This rule proposal adopts the amendments enacted in the legislative bill, which are as follows: Changing the cherry tent camp license time frame and eliminate the license extension language in the rule. The rule proposal will also make a housekeeping change to the recreational vehicle definition.

Reasons Supporting Proposal: The rule proposal adopts without material change amendments adopted in chapter 23, Laws of 2002 (SB 6328) that was enacted in 2002. The rule proposal also corrects a typographical error.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is proposing changes to chapter 296-307 WAC, Safety standards for agriculture, as a result of the passage of chapter 23, Laws of 2002 (SB 6328) that was enacted in 2002. This rule proposal adopts the amendments enacted in the legislative bill which are as follows: Changing the cherry tent camp license time frame and eliminate the license extension language in the rule. The rule proposal will also make a housekeeping change to the recreational vehicle definition.

Proposal Changes the Following Existing Rules: The rule proposal changes the cherry tent camp license period to one week before the commencement through one week following the conclusion of the cherry harvest within the state and eliminates the license extension language in the rule. These changes are concurrent with the amendments made in chapter 23, Laws of 2002 (SB 6328) that was enacted in 2002.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER 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 THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore Esq., Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY 5:00 p.m. on October 21, 2001 [2002].

August 21, 2002

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 00-06-081, filed 3/1/00, effective 3/1/00)

**WAC 296-307-16303 Definitions.** For the purposes of this part, the following words and phrases will have the following meanings unless the context clearly indicates otherwise:

**"Building"** means any structure used or intended to be used for supporting or sheltering any use or occupancy that may include cooking, eating, sleeping, and sanitation facilities.

**"Cherry harvest camp"** or **"camp"** means a place, area, or piece of land where dwelling units or campsites are provided by an operator during the cherry harvest.

**"Common food-handling facility"** means an area designated by the operator for occupants to store, prepare, cook, and eat their own food supplies.

**"Current certificate (first aid)"** means a first-aid training certificate that has not expired.

**"Department"** means the Washington state department of health and/or the department of labor and industries.

EXPEDITED

**"Dining hall"** means a cafeteria-type eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, by occupants.

**"Drinking fountain"** means a fixture equal to a nationally recognized standard or a designed-to-drain faucet, which provides potable drinking water under pressure. "Drinking fountain" does not mean a bubble-type water dispenser.

**"Dwelling unit"** means a shelter, building, or portion of a building, that may include cooking and eating facilities, which is:

- Provided and designated by the operator as either a sleeping area, living area, or both, for occupants; and
- Physically separated from other sleeping and common-use areas.

Note: For the purpose of this Part L1, a "tent" is considered a dwelling unit.

**"First-aid qualified"** means that the person holds a current certificate of first-aid training from the American Red Cross or another course with equivalent content or hours.

**"Food-handling facility"** means a designated, enclosed area for preparation of food.

**"Group A water system"** means a public water system and includes community and noncommunity water systems.

(a) A community water system means any Group A water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five year-round (i.e., more than one hundred eighty days per year) residents.

(b) A noncommunity water system means a Group A water system that is not a community water system. Noncommunity water systems are further defined as:

(i) Nontransient (NTNC) water system that provides service opportunity to twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) Transient (TNC) water system that services:

- Twenty-five or more different people each day for sixty or more days within a calendar year;
- Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or
- One thousand or more people for two or more consecutive days within a calendar year.

**"Group B water system"** means a public water system:

(a) Constructed to serve less than fifteen residential services regardless of the number of people; or

(b) Constructed to serve an average nonresidential population of less than twenty-five per day for sixty or more days within a calendar year; or

(c) Any number of people for less than sixty days within a calendar year.

**"Health officer"** means the individual appointed as such for a local health department under chapter 70.05 RCW or appointed as the director of public health of a combined city-county health department under chapter 70.08 RCW.

**"Livestock"** means horses, cows, pigs, sheep, goats, poultry, etc.

**"Livestock operation"** means any place, establishment, or facility consisting of pens or other enclosures in which livestock is kept for purposes including, but not limited to, feeding, milking, slaughter, watering, weighing, sorting, receiving, and shipping. Livestock operations include, among other things, dairy farms, corrals, slaughterhouses, feedlots, and stockyards. Operations where livestock can roam on a pasture over a distance may be treated as outside the definition.

**"MSPA"** means the Migrant and Seasonal Agricultural Worker Protection Act (96 Stat. 2583; 29 U.S.C. Sec. 1801 et seq.).

**"Occupant"** means a temporary worker or a person who resides with a temporary worker at the campsite.

**"Operating license"** means a document issued annually by the department of health or contracted health officer authorizing the use of temporary worker housing.

**"Operator"** means a person holding legal title to the land on which the camp is located. However, if the legal title and the right to possession are in different persons, "operator" means a person having the lawful control or supervision over the camp.

**"Recreational park trailers"** means a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

**"Recreational vehicle"** means a vehicular-type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own (( ~~motive~~)) mode of power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers, but does not include pickup trucks with camper shells, canopies or other similar coverings.

**"Refuse"** means solid wastes, rubbish, or garbage.

**"Temporary worker"** means an agricultural employee employed intermittently and not residing year-round at the same site.

**"Tent"** means an enclosure or shelter constructed of fabric or pliable material composed of rigid framework to support tensioned membrane that provides the weather barrier.

**"WISHA"** means the Washington Industrial Safety and Health Act, chapter 49.17 RCW, administered by the Washington state department of labor and industries.

**AMENDATORY SECTION** (Amending WSR 00-06-081, filed 3/1/00, effective 3/1/00)

**WAC 296-307-16310 Operating license.** A cherry tent camp license is limited to ((~~twenty one days~~)) one week

before the commencement through one week following the conclusion of the cherry harvest within the state.

The operator:

(1) Must request a license from the department of health or health officer when:

- (a) The camp will house ten or more occupants;
- (b) Compliance with MSPA requires a license; or
- (c) Construction of camp buildings requires a license under chapter 246-359 WAC, Temporary worker housing construction standard.

(2) Must apply for an operating license at least forty-five days prior to either the use of the camp or the expiration of an existing operating license by submitting to the department of health or health officer:

- (a) A completed application on a form provided by the department or health officer;
- (b) Proof water system is current with all water tests required by chapter 246-290 or 246-291 WAC; and
- (c) A fee as specified in WAC 246-361-990.

~~(3) ((May receive a license extension from the department of health for up to seven days when:~~

- ~~(a) The operator requests an extension for additional days at least three days before the license expiration date; and~~
- ~~(b) The department in consultation with the local health jurisdiction will determine if an extension would serve to protect the public health.~~

~~(4))~~ Will receive an operating license for the maximum number of occupants as determined by WAC 246-361-030 when:

- (a) The application requirements from subsection (2) of this section are met;
- (b) The site is in compliance with this part as demonstrated by a licensing survey completed by the department; and
- (c) The operator complies with the corrective action plan established by the department.

~~((5))~~ (4) Must post the operating license in a place readily accessible to workers.

~~((6))~~ (5) Must notify the department of health in the event of a transfer of ownership.

~~((7))~~ (6) Must cooperate with the department during on-site inspections.

EXPEDITED

## WSR 02-16-014

## PERMANENT RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed July 25, 2002, 4:29 p.m.]

Date of Adoption: July 24, 2002.

**Purpose:** The Division of Developmental Disabilities is adopting these amendments only to make corrections to obsolete or incorrect WAC and RCW cross-references without changing the effect of the rules; therefore a preproposal statement of inquiry was not filed per RCW 34.05.310(4). Rules affected by these amendments are contained in chapter 388-825 WAC, Division of developmental disabilities service rules; chapter 388-830 WAC, Division of developmental disabilities reimbursement system; chapter 388-835 WAC, ICF/MR program and reimbursement system; chapter 388-850 WAC, County plan for development disabilities; and chapter 388-853 WAC, Cost of care of mentally deficient persons residing in state institutions.

**Citation of Existing Rules Affected by this Order:** Amending WAC 388-825-020 Definitions, 388-825-025 Exemptions, 388-825-030 Eligibility for services, 388-825-035 Determination of eligibility, 388-825-045 Determination for necessary services, 388-825-050 Individual service plan, 388-825-055 Authorization of services, 388-825-100 Notification, 388-825-120 Adjudicative proceeding, 388-825-205 Who is eligible to participate in the family support opportunity program?, 388-825-210 What basic services can my family receive from the family support opportunity program?, 388-825-234 How can my family qualify for serious need funds?, 388-825-248 Who is covered under these rules?, 388-825-250 Continuity of family support services, 388-825-252 Family support services, 388-825-270 Are there exceptions to the licensing requirement?, 388-825-278 Are there any educational requirements for individual providers?, 388-830-015 Determination of eligibility, 388-830-020 Notification to potential applicants, 388-830-025 Application for services, 388-830-035 Implementation of necessary services, 388-835-0110 Is DSHS required to give written notice when it intends to transfer an individual?, 388-835-0180 What if an ICF/MR contract is terminated?, 388-835-0265 Can providers file amendments if a DSHS field audit has been scheduled?, 388-835-0395 How must a facility maintain resident property records?, 388-835-0575 What requirements apply to calculating ICF/MR reimbursement rates?, 388-835-0745 What recourse does a provider have if DSHS rejects their proposed preliminary settlement?, 388-835-0755 Can a provider disagree with a final settlement report?, chapter 388-850 WAC (chapter caption, corrected) County plan for mental health, developmental disabilities, WAC 388-850-015 Exemptions, 388-850-025 Program operation—General provisions, 388-850-050 Client rights—Notification of client, 388-853-010 Authority, 388-853-030 Schedule of per capital cost, 388-853-035 Exempt income, and 388-853-080 Notice and finding of responsibility—Appeal procedure.

**Statutory Authority for Adoption:** RCW 71A.16.010, 71A.16.030, 71A.12.030, chapter 71A.20 RCW, RCW 72.01.090, and 72.33.125.

Adopted under notice filed as WSR 02-11-143 on May 22, 2002.

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 35, 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.

July 24, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-23-021, filed 11/9/99, effective 12/10/99)

**WAC 388-825-020 Definitions. "Abandonment"** means action or inaction by a person or entity with a duty to care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Adolescent"** means a DDD eligible child age thirteen through seventeen years.

**"Attendant care"** means provision of physical and/or behavioral support to protect the safety and well being of a client.

**"Best interest"** includes, but is not limited to, client-centered benefits to:

- (1) Prevent regression or loss of skills already acquired;
- (2) Achieve or maintain economic self-support;
- (3) Achieve or maintain self-sufficiency;
- (4) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (5) Preserve or reunite families; and
- (6) Provide the least-restrictive setting that will meet the person's medical and personal needs.

**"Client or person"** means a person the division determines under RCW 71A.16.040 and WAC 388-825-030 eligible for division-funded services.

**"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.

**"Department"** means the department of social and health services of the state of Washington.

**"Director"** means the director of the division of developmental disabilities.

**"Division or DDD"** means the division of developmental disabilities of the department of social and health services.

**"Emergency"** means a sudden, unexpected occurrence demanding immediate action.

**"Exemption"** means the department's approval of a written request for an exception to a rule in this chapter.

**"Family"** means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

**"Family resources coordinator"** means the person who is:

- (1) Recognized by the IDEA Part C lead agency; and
- (2) Responsible for:
  - (a) Providing family resources coordination;
  - (b) Coordinating services across agencies; and
  - (c) Serving as a single contact to help families receiving assistance and services for their eligible children who are under three years of age.

**"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.

**"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:

- (1) Twenty-four hour supervision; and
- (2) 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.

**"Individual"** means a person applying for services from the division.

**"Individual alternative living"** means provision of community-based individualized client training, assistance and/or ongoing support to enable a client to live as independently as possible with minimal services.

**"Individual supportive living service"** (also known as companion home) means provision of twenty-four hour residential support in a nonlicensed home for one adult person with developmental disabilities.

**"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.

**"Medicaid personal care"** is the provision of medically necessary personal care tasks as defined in chapter 388-15 WAC.

**"Nonresidential programs"** means programs including, but not limited to, county-funded habilitation services.

**"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)) 388-71-0700 (3) through (5). The person must require twenty-four hour care provided by or under the supervision of a licensed nurse.

**"Other resources"** means resources that may be available to the client, including but not limited to:

- (1) Private insurance;
- (2) Medicaid;
- (3) Indian health care;
- (4) Public school services through the office of the superintendent of public instruction; and
- (5) Services through the department of health.

**"Part C"** means early intervention for children from birth through thirty-five months of age as defined in the Individuals with Disabilities Education Act (IDEA), Part C and 34 CFR, Part 303 and Washington's federally approved grant.

**"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.

**"RHC capacity"** means the maximum number of eligible persons that can reside in a residential habilitation center without exceeding its 1997 legislated budgeted capacity.

**"Residential programs"** means provision of support for persons in community living situations. Residential programs include DDD certified community residential services and support, both facility-based such as, licensed group homes, and non-facility based, i.e., supportive living, intensive tenant support, and state-operated living alternatives (SOLA). Other residential programs include individual alternative living, intensive individual supportive living services, adult family homes, adult residential care services, nursing homes, and children's foster homes.

**"Respite care"** means temporary residential services provided to a person and/or the person's family on an emergency or planned basis.

**"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

**"Vacancy"** means an opening at a RHC, which when filled, would not require the RHC to exceed its 1997 biannually budgeted capacity, minus:

- (1) Twenty-six beds designated for respite care use; and
- (2) Any downsizing related to negotiations with the Department of Justice regarding community placements.

**"Vulnerable adult"** means a person who has a developmental disability as defined under RCW 71A.10.020.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-025 Exemptions.** (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC ((275-27-020(9))) 388-825-020 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)) affect 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 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-030 Eligibility for services.** (1) A developmental disability is a condition which meets all of the following:

(a) A condition defined as mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition as described under WAC ((275-27-026)) 388-825-030;

(b) Originates before the individual reaches eighteen years of age;

(c) Is expected to continue indefinitely; and

(d) Results in a substantial handicap.

(2) Mental retardation is a condition resulting in significantly subaverage general intellectual functioning as evidenced by:

(a) A diagnosis of mental retardation documented by a licensed psychologist or certified school psychologist; and

(b) A substantial handicap when the individual has an intelligence quotient score of more than two standard deviations below the mean using the Stanford-Binet, Wechsler, or Leiter International Performance Scale; and

(c) An intelligence quotient score which is not:

(i) Expected to improve with treatment, instruction, or skill acquisition above the established level; or

(ii) Attributable to mental illness or other psychiatric condition; and

(d) Meeting the requirements of developmental disability under subsection (1)(b) and (c) of this section.

(3) Cerebral palsy is a condition evidenced by:

(a) A diagnosis of cerebral palsy by a licensed physician; and

(b) A substantial handicap when, after forty-eight months of age:

(i) An individual needs direct physical assistance in two or more of the following activities:

(A) Eating;

(B) Dressing;

(C) Bathing;

(D) Toileting; or

(E) Mobility; or

(ii) An individual meets the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(4) Epilepsy is a condition evidenced by:

(a) A diagnosis of epilepsy by a board-eligible neurologist, including documentation the condition is chronic; and

(b) The presence of partially controlled or uncontrolled seizures; and

(c) A substantial handicap when the individual:

(i)(A) Requires the presence of another individual to monitor the individual's medication, and is certified by a physician to be at risk of serious brain damage/trauma without direct physical assistance from another individual; or

(B) In the case of individuals eighteen years of age or older only, requires the presence of another individual to monitor the individual's medication, and is unable to monitor the individual's own medication resulting in risk of medica-

tion toxicity or serious dosage side effects threatening the individual's life; or

(ii) Meets the requirements under subsection (6)(b) of this section; and

(d) Meeting the requirements under subsection (1)(b) and (c) of this section.

(5) Autism is a condition evidenced by:

(a) A specific diagnosis, by a board-eligible psychiatrist or licensed clinical psychologist, of autistic disorder, a particular diagnostic subgroup of the general diagnostic category pervasive developmental disorders; and

(b) A substantial handicap shown by:

(i) The presence of significant deficits of social and communication skills and marked restriction of activities of daily living, as determined by one or more of the following persons with at least one year's experience working with autistic individuals:

(A) Licensed psychologists;

(B) Psychiatrists;

(C) Social workers;

(D) Certified communication disorder specialists;

(E) Registered occupational therapists;

(F) Case managers;

(G) Certificated educators; and

(H) Others; or

(ii) Meeting the requirements under subsection (6)(b) of this section; and

(c) Meeting the requirements under subsection (1)(b) and (c) of this section.

(6) Another neurological or other condition closely related to mental retardation, or requiring treatment similar to that required for individuals with mental retardation is a condition evidenced by:

(a)(i) Impairment of the central nervous system as diagnosed by a licensed physician; and

(ii) A substantial handicap when, after forty-eight months of age, an individual needs direct physical assistance with two or more of the following activities:

(A) Eating;

(B) Dressing;

(C) Bathing;

(D) Toileting; or

(E) Mobility; and

(iii) An intelligence quotient score of at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; and

(iv) Meeting the requirements under subsection (1)(b) and (c) of this section; or

(b) A condition evidenced by:

(i) An intelligence quotient score at least one and one-half standard deviations below the mean, using the Wechsler Intelligence Scale, the Stanford-Binet, or the Leiter International Performance Scale; or

(ii) If the individual's intelligence score is higher than one and one-half standard deviations below the mean, then current or previous eligibility for participation in special education, under WAC ((392-171-376)) 392-172-114 through ((392-171-451)) 392-172-150, shall be demonstrated. Such

participation shall not currently or at eighteen years of age be solely due to one or more of the following:

- (A) Psychiatric impairment;
- (B) Serious emotional/behavioral disturbance; or
- (C) Orthopedic impairment; and
- (iii) A substantial handicap when a standard score of more than two standard deviations below the mean in each of four domains of the adaptive behavior section of the Inventory for Client and Agency Planning (ICAP) is obtained, the domains identified as:
  - (A) Motor skills;
  - (B) Social and communication skills;
  - (C) Personal living skills;
  - (D) Community living skills; and
- (iv) The ICAP is administered at least every twenty-four months; and
- (v) Is not attributable to mental illness, personality and behavioral disorders, or other psychiatric conditions; and
- (vi) Meets the requirements under subsection (1)(b) and (c) of this section; or
- (c) A child under six years of age at risk of developmental disability, as measured by developmental assessment tools and administered by qualified professionals, showing a substantial handicap as evidenced by one of the following:
  - (i) A delay of at least twenty-five percent of the chronological age in one or more developmental areas between birth and twenty-four months of age; or
  - (ii) A delay of at least twenty-five percent of the chronological age in two or more developmental areas between twenty-five and forty-eight months of age; or
  - (iii) A delay of at least twenty-five percent of the chronological age in three or more developmental areas between forty-nine and seventy-two months of age; and
  - (iv) Such eligibility shall be subject to review at any time, but at least at thirty-six months of age and at least seventy-two months of age;
  - (v) Developmental areas as described in subsection (6)(c) of this section are:
    - (A) Fine or gross motor skills;
    - (B) Self-help skills;
    - (C) Expressive and receptive communication skills, including American sign language skills;
    - (D) Social skills; and
    - (E) Cognitive, academic, or problem-solving skills.
  - (vi) Qualified professionals, as described in subsection (6)(c) of this section, include, but are not limited to, the following professionals with at least one year's experience and training in the field of child development and preferably in the area of developmental disabilities:
    - (A) Licensed physicians;
    - (B) Licensed psychologists;
    - (C) Certified communication disorder specialists;
    - (D) Registered occupational therapists;
    - (E) Licensed physical therapists;
    - (F) Case managers;
    - (G) Registered public health nurses; and
    - (H) Educators.
  - (vii) Any standardized developmental assessment tool may be used if the tool:

(I) Is reasonably reliable and valid by professional standards; and

(II) Demonstrates the information required to make a determination of the developmental delay; or

(d) A child under six years of age having a diagnosis of Down Syndrome.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-035 Determination of eligibility.** (1)

The department shall determine an individual eligible for services upon application if the individual meets developmental disability criteria as defined under WAC ((275-27-026)) 388-825-030.

(2) The department may require appropriate documents substantiating the presence of a developmental disability.

(3) When the department uses or requires the Wechsler Intelligence Test for the purposes of this chapter, the department may consider any standardized Wechsler Intelligence Test as a valid measure of intelligence, assuming a full scale score can be obtained.

(4) If, in the opinion of the testing psychologist, an individual is not able to complete all of the subtests necessary to achieve a full scale score on the Wechsler, the department shall make a professional judgment about the person's intellectual functioning, based upon the information available.

(5) When an applicant has a significant hearing impairment, the department may use or require the Leiter International Performance Scale to determine the individual's intelligence quotient for the purposes of WAC ((275-27-026)) 388-825-030.

(6) When an applicant has a significant vision impairment, the department may use or require the Wechsler verbal intelligence quotient score as the intelligence quotient score for the purposes of WAC ((275-27-026)) 388-825-030.

(7) When an Inventory for Client and Agency Planning (ICAP) is required by the department to demonstrate a substantial handicap, the department shall provide or arrange for the administration of the ICAP.

(8) The department shall determine an applicant's eligibility for services within ten working days of receipt of the completed application and supporting documents.

(9) Any documentation the department requires shall be subject to departmental review. The department may also review client eligibility at any time.

(10) The secretary or designee may authorize eligibility under subsection (1) of this section under the following conditions:

(a) To register a child under eighteen years of age who is eligible for medically intensive home care services, under the department's Title XIX Model 50 waiver program; or

(b) To eliminate the department's requirement for documentation of disability prior to eighteen years of age when:

(i) The applicant is otherwise eligible under WAC ((275-27-026)) 388-825-030; and

(ii) The department and applicant are unable to obtain any documentation of disability originating prior to eighteen years of age; and

(iii) The department has determined the applicant's condition occurred prior to eighteen years of age.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-045 Determination for necessary services.** (1) Within sixty days from the date of the division's decision that a person is eligible for division funded services, the appropriate division field services office shall evaluate the 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) After the evaluation is completed, and if appropriate, the division will develop an individual service plan pursuant to WAC ((275-27-060)) 388-825-050.

(3) Determination of necessary services is not a guarantee of service authorization or delivery. Service authorization and delivery of services are pursuant to WAC ((275-27-230)) 388-825-055.

(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 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-050 Individual service plan.** (1) The division may develop a written individual service plan (ISP) or other planning documents for each person determined eligible for division and department services within ninety days of the eligibility date. Interim services may be provided if necessary.

(2) An ISP shall be based on an assessment of a person's needs and will specify the services adjudged to be in the best interests of the person and meet the person's habilitation needs. The ISP shall be in the form and manner specified by the director.

(3) A person, the parent if a person is seventeen years of age or younger, or the person's guardian, or an advocate, or the service provider may request review or modification of the service plan at any time based on changed circumstances.

(4) The department's implementation of specific provisions of the plan shall require the development, review, and may require significant modifications of the ISP and shall include, to the maximum extent possible:

- (a) Appropriate division staff;
- (b) The person;
- (c) The person's parent or guardian;
- (d) Advocate; and

(e) Representatives of the agency or facility which is, or will be, primarily responsible for the implementation of specific provisions of the plan.

(5) An ISP shall be a planning document, and shall not be an authorization for services. An ISP shall not guarantee the authorization or delivery of services. The authorization of such services is described under WAC ((275-27-230)) 388-825-055.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-055 Authorization of services.** (1) The division's field services section shall be responsible for authorizing services agreed to by the person/family including, but not limited to:

(a) Placement to and from residential habilitation centers;

(b) 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 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) Per RCW ((71A-116-010)) 71A.16.010 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.

(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.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-100 Notification.** (1) The department shall notify the client or applicant, the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult, of the following decisions:

(a) Denial or termination of eligibility set forth in WAC ((275-27-030)) 388-825-100;

(b) Development or modification of the individual service plan set forth in WAC ((275-27-060)) 388-825-050;

(c) Authorization, denial, reduction, or termination of services set forth in WAC ((275-27-230)) 388-825-100; and

(d) Admission or readmission to, or discharge from, a residential habilitation center.

(2) The notice shall set forth appeal rights pursuant to WAC ((275-27-500)) 388-825-120 and a statement that the client's case manager can be contacted for an explanation of the reasons for the action.

(3)(a) The department shall provide notice of a denial or partial authorization of a family support services request and a statement of reason for denial or partial authorization, or reduction to the person or persons described in subsection (1) of this section. The department shall send such notice no later

than five working days before the end of the month previous to the month for which service was requested;

(b) The department shall make available an administrative review of a decision to deny or partially authorize services upon receipt of a written request by a person or persons described in subsection (1) of this section to the administrator of the region in which the client is living. The regional office must receive a request for administrative review by the last working day of the month;

(c) The client shall state in the written request why the client or client's family believes their service priority designation is not correct;

(d) Upon receipt of request for administrative review, the regional administrator or designee shall review the request and the client file; and

(e) The department shall send the results of the administrative review to the client and/or family within the first five working days of the service month for which the client is being denied or receiving a partial authorization for services.

(4) The department shall provide at least thirty days' advance notice of action to terminate a client's eligibility, terminate or reduce a client's service, or discharge a client from a residential habilitation center to the community. Transfer or removal of a client from a service set forth in WAC ((275-27-500-(5)(f))) 388-825-120 (5)(f) is governed by that section, and reduction of family support funding during the service authorization period is covered by subsection (3)(a) of this section.

(5) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible field services regional office in person and/or by telephone.

(6) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-120 Adjudicative proceeding.** (1) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to an adjudicative proceeding to contest the following department actions:

(a) Denial or termination of eligibility set forth in WAC ((275-27-030)) 388-825-100;

(b) Development or modification of the individual service plan set forth in WAC ((275-27-060)) 388-825-050;

(c) Authorization, denial, reduction, or termination of services set forth in WAC ((275-27-230)) 388-825-100;

(d) Admission or readmission to, or discharge from, a residential habilitation center;

(e) A claim the client, former client, or applicant owes an overpayment debt;

(f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;

(g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter ((388-08)) 388-02 WAC. If any provision in this chapter conflicts with chapter ((388-08)) 388-02 WAC, the provision in this chapter shall govern.

(3) The applicant's application for an adjudicative proceeding shall be in writing and filed with the DSHS office of appeals within twenty-eight days of receipt of the decision the appellant wishes to contest.

(4) The department shall not implement the following actions while an adjudicative proceeding is pending:

(a) Termination of eligibility;

(b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or

(c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.

(5) The department shall implement the following actions while an adjudicative proceeding is pending:

(a) Denial of eligibility;

(b) Development or modification of an individual service plan;

(c) Denial of service;

(d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding or service;

(e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or

(f) Removal or transfer of a client from a service when:

(i) An immediate threat to the client's life or health is present;

(ii) The client's service provider is no longer able to provide services due to:

(A) Termination of the provider's contract;

(B) Decertification of the provider;

(C) Nonrenewal of provider's contract;

(D) Revocation of provider's license; or

(E) Emergency license suspension.

(iii) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.

(6) When the appellant files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW 71A.10.050(2) shall govern the proceeding. These procedures include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless the:

(i) Client's or the client's representative gives written consent; or

(ii) Administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department; and

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

(7) The initial order shall be made within sixty days of the department's receipt of the application for an adjudicative proceeding. When a party files a petition for administrative review, the review order shall be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the proceeding is continued on motion by, or with the assent of, the appellant.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-205 Who is eligible to participate in the family support opportunity program?** (1) All individuals living with their families determined to be developmentally disabled according to WAC ((275-27-026)) 388-825-035 are eligible to participate in the program if their family requires assistance in meeting their needs. However, the program will fund or provide support services only as funding is available.

(2) Persons currently receiving services under WAC ((275-27-220 and 275-27-223)) 388-825-030, Family support services, may volunteer to participate in the program.

(3) Families will receive program services based on the date of application.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-210 What basic services can my family receive from the family support opportunity program?** A number of basic services are available. Some services have their own eligibility requirements. Specific services are:

(1) **Case management services:** Your family will benefit from case management services. The family and the case manager will develop a family support plan which includes needs assessment, referral, service coordination, service authorization, case monitoring and coordination for community guide services.

(2) **Community guide services:** Once your case manager assesses your family situation, you will be offered access to the services of a community guide. The community guide will assist your family in using the natural and informal community supports relevant to the age of your family member with developmental disabilities and the specific needs of your family. Community guide services will support your family and help develop connections to your community.

(3) **Short-term intervention services:** Your family may be eligible for up to eleven hundred dollars in short-term intervention funding if necessary services are not otherwise available. This funding is not intended to cover basic subsistence such as food or shelter costs. Short-term intervention funding is available only for those specialized costs directly related to and resulting from your child's disability.

(4) **Personal care services:** Medicaid personal care can provide your family with long-term in-home personal assistance. (See WAC ((388-15-880 and 388-15-890)) 388-15-202 and 388-15-203.) In home personal assistance may be

available through Medicaid personal care or through a state-funded alternative.

(5) **Community alternatives program (CAP) waiver:** If eligible, your family may participate in the CAP waiver program. The CAP waiver gives eligible clients the opportunity to participate in the federal Medicaid program and DDD the opportunity to obtain federal funds for community based services. (See WAC ((~~275-27-800, 275-27-810 and 275-27-820~~)) 388-825-170, 388-825-180 and 388-825-190.)

(6) **Early intervention services:** These services are for your children (from birth through thirty-five months old) and include early childhood programs, birth through two public school programs, children with special health care needs programs, and Part C services (IDEA).

(7) **Emergency services:** Your family can request emergency funds to be used to respond to a single incident, situation or short term crisis such as care giver hospitalization, absence, or incapacity. Your request must be made through your case manager and include an explanation of how you plan to resolve the emergency situation. Your request will be reviewed by the regional administrator or designee. If approved, you will receive emergency services for a limited time period, not to exceed two months.

(8) **Serious need services:** Your family may request serious need funds to take care of needs not met by other basic services, including short-term intervention services, personal care services or use of a community guide. Serious need funds are short or long-term funds used to provide additional support to allow the individual with disabilities to continue living at home.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-234 How can my family qualify for serious need funds?** Your family may qualify for serious need funds if the following conditions are met:

(1) The basic program services outlined in WAC ((~~275-27-190~~)) 388-825-210 (community guide, personal care services, short-term intervention services, etc.) are currently being used by your family or they have been exhausted;

(2) You and your case manager have examined other resources like the medically intensive home care program; private insurance, local mental health programs and programs available through the public schools and have found them either unavailable, inappropriate or insufficient for your needs; and

(3) The support is crucial for the child or adult with developmental disabilities to continue living in your home.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-248 Who is covered under these rules?** These sections (WAC ((~~275-27-180 through 275-27-212~~)) 388-825-200 through 388-825-242) apply to persons enrolled in family support after June 1996. Those enrolled before June 1996 are covered under WAC ((~~275-27-220 through 275-27-223~~)) 388-825-252 through 388-825-256.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-250 Continuity of family support services.** (1) It is the policy of the department to recognize the dependence of individuals currently receiving family support services at a given level of services, and to avoid disruption of those services at that given level when possible.

(2) In order for the department to maximize the continuity of service while remaining within appropriated funds for family support services, when appropriated funds for family support services do not permit serving new applicants or increasing services to current recipients without reducing services to existing clients, the department may deny requests for new or increased services based on the lack of funds pursuant to WAC ((~~275-27-230~~)) 388-825-055.

(3) These requests may be denied even if the service need levels, as described in WAC ((~~275-27-223~~)) 388-825-030, of new applicants or current recipients are of a higher priority than those currently receiving services.

**AMENDATORY SECTION** (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-825-252 Family support services.** (1) The purpose of the family support program is to:

(a) Reduce or eliminate the need for out-of-home residential placement of a client where the in-home placement is in the client's best interest;

(b) Allow a client to live in the most independent setting possible; and

(c) Have access to services best suited to a client's needs.

(2) The department's family support services shall include, the following services:

(a) Respite care, including the use of community activities which provide respite;

(b) Attendant care;

(c) Nursing services provided by a registered nurse or licensed practical nurse, that cannot be provided by an unlicensed caregiver, including but not limited to, ventilation, catheterization, insulin injections, etc., when not covered by another resource;

(d) Therapeutic services, provided these therapeutic services are not covered by another resource such as Medicaid, private insurance, public schools, or child development services funding, including:

(i) Physical therapy;

(ii) Occupational therapy;

(iii) Behavior management therapy; and

(iv) Communication therapy; or

(v) Counseling for the client relating to a disability.

(3) Up to nine hundred dollars of the service need level amount in WAC ((~~275-27-222~~)) 388-825-252 may be used during a one year period for flexible use as follows. The requested service must be necessary as a result of the disability of the client.

(a) Training and supports including parenting classes and disability related support groups;

(b) Specialized equipment and supplies including the purchase, rental, loan or refurbishment of specialized equip-

ment or adaptive equipment not covered by another resource including Medicaid. Mobility devices such as walkers and wheelchairs are included, as well as communication devices and medical supplies such as diapers for those more than three years of age;

(c) Environmental modification including home repairs for damages, and modifications to the home needed because of the disability of the client;

(d) Medical/dental services not covered by any other resource. This may include the payment of insurance premiums and deductibles and is limited to the premiums and deductibles of the client;

(e) Special formulas or specially prepared foods needed because of the disability of the client;

(f) Parent/family counseling dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management;

(g) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(h) Specialized utility costs including extraordinary supplemental utility costs related to the client's disability or medical condition;

(i) Transportation costs for gas or tickets (ferry fare, transit cost) for a client to get to essential services and appointments, if another resource is not available;

(j) Other services approved by the DDD regional administrator or designee that will replace or reduce ongoing departmental expenditures and will reduce the risk of out-of-home placement. Exemption requests under this section are not subject to appeal.

(4) Recommendations will be made to the regional administrator by a review committee. The regional administrator will approve or disapprove the request and will communicate reasons for denial to the committee.

(5) Payment for services specified in subsection (3), except (3)(a) and (h), shall cover only the portion of cost attributable to the client.

(6) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

(7) A plan shall be developed jointly by the family and the department for each service authorization period. The department may choose whether to contract directly with the vendor, to authorize purchase by another agency, or may reimburse the parent of the client.

(8) Emergency Services. Emergency funds may be requested for use in response to a single incident or situation or short term crisis such as care giver hospitalization, absence, or incapacity. The request shall include anticipated resolution of the situation. Funds shall be provided for a limited period not to exceed two months. All requests are to be reviewed and approved or denied by the regional administrator or designee.

(9) A departmental service authorization shall state the type, amount, and period (duration) of service. Each departmental authorization shall constitute a new service for a new period.

(10) If the client becomes eligible and begins to receive Medicaid Personal Care services as defined in WAC ((~~388-15-880 through 388-15-890~~)) 388-15-202 through 388-15-

203, the family support funding will be reduced at the beginning of the next month of service. The family will receive notice of the reconfiguration of services at least five working days before the beginning of the month.

(11) If requested family support services are not authorized, such actions shall be deemed a denial of services.

(12) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

AMENDATORY SECTION (Amending WSR 99-23-021, filed 11/9/99, effective 12/10/99)

**WAC 388-825-270 Are there exceptions to the licensing requirement?** Relatives of a specified degree are exempt from the licensing requirement and may provide out-of-home respite in their home. Relatives of specified degree include parents, grandparents, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece or nephew (WAC ((~~388-76-030~~)) 388-15-202).

In addition, RCW 70.128.010 defines adult family home as "more than one, not more than six unrelated adults." If the person requiring out-of-home respite or attendant care is an adult, care may be provided in the nonrelative provider's home without an adult family home license when:

(1) Care is provided for no more than one unrelated person at a time; and

(2) The person or his/her legal guardian signs a statement saying they have seen the home where care will be provided and think it is an appropriate place for the care of the adult. If the person does not have a legal guardian, the parent or other relative with whom the person resides may sign a statement.

AMENDATORY SECTION (Amending WSR 99-23-021, filed 11/9/99, effective 12/10/99)

**WAC 388-825-278 Are there any educational requirements for individual providers?** Training is mandated only for Medicaid personal care providers of adults (WAC ((~~388-15-19650 through 388-15-19680~~)) 388-15-196). DSHS retains the authority to require training of any provider.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-830-015 Determination of eligibility.** An individual shall be eligible for services under an alternative plan, provided that the division has determined the individual has a disability as defined in WAC ((~~275-27-030~~)) 388-825-030 and the individual is receiving current services from the department.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-830-020 Notification to potential applicants.** (1) Field services shall, prior to March 15, 1984, contact by mail all individuals determined to have a disability as defined in WAC ((275-27-030)) 388-825-030, along with the guardians and agencies entitled to custody of such disabled individuals and parents of disabled individuals who are minors. Thereafter, the aforementioned persons shall be advised once in each calendar year.

(2) Potential applicants shall be informed of the process by which they may develop an alternative plan for services.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-830-025 Application for services.** (1) In the case of a minor individual, an application can be made by the parent or parents, the guardian or limited guardian, or by the person or agency legally entitled to custody.

(2) In the case of an adult, an application can be made by the individual, by the guardian or limited guardian, or by the person or agency legally entitled to custody.

(3) Application will be made on the forms supplied by the department and the applicant will state the following:

- (a) The outline of services proposed;
- (b) Service providers for each service;
- (c) Tasks necessary to the delivery of each service and the person/organization responsible for each task;
- (d) All costs of services currently provided for the individual;
- (e) The cost of each service component proposed in the alternative plan;
- (f) Information explaining why the alternative plan is a less dependent program than the current program; and
- (g) Information explaining why the alternative plan is appropriate under the goals and objectives of the individual program plan.

(4) Applicants must be notified within ninety days after the alternative plan has been received by the department of the secretary's approval or denial of the plan.

(5) The notification of the department's decision is subject to appeal rights pursuant to WAC ((275-27-400 and 275-27-500)) 388-825-100 and 388-825-120.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-830-035 Implementation of necessary services.** (1) Plans meeting all the criteria specified in ((RCW 72-33-125(5))) WAC 388-825-050 shall be implemented as soon as reasonable, but not later than one hundred twenty days after the completion of the determination process.

(2) Approval and reasonableness may be reviewed for a new determination if the plan has not been implemented within one hundred twenty days.

## Chapter 388-850 WAC

### COUNTY PLAN FOR ((MENTAL HEALTH,)) DEVELOPMENTAL DISABILITIES

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-850-015 Exemptions.** (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC ((275-25-010(5))) 388-850-010(5) provided an:

(a) Assessment of the exemption request ensures granting 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 affect 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.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-850-025 Program operation—General provisions.** (1) The provisions of this section shall apply to all programs operated under authority of the acts.

(2) The county and all contractors and subcontractors must comply with all applicable law or rule governing the department's approval of payment of funds for the programs. Verification may be in the manner and to the extent requested by the secretary.

(3) State funds shall not be paid to a county for costs of services provided by the county or other person or organization who or which was not licensed, certified, and approved as required by law or by rule whether or not the plan was approved by the secretary.

(4) The secretary may impose such reasonable fiscal and program reporting requirements as the secretary deems necessary for effective program management.

**(5) Funding.**

(a) The department and county shall negotiate and execute a contract before the department provides reimbursement for services under contract, except as provided under WAC ((275-25-020(10))) 388-850-020(10).

(b) Payments to counties shall be made on the basis of vouchers submitted to the department for costs incurred under the contract. The department shall specify the form and content of the vouchers.

(c) The secretary may make advance payments to counties, where such payments would facilitate sound program management. The secretary shall withhold advance payments from counties failing to meet the requirements of WAC ((275-25-020)) 388-850-020 until such requirements are met. Any county failing to meet the requirements of WAC ((275-25-020)) 388-850-020 after advance payments have been made shall repay said advance payment within thirty days of notice by the department that the county is not in compliance.

(d) If the department receives evidence a county or subcontractor performing under the contract is:

- (i) Not in compliance with applicable state law or rule; or
- (ii) Not in substantial compliance with the contract; or
- (iii) Unable or unwilling to provide such records or data

as the secretary may require, then the secretary may withhold all or part of subsequent monthly disbursement to the county until such time as satisfactory evidence of corrective action is forthcoming. Such withholding or denial of funds shall be subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

(6) **Subcontracting.** A county may subcontract for the performance of any of the services specified in the contract. The county's subcontracts shall include:

- (a) A precise and definitive work statement including a description of the services provided;
- (b) The subcontractor's specific agreement to abide by the acts and the rules;
- (c) Specific authority for the secretary and the state auditor to inspect all records and other material the secretary deems pertinent to the subcontract; and agreements by the subcontractor that such records will be made available for inspection;

(d) Specific authority for the secretary to make periodic inspection of the subcontractor's program or premises in order to evaluate performance under the contract between the department and the county; and

(e) Specific agreement by the subcontractor to provide such program and fiscal data as the secretary may require.

(7) **Records: Maintenance.** Client records shall be maintained for every client for whom services are provided and shall document:

- (a) Client demographic data;
- (b) Diagnosis or problem statement;
- (c) Treatment or service plan; and
- (d) Treatment or services provided including medications prescribed.

(8) **Liability.**

(a) The promulgation of these rules or anything contained in these rules shall not be construed as affecting the relative status or civil rights or liabilities between:

- (i) The county and community agency; or
- (ii) Any other person, partnership, corporation, association, or other organization performing services under a contract or required herein and their employees, persons receiving services, or the public.

(b) The use or implied use herein of the word "duty" or "responsibility" or both shall not import or imply liability other than provided for by the statutes or general laws of the state of Washington, to any person for injuries due to negligence predicated upon failure to perform on the part of an applicant, or a board established under the acts, or an agency, or said agency's employees, or persons performing services on said agency's behalf.

(c) Failure to comply with any compulsory rules shall be cause for the department to refuse to provide the county and community agency funds under the contract.

AMENDATORY SECTION (Amending WSR 99-19-104, filed 9/20/99, effective 9/20/99)

**WAC 388-850-050 Client rights—Notification of client.** (1) All agencies providing services under the act shall post a statement of client rights. Such statement shall inform the client of the client's right to:

- (a) Be treated with dignity;
- (b) Be protected from invasion of privacy;
- (c) Have information about him/her treated confidentially;
- (d) Actively participate in the development or modification of his/her treatment program;
- (e) Be provided treatment in accordance with accepted quality-of-care standards and which is responsive to his/her best interests and particular needs;
- (f) Review his/her treatment records with the therapist at least bimonthly: Provided, That information confidential to other individuals shall not be reviewed by the client;
- (g) Be fully informed regarding fees to be charged and methods for payment.

(2) Clients shall be informed of their rights pursuant to WAC ((275-55-170)) 388-865-0515 upon admission to inpatient service.

AMENDATORY SECTION (Amending WSR 99-19-104 [00-17-151], filed 8/22/00, effective 8/22/00)

**WAC 388-853-010 Authority.** The following rules regarding costs of care of mentally/physically deficient persons are hereby adopted under the authority of chapter ((72.33)) 72.01 RCW.

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

AMENDATORY SECTION (Amending WSR 99-19-104 [00-17-151], filed 8/22/00, effective 8/22/00)

**WAC 388-853-030 Schedule of per capita cost.** Resident charges will be established in accordance with the methodology promulgated under chapter ((275-38)) 388-835 WAC.

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

AMENDATORY SECTION (Amending WSR 99-19-104 [00-17-151], filed 8/22/00, effective 8/22/00)

**WAC 388-853-035 Exempt income.** Residents whose total resources are insufficient to pay the actual cost of care shall be entitled to a monthly exemption from income in the amount of ((25)) twenty-five dollars or such amount as specified in chapter 388-835 WAC ((388-29-125)).

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

AMENDATORY SECTION (Amending WSR 99-19-104 [00-17-151], filed 8/22/00, effective 8/22/00)

**WAC 388-853-080 Notice and finding of responsibility—Appeal procedure.** (1) When the department deter-

mines that the estate of a resident of a state residential habilitation center is able to pay all or a portion of the monthly charges for care, support, and treatment, the department shall serve a notice and finding of responsibility (NFR) on the:

- (a) Guardian of the resident's estate; or
- (b) If a guardian has not been appointed, resident's spouse or parent or other person acting in a representative capacity and in possession of the resident's property, and the superintendent of the state school.

(2) When a resident is an adult and is not under a legal disability, the department shall personally serve the NFR on the resident.

(3) The NFR shall state the amount which the department determines the resident's estate is able to pay per month. The amount shall not exceed the monthly charges fixed under RCW 43.20B.420.

(4) The resident's or guardian's responsibility for payment to the department shall commence twenty-eight days after service of the NFR.

(5) The right to an adjudicative proceeding contesting the NFR is contained in RCW 43.20B.430.

(a) A financially responsible person wishing to contest the NFR shall, within twenty-eight days of receipt of the NFR:

(i) File a written application for an adjudicative proceeding showing proof of receipt with the Secretary, DSHS, Attn: Determination Officer, P.O. Box 9768, Olympia, WA 98504; and

(ii) Include in or with the application:

- (A) A specific statement of the issues and law involved;
- (B) The grounds for contesting the department decision; and
- (C) A copy of the NFR being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20B.430, this chapter, and chapter ~~((388-08))~~ 388-02 WAC. If any provision in this chapter conflicts with chapter ~~((388-08))~~ 388-02 WAC, the provision in this chapter governs.

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

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0110 Is DSHS required to give written notice when it intends to transfer an individual?** (1) WAC ~~((388-835-054))~~ 388-835-0055 requires that DSHS give the resident and their guardian, next of kin, or responsible party thirty days notice, in writing, of ~~((it's))~~ its intent to transfer the resident.

(2) If there is a serious and immediate threat to the resident's health or safety, DSHS is not required to give the resident and their guardian, next of kin, or responsible party thirty days notice of its intent to transfer the resident.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0180 What if an ICF/MR contract is terminated?** (1) Before a contract is terminated, the provider

must give DSHS one hundred and eighty days written notice of the termination.

(2) When a contract is terminated, the provider must submit final reports to DSHS according to the requirements of WAC ~~((388-835-124))~~ 388-835-0185.

(3) When notified of a contract termination, DSHS must determine, by preliminary or final settlement calculations, the amount of any overpayments made to the provider, including overpayments disputed by the provider. If preliminary or final settlements are not available for any periods before the termination date of the contract, DSHS must use available relevant information to make a reasonable estimate of any overpayments or underpayments.

(4) The provider must file a properly completed final cost report (see the requirements in WAC 388-835-0225, 388-835-0230, and 388-835-0235). This report may be audited by DSHS. A final settlement must be determined within ninety days after the audit process is completed (including any administrative review of the audit requested by the provider) or within twelve months of the termination of the contract if an audit is not performed.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0265 Can providers file amendments if a DSHS field audit has been scheduled?** (1) A provider may file amendments after receiving a notice of a field audit only when reimbursement rates need to be adjusted because significant errors or omissions were made when they were calculated.

(2) Errors of omissions are considered "significant" if they result in a net difference of two cents or more per resident day or one thousand dollars or more in reported costs, whichever is higher, in any cost area.

(3) Only the pages requiring changes and the certification required by WAC ~~((388-835-0332))~~ 388-835-0335 must be filed with the amendment.

(4) Any adjustments to reimbursement rates resulting from an amended report will be made according to WAC ~~((388-385-0885))~~ 388-835-0885.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0395 How must a facility maintain resident property records?** (1) A facility must maintain a current, written record for each resident that includes written receipts for all personal property entrusted to the facility by the resident.

(2) All property records must be available to the resident or designated resident representative (see WAC ~~((388-835-0645))~~ 388-835-0380).

(3) A facility must issue or obtain written receipts when taking possession or disposing of a resident's personal property. The facility must retain copies and/or originals of these receipts.

(4) A facility must maintain all resident property records so they are available to auditors and in a manner that facilitates the audit process.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0575 What requirements apply to calculating ICF/MR reimbursement rates?** (1) Medicaid program reimbursement rates established according to this chapter apply only to facilities holding appropriate state licenses and certified to provide ICF/MR services according to state and federal laws and regulations.

(2) All rates must be reasonable and adequate to meet the costs incurred by economically and efficiently operated facilities providing ICF/MR services according to state and federal laws and regulations.

(3) For private facilities:

(a) Final payments must be the lower of the facility's prospective rate or allowable costs.

(b) Prospective rates must be determined according to WAC 388-835-0845, 388-835-0850, 388-835-0860, (~~388-835-865~~) 388-835-0865, 388-835-0870, 388-835-0875, and 388-835-0880.

(c) Final payments must be determined according to WAC 388-835-0880.

(4) For state facilities:

(a) Final payments must be the facility's allowable costs.

(b) Interim rates must be calculated using the most recent annual reported costs (see WAC 388-835-0845) divided by the total resident days during the reporting period. These costs may be adjusted to incorporate federal, state, or department changes in program standards or services.

(c) Final payments must be determined according to WAC 388-835-0880.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0745 What recourse does a provider have if DSHS rejects their proposed preliminary settlement?** A provider has thirty days after receiving a preliminary settlement report to contest it (see WAC 388-835-0950 and (~~388-835-0960~~) 388-835-0955). After thirty days, if the preliminary settlement report has not been contested, it cannot be reviewed.

**AMENDATORY SECTION** (Amending WSR 01-10-013, filed 4/20/01, effective 5/21/01)

**WAC 388-835-0755 Can a provider disagree with a final settlement report?** A provider has thirty days after receiving a final settlement report to contest it (see WAC 388-835-0950 and (~~388-835-0960~~) 388-835-0955). After thirty days, if the final settlement report has not been contested, it cannot be reviewed.

**WSR 02-16-054**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed August 1, 2002, 3:55 p.m.]

Date of Adoption: July 25, 2002.

Purpose: To change the name augmentative communication device (ACD) to speech generating device (SGD) to reflect Medicare terminology and new federal HIPAA (Health Insurance Portability and Accountability Act) definitions; to clarify criteria for covered SGDs; and to bring department policy regarding SGDs into closer alignment with new federal HIPAA regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-543-1000, 388-543-1100, 388-543-1300, and 388-543-2200.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530.

Adopted under notice filed as WSR 01-21-106 on October 23, 2001, and supplemental notice WSR 02-10-115 on April 30, 2002.

Changes Other than Editing from Proposed to Adopted Version: For rules proposed as WSR 01-21-106 and 02-10-115; describing any changes other than editing from proposed version filed as WSR 02-10-115 to adopted version.

**The following changes were made as a result of public comments:**

**WAC 388-543-1000:**

"The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. ~~Defined words and phrases are bolded the first time they are used in the text.~~"

"**Fee-for-service** means the general payment method MAA uses to reimburse for covered medical services provided to clients, except those services covered under MAA's prepaid managed care programs."

"**Limitation extension** means ~~an authorization a process for requesting and approving covered services and reimbursement that~~ to exceeds a coverage limitation (quantity, frequency, or duration) set in WAC, billing instructions, or numbered memoranda. Limitation extensions require prior authorization."

**WAC 388-543-1300**

"(1) MAA pays only for DME and related supplies, medical supplies and related services that are medically necessary, listed as covered in this chapter, and meet the definition of DME and medical supplies as defined in WAC 388-543-1000 and prescribed per WAC 388-543-1100 and 388-543-1200."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, 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 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 25, 2002

Brian Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

**WAC 388-543-1000 Definitions for durable medical equipment (DME) and related supplies, prosthetics, and orthotics, medical supplies and related services.** The following definitions and abbreviations and those found in WAC 388-500-0005 apply to this chapter. (~~Defined words and phrases are bolded the first time they are used in the text.~~)

**"Artificial limb"** - See "prosthetic device."

**"Augmentative communication device (ACD)"** (~~means a medical device that transmits or produces messages or symbols, either by voice output or in writing, in a manner that compensates for the impairment or disability of a client with severe expressive or language communication and comprehension disorders. The communication device may use mechanical or electrical impulses to produce messages or symbols that supplement or replace speech~~) - See "speech generating device (SGD)."

**"Base year"** means the year of the data source used in calculating prices.

**"By report (BR)"** means a method of reimbursement for covered items, procedures, and services for which the department has no set maximum allowable fees.

**"Date of delivery"** means the date the client actually took physical possession of an item or equipment.

**"Disposable supplies"** means supplies which may be used once, or more than once, but are time limited.

**"Durable medical equipment (DME)"** means equipment that: (1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to a person in the absence of illness or injury; and

(4) Is appropriate for use in the client's place of residence.

**"EPSDT(~~Healthy Kids~~)"** - See WAC 388-500-0005.

**"Expedited prior authorization (EPA)"** means the process for obtaining authorization for selected durable medical equipment, and related supplies, prosthetics, orthotics, medical supplies and related services, in which providers use a set of numeric codes to indicate to MAA which acceptable

indications/conditions/MAA-defined criteria are applicable to a particular request for DME authorization.

**"Fee-for-service (FFS)(~~7~~)"** means the general payment method MAA uses to reimburse for covered medical services provided to clients, except those services covered under MAA's prepaid managed care programs.

**"Health care financing administration common procedure coding system (HCPCS)"** means a coding system established by the Health Care Financing Administration (HCFA) to define services and procedures. HCFA is now known as the Centers for Medicare and Medicaid Services (CMS).

**"House wheelchair"** means a nursing facility wheelchair that is included in the nursing facility's per-patient-day rate under chapter 74.46 RCW.

**"Limitation extension"** means ~~((an authorization))~~ a process ~~((to))~~ for requesting and approving covered services and reimbursement that exceeds a coverage limitation (quantity, frequency, or duration) set in WAC, billing instructions, or numbered memoranda. Limitation extensions require prior authorization.

**"Nonreusable supplies"** are disposable supplies, which are used once and discarded.

**"Manual wheelchair"** - See "wheelchair - manual."

**"Medical supplies"** means supplies that are:

(1) Primarily and customarily used to service a medical purpose; and

(2) Generally not useful to a person in the absence of illness or injury.

**"Orthotic device"** or **"orthotic"** means a corrective or supportive device that:

(1) Prevents or corrects physical deformity or malfunction; or

(2) Supports a weak or deformed portion of the body.

**"Personal or comfort item"** means an item or service which primarily serves the comfort or convenience of the client.

**"Personal computer (PC)"** means any of a variety of electronic devices that are capable of accepting data and instructions, executing the instructions to process the data, and presenting the results. A PC has a central processing unit (CPU), internal and external memory storage, and various input/output devices such as a keyboard, display screen, and printer. A computer system consists of hardware (the physical components of the system) and software (the programs used by the computer to carry out its operations).

**"Power-drive wheelchair"** - See "wheelchair - power."

**"Prior authorization"** means a process by which clients or providers must request and receive MAA approval for certain medical equipment and related supplies, prosthetics, orthotics, medical supplies and related services, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are types of prior authorization. Also see WAC 388-501-0165.

**"Prosthetic device"** or **"prosthetic"** means a replacement, corrective, or supportive device prescribed by a physi-

cian or other licensed practitioner of the healing arts, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction;

or

- (3) Support a weak or deformed portion of the body.

**"Resource based relative value scale (RBRVS)"**

means a scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

**"Reusable supplies"** are supplies which are to be used more than once.

**"Scooter"** means a federally-approved, motor-powered vehicle that:

- (1) Has a seat on a long platform;
- (2) Moves on either three or four wheels;
- (3) Is controlled by a steering handle; and
- (4) Can be independently driven by a client.

**"Specialty bed"** means a pressure reducing support surface, such as foam, air, water, or gel mattress or overlay.

**"Speech generating device (SGD)"** means an electronic device or system that compensates for the loss or impairment of a speech function due to a congenital condition, an acquired disability, or a progressive neurological disease. The term includes only that equipment used for the purpose of communication. Formerly known as "augmentative communication device (ACD)."

**"Three- or four-wheeled scooter"** means a three- or four-wheeled vehicle meeting the definition of scooter (see "scooter") and which has the following minimum features:

- (1) Rear drive;
- (2) A twenty-four volt system;
- (3) Electronic or dynamic braking;
- (4) A high to low speed setting; and
- (5) Tires designed for indoor/outdoor use.

**"Trendelenburg position"** means a position in which the patient is lying on his or her back on a plane inclined thirty to forty degrees. This position makes the pelvis higher than the head, with the knees flexed and the legs and feet hanging down over the edge of the plane.

**"Usual and customary charge"** means the amount the provider typically charges to fifty percent or more of his or her non-Medicaid clients, including clients with other third-party coverage.

**"Warranty-wheelchair"** means a warranty, according to manufacturers' guidelines, of not less than one year from the date of purchase.

**"Wheelchair - manual"** means a federally-approved, nonmotorized wheelchair that is capable of being independently propelled and fits one of the following categories:

- (1) Standard:
  - (a) Usually is not capable of being modified;
  - (b) Accommodates a person weighing up to two hundred fifty pounds; and
  - (c) Has a warranty period of at least one year.
- (2) Lightweight:
  - (a) Composed of lightweight materials;
  - (b) Capable of being modified;

(c) Accommodates a person weighing up to two hundred fifty pounds; and

(d) Usually has a warranty period of at least three years.

(3) High strength lightweight:

(a) Is usually made of a composite material;

(b) Is capable of being modified;

(c) Accommodates a person weighing up to two hundred fifty pounds;

(d) Has an extended warranty period of over three years; and

(e) Accommodates the very active person.

(4) Hemi:

(a) Has a seat-to-floor height lower than eighteen inches to enable an adult to propel the wheelchair with one or both feet; and

(b) Is identified by its manufacturer as "Hemi" type with specific model numbers that include the "Hemi" description.

(5) Pediatric: Has a narrower seat and shorter depth more suited to pediatric patients, usually adaptable to modifications for a growing child.

(6) Recliner: Has an adjustable, reclining back to facilitate weight shifts and provide support to the upper body and head.

(7) Tilt-in-space: Has a positioning system, which allows both the seat and back to tilt to a specified angle to reduce shear or allow for unassisted pressure releases.

(8) Heavy Duty:

(a) Specifically manufactured to support a person weighing up to three hundred pounds; or

(b) Accommodating a seat width of up to twenty-two inches wide (not to be confused with custom manufactured wheelchairs).

(9) Rigid: Is of ultra-lightweight material with a rigid (nonfolding) frame.

(10) Custom heavy duty:

(a) Specifically manufactured to support a person weighing over three hundred pounds; or

(b) Accommodates a seat width of over twenty-two inches wide (not to be confused with custom manufactured wheelchairs).

(11) Custom manufactured specially built:

(a) Ordered for a specific client from custom measurements; and

(b) Is assembled primarily at the manufacturer's factory.

**"Wheelchair - power"** means a federally-approved, motorized wheelchair that can be independently driven by a client and fits one of the following categories:

(1) Custom power adaptable to:

(a) Alternative driving controls; and

(b) Power recline and tilt-in-space systems.

(2) Noncustom power: Does not need special positioning or controls and has a standard frame.

(3) Pediatric: Has a narrower seat and shorter depth that is more suited to pediatric patients. Pediatric wheelchairs are usually adaptable to modifications for a growing child.

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

**WAC 388-543-1100 Scope of coverage and coverage limitations for DME and related supplies, prosthetics, orthotics, medical supplies and related services.** The federal government deems **durable medical equipment (DME)** and related supplies, **prosthetics, orthotics, and medical supplies** as optional services under the **Medicaid** program, except when prescribed as an integral part of an approved plan of treatment under the home health program or required under the early and periodic screening, diagnosis and treatment (**EPSDT**)/(~~Healthy Kids~~) program. The **department** may reduce or eliminate coverage for optional services, consistent with legislative appropriations.

(1) The medical assistance administration (MAA) covers DME and related supplies, prosthetics, orthotics, medical supplies, related services, repairs and labor charges when all of the following apply. They must be:

- (a) Within the scope of an eligible client's medical care program (see chapter 388-529 WAC);
- (b) Within accepted medical or physical medicine community standards of practice;
- (c) Prior authorized as described in WAC 388-543-1600, 388-543-1800, and 388-543-1900;
- (d) Prescribed by a qualified **provider**, acting within the scope of the provider's practice. The prescription must state the specific item or service requested, diagnosis, prognosis, estimated length of need (weeks or months, not to exceed six months before being reevaluated), and quantity;
- (e) Billed to the department as the payor of last resort only. MAA does not pay first and then collect from Medicare;

(f) **Medically necessary** as defined in WAC 388-500-0005. The provider or client must submit sufficient objective evidence to establish medical necessity. Information used to establish medical necessity includes, but is not limited to, the following:

- (i) A physiological description of the client's disease, injury, impairment, or other ailment, and any changes in the client's condition written by the prescribing physician, licensed prosthetist and/or orthotist, physical therapist, occupational therapist, or speech therapist; or
- (ii) Video and/or photograph(s) of the client demonstrating the impairments as well and client's ability to use the requested equipment, when applicable.

(2) MAA evaluates a request for any equipment or devices that are listed as noncovered in WAC 388-543-1300 under the provisions of WAC 388-501-0165.

(3) MAA evaluates a request for a service that is in a covered category, but has been determined to be experimental or investigational under WAC 388-531-0050, under the provisions of WAC 388-501-0165 which relate to medical necessity.

(4) MAA evaluates requests for covered services in this chapter that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.

(5) MAA does not reimburse for DME and related supplies, prosthetics, orthotics, medical supplies, related services, and related repairs and labor charges under **fee-for-service (FFS)** when the client is any of the following:

- (a) An inpatient hospital client;
- (b) Eligible for both **Medicare** and Medicaid, and is staying in a **nursing facility** in lieu of hospitalization;
- (c) Terminally ill and receiving hospice care; or
- (d) Enrolled in a risk-based managed care plan that includes coverage for such items and/or services.

(6) MAA covers medical equipment and related supplies, prosthetics, orthotics, medical supplies and related services, repairs, and labor charges listed in MAA's published issuances, including Washington Administrative Code (WAC), billing instructions, and numbered memoranda.

(7) An interested party may request MAA to include new equipment/supplies in the billing instructions by sending a written request plus all of the following:

- (a) Manufacturer's literature;
- (b) Manufacturer's pricing;
- (c) Clinical research/case studies (including FDA approval, if required); and
- (d) Any additional information the requester feels is important.

(8) MAA bases the decision to purchase or rent DME for a client, or to pay for repairs to client-owned equipment on medical necessity.

(9) MAA covers replacement batteries for purchased medically necessary DME equipment covered within this chapter.

(10) MAA covers the following categories of medical equipment and supplies only when they are medically necessary, prescribed by a physician or other licensed practitioner of the healing arts, are within the scope of his or her practice as defined by state law, and are subject to the provisions of this chapter and related WACs:

- (a) Equipment and supplies prescribed in accordance with an approved plan of treatment under the home health program;
- (b) Wheelchairs and other DME;
- (c) Prosthetic/orthotic devices;
- (d) Surgical/ostomy appliances and urological supplies;
- (e) Bandages, dressings, and tapes;
- (f) Equipment and supplies for the management of diabetes; and
- (g) Other medical equipment and supplies, as listed in MAA published issuances.

(11) MAA evaluates a **BR** item, procedure, or service for its medical appropriateness and reimbursement value on a case-by-case basis.

(12) For a client in a **nursing facility**, MAA covers only the following when medically necessary. All other DME and supplies identified in MAA billing instructions are the responsibility of the nursing facility, in accordance with chapters 388-96 and 388-97 WAC. See also WAC 388-543-2900 (3) and (4). MAA covers:

- (a) The purchase and repair of (~~an augmentative communication device (ACD)~~) a speech generating device (SGD), a wheelchair for the exclusive full-time use of a per-

manently disabled nursing facility resident when the wheelchair is not included in the nursing facility's per diem rate, or a **specialty bed**; and

(b) The rental of a specialty bed.

(13) Vendors must provide instructions for use of equipment; therefore, instructional materials such as pamphlets and video tapes are not covered.

(14) Bilirubin lights are limited to rentals, for at-home newborns with jaundice.

**AMENDATORY SECTION** (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

**WAC 388-543-1300 Equipment, related supplies, or other nonmedical supplies, and devices that are not covered.** (1) MAA pays only for DME and related supplies, medical supplies and related services that are medically necessary, listed as covered in this chapter, and meet the definition of DME and medical supplies as defined in WAC 388-543-1000 and prescribed per WAC 388-543-1100 and 388-543-1200.

(2) MAA pays only for prosthetics or orthotics that are listed as such by the Centers for Medicare and Medicaid Services (CMS), formerly known as HCFA, that meet the definition of prosthetic and orthotic as defined in WAC 388-543-1000 and are prescribed per WAC 388-543-1100 and 388-543-1200.

(3) MAA considers all requests for covered DME, related supplies and services, medical supplies, prosthetics, orthotics, and related services and noncovered equipment, related supplies and services, supplies and devices, under the provisions of WAC 388-501-0165 (~~which relate to medical necessity~~). When MAA considers that a request does not meet the requirement for medical necessity, the definition(s) of covered item(s), or is not covered, the client may appeal that decision under the provisions of WAC 388-501-0165.

(4) MAA specifically excludes services and equipment in this chapter from fee-for-service (FFS) scope of coverage when the services and equipment do not meet the definition for a covered item, or the services are not typically medically necessary. This exclusion does not apply if the services and equipment are (~~required under the EPSDT/healthy kids program~~):

(a) Included as part of a managed care plan service package( );

(b) Included in a waived program( );

(c) Part of one of the Medicare programs for qualified Medicare beneficiaries; or

(d) Requested for a child who is eligible for services under the EPSDT program. MAA reviews these requests according to the provisions of chapter 388-534 WAC.

(5) Excluded services and equipment include, but are not limited to:

((+)) (a) Services, procedures, treatment, devices, drugs, or the application of associated services that the department of the Food and Drug Administration (FDA) and/or the Centers for Medicare and Medicaid Services (CMS), formerly known as the Health Care Financing

Administration (HCFA) consider investigative or experimental on the date the services are provided;

((2)) (b) Any service specifically excluded by statute;

((3)) (c) A client's utility bills, even if the operation or maintenance of medical equipment purchased or rented by MAA for the client contributes to an increased utility bill (refer to the aging and adult services administration's (AASA) COPEs program for potential coverage);

((4)) (d) Hairpieces or wigs;

((5)) (e) Material or services covered under manufacturers' warranties;

((6)) (f) Shoe lifts less than one inch, arch supports for flat feet, and nonorthopedic shoes;

((7)) (g) Outpatient office visit supplies, such as tongue depressors and surgical gloves;

((8)) (h) Prosthetic devices dispensed solely for cosmetic reasons (refer to WAC 388-531-0150 (1)(d));

((9)) (i) Home improvements and structural modifications, including but not limited to the following:

((a)) (i) Automatic door openers for the house or garage;

((b)) (ii) Saunas;

((c)) (iii) Security systems, burglar alarms, call buttons, lights, light dimmers, motion detectors, and similar devices;

((d)) (iv) Swimming pools;

((e)) (v) Whirlpool systems, such as jacuzzies, hot tubs, or spas; or

((f)) (vi) Electrical rewiring for any reason;

((g)) (vii) Elevator systems and elevators; and

((h)) (viii) Lifts or ramps for the home; or

((i)) (ix) Installation of bathtubs or shower stalls.

((+)) (j) Nonmedical equipment, supplies, and related services, including but not limited to, the following:

((a)) (i) Back-packs, pouches, bags, baskets, or other carrying containers;

((b)) (ii) Bed boards/conversion kits, and blanket lifters (e.g., for feet);

((c)) (iii) Car seats for children under five, except for positioning car seats that are prior authorized. Refer to WAC 388-543-1700(13) for car seats;

((d)) (iv) Cleaning brushes and supplies, except for ostomy-related cleaners/brushes;

((e)) (v) Diathermy machines used to produce heat by high frequency current, ultrasonic waves, or microwave radiation;

((f)) (vi) Electronic communication equipment, installation services, or service rates, including but not limited to, the following:

((+)) (A) Devices intended for amplifying voices (e.g., microphones);

((+)) (B) Interactive communications computer programs used between patients and healthcare providers (e.g., hospitals, physicians), for self care home monitoring, or emergency response systems and services (refer to AASA COPEs or outpatient hospital programs for emergency response systems and services);

((iii)) (C) Two-way radios; and

((+)) (D) Rental of related equipment or services;

((g)) (vii) Environmental control devices, such as air conditioners, air cleaners/purifiers, dehumidifiers, portable

room heaters or fans (including ceiling fans), heating or cooling pads;

((~~h~~)) (viii) Ergonomic equipment;

((~~h~~)) (ix) Exercise classes or equipment such as exercise mats, bicycles, tricycles, stair steppers, weights, trampolines;

((~~j~~)) (x) Generators;

((~~k~~)) ~~Personal computers including laptops;~~

(xi) Computer software other than speech generating, printers, and computer accessories (such as anti-glare shields, backup memory cards) ~~(, and computer equipment other than specified in WAC 388-543-2200);~~

((~~h~~)) (xii) Computer utility bills, telephone bills, Internet service, or technical support for computers or electronic notebooks;

(xiii) Any communication device that is useful to someone without severe speech impairment (e.g., cellular telephone, walkie-talkie, pager, or electronic notebook);

(xiv) Racing strollers/wheelchairs and purely recreational equipment;

((~~m~~)) (xv) Room fresheners/deodorizers;

((~~n~~)) (xvi) Bidet or hygiene systems, paraffin bath units, and shampoo rings;

((~~o~~)) (xvii) Timers or electronic devices to turn things on or off, which are not an integral part of the equipment;

((~~p~~)) (xviii) Vacuum cleaners, carpet cleaners/deodorizers, and/or pesticides/insecticides; or

((~~q~~)) (xix) Wheeled reclining chairs, lounge and/or lift chairs (e.g., geri-chair, posture guard, or lazy boy).

((~~r~~)) (k) Personal and **comfort items** that do not meet the DME definition, including but not limited to the following:

((~~a~~)) (i) Bathroom items, such as antiperspirant, astringent, bath gel, conditioner, deodorant, moisturizer, mouthwash, powder, shampoo, shaving cream, shower cap, shower curtains, soap (including antibacterial soap), toothpaste, towels, and weight scales;

((~~b~~)) (ii) Bedding items, such as bed pads, blankets, mattress covers/bags, pillows, pillow cases/covers and sheets;

((~~c~~)) (iii) Bedside items, such as bed trays, carafes, and over-the-bed tables;

((~~d~~)) (iv) Clothing and accessories, such as coats, gloves (including wheelchair gloves), hats, scarves, slippers, and socks;

((~~e~~)) (v) Clothing protectors and other protective cloth furniture coverings;

((~~f~~)) (vi) Cosmetics, including corrective formulations, hair depilatories, and products for skin bleaching, commercial sun screens, and tanning;

((~~g~~)) (vii) Diverter valves for bathtub;

((~~h~~)) (viii) Eating/feeding utensils;

((~~i~~)) (ix) Emesis basins, enema bags, and diaper wipes;

((~~j~~)) (x) Health club memberships;

((~~k~~)) (xi) Hot or cold temperature food and drink containers/holders;

((~~l~~)) (xii) Hot water bottles and cold/hot packs or pads not otherwise covered by specialized therapy programs;

((~~m~~)) (xiii) Impotence devices;

((~~n~~)) (xiv) Insect repellants;

((~~o~~)) (xv) Massage equipment;

((~~p~~)) (xvi) Medication dispensers, such as med-collars and count-a-dose, except as obtained under the compliance packaging program. See chapter 388-530 WAC;

((~~q~~)) (xvii) Medicine cabinet and first aid items, such as adhesive bandages (e.g., Band-Aids, Curads), cotton balls, cotton-tipped swabs, medicine cups, thermometers, and tongue depressors;

((~~r~~)) (xviii) Page turners;

((~~s~~)) (xix) Radio and television;

((~~t~~)) (xx) Telephones, telephone arms, cellular phones, electronic beepers, and other telephone messaging services; and

((~~u~~)) (xxi) Toothettes and toothbrushes, waterpics, and peridental devices whether manual, battery-operated, or electric.

((~~v~~)) (l) Certain wheelchair features and options are not considered by MAA to be medically necessary or essential for wheelchair use. This includes, but is not limited to, the following:

((~~a~~)) (i) Attendant controls (remote control devices);

((~~b~~)) (ii) Canopies, including those for strollers and other equipment;

((~~c~~)) (iii) Clothing guards to protect clothing from dirt, mud, or water thrown up by the wheels (similar to mud flaps for cars);

((~~d~~)) (iv) Identification devices (such as labels, license plates, name plates);

((~~e~~)) (v) Lighting systems;

((~~f~~)) (vi) Speed conversion kits; and

((~~g~~)) (vii) Tie-down restraints, except where medically necessary for client-owned vehicles.

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

**AMENDATORY SECTION** (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

**WAC 388-543-2200 ((~~Augmentative communication~~) **Speech generating devices** ((~~ACD~~)) **(SGD)**.** (1) MAA considers all requests for speech generating devices (SGDs) on a case-by-case basis ((for augmentative communication devices (ACDs) for the purpose of appropriately relaying medical information-

(2)). The SGD requested must be for a severe expressive speech impairment, and the medical condition must warrant the use of a device to replace verbal communication (e.g., to communicate medical information).

(2) In order for MAA to cover an SGD, the SGD must be a speech device intended for use by the individual who has a severe expressive speech impairment, and have one of the following characteristics. For the purposes of this section, MAA uses the Medicare definitions for "digitized speech" and "synthesized speech" that were in effect as of April 1, 2002. The SGD must have:

(a) Digitized speech output, using pre-recorded messages;

(b) Synthesized speech output requiring message formation by spelling and access by physical contact with the device; or

(c) Synthesized speech output, permitting multiple methods of message formulation and multiple methods of device access.

(3) MAA requires a provider to submit a prior authorization request for ~~((ACDs))~~ SGDs. The request must be in writing and contain all of the following information:

(a) A detailed description of the client's therapeutic history~~((;))~~, including, at a minimum:

(i) The medical diagnosis;

(ii) A physiological description of the underlying disorder;

(iii) A description of the functional limitations; and

(iv) The prognosis for improvement or degeneration.

~~((An))~~ A written assessment by a licensed speech language pathologist ~~((of the client's verbal capabilities. The pathologist must be knowledgeable about selecting ACDs that meet the client's needs;~~

~~((e))~~ (SLP) that includes all of the following:

(i) If the client has a physical disability, condition, or impairment that requires equipment, such as a wheelchair, or a device to be specially adapted to accommodate an ~~((ACD))~~ SGD, an assessment by the prescribing physician, licensed occupational therapist or physical therapist; ~~((and))~~

~~((d))~~ (ii) Documented evaluations and/or trials of each ~~((ACD))~~ SGD that the client has tried. This includes less costly types/models, and the effectiveness of each device in promoting the client's ability to communicate with health care providers, caregivers, and others ~~((;~~

~~((3) MAA requires));~~

(iii) The current communication impairment, including the type, severity, language skills, cognitive ability, and anticipated course of the impairment;

(iv) An assessment of whether the client's daily communication needs could be met using other natural modes of communication;

(v) A description of the functional communication goals expected to be achieved, and treatment options;

(vi) Documentation that the client's speaking needs cannot be met using natural communication methods; and

(vii) Documentation that other forms of treatment have been ruled out.

~~((c))~~ The provider ~~((to show or the client to demonstrate))~~ has shown or has demonstrated all of the following:

~~((a))~~ (i) The client has reliable and consistent motor response, which can be used to communicate with the help of an ~~((ACD))~~ SGD;

~~((b))~~ (ii) The client has demonstrated the cognitive ~~((ability))~~ and physical abilities to utilize the equipment effectively and independently ~~((utilize the equipment))~~ to communicate; and

~~((c))~~ With the ADC, the client will be able to do all of the following:

~~((i))~~ Communicate with the personal physician about the medical condition, complaint, ailment, or symptoms;

~~((ii))~~ Communicate with the personal caregiver about both urgent medical needs and routine personal care needs; and

~~((iii))~~ Communicate with medical personnel who provide emergency services, rehabilitative care, and other therapeutic treatment;

~~((4))~~

(iii) The client's treatment plan includes a training schedule for the selected device.

(d) A prescription for the SGD from the client's treating physician.

(4) MAA may require trial-use rental. All rental costs for the trial-use will be applied to the purchase price.

(5) MAA covers ~~((ACDs))~~ SGDs only once every two years for a client who meets the criteria in subsection (3) of this section. MAA does not approve a new or updated component, modification, or replacement model for a client whose ~~((ACD is less than two years old))~~ SGD can be repaired or modified. MAA may make exceptions to the criteria in this subsection based strictly on a finding of unforeseeable and significant changes to the client's medical condition. The prescribing physician is responsible for justifying why the changes in the client's medical condition were unforeseeable.

(6) Clients who are eligible for both Medicare and Medicaid must apply first to Medicare for an SGD. If Medicare denies the request and the client requests an SGD from MAA, MAA evaluates the request based on medical necessity and the requirements in this section. The request for an SGD must meet the authorization requirements in this section.

## WSR 02-17-001

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Filed August 7, 2002, 12:04 p.m.]

Date of Adoption: August 7, 2002.

Purpose: Chapter 246-388 WAC implements RCW 70.175.100 and establishes minimum standards for the construction, maintenance, operation and scope of rural health care facilities.

Citation of Existing Rules Affected by this Order: Repealing chapter 246-388 WAC.

Statutory Authority for Adoption: RCW 50.175.100 [70.175.100].

Adopted under notice filed as WSR 02-13-075 on June 17, 2002.

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 48.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 48.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

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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.  
 August 7, 2002  
 M. C. Selecky  
 Secretary

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

- WAC 246-388-001 Purpose.
- WAC 246-388-010 Definitions.
- WAC 246-388-020 License—Application—Denial—Appeal.
- WAC 246-388-030 Exemptions.
- WAC 246-388-040 Department approval of construction.
- WAC 246-388-050 Governing body and administration.
- WAC 246-388-060 Quality assurance.
- WAC 246-388-070 Personnel.
- WAC 246-388-072 Criminal history, disclosure, and background inquiries.
- WAC 246-388-080 Infection control.
- WAC 246-388-090 Abuse reports.
- WAC 246-388-100 Water supply.
- WAC 246-388-110 Plumbing.
- WAC 246-388-120 Staff facilities.
- WAC 246-388-130 Storage.
- WAC 246-388-140 Heating.
- WAC 246-388-150 Lighting and wiring.
- WAC 246-388-160 Emergency light and power.
- WAC 246-388-170 Ventilation.
- WAC 246-388-180 Corridors and doors.
- WAC 246-388-190 Carpets.
- WAC 246-388-200 Stairways, ramps, and elevators.
- WAC 246-388-210 Sewage, garbage, and waste.
- WAC 246-388-220 Medical gases.
- WAC 246-388-230 Core services.
- WAC 246-388-240 Core services—Twenty-four-hour emergency care.
- WAC 246-388-250 Core service—Outpatient care.

- WAC 246-388-260 Core service—Laboratory.
- WAC 246-388-270 Core service—Radiology.
- WAC 246-388-280 Core service—Inpatient care.
- WAC 246-388-290 Core service—Low-risk maternal patient and newborn care.
- WAC 246-388-300 Support services and functions.
- WAC 246-388-310 Support services and functions—Materials processing and management.
- WAC 246-388-320 Support services and functions—Dietary.
- WAC 246-388-330 Support services and functions—Housekeeping.
- WAC 246-388-340 Support services and functions—Laundry.
- WAC 246-388-350 Support services and functions—Maintenance.
- WAC 246-388-360 Support services and functions—Medical records.
- WAC 246-388-370 Support services and functions—Pharmacy service.
- WAC 246-388-380 Support services and functions—Intravenous care.
- WAC 246-388-390 Support services and functions—Discharge planning.
- WAC 246-388-400 Optional services.
- WAC 246-388-410 Optional—Long-term care.
- WAC 246-388-420 Optional—Occupational and physical therapy and respiratory care.
- WAC 246-388-430 Optional—Other diagnostic/therapeutic services.
- WAC 246-388-440 Optional—Surgical services.
- WAC 246-388-450 Optional—Anesthesia services.
- WAC 246-388-990 Licensure fees.

**WSR 02-17-004**  
**PERMANENT RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed August 8, 2002, 9:42 a.m.]

Date of Adoption: August 8, 2002.

PERMANENT

Purpose: To bring rules regarding the movement of manufactured homes into compliance with federal rule, specifically tire loading requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-120 Transport of extra-legal manufactured housing.

Statutory Authority for Adoption: RCW 46.44.090.

Other Authority: RCW 46.44.170.

Adopted under notice filed as WSR 02-14-024 on June 21, 2002.

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: Thirty-one days after filing.

August 8, 2002

John F. Conrad

Assistant Secretary

Engineering and Regional Ops

**AMENDATORY SECTION** (Amending Order 180, filed 8/5/98, effective 9/5/98)

**WAC 468-38-120 Transport of extra-legal manufactured housing.** (1) **Purpose:** To supplement the provisions of chapter 468-38 WAC as they relate to the transport of extra-legal manufactured housing on state highways. Where conflicts with other sections of this chapter occur, the following rules apply.

(2) **Vehicle combination and size limits:**

(a) **Combination of vehicles** - The combination shall be limited to two vehicles composed of the towing vehicle and the semi-trailer designed housing unit.

(b) **Length** - The length of the manufactured housing unit must not exceed seventy-five feet, including tongue.

(c) **Width** - The width of the manufactured housing unit **must not exceed a box (base) width of sixteen feet.** The unit may have an eave provided it does not extend beyond either side by:

(i) More than thirty inches for units with box width less than sixteen feet; or

(ii) More than sixteen inches for units with box width of sixteen feet, however, **the overall width shall not, under any circumstance, exceed eighteen feet.**

(d) **Width exemptions** - External features, such as door-knobs, window fasteners, eave cap, clearance lights, and load

securing devices, that extend no more than two inches on each side of the unit, are exempt from the overall width measurement.

(e) **Height** - The height of the unit is limited to the actual overhead clearance of the route.

(3) **Permits for transport:** Permits to transport extra-legal manufactured housing units are issued as follows:

(a) **Annual/monthly** permits are issued only to dealers or manufacturers described in chapter 46.70 RCW or to licensed transporters described in chapter 46.76 RCW. Annual/monthly permits are restricted to units with a width less than, or equal to, a fourteen foot box plus twelve inch eave and/or a height of fifteen feet or less measured from level ground.

(b) **Single trip** permits are required for units with an overall width greater than fifteen feet or greater and/or height greater than fifteen feet measured from level ground. A single trip permit may also be issued for any unit of a lesser dimension. **Units with an overall width or height greater than sixteen feet must comply with WAC 468-38-405, superloads** prior to having a permit issued.

(c) Permits issued in accordance with the Uniform Mobile and Modular Home Transportation Regulations of WASHTO will be subject to those regulations and will be honored by the state of Washington if issued by other states.

(4) **Escort vehicles:** Escort vehicles must comply with WAC 468-38-100, except a front escort vehicle with height pole is not required until the overall height of the unit, measured from the road surface, exceeds fifteen feet. Vehicle or load width referenced in WAC 468-38-100 must be interpreted as overall width.

(5) **Insurance:**

(a) The transporter must have insurance in effect while operating under the permit in the minimum amounts of one hundred thousand/three hundred thousand dollars bodily injury and fifty thousand dollars property damage. Escort vehicle operators shall meet the insurance requirements of RCW 46.44.180.

(b) If an accident occurs while transporting a manufactured home under permit, the transporter must immediately notify the nearest state patrol office if the damage is greater than two hundred fifty dollars to the manufactured home or greater than one hundred dollars to other vehicles or structures. Permission to continue the movement must be obtained from the state patrol.

(6) **Axles, tires and brakes** for manufactured housing unit:

(a) (~~Units manufactured on or after June 15, 1976, must conform to federal HUD rules Title 24, Chapter II, Subpart J of Part 280, as in effect on September 1, 1979, and as there after amended.~~

~~(b) Units manufactured prior to June 15, 1976, or not bearing the official HUD label,)~~ **Housing units manufactured after January 1, 2002, (labeled pursuant to 24 CFR 3282.362 (c)(2)(i)), and housing units with no verifiable date of manufacture, must not be transported with tire loadings in excess of the manufacturer's rating as marked on the sidewall or, in the absence of such a marking, the load rating**

specified in any of the publications of any organization listed in the Federal Motor Carrier Safety Standard (FMCSS) No. 119 (49 CFR 571.119, S5.1 (b)).

**(b) Housing units manufactured on or before January 1, 2002,** (labeled pursuant to 24 CFR 3282.362 (c)(2)(i)) must not be transported with tire loadings more than eighteen percent over the manufacturer's rating as marked on the side-wall or, in the absence of such a marking, the load rating specified in any of the publications of any organization listed in FMCSS No. 119 (49 CFR 571.119, S5.1 (b)). Housing units transported on tires overloaded by nine percent or more must not be moved at speeds exceeding 50 mph (80 km/hr).

**(c) Brakes** must be designed and installed to also activate if the unit accidentally breaks away from the towing vehicle. **Brakes must be operational on all wheels, except for housing units manufactured prior to June 15, 1976, that must comply as follows:**

width of unit at base	number of axles required	wheels w/ brakes
> 8' 6" but < 10'	2 or more	all wheels on 2 axles (towing unit w/min. 9,000 ((GVWR)) GVWR, all wheels on 1 axle)
10' to 14' (under 60' long)	2 or more (3 or more if > 60' long)	all wheels on 2 axles (tires minimum 8:00 x 14.5, 10 ply)

~~((4 Gross vehicle weight rating which is assigned by the vehicle manufacturer.~~

**(e) All units exceeding fourteen feet in width at the base must:**

- ~~(i) Have a minimum of four axles;~~
- ~~(ii) Have operating brakes on all wheels;~~
- ~~(iii) Not exceed the manufacturer's maximum weight rating on any tire as specified on the tire side wall;~~
- ~~((iv)) (d) Each unit in transport must have sufficient axles to support enough tires to comply with (a) or (b) of this subsection, as applicable. Any unit exceeding fourteen feet wide (box width) must have a minimum of four axles. Each unit must also:~~

~~(i) Not exceed the manufacturer's rating for any wheel, axle, ~~((draw bar)) drawbar, hitch, or other suspension component;~~ and~~

~~((iv)) (ii) Carry a minimum of two spare tires, inflated and ready for use.~~

~~((d) Brakes must be designed and installed to activate if the unit accidentally breaks away from the towing vehicle.))~~

**(7) Towing vehicle requirements:**

(a) Towing vehicles must be equipped with dual wheels on the drive axle; and

(b) If the unit exceeds fourteen feet in width, the towing vehicle must have a minimum GAWR<sup>2</sup> of thirty-two thousand (32,000) pounds.

<sup>2</sup> Gross axle weight rating which is the sum of the axle ratings assigned by the axle manufacturer.

(c) Engine horsepower must be enough to maintain speeds of 45 MPH on the interstate and 35 MPH on other highways.

**(8) Signs and lights:**

(a) The *oversize load* sign must be mounted on the rear of the unit, on a horizontal plane, between five and seven feet above the road surface.

(b) In addition to any other lighting requirements by law or rule, two six-inch flashing amber lights, with a minimum of thirty-five candle power, a flashing cycle of sixty to one hundred twenty times per minute during transit, must be mounted at the rear of the trailing unit, on a horizontal plane, at least ten feet above the road surface, and above the roof line of the towing vehicle. The lights at both locations must be separated as far as practical.

**(9) Travel requirements:**

(a) **Routes:** Extra-legal units must comply with the route restrictions published by the department. All units with an overall width or height of sixteen feet or greater must be approved for travel by the department on a case-by-case basis, see also WAC 468-38-405, superloads. In addition, **dealers selling extra-legal manufactured homes must advise the prospective purchaser in writing that not all state highways are approved for the transport of manufactured homes in excess of twelve feet wide.**

(b) **Speed** in transit is governed by WAC 468-38-340.

(c) **Open side covering:** Units with an open side must be covered with a rigid material such as plywood or hard-board. In lieu of the rigid material, plastic covering can be used, provided a grillwork of lumber or similar material is applied to prevent tears and/or billowing of the plastic material.

(d) **Rural travel** must maintain adequate spacing between units in transit of at least one-half mile. When following a truck, truck-tractor or trailer units must maintain a space of four hundred to five hundred feet to avoid impairing the visibility of an overtaking vehicle.

(e) **Travel in the right lane** is required except when passing or avoiding an obstacle. On two-lane highways, units must not pass other vehicles except when required to pass a slow moving vehicle which is hindering the safe flow of traffic.

**(10) Decals:**

(a) A decal issued by the county treasurer must be displayed on any manufactured home being transported on public highways in this state (RCW 46.44.170), except:

- (i) When a unit is to enter the state;
- (ii) When a unit is being moved from the manufacturer or distributor to a retail sales outlet;
- (iii) When a unit is being moved from the manufacturer or distributor to a purchaser's designated location; or
- (iv) When a unit is being moved between retail sales outlets.

(b) The county treasurer's transport decal shall be displayed on the rear of the manufactured home while in transport. It shall be issued at the same time as the tax certificate for manufactured home movement. If the tax certification is

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for a double-wide (or more) manufactured home, there must be a transport decal issued for each unit.

(c) The decal must meet the following requirements:

(i) Be at least eight and one-half inches square.

(ii) Be printed on Appleton Radiant Florescent Bristol (weight .010) or paper of comparable quality.

(iii) Be fluorescent orange in color.

(iv) Show the make, model and serial number of the manufactured home, the date issued, the name of the transporter, the transporter's WUTC permit number if required, the department of transportation special motor vehicle permit number, and the name of the county issuing the decal.

(v) Clearly display the expiration date of the decal, which must not be more than fifteen days after the date issued.

(d) Decals must not be transferred.

**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 02-17-005

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Filed August 8, 2002, 10:39 a.m.]

Date of Adoption: August 26, 2002.

Purpose: The rule provides a clear and consistent regulatory basis for determining the extent to which lands and structures can be deemed decommissioned.

Citation of Existing Rules Affected by this Order: Amending WAC 246-252-030.

Statutory Authority for Adoption: RCW 70.98.050.

Other Authority: RCW 70.98.080.

Adopted under notice filed as WSR 02-11-021 on May 7, 2002.

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 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

M. C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 00-08-013, filed 3/24/00, effective 4/24/00)

**WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes.** As used in this section, the term "as low as reasonably achievable" has the same meaning as in WAC 246-220-007. The term by-product material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

As required by WAC 246-235-110(6), each applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or by-product material at sites formerly associated with such milling, is required to include in a license application proposed specifications relating to the milling operation and the disposition of tailings or waste resulting from such milling activities. This section establishes criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located and site and by-product material ownership. Applications must clearly demonstrate how these criteria have been addressed. The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely, the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors shall be evaluated.

Licenses or applicants may propose alternatives to the specific requirements in these criteria. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The department may find that the proposed alternatives meet the department's requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of the standards promulgated by the United States Environmental Protection Agency in 40 CFR 192, Subparts D and E.

(1) Criterion 1 - In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features which would contribute to meeting the broad objective of permanent isolation of the tailings and associated contaminants from man and the environment for one thousand years to the extent reasonably achievable, and in any case, for at least two hundred years without ongoing active maintenance shall be considered:

(a) Remoteness from populated areas;

(b) Hydrogeologic and other environmental conditions conducive to continued immobilization and isolation of contaminants from groundwater sources; and

(c) Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site characteristics and engineering design, overriding consideration shall be given to siting features given the long-term nature of the tailings hazards.

Tailings shall be disposed in a manner such that no active maintenance is required to preserve the condition of the site.

(2) Criterion 2 - To avoid proliferation of small waste disposal sites, by-product material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed at existing large mill tailings disposal sites; unless, considering the nature of the wastes, such as their volume and specific activity and the costs and environmental impacts of transporting the wastes to a large disposal site, such offsite disposal is demonstrated to be impracticable or the advantage of onsite burial clearly outweighs the benefits of reducing the perpetual surveillance obligations.

(3) Criterion 3 - The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might be the case if a groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below grade burial impracticable; for example, near-surface bedrock could create prominent excavation costs while more suitable alternate sites may be available. Where full below grade burial is not practicable, the size of the retention structures, and the size and steepness of slopes of associated exposed embankments, shall be minimized by excavation to the maximum extent reasonably achievable or appropriate, given the geologic and hydrogeologic conditions at a site. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

(4) Criterion 4 - The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade:

(a) Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the probable maximum flood which could erode or wash out sections of the tailings disposal area.

(b) Topographic features shall provide good wind protection.

(c) Embankment and cover slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes

to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about ten horizontal to one vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.

(d) A fully self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors shall be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

(i) Shape, size, composition, gradation of rock particles (excepting bedding material, average particle size shall be at least cobble size or greater);

(ii) Rock cover thickness and zoning of particles by size; and

(iii) Steepness of underlying slopes.

(e) Individual rock fragments shall be dense, sound, and resistant to abrasion, and free from defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate shall not be used. Shale, rock laminated with shale, and cherts shall not be used.

Rock covering of slopes may not be required where top covers are on the order of ten meters or greater; impoundment slopes are on the order of 10h:1v or less; bulk cover materials have inherently favorable erosion resistance characteristics; and there is negligible drainage catchment area upstream of the pile, and there is good wind protection as described in (a) and (b) of this subsection.

(f) Impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed shall be well protected with substantial rock cover (riprap). In addition to providing for stability of the impoundment systems itself, the overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are no processes, such as gully erosion, which would lead to impoundment instability.

(g) The impoundment shall not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in Section III (g) of Appendix A of 10 CFR Part 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the

regional and local geology and seismology and specific characteristics of local subsurface material.

(h) The impoundment, where feasible, should be designed to incorporate features which will promote deposition of suspended particles. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.

(5) Criterion 5 - Criteria 5(a) through 5(g) and new Criterion 13 incorporate the basic groundwater protection standards imposed by the United States Environmental Protection Agency in 40 CFR Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Groundwater monitoring to comply with these standards is required by Criterion 7.

(a) The primary groundwater protection standard is a design standard for surface impoundments used to manage uranium and thorium by-product material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, groundwater, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, groundwater, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.

(b) The liner required by (a) of this subsection must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

(c) The applicant or licensee will be exempted from the requirements of (a) of this subsection if the department finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will prevent the migration of any hazardous constituents into groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

(d) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave actions; rainfall; run-on; from malfunctions of level controllers, alarms, and other equipment; and human error.

(e) When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.

(f) Uranium and thorium by-product materials must be managed to conform to the following secondary groundwater protection standard: Hazardous constituents entering the groundwater from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the department pursuant to (g) of this subsection. Specified concentration limits are those limits established by the department as indicated in (j) of this subsection. The department will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the groundwater. The point of compliance must be selected to provide prompt indication of groundwater contamination on the hydraulically downgradient edge of the disposal area. The department must identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under criterion 7 indicates leakage of hazardous constituents from the disposal area.

(g) A constituent becomes a hazardous constituent subject to (j) of this subsection when the constituent:

(i) Is reasonably expected to be in or derived from the by-product material in the disposal area;

(ii) Has been detected in the groundwater in the uppermost aquifer; and

(iii) Is listed in WAC 246-252-050 Appendix A.

(h) The department may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the department will consider the following:

(i) Potential adverse effect on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(i) In making any determinations under (h) and (k) of this subsection about the use of groundwater in the area around the facility, the department will consider any identification of underground sources of drinking water and exempted aquifers made by the United States Environmental Protection Agency.

(j) At the point of compliance, the concentration of a hazardous constituent must not exceed —

(i) The department approved background concentration of that constituent in the groundwater;

(ii) The respective value given in the table in subsection (5)(l) of this section if the constituent is listed in the table and if the background level of the constituent is below the value listed; or

(iii) An alternate concentration limit established by the department.

(k) Conceptually, background concentrations pose no incremental hazards and the drinking water limits in (j)(i) of this subsection state acceptable hazards but these two options

may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for department consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are as low as reasonably achievable, and information on the factors the department must consider.

The department will establish a site specific alternate concentration limit for a hazardous constituent as provided in (j) of this subsection if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will apply its as low as reasonably achievable criterion in this chapter. The department will also consider the following factors:

(i) Potential adverse effects on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(I) MAXIMUM VALUES FOR GROUNDWATER PROTECTION:

Constituent or Property	Maximum Concentration
	Milligrams per liter
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7 -expoxy-1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis(p-methoxyphenylethane)	0.1
Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01
	Picocuries per liter
Combined radium - 226 and radium - 228	5
Gross alpha - particle activity (excluding radon and uranium when producing uranium by-product material or thorium when producing thorium by-product material)	15

(m) If the groundwater protection standards established under (f) of this subsection are exceeded at a licensed site, a corrective action program must be put into operation as soon as is practicable, and in no event later than eighteen months after the department finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for department approval prior to putting the program into operation, unless otherwise directed by the department. The objective of the program is to return hazardous constituent concentration levels in groundwater to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the groundwater at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituents that exceed concentration limits in groundwater between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standard. The department will determine when the licensee may terminate corrective action measures based on data from the groundwater monitoring program and other

information that provide reasonable assurance that the groundwater protection standard will not be exceeded.

(n) In developing and conducting groundwater protection programs, applicants and licensees shall also consider the following:

(i) Installation of bottom liners (where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the groundwater monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).

(ii) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.

(iii) Dewatering of tailings by process devices and/or in-situ drainage systems (at new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(iv) Neutralization to promote immobilization of hazardous constituents.

(o) Where groundwater impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality. The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

(p) In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(i) The chemical and radioactive characteristics of the waste solutions.

(ii) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate

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to groundwater. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

(iii) Location, extent, quality, capacity and current uses of any groundwater at and near the site.

(q) Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage areas.

(6) Criterion 6 - (a) In disposing of waste by-product material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design<sup>1</sup> which provides reasonable assurance of control of radiological hazards to:

(i) Be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years; and

(ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as not to exceed an average<sup>2</sup> release rate of 20 picocuries per square meter per second (pCi/m<sup>2</sup>s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection (this criterion). In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.

(b) As soon as reasonably achievable after emplacement of the final cover to limit releases of Radon-222 from uranium by-product material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensees shall verify, through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of Radon-222 to a level not exceeding 20 pCi/m<sup>2</sup>s averaged over the entire pile or impoundment using the procedures described in 40 CFR part 61, appendix B, Method 115, or another method of verification approved by the Nuclear Regulatory Commission as being at least as effective in demonstrating the effectiveness of the final radon barrier.

(c) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification of Radon-222 release rates required in (b) of this subsection

(this criterion) must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

(d) Within ninety days of the completion of all testing and analysis relevant to the required verification in (b) and (c) of this subsection (this criterion), the uranium mill licensee shall report to the department the results detailing the actions taken to verify that levels of release of Radon-222 do not exceed 20 pCi/m<sup>2</sup>s when averaged over the entire pile or impoundment. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a state for long-term care if requested.

(e) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.

(f) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of by-product material, does not exceed the background level by more than:

(i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium by-product material, radium-228, averaged over the first 15 centimeters (cm) below the surface; and

(ii) 15 pCi/g of radium-226, or, in the case of thorium by-product material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.

(g) By-product material containing concentrations of radionuclides other than radium in soil, and surface activity on remaining structures, must not result in a total effective dose equivalent (TEDE) exceeding the dose from cleanup of radium contaminated soil to the standard (benchmark dose) contained in (f) of this subsection, and must be at levels which are as low as is reasonably achievable (ALARA). If more than one residual radionuclide is present in the same 100 square meter area, the sum of the ratios for each radionuclide of concentration present to the concentration limit will not exceed "1" (unity). A calculation of the potential peak annual TEDE within 1000 years to the average member of the critical group that would result from applying the radium standard, not including radon, on the site must be submitted for approval. The use of decommissioning plans with benchmark doses which exceed 100 mrem/yr, before application of ALARA, requires the approval of the department. This requirement for dose criteria does not apply to sites that have decommissioning plans for soil and structures approved before June 11, 1999.

(h) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas

are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

- 1 In the case of thorium by-product materials, the standard applies only to design. Monitoring for radon emissions from thorium by-product materials after installation of an appropriately designed cover is not required.
- 2 This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both by-product materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.

Criterion 6A - (a) For impoundments containing uranium by-product materials, the final radon barrier must be completed as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation in accordance with a written, department-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in WAC 246-252-010 includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: Wind-blown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of free-standing liquids and recontouring). The placement of erosion protection barriers or other features necessary for long-term control of the tailings must also be completed in a timely manner in accordance with a written, approved reclamation plan.

(b) The department may approve a licensee's request to extend the time for performance of milestones related to emplacement of the final radon barrier if, after providing an opportunity for public participation, the department finds that the licensee has adequately demonstrated in the manner required in subsection (6)(b) of this section (Criterion 6) that releases of Radon-222 do not exceed an average of 20 pCi/m<sup>2</sup>s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m<sup>2</sup>s, a verification of radon levels, as required by subsection (6)(b) of this section (Criterion 6), must be made annually during the period of delay. In addition, once the department has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the department may extend that date based on cost if, after providing an opportunity for public participation, the department finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definitions of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(c) The department may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium by-product material or such materials that are similar in physical, chemical, and radiological characteristics

to the uranium mill tailings and associated wastes already in the pile or impoundment from other sources, during the closure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of Radon-222 releases not exceeding 20 pCi/m<sup>2</sup>s averaged over the entire impoundment. The verification required in subsection (6)(b) of this section (Criterion 6) may be completed with a portion of the impoundment being used for further disposal if the department makes a final finding that the impoundment will continue to achieve a level of Radon-222 releases not exceeding 20 pCi/m<sup>2</sup>s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area:

- (i) Only by-product material will be authorized for disposal;
- (ii) The disposal will be limited to the specified existing disposal area; and
- (iii) This authorization will only be made after providing opportunity for public participation.

Reclamation of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with subsection (6)(a) of this section (Criterion 6); however, these actions are not required to be complete as part of meeting the deadline for final radon barrier construction.

(7) Criterion 7 - At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to complete the following:

- (a) To measure or evaluate compliance with applicable standards and regulations;
- (b) To evaluate performance of control systems and procedures;
- (c) To evaluate environmental impacts of operation; and
- (d) To detect potential long-term effects.

The licensee shall establish a detection monitoring program needed for the department to set the site-specific groundwater protection standards in Criterion 5 of this section. For all monitoring under this paragraph, the licensee or applicant will propose for department approval as license conditions, which constituents are to be monitored on a site-specific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under Criterion 5. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the

detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to Criterion 5, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

(8) Criterion 8 - Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters (e.g., differential pressure and scrubber water flow rate) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack.

Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable.

Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and restarts shall be reported to the department in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be

relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dustings from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium by-product material shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed twenty-five millirems to the whole body, seventy-five millirems to the thyroid, and twenty-five millirems to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, Radon-220 and its daughters excepted, to the general environment.

Uranium and thorium by-product materials shall be managed so as to conform to the applicable provisions of Title 40 of the Code of Federal Regulations, Part 440, Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, as codified on January 1, 1983.

The licensee shall establish a detection monitoring program needed to establish the groundwater protection standards in subsection (5)(f) of this section. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under subsection (5)(f) of this section. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to subsection (5)(f) of this section, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent

the existing programs can meet the stated objective for the program.

Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The department must be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(9) Criterion 9 - (a) Pursuant to chapter 70.121 RCW, and except as otherwise provided, financial surety arrangements for site reclamation and long-term surveillance and control which may consist of surety bonds, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, or any combination of the above, or other arrangements approved by the department, milling operations shall be established for source material to ensure the protection of the public health and safety in the event of abandonment, default, or other inability of the licensee to meet the requirements of the act and these regulations.

(i) The amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates.

(ii) Self-insurance, or any arrangement which essentially constitutes self-insurance (e.g., a contract with a state or federal agency), will not satisfy the surety requirement, since this provides no additional assurance other than that which already exists through license requirements.

(b) The arrangements required in (a) of this subsection shall be established prior to commencement of operations to assure that sufficient funds will be available to carry out decontamination and decommissioning of the facility.

(c) Amendments to licenses in effect on the effective date of this regulation may be issued, providing that the required surety arrangements are established within ninety days after the effective date of this subsection.

(d) For source material milling operations, the amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates in an approved plan for (i) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (ii) the reclamation of tailings and/or waste disposal areas in accordance with the technical criteria delineated in this section. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. In addition, the surety shall cover the payment of the charge for long-term surveillance and control required by the department. In establishing specific surety arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the department may accept financial sureties

that have been consolidated with financial or surety arrangements established to meet requirements of other federal or state agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance, provided such arrangements are considered adequate to satisfy these requirements and that portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities. The licensee's surety mechanism will be reviewed annually by the department to assure that sufficient funds will be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined. This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety instrument which is written for a specific period of time (e.g., five years), yet which must be automatically renewed unless the surety notifies the beneficiary (the state regulatory agency) and the principal (the licensee) some reasonable time (e.g., ninety days) prior to the renewal date of their intention not to renew. In such a situation, the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least sixty days for the department to collect.

Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended and must be agreed to by all parties.

Long-term care requirements. Pursuant to chapter 70.121 RCW, and as otherwise provided in WAC 246-235-086(4), a long-term care trust fund shall be established by source material milling licensees prior to the issuance of the license.

(10) Criterion 10 - (a) A minimum charge of two hundred fifty thousand dollars (1978 United States dollars) accrued as specified in WAC 246-235-086(4) to cover the costs of long-term surveillance shall be paid by each mill operator to the agency prior to the termination of a uranium or thorium mill license. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in (a) of this subsection (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the department. The total charge to cover

the costs of long-term surveillance shall be such that, with an assumed one percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be adjusted annually prior to actual payments to recognize inflation. The inflation rate to be used is that indicated by the change in the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics. Contributions by a licensee to the long-term care trust fund pursuant to chapter 70.121 RCW shall be transferred to cover the costs assessed under this criterion.

(11) Criterion 11 - These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the United States Nuclear Regulatory Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

Title to the by-product material licensed pursuant to WAC 246-252-030 and land, including any interests therein (other than land owned by the United States or by the state of Washington) which is used for the disposal of any such by-product material, or is essential to ensure the long-term stability of such disposal site, shall be transferred to the United States or the state of Washington. In view of the fact that physical isolation must be the primary means of long-term control, and government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either a United States Nuclear Regulatory Commission general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the United States Nuclear Regulatory Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or the state. If the United States Nuclear Regulatory Commission, subsequent to title transfer, determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a state will not endanger the public health, safety, welfare or environment, the United States Nuclear Regulatory Commission may permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If the United States Nuclear Regulatory Commission permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

Material and land transferred to the United States or a state in accordance with this criterion must be transferred without cost to the United States or a state other than administrative and legal costs incurred in carrying out such transfer.

The provisions of this part, respecting transfer of title and custody to land and tailings and wastes, do not apply in the case of lands held in trust by the United States for any Indian tribe, or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of by-product material, as defined in this section, the licensee shall enter into arrangements with the United States Nuclear Regulatory Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

(12) Criterion 12 - The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency retaining ultimate custody of the site where tailings or wastes are stored, to confirm the integrity of the stabilized tailings or waste systems, and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection must be reported to the United States Nuclear Regulatory Commission within sixty days following each inspection. The United States Nuclear Regulatory Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary, due to the features of a particular tailings or waste disposal system.

(13) Criterion 13 - Secondary groundwater protection standards required by Criterion 5 of this section are concentration limits for individual hazardous constituents. The list of constituents found in Appendix A of this chapter, chapter 246-252 WAC, identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the by-product material and has been detected in groundwater. For purposes of this criterion, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when setting standards under subsection (5)(j) of this section, the department will also set a limit for gross alpha activity.

**WSR 02-17-013  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-183—Filed August 9, 2002, 9:37 a.m.]

Date of Adoption: August 2, 2002.

Purpose: Amend public safety cougar removal rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 232-12-243.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 02-13-133 on June 19, 2002.

Changes Other than Editing from Proposed to Adopted  
Version: In subsection [(6)](e) change "is charged with a vio-

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lation of" to "violates"; amend text to read, "any other criminal law or hunting regulation of the state while acting..."

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: Thirty-one days after filing.

August 7, 2002

Nancy Burkhart

for Russ Cahill, Chair

Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 01-198, filed 9/20/01, effective 10/21/01)

**WAC 232-12-243 Public safety cougar removals.** (1) Definitions:

As used in this section and in the context of public safety cougar removals, the following definitions apply:

(a) "Confirmed" means qualified department staff is led to believe a cougar(s) was at the scene of the incident by interview of the complainant or observation of evidence at the scene.

(b) "Human-cougar safety incident" means aggressive or unusual behavior by a cougar which presents an actual or perceived threat to an individual.

(c) "Livestock or pet depredation" means incidents where livestock and/or pets are killed and/or injured by cougar.

(d) "Marginal cougar habitat" means those areas usually dominated by urban/suburban, developed lands with relatively high human densities.

(e) "Nuisance activity" means incidents associated with property disturbance, property damage, or livestock/pet harassment.

(f) "Preferred cougar habitat" means those areas usually dominated by rural, undeveloped lands with relatively low human densities.

(g) "Public safety need" means there exists a reasonable threat to human safety or property by one or more cougar, as indicated by the level of confirmed human-cougar safety incidents or livestock/pet depredations, and confirmed cougar sightings or nuisance activities.

(h) "Removal" means the act of killing one or more cougar with the aid of dogs.

(i) "Sighting" means a direct observation of one or more cougar, in urban or rural settings, near individuals or residences; typically more than chance observations.

(j) "Human-cougar interaction" means a human-cougar safety incident, livestock or pet depredation, cougar nuisance activity, or cougar sighting event.

(k) "Dog hunter" means a person that owns and hunts with dogs that are capable of detecting, tracking and treeing a cougar.

(2) Public safety cougar removal authorization: The commission authorizes the director to issue public safety cougar removal permits consistent with this rule. Prior to issuing public safety cougar removal permits, the department shall use other practical alternatives to address a public safety need, including livestock or pet depredations. Other practical alternatives may include, but are not limited to, general cougar hunting seasons, general public information, educational programs, information to recreational hunters, cougar depredation/kill permits, and department capture and relocation/euthanasia of specific cougars.

(3) Public safety cougar removal criteria:

(a) The commission determines that when the above practical alternatives have been utilized within a game management unit, eleven confirmed human-cougar interactions per year, of which at least four must be confirmed human-cougar safety incidents or livestock/pet depredations, therein demonstrating that the practical alternatives have been inadequate to address the public safety need. The director then is authorized by the commission to remove one or more cougar, with the aid of dogs, in a selected area of that game management unit or nearby geographic area suitable for the use of dogs. The commission authorizes the director to remove one cougar per one hundred twenty square kilometers of complaint area in preferred cougar habitat, and one cougar per four hundred thirty square kilometers of complaint area in marginal cougar habitat.

(b) If warranted by conditions of this rule, public safety cougar removal(s) will be conducted annually between December ~~((46th))~~ 1st and March 15th in selected areas of game management units designated by the director to address a public safety need presented by one or more cougar.

(c) The department shall not target more than one hundred nine cougar during a public safety cougar removal period unless otherwise authorized by the commission.

(4) Public safety cougar removal permit issuance procedure.

(a) To participate in a public safety cougar removal, individuals must request that his/her name be placed on a list of available participants (participant list) by mailing their request to Washington Department of Fish and Wildlife, Enforcement Program - Public Safety Cougar Removal, 600 Capitol Way North, Olympia, WA 98501-1091. The request must include the individual's name, address, phone number, and game management units being applied for. Individuals may apply for no more than four game management units. An individual's request to be placed on a participant list for a removal period must be postmarked no later than ~~((November))~~ October 1, or be received at the department's Olympia office no later than 5:00 p.m. on ~~((November))~~ October 1, during the year the removal period begins.

(b) To be eligible for a public safety cougar removal permit (permit), the participant must be a dog hunter. The permit holder must use dogs while participating in a public safety cougar removal.

(c) Individuals eligible for participation in a public safety cougar removal will be randomly selected from the participant list. The department will issue a permit to the person whose name is selected from the participant list. Individuals selected will be notified by telephone or mail. Individuals selected must contact the department's enforcement program in Olympia and accept the public safety cougar removal permit within fifteen days of being notified. Failure to contact the department will result in forfeit of the permit and the individual will be placed on the participant list for later selections. Permits may not be sold or reassigned.

(d) Permit holders and all individuals who will accompany the permit holder must complete the department's public safety cougar removal education course prior to participating in a public safety cougar removal.

(5) Public safety cougar removals: Quota system and participation in cougar removal.

(a) The cougar removal period will be based on a quota system, where permit holders may hunt cougar until the allotted numbers of cougar have been removed from each game management unit or March 15, whichever is first.

(b) Permit holders who harvest a cougar before January 15 may continue hunting for a second cougar with dogs. The permit holder must purchase an additional cougar transport tag to hunt and harvest one additional cougar and the permit holder will be issued a second permit. Permit holders who harvest a cougar after January 15 are not eligible to harvest a second cougar with dogs.

(c) To verify if the cougar removal season is open or closed in each game management unit, the permit holders shall notify the department's enforcement program in Olympia at least twenty-four hours prior to exercising a public safety cougar removal permit.

(d) No more than four total individuals may participate per public safety cougar removal, including the permit holder(s). Only the permit holder, whose name appears on the permit, may take a cougar.

(e) Hunters killing a cougar during a public safety cougar removal must notify the department's enforcement program in Olympia within twenty-four hours after harvesting the cougar.

(f) The department reserves the right to accompany permit holders while participating in a public safety cougar removal.

(6) Public safety cougar removal general requirements.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar. One cougar transport tag is included with a big game license that has cougar as a species option. A second cougar transport tag must be purchased to take a second cougar. Individuals may participate in multiple public safety cougar removals, but must purchase a cougar transport tag for each cougar removed. Purchases in excess of two cougar transport tags must be made at department offices.

(b) It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens. Individuals

selected for a public safety cougar removal permit may take one cougar per permit and must take the first legal cougar available.

(c) Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting cougar. The use of dogs to hunt cougar is prohibited except during a public safety cougar removal.

(d) Any person who takes a cougar must notify the department within twenty-four hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within seventy-two hours of the notification of kill. Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(e) The public safety cougar removal permit (permit) belongs to the state of Washington. The permit holder may be required to return to or turn over to the department the permit when, in the judgment of the department, the permit holder violates any conditions of the permit, violates trespass laws while acting under this permit, or violates any other criminal law or hunting regulation of the state while acting under this permit. If the permit holder is required to return to or turn over to the department the permit, the permit holder may request an appeal of that action in accordance with chapter 34.05 RCW. Appeal request shall be filed in writing and returned within twenty days of the date of action and be addressed to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.

#### WSR 02-17-014

#### PERMANENT RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 02-184—Filed August 9, 2002, 9: 41 a.m.]

Date of Adoption: August 3, 2002.

Purpose: Amend dive fishery buy-back rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-95-100 and 220-95-110.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 02-13-086 on June 18, 2002.

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 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.

August 8, 2002

Nancy Burkhart

for Russ Cahill, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 01-274, filed 12/14/01, effective 1/14/02)

**WAC 220-95-100 Sea urchin license reduction program.** In order to provide for economic stability in the commercial sea urchin fishery, and in accordance with RCW 77.70.150, the department establishes the sea urchin license reduction program (program).

(1) Eligibility: All persons who currently hold a sea urchin commercial fishery license are eligible to offer their license(s) for purchase under the program.

(2) Method of purchase: The department will rank offers to sell sea urchin licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.150, with a maximum purchase price of ~~(((\$6,000))~~ **\$8,000** per license.

(3) Offer process: ~~((For the winter 2001-2002 selection, the department will accept offers to sell during the thirty day period after these rules go into effect, and will purchase licenses from the funds that were available on December 31, 2001. Thereafter))~~ The department will accept offers to sell beginning August 1st of each year and will purchase licenses based on the funds that are available on the following September 30th.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

(6) No prohibition on reentry: License holders who sell a license under the program may reenter the sea urchin commercial fishery.

(7) Program termination: This program terminates when the number of sea urchin commercial fishery licensees is reduced to twenty-five.

**AMENDATORY SECTION** (Amending Order 01-274, filed 12/14/01, effective 1/14/02)

**WAC 220-95-110 Sea cucumber license reduction program.** In order to provide for economic stability in the commercial sea cucumber fishery, and in accordance with RCW 77.70.190, the department establishes the sea cucumber license reduction program (program).

(1) Eligibility: All persons who currently hold a sea cucumber commercial fishery license are eligible to offer their license(s) for purchase under the program.

(2) Method of purchase: The department will rank offers to sell sea cucumber licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.190, with a maximum purchase price of ~~(((\$5,000))~~ **\$8,000** per license.

(3) Offer process: ~~((For the winter 2001-2002 selection, the department will accept offers to sell during the thirty day period after these rules go into effect, and will purchase licenses from the funds that were available on December 31, 2001. Thereafter))~~ The department will accept offers to sell beginning August 1st of each year and will purchase licenses based on the funds that are available on the following September 30th.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

(6) No prohibition on reentry: License holders who sell a license under the program may reenter the sea cucumber commercial fishery.

(7) Program termination: This program terminates when the number of sea cucumber commercial fishery licensees is reduced to twenty-five.

#### WSR 02-17-015

#### PERMANENT RULES

#### DEPARTMENT OF FISH AND WILDLIFE

[Order 02-185—Filed August 9, 2002, 9:43 a.m.]

Date of Adoption: August 2, 2002.

Purpose: Amend ballast water exchange implementation date.

Citation of Existing Rules Affected by this Order: Amending WAC 220-77-095.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 02-13-136 on June 19, 2002.

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 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: Thirty-one days after filing.

August 8, 2002

Nancy Burkhart

for Russ Cahill, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 01-173, filed 8/20/01, effective 9/20/01)

**WAC 220-77-095 Interim ballast water discharge standard approval process.** (1) The Washington state interim ballast water discharge standard is inactivation or removal of ninety-five percent of zooplankton organisms and ninety-nine percent of phytoplankton and bacteria organism.

(2) Vessels subject to chapter 77.120 RCW that have not adequately exchanged their ballast water must treat their ballast prior to discharge into Washington waters, after July 1, ((2002)) 2004. An interim approval process shall be used to evaluate ballast water treatment technologies and provide approval for certain technologies that are determined to meet the Washington state interim ballast water discharge standard. Only ballast water treatment technologies that are approved through this process may be used to discharge treated ballast water into Washington waters following the guidelines identified within the approval process. Ballast water treatment technology vendors or vessel owners may submit ballast treatment technology for evaluation through the following process:

(a) Applications for approval will be accepted by the director or the director's designee at any time. The applicant is to be notified of department receipt of the application package within ten working days. If the application package is incomplete, the application will be returned to the applicant with an explanation of deficiencies or if the deficiencies are minimal, held for thirty days to allow the applicant to correct the deficiencies. Formal reviews of supporting data and proposed study plans will be completed within forty-five days of receipt of the complete application package.

(b) Formal reviews will be conducted by a science advisory panel and a maritime advisory panel. Panel members will be appointed by the director or the director's designee. The science advisory panel will provide recommendations to the director or the director's designee regarding the ability of each technology to meet the Washington state interim ballast water discharge standard, the adequacy of the proposed study plan, and determine if such technology should be evaluated as a promising technology that could be considered as a "best available technology." The maritime advisory panel will provide recommendations to the director or the director's designee regarding the ability of each technology to meet the prac-

tical needs of the maritime industry, including safety, practicality and cost effectiveness, and determine if such technology should be evaluated as a promising technology that could be considered as a "best available technology."

(c) The director, or the director's designee, shall take into consideration the findings of the scientific advisory panel, and the maritime advisory panel and make one of the following determinations:

(i) That the ballast water treatment technology has been approved by the United States Coast Guard or a state agency and is an approved system for use in Washington state;

(ii) To grant general approval to a technology meeting the Washington state interim ballast water discharge standard for a period of five years with stipulations for scientific evaluation. Approval may be revoked if new information shows the technology to be grossly inadequate and incapable of being retrofitted to correct the inadequacy;

(iii) To grant conditional approval for use on a specific number of vessels for further full-scale testing; or

(iv) Deny approval.

(d) Criteria for review. Applications for interim approval of a ballast water treatment system shall be evaluated on the completeness of the following:

(i) A letter of commitment from the technology vendor, the vessel owner installing the technology, and the principal investigators conducting the tests, stating their intents to carry out all components of the study plan for which they are responsible. Principal investigators must be qualified independent researchers. Applications for a treatment system to be used within a specified port must include a letter from the port authority in which the system is to be operated, granting authority for testing or use within the port.

(ii) Documentation stating that the residual concentrations of any primary treatment chemicals or chemicals that occur as by-products of the treatment meet all applicable regulatory requirements.

(iii) All available documentation describing the technical, operational and installation characteristics of the system.

(iv) Documentation from preliminary experiments that demonstrate the potential of the system to meet the Washington state interim ballast water discharge standard. Indicator species may be used to evaluate the technologies' effectiveness. Technologies may be approved that do not currently meet this criteria, but show promise for improvement or are considered to be a "best available technology." The technology should include easily verifiable indicators to ensure the system is operational and effectively treating ballast at the time of treatment.

(v) The discharge from a technology must be environmentally sound and in compliance with existing water quality discharge laws.

(e) Each proposed technology must include a detailed study plan that:

(i) Is organized according to a department-approved standardized format.

(ii) Evaluates the effectiveness of the treatment system over a range of operational conditions during operations, including the cumulative hours of operation, volumes treated, times since the tanks were last cleaned of sediment, abun-

dance of organisms, organic and inorganic load, temperature and salinity of water.

(iii) Identifies limiting conditions such as water quality attributes that may affect the performance of the equipment, length of time for adequate treatment, or other factors that may render the technology as inadequate to meet the interim ballast water discharge standard.

(iv) Assures that samples are representative of the flow or volume from which they are taken.

(v) Contains a detailed quality assurance and/or quality control plan.

(3) Conditions of approval.

(a) Approval of a technology shall be withdrawn after one year if the system is not installed or the testing begun as proposed.

(b) Systems approved under the interim approval process shall be considered to meet all ballast water treatment requirements promulgated by the department for a period of five years. In the event subsequent work reveals adverse effects on ecology or human health, approval of the system will be withdrawn unless the treatment system can be repaired to address the system's inadequacies.

(c) Systems approved under the interim process will be subject to all subsequent standards and regulations upon the expiration of the interim approval period.

(d) Interim approval is contingent on adherence to the detailed study plan described in the application and agreed upon by the applicant and the department.

(e) The principal scientist and engineers responsible for conducting and analyzing the tests shall submit a report documenting the performance of the equipment and results of the testing to the department within twelve months after installation. Further testing may or may not be required based upon the test results.

(f) Vessels or technologies receiving interim approval shall be subject to inspections by the department or the department's designated representative to verify adherence with the terms of this interim approval agreement and the operation of the treatment systems.

**WSR 02-17-016**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-186—Filed August 9, 2002, 9:46 a.m.]

Date of Adoption: August 3, 2002.

Purpose: Amend dive fishery management areas.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-52-071 and 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 02-13-090 on June 18, 2002.

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.

August 8, 2002

Nancy Burkhart

for Russ Cahill, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 01-40, filed 3/14/01, effective 4/14/01)

**WAC 220-52-071 Sea cucumbers.** It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

(1) **Sea cucumber districts:**

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: South of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island north of a line from Flat Point on Lopez Island to the northernmost point of Turn Island and thence projected true west to San Juan Island.

(ii) Haro Strait north of a line projected ~~((east--))~~ due west ((one-half mile south)) from the southernmost point of ((Eagle Point)) Cattle Pass on San Juan Island to the international border and south of a line projected ~~((east--))~~ due west from a point one-quarter mile north of Lime Kiln Light on San Juan Island to the international border.

(b) Sea Cucumber District 2 is defined as the waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, and 29.

(c) Sea Cucumber District 3 is defined as the waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, and 26C. The following areas within Sea Cucumber District 3 are closed to the harvest of sea cucumbers:

(i) Those waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1, then projected due west to shore on Bainbridge Island.

(ii) Those waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to land-fall directly below the Veteran's Home in Annapolis.

(d) Sea Cucumber District 4 is defined as the waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, and 27C.

(e) Sea Cucumber District 5 is defined as the waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26D, 28A, 28B, 28C, and 28D.

**(2) Sea cucumber areas and seasons:**

Sea cucumber areas and seasons will be set by emergency rule.

**(3) Shellfish diver gear:**

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard except that two divers may be in the water if the vessel has been designated on two sea cucumber dive fishery licenses.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(d) Licensing: A sea cucumber dive fishery license is the license required to operate the gear provided for in this section.

**(4) Trawl gear:**

It is unlawful to fish for or possess sea cucumbers taken with trawl gear.

**AMENDATORY SECTION** (Amending Order 01-40, filed 3/14/01, effective 4/14/01)

**WAC 220-52-073 Sea urchins.** It is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section.

**(1) Sea urchin districts:**

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juan Islands and Port Townsend) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island and Areas 21A, 21B, 22B, 23A, 23B, 25A and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times:

(i) Those waters of Haro Strait north of a line projected ~~((east-)) due west ((one-half-mile-south)) from the southern-most point of ((Eagle-Point)) Cattle Point~~ on San Juan Island to the international border and south of a line projected ~~((east-)) due west from a point~~ one-quarter mile north of Lime Kiln Light on San Juan Island to the international border.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: South of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island north of a line from Flat Point on Lopez Island to the northernmost point of Turn Island and thence projected true west to San Juan Island.

(c) Sea Urchin District 3 (Port Angeles) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C east of a line projected true north from Low Point, and Area 23D.

(d) Sea Urchin District 4 (Sekiu) is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 23C west of a line projected true north from Low Point and those waters of Area 29 east of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock).

(e) Sea Urchin District 5 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Area 29 west of a line projected true north from the mouth of Rasmussen Creek (3.1 miles southeast of Sail Rock) and Areas 59A and 59B. Within Sea Urchin District 5, waters within one-quarter mile of Tatoosh Island are closed to the harvest of sea urchins at all times.

(f) Sea Urchin District 6 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D and 26A.

(g) Sea Urchin District 7 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B, 26C, 26D and 28A. The following areas within Sea Urchin District 7 are closed to the harvest of sea urchins at all times.

(i) Those waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1, then projected due west to the shore on Bainbridge Island.

(ii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to land-fall directly below the Veteran's Home in Annapolis.

**(2) Sea urchin seasons and sizes:**

Sea urchin seasons and sizes will be set by emergency rule.

**(3) Shellfish diver gear:**

(a) It is unlawful to take sea urchins by any means other than shellfish diver gear.

(b) Divers may only use hand-operated equipment that does not penetrate the shell.

(c) Sea urchins may not be taken from water shallower than 10 feet below mean lower low water.

(d) Purple sea urchins may not be taken.

(e) Divers operating from a vessel must have a number assigned by the department, placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air and the number must be black on white no less than 18 inches high and of proportionate width.

(f) Divers may not take sea urchins from one-half hour after sunset to one-half hour before sunrise.

(g) No processing of sea urchins is permitted aboard the harvest vessel.

(h) Divers may not take sea urchins for use other than as human food.

(i) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvesting operation or when commercial quantities of sea urchins are aboard except that two divers may be in the water if the vessel has been designated on two sea urchin dive fishery licenses.

(j) Variance from any of the provisions of this subsection is only allowed if authorized by a permit issued by the director.

(k) Licensing: A sea urchin dive fishery license is the license required to operate the gear provided for in this section.

**WSR 02-17-017**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-187—Filed August 9, 2002, 9:48 a.m.]

Date of Adoption: August 3, 2002.

Purpose: Amend marine protected area rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-760, 220-16-780, and 220-16-790.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 02-13-088 on June 18, 2002.

Changes Other than Editing from Proposed to Adopted Version: Proposed amendments to WAC 232-28-619 continued to September 27-28 meeting.

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 3, 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.

August 8, 2002

Nancy Burkhart

for Russ Cahill, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-16-760 Keystone Conservation Area.** "Keystone Conservation Area" is defined as all bedlands and tidelands and the waters over these starting at the extreme high water line on the east side of the Keystone jetty ((at Keystone)) in Fort Casey State Park then easterly along the extreme high water line to ((122°40'07"W, 48°09'30"N)) a line projected from shore through the easternmost row of pilings of the old military wharf, then offshore along ((a)) that line ((perpendicular to the shore)) southeasterly for 600 feet, then southwest parallel to the shoreline to a point due south of the southern tip of the jetty, then north to the extreme high water line on the southern tip of the jetty, then along the extreme high water line on the east side of the jetty to the point of origin.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-16-780 Admiralty Head Marine Preserve.** "Admiralty Head Marine Preserve" is defined as waters and bedlands inside a line beginning at the extreme low water line on the west shore of Whidbey Island at 48° ((09-40)) 09.46' N, 122° 40.88' W then northerly along the extreme low water line for 0.6 nautical miles, then due west 400 yards, then southerly parallel to the shore to ((48°09.40' N, 122°41.14' W)) a point due west of the point of origin, then due east to the point of origin.

AMENDATORY SECTION (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-16-790 Zee's Reef Marine Preserve.** "Zee's Reef Marine Preserve" is defined as waters and bedlands inside a line beginning at the extreme low water line on the northeast side of Fox Island at 47° 14.56' N, 122° 35.98' W, then extending 0.5 nautical mile ((northerly)) northwesterly along the extreme low water line to 47° 14.96' N, 122° 36.37' W, then ((due)) northeast to the minus eighty-five foot depth contour (MLLW = 0 feet) at 47° 15.00' N, 122° 36.30' W, then ((southeast)) southeasterly along the eighty-five foot depth contour to ((a point on a due northeast-southwest line through the point of origin)) 47° 14.67' N, 122° 35.81' W, then southwest to the point of origin.

**WSR 02-17-018**  
**PERMANENT RULES**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

[Filed August 9, 2002, 10:26 a.m.]

Date of Adoption: August 6, 2002.

Purpose: To implement the long-term care ombudsman program as provided for in chapter 43.190 RCW and the Older Americans Act of 1965 (42 U.S.C. et seq., as amended).

PERMANENT

Citation of Existing Rules Affected by this Order: Amending WAC 365-18-040 (1)(a), (b) and (c).

Statutory Authority for Adoption: Chapter 43.190 RCW.

Adopted under notice filed as WSR 02-12-001 on May 22, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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.

August 6, 2002

Martha Choe

Director

**AMENDATORY SECTION** (Amending WSR 00-09-060, filed 4/17/00, effective 5/18/00)

**WAC 365-18-040 Conflicts of interest.** (1) All ombudsmen shall be free from conflicts of interests, including:

(a) No ombudsman shall be or have been employed by or participated in the management of any long-term care facility, or have or have had the right to receive remuneration from a long-term care facility, including work as a paid consultant or independent contractor, currently or within (~~three years from the start of his or her duties as an ombudsman~~) the past year;

(b) No ombudsman or member of his or her immediate family shall have, or have had within the past (~~three~~) year(~~s~~), any pecuniary interest in a long-term care facility or a long-term care service;

(c) No ombudsman shall have a direct involvement in the licensing, certification, or regulation of a long-term care facility or of a long-term care service during his or her tenure as an ombudsman or within the past year;

(d) No ombudsman shall be assigned to or work in a long-term care facility in which the ombudsman or a member of his/her immediate family resides;

(e) No ombudsman shall solicit or be the beneficiary of gifts, money or estate property from residents in any facility in which he or she has served or is serving as ombudsman. This subsection shall not prohibit an ombudsman from receiving gifts, money, or estate property from a resident who is a relative of the ombudsman;

(f) No ombudsman may work for an agency or entity in which the ombudsman has direct personal involvement in the

provision or establishment of involuntary services or in the involuntary commitment of a resident.

(2) No individual, or immediate family member of such an individual, who is involved in the designation or removal of the state ombudsman, or the designation or revocation of the contractor or subcontractors, or who administers or oversees the contractor's or subcontractor's contract, may be an official or employee of any agency or organization that conducts the licensing, certification, or regulation of long-term care facilities, or that owns, operates, or manages such facilities.

**WSR 02-17-019  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-193—Filed August 9, 2002, 2:50 p.m.]

Date of Adoption: August 3, 2002.

Purpose: Amend personal use shellfish rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-350 and 220-56-355.

Statutory Authority for Adoption: RCW 77.12.047

Adopted under notice filed as WSR 02-13-091 on June 18, 2002.

Changes Other than Editing from Proposed to Adopted Version: Did not adopt closure at Whidbey Island.

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.

August 9, 2002

Nancy Burkhart

for Russ Cahill, Chair

Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons.** (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

- (a) Ben Ure Spit: Open May 1 through May 31.
- (b) Brown Point (DNR 57-B): Open January 1 through June 30.
- (c) Cama Beach State Park: Closed the entire year.
- (d) Camano Island State Park: Open June 1 through June 30.
- (e) Cline Spit: Closed the entire year.
- (f) Cutts Island State Park: Open January 1 through June 15.
- (g) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows:
- (i) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.
- (ii) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.
- (iii) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.
- (h) Dosewallips State Park: Open March 1 through September 15 only in area defined by boundary markers and signs posted on the beach.
- (i) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are open March 1 through December 31.
- (j) Dungeness Spit - Open May 15 through September 30.
- (k) Eagle Creek: Open January 1 through May 31.
- (l) Fort Flagler State Park: Open April 1 through June 30.
- (m) Freeland County Park - Open January 1 through June 30.
- (n) Frye Cove - Open January 1 through June 30.
- (o) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.
- (p) Gertrude Island - All tidelands at Gertrude Island closed the entire year.
- (q) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.
- (r) Hope Island State Park (South Puget Sound): Open April 1 through April 30.
- (s) Illahee State Park: Closed the entire year.
- (t) Kayak Point County Park: (~~Open May 1 through May 15, except mussels open~~) Closed the entire year.
- (u) Kitsap Memorial State Park: Open May 15 through June 30.
- (v) Kopachuck State Park: Open June 1 through June 30.
- (w) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.
- (x) McNeil Island - All tidelands on McNeil Island are closed the entire year.
- (y) Mukilteo State Park - Closed the entire year.
- (z) Mystery Bay State Park: Open October 1 through April 30.
- (aa) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except state-owned Tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.
- (bb) North Sequim Bay State Park - Open May 16 through June 15.
- (cc) Oak Bay County Park: Open July 1 through July 15.
- (dd) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:
- (i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet open the entire year.
- (ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet open the entire year.
- (iii) Oakland Bay: Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bay-shore Peninsula between department markers open the entire year.
- (iv) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.
- (ee) Penrose Point State Park: Open April 1 through April 30.
- (ff) Picnic Point County Park: Closed the entire year.
- (gg) Pitship Point: Closed the entire year.
- (hh) Pitt Island - All tidelands on Pitt Island are closed the entire year.
- (ii) Point Whitney (excluding Point Whitney Lagoon): April 1 through April 30.
- (jj) Point Whitney Lagoon: Open May 1 through May 31.
- (kk) Port Townsend Ship Canal: Open January 1 through March 31.
- (ll) Potlatch DNR tidelands: Open April 1 through July 15.
- (mm) Potlatch East: Open April 1 through July 15.
- (nn) Potlatch State Park: Open April 1 through July 15.
- (oo) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.
- (pp) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those tidelands on the west side of the bay defined by boundary markers and a sign on the beach are open April 1 through December 31, daily from official sunrise to official sunset only.
- (qq) Rendsland Creek: Open January 1 through May 31.
- (rr) Saltwater State Park: Closed the entire year.
- (ss) Scenic Beach State Park - Open April 16 through June 15.
- (tt) Seahurst County Park: Closed the entire year.

(uu) Sequim Bay State Park - Open May 1 through June 15.

(vv) Shine Tidelands: Open January 1 through May 15.

(ww) South Indian Island County Park: Open May 1 through August 15.

(xx) Spencer Spit State Park: Open March 1 through July 31.

(yy) Triton Cove Oyster Farm: Closed the entire year.

(zz) Triton Cove State Park: Open April 1 through June 30.

(aaa) Twanoh State Park: Closed the entire year.

(bbb) West Dewatto: DNR Beach 44A is open January 1 through June 30.

(ccc) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

(ddd) Wolfe Property State Park: Open January 1 through May 15.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

**AMENDATORY SECTION** (Amending Order 02-53, filed 3/29/02, effective 5/1/02)

**WAC 220-56-355 Clams—Unlawful acts.** (1) It shall be unlawful for any person digging clams other than razor clams for personal use to fail to fill in holes created during the digging operation. Beach terrain must be returned to approximately its original condition by clam diggers before leaving the scene.

(2) It shall be unlawful to maim, injure or attempt to capture a geoduck by thrusting any instrument through its siphon or to possess only the siphon or neck portion of a geoduck.

(3) It is unlawful to possess Manila, native littleneck, cockle, or butter clams taken for personal use which measure less than 1-1/2 inches across the longest dimension of the shell except minimum size 1-1/4 inches if taken from public tidelands on the west side of Quilcene Bay north of the county boat ramp.

(4) It is unlawful to return any eastern softshells, horse clams, or geoducks to the beach or water regardless of size or condition. All such clams taken for personal use must be retained by the digger as part of the daily limit.

(5) Violation of the provisions of this section shall be an infraction, punishable under RCW 77.15.160.

**WSR 02-17-023**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed August 9, 2002, 4:06 p.m.]

Date of Adoption: August 5, 2002.

Purpose: Medical Assistance Administration (MAA) is revising this chapter of rules to ensure consistency with program policy; to add reimbursement methodology needed to obtain necessary rate-setting data; to add language to comply with federal requirements regarding billing units; to make department reimbursement policy consistent with other healthcare payers, and; to clarify regulatory language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-530-1000 The medical assistance administration (MAA) drug program, 388-530-1050 Definitions, 388-530-1100 Covered drugs, devices, and pharmaceutical supplies, 388-530-1125 Drug rebate program, 388-530-1150 Noncovered drugs and pharmaceutical supplies and reimbursement limitations, 388-530-1200 Prior authorization program, 388-530-1250 Prior authorization process, 388-530-1300 General reimbursement methodology, 388-530-1350 Estimated acquisition cost (EAC) methodology, 388-530-1400 Maximum allowable cost (MAC) methodology, 388-530-1410 Federal upper limit (FUL) methodology, 388-530-1425 Payment methodology for drugs purchased under the Public Health Service (PHS) Act, 388-530-1450 Dispensing fee determination, 388-530-1500 Reimbursement for compounded prescriptions, 388-530-1550 Unit dose drug delivery systems, 388-530-1600 Unit dose pharmacy billing requirements, 388-530-1625 Compliance packaging services, 388-530-1650 Reimbursement for pharmaceutical supplies, 388-530-1700 Drugs and drug-related supplies from nonpharmacy providers, 388-530-1750 Drugs and pharmaceutical supplies for clients with any third-party coverage, 388-530-1800 Requirements for pharmacy claim payment, 388-530-1850 Drug utilization and education (DUE) council, 388-530-1900 Drug utilization and claims review, 388-530-1950 Point-of-sale (POS) system/prospective drug utilization review (Pro-DUR) and 388-530-2050 Reimbursement for out-of-state prescriptions; and new WAC 388-530-1360 Certified average wholesale price (CAWP) and 388-530-1405 Automated maximum allowable cost (AMAC).

Note: The CR-102, Notice of proposed rule, had included a proposal for a new section WAC 388-530-1380. Due to public testimony, that section is not being adopted.

Statutory Authority for Adoption: RCW 74.09.080.

Other Authority: RCW 74.04.050 and 42 C.F.R. Subpart K, subsection 162.1102.

Adopted under notice filed as WSR 02-12-092 on June 4, 2002.

Changes Other than Editing from Proposed to Adopted Version: As a result of testimony received, the following changes have been made to the text of the proposed rules:

**WAC 388-530-1050 Definitions.**

**"Peer reviewed medical literature"** means a research study, report, or findings regarding the specific use of a drug

that has been submitted to one or more professional journals, reviewed by experts with appropriate credentials, and subsequently published by a reputable professional journal. A clinical drug study used as the basis for the publication must be a double blind, randomized, placebo or active control study.

CES - Chapter 388-530 WAC - Pharmacy Services.

Page Two.

~~"Wholesale acquisition cost (WhAC)" means the net price a manufacturer charges wholesalers for a drug. The WhAC is supplied to the medical assistance administration (MAA) by MAA's drug file contractor.~~

### WAC 388-530-1100 Covered drugs, devices, and pharmaceutical supplies.

(3)(c)(ii) They meet MAA's published expedited prior authorization (EPA) criteria and the dispensing pharmacist follows the EPA process ...

~~(6) MAA evaluates requests for drugs, devices, and pharmaceutical supplies that are subject to limitations or other restrictions in this chapter on a case-by-case basis. MAA approves the requested services that are beyond the stated limits or restrictions of this chapter when MAA determines that the services are medically necessary, under subsection (5) of this section and under the standards for covered services in WAC 388-501-0165.~~

### WAC 388-530-1150 Noncovered drugs and pharmaceutical supplies and reimbursement limitations.

~~(3) MAA evaluates ((a)) each request for a noncovered drug ((that is listed as noncovered in this section)) under WAC 388-530-1100(5) and under the provisions of WAC ((388-501-0160 which relates to noncovered services. The request for a noncovered drug is called exception to rule. See WAC 388-501-0160 for information about exception to rule)) 388-501-0165.~~

**WAC 388-530-1300 General reimbursement methodology.** (1) ((MAA's)) The medical assistance administration's (MAA) total reimbursement for a prescription drug must not exceed the lowest of:

- (a) Estimated acquisition cost (EAC) plus a dispensing fee;
- (b) Maximum allowable cost (MAC) plus a dispensing fee;
- (c) Federal Upper Limit (FUL) plus a dispensing fee;
- (d) Actual acquisition cost (AAC) plus a dispensing fee for drugs purchased under section 340 B of the Public Health Service (PHS) Act and dispensed to medical assistance clients; ~~((#))~~
- (e) Automated maximum allowable cost (AMAC) plus a dispensing fee;
- (f) Certified average wholesale price (CAWP) plus a dispensing fee; or
- (g) ~~Wholesale acquisition cost (WhAC) plus a dispensing fee; or~~
- (h) The provider's usual and customary charge to the non-Medicaid population.

### WAC 388-530-1350 Estimated acquisition cost (EAC) methodology.

(1)(a) When acquisition cost data are made available to MAA by drug wholesalers:

(i) ~~MAA determines pharmacies' ((average)) acquisition costs for ((these products.~~

(2) ~~The pharmacies' average acquisition cost for the products in the NDC sample is based on in-state wholesalers' charges to pharmacy subscribers.~~

(3) ~~MAA represents the average))~~ the top 100 single-source drugs reimbursed by MAA as measured by the total dollars paid for each drug.

### New Section

### ~~WAC 388-530-1380 Wholesale acquisition cost (WhAC) methodology.~~

~~(1) The medical assistance administration (MAA) may use the wholesale acquisition cost (WhAC) provided by MAA's drug pricing file contractor in pricing drugs for the purpose of setting MAA's reimbursement rates.~~

~~(2) MAA may use WhAC information to determine a rate that MAA considers to be equivalent to the estimated acquisition cost (EAC). The WhAC and the EAC are both expressed as a percentage of the average wholesale price (AWP) as described in WAC 388-530-1350.~~

~~(3) When a WhAC is available for a drug, MAA may use the WhAC price as MAA's reimbursement rate for the drug when the WhAC price is the lowest of the rates calculated under the methods listed in WAC 388-530-1300(1).~~

### WAC 388-530-1500 Reimbursement for compounded prescriptions.

(5) Compounded prescriptions are reimbursed as follows:

(a) MAA allows only the lowest cost for each covered ingredient, whether ((EAC, MAC)) that cost is determined by actual acquisition cost (AAC), estimated acquisition cost (EAC), federal upper limit (FUL), maximum allowable cost (MAC), automated maximum allowable cost (AMAC), certified average wholesale price (CAWP), ~~wholesale acquisition cost (WhAC),~~ or amount billed.

### WAC 388-530-1650 Reimbursement for pharmaceutical supplies.

~~(4) MAA does not pay a dispensing fee for nondrug items, devices, or supplies. See WAC 388-530-1450 ((#)) (2).~~

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 2, Amended 25, 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 2, Amended 25, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 5, 2002

Brian H. Lindgren, 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 02-19 issue of the Register.

## WSR 02-17-024

### PERMANENT RULES

### DEPARTMENT OF LICENSING

[Filed August 12, 2002, 9:26 a.m.]

Date of Adoption: August 9, 2002.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-005, 308-96A-062, and 308-96A-064.

Statutory Authority for Adoption: RCW 46.01.1110.

Other Authority: RCW 46.16.135, 46.16.225, 46.16.-490, 46.17.276.

Adopted under notice filed as WSR 02-12-064 on May 31, 2002.

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 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 9, 2002

Fred Stephens

Director

**AMENDATORY SECTION** (Amending WSR 01-17-017, filed 8/3/01, effective 9/3/01)

#### WAC 308-96A-005 Terminology—Definitions.

Terms used in chapter 46.16 RCW and this chapter will have the following meanings except where otherwise defined, and where the context clearly indicates the contrary:

(1) "Affidavit of loss" means a department form used by an applicant, to indicate that a title, registration, license tab, or decal has been lost, stolen, mutilated or destroyed. The form is completed and signed under oath in the presence of an

official, such as a notary public, or certified by a license clerk or the authorized agent for a dealership, when a vehicle is in their inventory for resale.

(2) "Agent" means any county auditor, or other individual or business entity other than a subagent appointed to carry out vehicle licensing and titling functions for the department (RCW 46.01.140.)

(3) "Application" means a form provided or approved by the department to apply for different types of services and documents.

(4) "Cab and chassis" is a truck manufactured and sold with only a cab and the frame and running gear. (WAC 308-96A-145.)

(5) "Certificate of license registration" means a document issued by the department and required by RCW 46.16.260 to be carried in the vehicle to operate legally on the roadways of Washington and described in RCW 46.12.050. The certificate of license registration is renewed annually.

(6) "Collector vehicle license plate" is a special license plate that may be assigned to a vehicle that is ((at least)) more than thirty years old as authorized by RCW 46.16.305(1).

(7) "Confidential" and "undercover" license plates are standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized by RCW 46.08.066.

(8) "Current year" means the current registration year unless otherwise stated. (WAC 308-96A-260.)

(9) "Department" means the department of licensing. (RCW 46.04.162.)

(10) "Disabled persons parking placard expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the end of the month and year of issuance of a permanent placard, as specified by the department on the placard. (RCW 46.16.381.)

(11) "Expiration day and month."

(a) "Date of expiration" or "expiration date" means the day of the month on which the vehicle registration, gross weight license, decal or tabs expire.

(b) "Month of expiration" or "expiration month" means the calendar month during which a registration period ends. (WAC 308-96A-260.)

(12) "Fleet" means a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

(13) "Fixed load vehicle" is specified in RCW ((46.16.070)) 46.16.079 and described in WAC 308-96A-099.

(14) "Gross weight" means gross weight defined in RCW 46.16.070, 46.16.090, 46.16.111 and chapter 46.44 RCW.

(15) "Hybrid motor vehicle" means a vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle.

(16) "Identification card" means the identification card referred to in RCW 46.16.381(3) for disabled parking privileges and is used for identification of persons with disabilities.

((16)) (17) "Indian country" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian country" by the United States Department of the Interior as referenced in 18 U.S.C. 1151 and CFR 25.

((17)) (18) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

((18)) (19) "Indian" means a person on the tribal rolls of the Indian tribe occupying Indian country.

((19)) (20) "Jurisdiction" as used in the parking ticket system means any district, municipal, justice, superior court, or authorized representative.

((20)) (21) "Jurisdiction seal" means a method of verifying authenticity of court documents, which is provided by the jurisdiction that issued the citation. A jurisdiction seal is an embossed seal or stamp provided by the jurisdiction.

((21)) (22) "License or licensing" and "register or registering" are synonymous and mean the act of registering a vehicle under chapter 46.16 RCW.

((22)) (23) "License fee" means the fees required for the act of licensing a vehicle under chapter 46.16 RCW. License fee does not include license plate fees identified as taxes, and fees collected by the department for other jurisdictions.

((23)) (24) "License tab fees" means the ~~((fees required for the act of licensing a vehicle under chapter 46.16 RCW))~~ same as described in RCW 46.16.0621.

((24)) (25) "Licensed physician" for the purpose of disabled person parking privileges, means: Chiropractic physicians, naturopaths, medical doctors, advanced registered nurse practitioners, osteopathic physicians and podiatric physicians. Licensed physician does not include persons licensed in the professions of dentistry and optometry. (RCW 46.16.381(1).)

((25)) (26) "~~((Motorhome))~~ Motor home" means a vehicle designed or altered for human habitation as described in RCW 46.04.305.

((26)) (27) "Municipality" in reference to parking tickets, means every court having jurisdiction over offenses committed under RCW 46.20.270.

((27)) (28) "NCIC number" means the numeric code assigned by the National Crime Information Center to identify a jurisdiction.

((28)) (29) "One hundred twenty-day notice" in reference to parking violations means a notice of parking violations that must be satisfied prior to the registration renewal date. (RCW 46.16.216.)

((29)) (30) "Parking ticket disposition" means the requested action as determined by the jurisdiction to add failure-to-pay parking violations, or to remove paid parking violations from a vehicle record. (RCW 46.16.216.)

((30)) (31) "Parking violation" means any standing, stopping or parking violation per RCW 46.20.270(3).

((31)) (32) "Parking violation list" means a computerized list containing all outstanding parking violations, which have been processed by the department((-)) (RCW 46.16.-216(1).)

((32)) (33) "Permanent" in reference to disabled person parking privileges, means a licensed physician has certified that a qualifying condition is expected to last at least five years. (RCW 46.16.381. WAC 308-96A-306.) Disabled persons parking privileges must be renewed every five years.

((33)) (34) "Permit" in reference to disabled person parking privileges means the proof provided by the department in the form of placard(s), special license plate(s) and an identification card indicating eligibility for disabled person parking privileges. (RCW 46.16.381.)

((34)) (35) "Personalized license plates" are plates denoting the registered owner's chosen format or designation and are limited to those described in RCW 46.16.560, 46.16.-570, and 46.16.580. (WAC 308-96A-065.)

((35)) (36) "Personal use vehicle" in reference to disabled veteran's, prisoners of war and congressional medal of honor plates, means vehicles not used for commercial purpose including: Passenger vehicles, ~~((motorhomes))~~ motor homes, motorcycles, and trucks with designated gross vehicle weight ~~((at no more than))~~ not exceeding twelve thousand pounds. Registration ownership must be in the name of the individual and not in the business name. (WAC 308-96A-046.)

((36)) (37) "Placard" means a document issued to persons who qualify for special disabled person parking privileges under RCW 46.16.381 and are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and individual serial number.

~~((37) "Prebill" or "renewal notice" means the notice to renew a vehicle license provided by the department approximately sixty days prior to the current expiration year.))~~

(38) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381. (WAC 308-96A-316.)

(39) "Privilege" in reference to disabled person's parking privileges means permission to utilize the benefits associated with the permit. (RCW 46.16.381, 46.61.582 and 70.84.090. WAC 308-96A-306.)

(40) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(41) "Regular fleet" means a group of five or more vehicles registered in the same owner(s) name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC ~~((308-56A-161))~~ 308-96A-161.)

(42) "Rental car" means a car that is rented as defined in RCW 46.04.465.

(43) "Renewal notice" means the notice to renew a vehicle license provided by the department approximately sixty days prior to the current expiration year.

(44) "Salvage title" means a certificate of title issued by another jurisdiction designating a motor vehicle as a "salvage vehicle."

(45) "Scale weight" means the weight of a vehicle as it stands without a load. (RCW 46.16.070 and 46.16.111.)

((44)) (46) "Signature" means any memorandum, mark, sign or subscriptions made with intent to authenticate an application. (RCW 9A.04.110(23).)

((45)) (47) "Special mailer" means the notice sent by the department in lieu of a renewal notice. The special mailer indicates additional or corrective information that must be provided at the time of registration renewal.

((46)) (48) "Subagent" means individual(s), business, organization, or political entity appointed by the director to provide vehicle and vessel licensing and titling services under contract with the agent as described in RCW 46.01-140.

((47)) (49) "Tab(s)" means decals, issued by the department, affixed to the rear license plate to identify the registration expiration month or year for a specific vehicle.

((48)) (50) "Tonnage," "declared gross weight" and "declared combined gross weight" are used interchangeably when referring to the amount of weight declared by an owner when licensing a vehicle as described in RCW 46.16.070 and 46.16.111.

((49)) (51) "Transit permit" means a document that authorizes an individual to operate a vehicle on a public highway of this state solely for the purpose of obtaining necessary documentation to complete and apply for a Washington certificate of ownership or registration, and does not allow unrestricted use of the vehicle. (WAC 308-96A-026.)

((50)) (52) "Unprocessed" as used in parking ticket system means no update of the computer record has occurred.

((51)) (53) "Use classes" means those vehicles described in WAC 308-96A-099.

((52)) (54) "Vehicle data base record" means the electronic record stored on the department's motor vehicle data base reflecting vehicle and ownership information.

AMENDATORY SECTION (Amending WSR 99-22-058, filed 11/1/99, effective 12/2/99)

**WAC 308-96A-062 Transfer or destruction of honorary consul special license plates.** (1) ~~((May I transfer))~~ **Are honorary consul special license plates ((to another qualifying person)) transferable?** ~~((No, the honorary consul special license plates are assigned to a person for use on their vehicle.))~~ Yes, they are transferable to another motor vehicle owned or leased by the honorary consular, however, the special license plates may not be transferred to anyone else.

(2) ~~((What do I do with the honorary consul special license plates if I dispose of the vehicle? Whenever the owner or lessee transfers his/her interest in the motor vehicle to which the honorary consul special license plates are issued, the plates shall be removed. The removed plates shall be either transferred to another vehicle owned or leased by the plate holder or immediately forwarded to the department to be destroyed.))~~ How are honorary consul special license plates transferred to another vehicle? The honorary consular must submit a request to the department to transfer the plates to another vehicle and pay a transfer fee as provided in

RCW 46.16.316 in addition to all other applicable fees and taxes.

(3) ~~((How do I transfer my honorary consul special license plates to another vehicle that I own? You may transfer the special plates to another motor vehicle owned or leased by you by:~~

(a) ~~Submitting an application to the department to transfer the plates to another vehicle; and~~

(b) ~~Paying a transfer fee as provided in RCW 46.16.316 in addition to all other applicable fees and taxes.))~~ How are honorary consul special license plates replaced if they become lost, destroyed, mutilated or stolen? The honorary consular must submit a request to the department for replacement license plates and pay a replacement plate fee as provided in chapter 46.16 RCW in addition to all other applicable fees and taxes.

(4) What do I do ((if)) with the honorary consul special license plates ((are lost, destroyed, mutilated or stolen)) if I sell or otherwise dispose of the vehicle? ~~((If your honorary consul special license plates are lost, destroyed, mutilated or stolen, you must apply to the department for replacement license plates. The replacement plate number will be the next available sequential number.))~~ The plates must be either:

(a) Removed from the vehicle and immediately forwarded to the department; or

(b) Transferred to another vehicle as provided in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 99-22-058, filed 11/1/99, effective 12/2/99)

**WAC 308-96A-064 Transfer or loss/destruction of foreign organization special license plates.** ~~((1) May I transfer foreign organization special license plates to another qualifying person? No, the foreign organization special license plates are permanently assigned to a person and cannot be reassigned to another person.~~

(2) ~~What do I do with the foreign organization special license plates if I dispose of the vehicle? Whenever the owner or lessee transfers his/her interest in the passenger vehicle to which the foreign organization special license plates are issued, the plates shall be removed. The removed plates shall be either transferred to another qualifying passenger vehicle or immediately forwarded to the department to be destroyed.~~

(3) ~~How do I transfer foreign organization special license plates to another vehicle? You may transfer the special plates to another qualifying passenger vehicle owned or leased by an officer of a foreign organization by:~~

(a) ~~Submitting an application to the department to transfer the plates to another qualifying passenger vehicle; and~~

(b) ~~Paying a transfer fee as provided in RCW 46.16.316 in addition to all other applicable fees and taxes.~~

(4) ~~What do I do if the foreign organization special license plates are lost, destroyed, mutilated or stolen? If your foreign organization special license plates are lost, destroyed, mutilated or stolen, you must apply to the department for replacement license plate. The replacement plate number will be the next available sequential number.))~~ (1) Are foreign

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**organization special license plates transferable?** Yes, they are transferable to another motor vehicle owned or leased by the representative of the foreign organization; however, the special license plates may not be transferred to anyone else.

**(2) How are foreign organization special license plates transferred to another vehicle?** Submit a request to the department to transfer the plates to another vehicle and pay a transfer fee as provided in RCW 46.16.316 in addition to all other applicable fees and taxes.

**(3) How are foreign organization special license plates replaced if they become lost, destroyed, mutilated, or stolen?** The representative of the foreign organization must submit a request to the department for replacement license plates and pay a replacement plate fee as provided in chapter 46.16 RCW in addition to all other applicable fees and taxes.

**(4) When I am required to replace my foreign organization special license plates, will I receive the same license plate number/letter combination?** Yes. Upon request you will receive replacement foreign organization special license plates with the same number/letter combination as shown on the vehicle computer record.

**(5) What do I do with the foreign organization special license plates if I sell or otherwise dispose of the vehicle?** The plates must be removed and either:

(a) Transferred to another vehicle owned or leased by the plate holder of the foreign organization and/or immediately forwarded to the department; or

(b) Transferred to another vehicle as provided in subsection (1) of this section.

**(6) How are foreign organization special license plates disposed of?** The plates must be removed by the representative of the foreign organization and immediately forwarded to the department.

## WSR 02-17-027

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed August 12, 2002, 3:20 p.m.]

Date of Adoption: August 8, 2002.

Purpose: This rule change will bring WAC 388-78A-265 Limited nursing services, into compliance with RCW 18.79.260 Registered nurse—Allowed activities—Delegation of tasks, as well as update the outdated references to RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 388-78A-265.

Statutory Authority for Adoption: RCW 18.20.090.

Adopted under notice filed as WSR 02-14-062 on June 27, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 8, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-15-067, filed 7/19/99, effective 8/19/99)

**WAC 388-78A-265 Limited nursing services.** This section applies only to licensees who choose to provide limited nursing services. This section does not apply when residents care for themselves or arrange for independent nursing or health care services pursuant to WAC 388-78A-268.

(1) The licensee shall employ or contract directly or indirectly with a RN or physician to:

(a) Provide or supervise limited nursing services;

(b) Assess, or supervise a LPN's assessment of each resident needing limited nursing services upon admittance, and develop the nursing component of the individual's resident plan;

(c) Reassess, or supervise a LPN's reassessment of the resident's nursing needs when staff notice a change in the resident's functional ability or health status, and amend the nursing component of the individual's resident plan accordingly; and

(d) Be available in person, by pager, or by telephone during hours of limited nursing services.

(2) A licensee shall ensure the following services are only provided by a RN, or a LPN under the supervision of a RN:

(a) Insertion of urethral catheters, including indwelling;

(b) Any other nursing service requested by the licensee and approved in writing by the department.

(3) The licensee may ~~((allow unlicensed staff to provide the following services under the delegation and supervision of a RN:~~

~~(a) Routine ostomy care that is well-established, with no breakdown or maintenance care;~~

~~(b) Enema;~~

~~(c) Uncomplicated routine colostomy and urethral care when the resident is unable to supervise these activities;~~

~~(d) Care of wounds that are superficial without drainage or infection; and~~

~~(e) Assistance with glucometer testing if the resident can perform the finger stick)) provide delegated nursing services pursuant to chapter 18.79 RCW and chapter 246-840 WAC.~~

(4) The licensee shall not provide the following nursing services on the premises:

- (a) Respiratory ventilation;
- (b) Intravenous procedures;
- (c) Suctioning;
- (d) Feeding tube insertion or site maintenance; and
- (e) Care of residents who are bed-bound for more than fourteen consecutive days as a result of a medical condition.

(5) A licensee providing limited nursing services shall assure that employed or contracted nursing services are consistent with chapters ~~((18.78 and 18.88))~~ 18.79 and 18.88A RCW.

(6) A licensee providing limited nursing services shall provide for safe and sanitary:

- (a) Storage and handling of clean and sterile nursing equipment and supplies;
- (b) Storage and handling of soiled laundry and linens;
- (c) Cleaning and disinfecting soiled equipment; and
- (d) Refuse and infectious waste disposal.

(7) In new construction designed for limited nursing services, or upon starting a limited nursing services program within an existing boarding home, the licensee shall provide the following, accessible only by staff:

- (a) A clean utility area for the purposes of storing and preparing clean and sterile nursing supplies, equipped with:
  - (i) A work counter or table; and
  - (ii) Adjacent handwashing sink, with soap and paper towels or other approved hand-drying device; and
- (b) A soiled utility area for the purposes of storing soiled linen, cleaning and disinfecting soiled nursing care equipment, and disposing of refuse and infectious waste, equipped with:
  - (i) A work counter or table;
  - (ii) Sinks for handwashing and cleaning/sanitizing, with soap and paper towels or other approved hand-drying device.

#### WSR 02-17-028

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 12, 2002, 3:21 p.m., effective October 1, 2002]

Date of Adoption: August 9, 2002.

Purpose: The Division of Employment and Assistance Programs is amending WAC 388-450-0230 to be consistent with federal requirement to count only certain income in the month of application for destitute migrant or seasonal farmworkers.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0230.

Statutory Authority for Adoption: RCW 74.04.057, 74.04.500, 74.04.510.

Other Authority: 7 C.F.R. 273.10.

Adopted under notice filed as WSR 02-14-098 on July 1, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, 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 1, Repealed 0.

Effective Date of Rule: October 1, 2002.

August 9, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-24-008, filed 11/19/99, effective 1/1/00)

**WAC 388-450-0230** ~~((Treatment of income in the month of application for destitute))~~ What income does the department count in the month I apply for food assistance ((households)) when my assistance unit is destitute? (1) ((When a migrant or seasonal farm worker is determined)) If your assistance unit (AU) includes a migrant or seasonal farmworker and your AU is destitute under WAC 388-406-0021, ((eligibility and benefit amount for the month of application is determined by)) we may exclude some of your income in the month you apply for food assistance.

(2) In the month of application, we:

(a) ~~((Counting the household's income that is received from))~~ Count only income received between the first of the month ((through the date of application;)) and the date you apply for food assistance; and

(b) ~~((Excluding))~~ Disregard any income from a new source that ((the household expects)) you expect to receive ((during the ten days)) after the date ((of application)) you apply for food assistance.

~~(((2) A household member changing jobs but continuing to work for the same employer is considered to be receiving income from the same source.))~~

#### WSR 02-17-030

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed August 12, 2002, 3:26 p.m.]

Date of Adoption: August 8, 2002.

Purpose: Implementation of RCW 74.08A.100 and 74.09.415 as revised by SB 6833. These amendments are necessary to eliminate DSHS state-funded medical coverage for undocumented children and for legal immigrant children

and adults that are ineligible for Medicaid due to their INS status or the requirement of a five-year ban.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-416-0025; and amending WAC 388-503-0505, 388-503-0510, 388-503-0515, 388-408-0055, 388-416-0010, 388-418-0025, 388-450-0105, 388-424-0010, 388-438-0110, 388-505-0210, 388-505-0220, 388-450-0005, 388-450-0035, 388-450-0065, 388-450-0170, 388-450-0210, 388-523-0100, 388-462-0015, 388-470-0026, 388-470-0070, and 388-478-0075.

Statutory Authority for Adoption: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415.

Adopted under notice filed as WSR 02-13-100, 02-13-101, 02-13-102, 02-13-103, and 02-13-104 on June 18, 2002.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-503-0510 (2)(a) should read, "The program requirements for the TANF cash assistance program or the requirements of WAC 388-505-0220 or 388-505-0210; or"

WAC 388-503-0515 new subsection (3) should read, "Individuals eligible for state financial assistance (SFA) cash grants may receive medical coverage for: (a) An emergent medical condition as described in WAC 388-438-0110; or (b) Pregnancy as described in WAC 388-462-0115.

WAC 388-424-0010(2) should read, "Qualified aliens who first physically entered the U.S. after August 21, 1996 cannot receive TANF, Medicaid, or SCHIP for five years after obtaining status as a qualified alien, unless they are any of the following...."

Delete the new (3) and renumber the ones following.

Current (4)(d) should read, "The child is a lawful permanent resident."

WAC 388-505-0220 (1)(b) should read, "Receiving cash diversion assistance, except SFA relatable families, described in chapter 388-222 WAC."

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 21, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 21, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

August 8, 2002

Brian H. Lindgren, 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 02-19 issue of the Register.

## WSR 02-17-033

### PERMANENT RULES

### GAMBLING COMMISSION

[Order 414—Filed August 13, 2002, 12:08 p.m., effective January 1, 2003]

Date of Adoption: August 9, 2002.

Purpose: This amendment to WAC 230-40-610(6) changes the current rule which requires card room owners and on-duty card room employees that are playing in a poker game with a player-supported jackpot to show their hands at the end of play when the prize is not based upon a predetermined hand. Ms. Gillard petitioned for a rules change and requested that card room owners and on-duty card room employees no longer have to show their hands in a poker game unless there is possibility of a "bad beat" situation. Ms. Gillard felt that requiring owners and on-duty employees to show their hands compromises their playing style and ability to effectively participate in a game.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-610.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 02-12-076 on June 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 1, 2003.

August 13, 2002

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 403, filed 6/19/01, effective 7/20/01)

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.** A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized non-house-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

**Funding a PSJ.**

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start-up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start-up funds shall not exceed five thousand dollars per PSJ.

**Using a rake to fund a PSJ.**

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed one dollar per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

**PSJ funds are player funds - exception from administrative fee.**

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

**Prize fund custodian.**

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-40-608.

**Payout of prizes.**

(5) Prize amounts paid in cash shall not exceed five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy, which shall not be cashed on the licensee's premises. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

- (a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.
- (b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:
  - (i) Full printed name;
  - (ii) Date of birth;
  - (iii) Street address;
  - (iv) Type of identification reviewed;
  - (v) Amount of the prize awarded;
  - (vi) Description of the winning hand;
  - (vii) Time and date awarded; and
  - (viii) The supervisor's and dealer's initials.

(c) Upon awarding a prize of five hundred dollars or more, the dealer shall fan the winning hand in view of the surveillance camera. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

**Owners and employees competing for a PSJ.**

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. ~~((If playing in a game with a PSJ in which the prize is not based upon a predetermined hand, owners and card room employees must turn their cards face up at the end of each game so that the cards may be observed by other players at the table and surveillance.))~~ Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

**Owners and employees showing cards.**

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

- (a) Playing in a game with a PSJ;
- (b) The prize is not based upon a predetermined hand;
- and
- (c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

**House dealer required.**

~~((7))~~ (8) All card games offering a PSJ must utilize a house dealer.

**Security requirements.**

~~((8))~~ (9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

**Removing a PSJ from play.**

~~((9))~~ (10) The following procedures shall be followed for all discontinued player-supported jackpots:

***Discontinued.***

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

***Closure of business.***

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds asso-

ciated with the PSJ shall be distributed to the Washington state council on problem gambling.

#### Posting rules.

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

#### House rules.

~~((10))~~ (11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

#### Dispute resolution.

~~((11))~~ (12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

- (a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;
- (b) Amount of the advertised PSJ; and
- (c) A full description of the circumstances surrounding the dispute.

~~((12))~~ (13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

~~((13))~~ (14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

### WSR 02-17-034

#### PERMANENT RULES

#### GAMBLING COMMISSION

[Order 415—Filed August 13, 2002, 12:09 p.m.]

Date of Adoption: August 9, 2002.

Purpose: This rule package is to implement legislation, SB 6491, which was adopted in the 2002 legislative session. The new law clarifies that the commission shall perform fingerprinting and national criminal history background checks on applicants for a gambling license. As set forth in SB 6491, this amendment identifies which persons named on the application are subject to the national criminal history background checks.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-180.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 02-13-112 on June 19, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 2002

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

WAC 230-04-180 (~~(Fingerprinting and)~~ **Background checks—Fingerprinting**. The commission may require ~~((as a condition precedent to the issuance of))~~ background checks prior to issuing any license, certification or ((any)) permit, ((fingerprinting and background checks on any person seeking a license or for whom a permit is sought, or employees thereof, of any person holding an interest in any gambling activity, building or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. Such fingerprints as are required by the commission may be submitted to the identification division of the federal bureau of investigation and to the Washington state bureau of criminal identification in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted.

~~The applicant, or the person for whom a permit is requested, shall give full cooperation to the commission and shall assist the commission in all aspects of its investigation))~~ on persons holding an interest in a gambling activity; persons holding an interest in a building or equipment used for a gambling activity; and employees of a gambling activity.

(1) A national criminal history background check, using fingerprints submitted to the United States Department of Justice -Federal Bureau of Investigation, shall be conducted to determine the qualifications of applicants for the following licenses, permits or certifications:

(a) Amusement games for commercial use: Class E and above;

(b) Card games: Class E, Class F and house-banked card rooms;

(c) Punch boards/pull-tabs for commercial stimulant: Class F and above;

(d) Manufacturers: Class B and above;

(e) Distributors: Class B and above;

(f) Gambling service suppliers;

(g) Representatives for distributors, manufacturers, gambling service suppliers, and linked bingo prize providers;

(h) Managers of commercial gambling operations;

(i) Public card room employees; and

(j) Linked bingo prize providers.

(2) The commission may require a national criminal history background check, using fingerprints submitted to the United States Department of Justice—Federal Bureau of Investigation, for any other person submitting information to the commission.

## WSR 02-17-035

### PERMANENT RULES

### GAMBLING COMMISSION

[Order 416—Filed August 13, 2002, 12:10 p.m.]

Date of Adoption: August 9, 2002.

Purpose: This rules package implements legislation, EHB 2918, adopted in the 2002 legislative session. The law became effective June 13, 2002. These rule changes allow bingo licensees to operate bingo games seven days a week and allows bingo halls to share a facility and operate up to seven days a week in such facility. Furthermore, a requirement in the new law requires that bingo licensees, which operate in a facility that offers bingo more than three days a week, include language in all promotions and advertising warning patrons that gambling can result in emotional and financial harm. This requirement was also amended into our WAC rules.

Citation of Existing Rules Affected by this Order: Amending WAC 230-12-090, 230-20-104, 230-20-170, 230-50-010, and 230-20-070.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 02-13-111 on June 19, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 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 2, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 2002

Susan Arland

Rules Coordinator

## NEW SECTION

**WAC 230-20-002 Shared facilities for bingo licensees—Separate management.** Charitable and nonprofit bingo licensees shall enter into a written agreement prior to sharing a facility to conduct bingo games. Bingo licensees in shared facilities shall meet the following requirements prior to operating in a shared facility.

### Notification to the director - written agreement.

(1) A written notification to share facilities must be made to the director at least thirty days prior to operating bingo in a shared facility. The notification must include, at a minimum, the following information:

(a) Name of all organizations sharing the facility;

(b) Names and signatures of the highest ranking officer for each organization involved;

(c) Copies of any written agreements between organizations; and

(d) The method by which expenses will be shared.

### Requirements.

(2) Each bingo licensee sharing a facility shall maintain management over its own gambling activities.

(3) Each licensee will be solely responsible for its individual records, inventory, management, equipment, and operation of the gambling activities for which they hold a license.

(4) Each licensee must complete a separate quarterly activity report according to the gambling receipts and expenses it is responsible for under the terms of the written agreement between the licensees.

(5) Each licensee's head office or principal location defined in RCW 9.46.0205 must be located in the same county where the bingo game will be operated.

**AMENDATORY SECTION** (Amending WSR 94-23-007, filed 11/3/94, effective 1/1/95)

**WAC 230-12-090 Problem gambling ((~~informational sign must be posted~~)) and caution disclosure—Advertisements and posting signs.** The legislature recognizes that some individuals in Washington state are problem or compulsive gamblers. Because the state promotes and regulates gambling through the activities of the lottery commission, horse racing commission and gambling commission, the state has the responsibility to continue to provide resources for the support of services for problem and compulsive gamblers. RCW 9.46.071 requires that the lottery commission, horse racing commission and gambling commission shall jointly develop informational signs concerning problem and compulsive gambling, and the signs shall be placed in establishments of gambling licensees, horse racing licensees and lottery retailers.

### Posting information signs.

((~~All gambling commission licensees shall prominently post the problem gambling informational signs at each entrance and exit of their establishments. The~~)) (1) Informa-

tional signs will be provided to the licensee by the gambling commission and will contain the toll-free hotline number for the Washington state council on problem gambling. All gambling commission licensees shall prominently post the problem gambling informational signs at each entrance and exit of their establishments. Brochures to patrons containing the toll-free hotline number meet the posting requirement and will be supplied by the gambling commission. ~~(-- Provided, That licensees may develop signs in compliance with this rule and the provision of RCW 9.46.071, but the signs must be reviewed and approved by the gambling commission.~~

~~If a licensee fails to prominently post the problem gambling informational signs in their establishments, they may be subject to a suspension of two days for the first violation, seven days for the second violation and fourteen days for each violation noted thereafter).~~

### Advertisements.

(2) All bingo licensees who operate in a premises where bingo is conducted on more than three occasions per week shall conspicuously include the following statement in any advertising or promotion of gambling activities conducted by the licensee:

"CAUTION: Participation in gambling activity may result in pathological gambling behavior causing emotional and financial harm. For help, call 1-800-547-6133."

AMENDATORY SECTION (Amending Order 293, filed 6/18/96, effective 7/19/96)

**WAC 230-20-104 Cash register method of receipting bingo income.** A cash register receipt may be used to document receipt of bingo income as long as the following requirements and standards are met:

### Standards.

(1) Cash registers used must perform the following functions or meet the following standards:

(a) Have sufficient keys to record separately each type of sale as required by WAC 230-08-080;

(b) Store and compute a total for each type of sale recorded and must be capable of providing such upon request;

(c) The memory unit of electronic cash registers must retain all transactions recorded during a session, regardless of whether or not its power source is interrupted;

(d) Record all transactions, customer receipt numbers, and control totals on the internal tape retained in the cash register. The internal tape, showing these transactions, shall be retained with the daily records of the licensee for a period of not less than three years; and

(e) The cash register must assign and imprint on the customer receipt and internal tape a minimum four-digit consecutive number for every sales transaction processed. This numbering system must be of a type that can only be reset by service personnel and does not return to zero at the conclusion of any period of use or power interruption: Provided, That a cash register not meeting the requirements of this subsection but having adequate alternative control features may

be used if written commission approval is received before use; and

(f) Cash registers used to record receipts for Class D and above licensees shall also imprint a minimum three-digit consecutive number on the customer receipt and internal tape to notate each time transactions are totaled or when a set of transactions are totaled and closed: Provided, That a cash register not meeting the requirements of this subsection but having adequate alternative control features may be used if written commission approval is received before use;

### Customers receipts.

(2) The customer receipt must be imprinted with the following information:

(a) The name of the licensee operating the activity;

(b) The date;

(c) The amount of money paid for the opportunity to play each type of game;

(d) The total amount of money paid; and

(e) The consecutive customer receipt number;

### Retention.

(3) All cash register receipts for voids, overrings, returns, "no sales" and any other receipts not issued to a player must be retained with the daily bingo records;

(4) The internal cash register tapes from all uses other than bingo income receipting shall be retained by the licensee for not less than three years and be available for commission staff review upon request.

### Shared bingo facilities.

(5) A cash register may be used by multiple bingo licensees sharing a facility when the following information is recorded on a cash register use log:

(a) Name of the organization using the register;

(b) Name and signature of the cashier at the end of use;

(c) Beginning and ending transaction numbers;

(d) Date; and

(e) Beginning and ending time.

AMENDATORY SECTION (Amending WSR 95-23-091, filed 11/20/95, effective 1/1/96)

**WAC 230-20-170 ((Bingo operation time and use of premises limitations.)) Hours for bingo games.** Bona fide charitable or nonprofit organizations, except when operating at an authorized agricultural fair or under RCW 9.46.0321, shall abide by the following restrictions when operating bingo games:

~~((1) Use of premises limitations: Charitable or nonprofit organizations shall not:~~

~~(a) Conduct or allow its premises to be used for conducting bingo on more than three occasions per week; or~~

~~(b) Conduct bingo in any location used by any other organization to conduct bingo which results in bingo games being conducted on more than three occasions per week at the same location.~~

(2) Time limitations:

~~(a) A bingo occasion may include as many bingo sessions a licensee desires, but shall not last more than eighteen consecutive hours.~~

~~(b) A bingo occasion shall not begin or end between the hours of 2:00 a.m. and 6:00 a.m.: Provided, That the director may allow an occasion to end up to 4:00 a.m. as long as the following conditions remain in effect:~~

~~(i) Local law enforcement agency with jurisdiction concurs; and~~

~~(ii) If applicable, other state agencies involved in regulating the charitable or nonprofit organization's activities, including, but not limited to, the liquor control board, do not object.) (1) Licensees shall not allow the use of their premises for bingo games between the hours of 2:00 a.m. and 6:00 a.m.: Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions are met:~~

~~(a) The director shall consult with the local law enforcement agency which has jurisdiction;~~

~~(b) The director shall consult with other state agencies involved in regulation of the business;~~

~~(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation;~~

~~(d) At all times during the hours of bingo operation, a bingo manager must be on duty and in the licensed bingo area; and~~

~~(e) The licensee complies with any other terms and conditions imposed by the director.~~

~~(2) The director may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. All objections to changing a licensee's operating hours or requests to revoke an approved operating schedule must be submitted in writing.~~

~~(3) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying or revoking the licensee's authorization for extended bingo hours of operation. The brief adjudicative proceeding shall be heard by an administrative law judge, under the provisions set forth in WAC 230-50-010(6), and RCW 34.05.482 through 34.05.494.~~

**AMENDATORY SECTION** (Amending Order 397, filed 2/9/01, effective 4/1/01)

**WAC 230-50-010 Adjudicative proceedings—Hearings.** (1) Adjudicative proceedings shall be commenced for any and all matters wherein the commission is causing administrative charges to be brought against any applicant, licensee or permittee within the limitations to chapter 34.05 RCW as applicable.

(2) The commission shall afford an applicant for a license an opportunity for an adjudicative proceeding prior to denying such application, and shall afford a licensee the opportunity for an adjudicative proceeding prior to suspending or revoking a license.

(3) The commission will afford a person applying to the commission for approval of a pull-tab dispensing device under WAC 230-30-095 an opportunity for an adjudicative proceeding prior to denying approval of such device.

(4) No hearing will be conducted with respect to any adjudicative proceeding unless an application for an adjudicative proceeding and request for hearing is timely filed by the applicant or licensee with the commission in compliance with WAC 230-50-210. The application must be made upon a form to be obtained from the commission, or facsimile thereof, and must be received within 20 days following service upon the party affected by the commission or the director of a notice of administrative charges and opportunity for an adjudicative proceeding. Said document shall contain the maximum penalty that may be assessed should an application not be filed by the party affected. An application for an adjudicative proceeding and request for hearing shall accompany all notices of administrative charges.

(5) If an application for an adjudicative proceeding is not timely filed, then the party affected shall have waived the right to a hearing on the allegations set forth in the notice of administrative charges. The party shall be deemed to be in default pursuant to RCW 34.05.440 and the commission and director may take action against the party not to exceed the maximum penalty as stated in the notice of administrative charges and opportunity for an adjudicative proceeding, which action shall be final.

(6) The procedures of RCW 34.05.485, brief adjudicative proceedings, shall be used for the following purposes:

(a) All hearings in which the penalty sought by the commission is for a suspension of seven days or less;

(b) Hearings held pursuant to WAC 230-50-015 (stay of summary suspension);

(c) Hearings held pursuant to WAC 230-04-400(3) (failure to pay required gambling taxes);

(d) Hearings held pursuant to WAC 230-04-190 (10)(c) (two part payment plan: Failure to make second payment);

(e) Hearings in which the parties have stipulated to facts or the parties have stipulated to charges, and the hearing is limited to a determination of whether facts constitute violations as charged and/or determination of appropriate penalty to be imposed;

(f) Denial of an application to operate at a higher bingo license class when the licensee has been restricted by WAC 230-20-062;

(g) Hearings held pursuant to WAC 230-20-059 (failure for charitable or nonprofit organizations to contribute required funds to their stated purpose or maintain a positive adjusted cash flow);

(h) Hearings held pursuant to WAC 230-08-255 (failure for charitable or nonprofit organizations to make significant progress);

(i) Denial or revocation of extended card room hours pursuant to WAC 230-40-400;

(j) Denial or revocation of extended bingo hours of operation pursuant to WAC 230-20-170;

(k) Denial of request for Phase II pursuant to WAC 230-40-810;

~~((k))~~ (l) Repeal of an approved card game pursuant to WAC 230-40-010; or

~~((H))~~ (m) Where the parties have stipulated to the use of brief adjudicative proceedings.

### NEW SECTION

**WAC 230-20-005 Shared management and facilities for bingo licensees—Shared allocation of revenues and expenses.** Charitable and nonprofit bingo licensees may enter into a written agreement to share a facility and the management of bingo games. No more than three bingo licensees shall share a facility. Bingo licensees operating under shared management and facilities shall meet the following requirements prior to operating:

#### **Notification to the director - written agreement.**

(1) A written notification to share facilities must be made to the director, at least thirty days prior to operating in a shared facility. The notification must include, at a minimum, the following information:

- (a) The name of the lead organization and lead manager;
- (b) Name of all organizations sharing the facility;
- (c) Names and signatures of the highest ranking officer for each organization involved;
- (d) Copies of any written agreements between organizations; and
- (e) The method by which the gross gambling receipts, net income, expenses and prizes will be apportioned among the licensees conducting bingo.

#### **Management.**

(2) All managers of the bingo operation must be a bona fide member or employee of at least one of the participating organizations.

(3) Nonprofit gambling managers shall not participate in the operation of bingo games at more than one bingo facility.

#### **Accounting.**

(4) Records must be maintained by the lead organization, which clearly disclose the amount of money received and expended by the bingo operation. Records of expenses shall disclose for what purpose the money was spent.

(5) Each licensee must complete a separate quarterly activity report according to the percentage of gambling receipts and expenses it is responsible for under the terms of the written agreement contract between the licensees.

(6) Each licensee's head office or principal location defined in RCW 9.46.0205 must be located in the same county where the bingo game will be operated.

(7) A separate bank account must be established and maintained by the lead organization which will be used to deposit all proceeds from the bingo operation and pay all of the expenses in connection with the bingo operation, including, but not limited to, all payments of prizes.

(8) Each licensee is responsible to keep records of gambling proceeds received from the bingo operation and the use of those proceeds towards the stated purpose of the organization.

**AMENDATORY SECTION** (Amending WSR 97-11-020, filed 5/13/97, effective 7/1/97)

**WAC 230-20-070 Regulation of managers, operators, and other employees—Charitable or nonprofit organizations.** Charitable or nonprofit organizations shall closely supervise all persons involved in the conduct of all gambling activities operated to ensure all rules of the commission are followed. The following restrictions apply to managers, operators, and other employees:

~~((What restrictions apply to persons involved in the operation of amusement games and raffles?))~~ **Amusement games and raffles.**

(1) **Amusement games and raffles.** No person other than a bona fide member of a qualified charitable or nonprofit organization shall take any part in the management or operation of, including the furnishing of equipment for amusement games, or work as an employee upon, amusement games or raffles conducted by that organization under a license from the commission: Provided, That for purposes of this section, performing functions that are not of a supervisory or management nature shall not be considered taking part in the operation of amusement games or raffles if:

- (a) Such functions are performed by:
  - (i) Employees of the organization, who are hired on a regular or part time basis, and who are employed primarily for purposes other than the conduct of such activities; or
  - (ii) Individuals who are volunteers, when they are under the supervision of a member and are not directly or indirectly compensated for such functions;

(b) The organization keeps records that will allow the commission to determine the amount of gross gambling receipts received from such activities and to identify individuals responsible for receiving and controlling such. Records shall include at least the following:

- (i) The full names, addresses, and phone numbers of employees and members involved in the activity; and
  - (ii) The number of tickets issued, sold, or returned by each employee or member involved in raffle ticket sales.
- (c) Any additional cost to administer raffles authorized under authority of this section is paid by the licensee.

~~((What restrictions apply to persons involved in the operation of bingo games?))~~ **Bingo.**

(2) ~~((Bingo.~~

~~((a))~~ No person other than a bona fide member or an employee of a charitable or nonprofit organization shall take any part in the management or operation of bingo games conducted under a license issued by the commission, and no licensee shall allow any person not one of its members or employees to do so.

(a) No person other than a bona fide member of a charitable or nonprofit organization operating without a license under RCW 9.46.0321 shall take any part in the management or operation of bingo conducted by that organization and no such organization shall allow any person not one of its members to do so.

(b) No person who takes any part in the management or operation of a bingo game conducted by one licensee shall take any part in the management or operation of any bingo game conducted by any other organization, or any other branch of the same organization except under the following conditions:

(i) A person participating in the conduct of bingo games by one Class A, B, or C licensee may also participate in the conduct of bingo games by other Class A, B, or C licensees on a voluntary basis only when such person receives no remuneration for services to other licensees and when the requirements of (c) of this subsection are satisfied; ((e))

(ii) A person participating in the operation of bingo games conducted by one licensee under any class of license may also participate in the operation of bingo games conducted by other licensees under any class of bingo license, but only when that person has no managerial or supervisory responsibilities in connection with the operation of bingo activities by any licensee and when the requirements of (c) of this subsection are satisfied. An assistant gambling manager, as defined by WAC 230-04-145(6), shall not be deemed a person having managerial or supervisory responsibilities for the purpose of this section and may participate as an hourly employee in the bingo operations of other bingo licensees; or

(iii) A person managing or taking part in the operation of a shared bingo operation as authorized by chapter 230-005 WAC.

~~(c) ((Any licensee that desires to have any person, who participates in any manner in the conduct of bingo games for another licensee, participate in the conduct of its bingo games shall notify the commission, local police officials, and any other licensees for which the person works, in writing, of the following:~~

~~(i) The name and address of that person;~~

~~(ii) The name and address of any licensees for which that person is working; and~~

~~(iii) The capacity in which that person is working for each licensee prior to the time that person participates in the conduct of the licensee's bingo games.~~

~~(d)) No licensee shall allow any person to take any part in the management, supervision or operation of a bingo game except in conformance with this rule.~~

~~((What special exceptions apply to agricultural fairs?)) **Agri-cultural fairs.**~~

(3) Certain premises excepted. The limitations set forth above in subsections (1) and (2) of this section shall not apply to qualified agricultural fairs conducting amusement games or bingo.

**WSR 02-17-045**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Children's Administration)

[Filed August 14, 2002, 3:51 p.m., effective February 10, 2003]

Date of Adoption: August 14, 2002.

Purpose: Child protective services (CPS) seeks to delay the effective date of the rules covered by the CR-103 filed as WSR 02-15-098, on July 16, 2002. CPS must delay the effective date of these rules because the supporting technological updates have been delayed.

**Delaying the effective date of permanent rules filed as WSR 02-15-098**

**List of New Rules Adopted By WSR 02-15-098**

**PART A - PROGRAM DESCRIPTION**

WAC 388-15-001 What is the child protective services program?

WAC 388-15-005 What definitions apply to these rules?

WAC 388-15-009 What is child abuse or neglect?

WAC 388-15-011 What is child abandonment?

WAC 388-15-013 Who may receive child protective services?

WAC 388-15-017 What is the responsibility of CPS regarding reports of abuse or neglect?

WAC 388-15-021 How does CPS respond to reports of alleged child abuse or neglect?

WAC 388-15-025 What special requirements must CPS follow for Indian children?

WAC 388-15-029 What information may CPS share with mandated reporters?

WAC 388-15-033 When will CPS involve local community resources?

WAC 388-15-037 Under what circumstances may CPS place a child in out-of-home care?

WAC 388-15-041 When will CPS involve the juvenile court?

WAC 388-15-045 What are the department's responsibilities regarding notification of the parent or legal custodian in child protective services cases?

WAC 388-15-049 When must the department notify the alleged perpetrator of allegations of child abuse or neglect?

WAC 388-15-053 What steps must the department take to provide an opportunity for the parent(s), guardian, or legal custodian(s) to review case information?

WAC 388-15-057 What limitations does the department have on the disclosure of case information?

**PART B - NOTIFICATION AND APPEAL OF FINDINGS**

WAC 388-15-061 What is the purpose of these rules?

WAC 388-15-065 Does CPS have to notify the alleged perpetrator of the results of CPS investigation?

WAC 388-15-069 How does CPS notify the alleged perpetrator of the finding?

WAC 388-15-073 What information must be in the CPS finding notice?

WAC 388-15-077 What happens to unfounded CPS findings?

WAC 388-15-081 Can an alleged perpetrator challenge a CPS finding of child abuse or neglect?

WAC 388-15-085 How does an alleged perpetrator challenge a founded CPS finding?

WAC 388-15-089 What happens if the alleged perpetrator does not request CPS to review the founded CPS finding within twenty days?

PERMANENT

WAC 388-15-093 What happens after the alleged perpetrator requests CPS to review the founded CPS finding of child abuse or neglect?

WAC 388-15-097 How does CPS notify the alleged perpetrator of the results of the CPS management review?

WAC 388-15-101 What happens if CPS management staff changes the founded CPS finding?

WAC 388-15-105 What happens if CPS management staff does not change the founded CPS finding?

WAC 388-15-109 What laws and rules will control the administrative hearings held regarding the founded CPS findings?

WAC 388-15-113 What effect does a petition for dependency have on an administrative hearing?

WAC 388-15-117 What factors must the ALJ consider in order for the alleged abused and/or neglected child to testify at the administrative hearing?

WAC 388-15-121 Are there issues the ALJ may not rule upon during an administrative hearing regarding a founded CPS finding?

WAC 388-15-125 Are the administrative hearings open to the public?

WAC 388-15-129 How does the ALJ make a decision regarding the founded CPS finding?

WAC 388-15-133 How will the appellant be notified of the ALJ's decision?

WAC 388-15-135 What if the appellant or the department disagrees with the decision?

WAC 388-15-141 What happens if the ALJ rules against the department?

#### LIST OF RULES REPEALED BY WSR 02-15-098

WAC 388-15-130 Child protective services—Authority.

WAC 388-15-131 Child protective services—Special requirements for Indian children.

WAC 388-15-132 Child protective services—Acceptance of reports—Eligibility for services and limits to authority.

WAC 388-15-134 Child protective services—Notification.

Statutory Authority for Adoption: RCW 74.13.031, 74.04.050.

Other Authority: Chapter 26.44 RCW.

Adopted under notice filed as WSR 02-03-118 on January 22, 2002.

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 37, Amended 0, Repealed 4.

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 37, Amended 0, Repealed 4.

Effective Date of Rule: February 10, 2003.

August 13, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

#### WSR 02-17-051

#### PERMANENT RULES

#### BOARD OF ACCOUNTANCY

[Filed August 15, 2002, 9:53 a.m.]

Date of Adoption: July 26, 2002.

Purpose: To adopt a rule on the use of titles in association with the requirements of RCW 18.04.350(9); allows the use of "Accredited Business Accountant" or "ABA," "Accredited Tax Preparer" or "ATP," "Accredited Tax Advisor" or "ATA," and "Certified Financial Planner" or "CFP."

Citation of Existing Rules Affected by this Order: WAC 4-25-930.

Statutory Authority for Adoption: RCW 18.04.350(9).

Adopted under notice filed as WSR 02-13-021 on June 10, 2002.

Changes Other than Editing from Proposed to Adopted Version: Changed the location of the certified financial planner board of standards to Denver, Colorado.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 8, 2002

Dana M. McInturff  
Executive Director

#### NEW SECTION

**WAC 4-25-930 Does the board authorize the use of any other titles or designations?** Yes. The board authorizes the use of the following titles and designations, provided the individual is so authorized to use the title or designation by the Accreditation Council for Accountancy and Taxation located in Alexandria, Virginia, or its successor:

- "Accredited Business Accountant" or "ABA";
- "Accredited Tax Preparer" or "ATP"; and

- "Accredited Tax Advisor" or "ATA."

The board also authorizes the use of the title "Certified Financial Planner" or "CFP" provided the individual is so authorized to use the title or designation by the Certified Financial Planner Board of Standards in Denver, Colorado, or its successor.

This authorization relates to title use only, is not limited to individuals holding a license or certificate under the act, and does not authorize these individuals to use the title "certified public accountant" or "CPA."

### WSR 02-17-055

#### PERMANENT RULES

#### DEPARTMENT OF HEALTH

(Board of Nursing Home Administrators)

[Filed August 15, 2002, 9:57 a.m.]

Date of Adoption: May 31, 2002.

Purpose: The rule is no longer necessary because it is redundant of Department of Social and Health Services rule, WAC 388-97-160(4).

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-015.

Statutory Authority for Adoption: RCW 18.52.061.

Adopted under notice filed as WSR 02-06-116 on March 6, 2002.

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 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

May 31, 2002

James K. Bennett, Chair  
Board of Nursing  
Home Administrators

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-843-015      Nursing homes temporarily  
without an administrator.

### WSR 02-17-099

#### PERMANENT RULES

#### FOREST PRACTICES BOARD

[Filed August 20, 2002, 4:44 p.m.]

Date of Adoption: August 20, 2002.

Purpose: To correct an error to WAC 222-16-050 that, if implemented as written, would likely result in damages to public resources and also result in an inconsistency in the definition of Class II forest practices in RCW 76.09.050. The error classifies salvage logging as a Class II forest practice regardless of whether this action occurs within a riparian management zone of a Type F water, within a bankfull width of a Type Np water, within a wetland or wetland management zone, or involves the use of mechanized equipment on slopes greater than 40%.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-050.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, 76.09.370, and 34.05.350.

Adopted under notice filed as WSR 02-11-138 on May 21, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 20, 2002

Pat McElroy  
Chair

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

**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 rules.

(1) "**Class IV - special.**" Except as provided in WAC 222-16-051, 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 critical habitat (state) of threatened or endangered species.

(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) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (i) below that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potential unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See the board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35 degrees (70%);

(B) Toes of deep-seated landslides, with slopes steeper than 33 degrees (65%);

(C) Ground water recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application/notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports or other information provided by the applicant.

(iii) An application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and

(C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

\*(e) Timber harvest, in a watershed administrative unit not subject to an approved 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 and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) 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.

\*(g) Forest practices subject to an approved 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.

\*(h) Filling or draining of more than 0.5 acre of a wetland.

(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 S, F or flowing Type Np Waters; or (ii) movement of material that has a direct potential for entering Type S, F or flowing Type Np 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 S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np 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 S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np 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 S 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 S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np 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 S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns 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 owner of perpetual timber rights subject to RCW 76.09.067 (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. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.

\*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np 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~~) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np 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.

~~\*(e) ((Salvage of logging residue.~~

~~\*(f))~~ Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np 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 S, F or flowing Type Np Waters; or

(ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

(i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.

(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) Multiyear permits.

**WSR 02-17-106**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 21, 2002, 9:32 a.m., effective October 1, 2002]

Date of Adoption: August 21, 2002.

Purpose: Chapter 296-28 WAC, Clearance rules—Railroads in private yards and plants.

The railroad clearances rule was rewritten and reorganized for clarity and ease of use for employers and employees. We repealed the railroad clearances rule from chapter 296-28 WAC and adopted a new chapter 296-860 WAC. We also added requirements to this rule to make it at-least-as-effective-as that enforced by the Utilities and Transportation Commission (UTC), which is the federal agency regulating public railroads.

**Repealed Sections:**

**WAC 296-28-001 Forward.**

- This section has been repealed because it is outdated and inaccurate.

**WAC 296-28-005 Beginning of order.**

- The explanations in this section have been moved to a note in WAC 296-860-10030.
- This section has been repealed.

**WAC 296-28-0010 Exemptions.**

- The requirements in this section have been moved to WAC 296-860-10005.
- This section has been repealed.

**WAC 296-28-015 Definitions.**

- The requirements in this section have been moved to WAC 296-860-10100.
- This section has been repealed.

**WAC 296-28-020 Overhead clearances.**

- The requirements in this section have been moved to WAC 296-860-10030.
- This section has been repealed.

**WAC 296-28-025 Side clearances.**

- The requirements in this section have been moved to WAC 296-860-10040.
- This section has been repealed.

**WAC 296-28-030 Track clearances.**

- The requirements in this section have been moved to WAC 296-860-10050.
- This section has been repealed.

**WAC 296-28-035 Marking of cars.**

- This section has been repealed because it is outdated and is no longer needed.

**WAC 296-28-040 Operation of excess dimension loads.**

- The requirements in this section have been moved to WAC 296-860-10060.
- This section has been repealed.

**WAC 296-28-045 Narrow gauge railroads transporting freight cars.**

- The requirements in this section have been moved to WAC 296-860-10070.
- This section has been repealed.

**WAC 296-28-050 Illustrations.**

- The illustrations in this section have been placed in the appropriate corresponding sections.
- This section has been repealed.

**New Sections:****WAC 296-860-100 Introduction.**

- Written for clarity and ease of use by employers.
- Lists exemptions from WAC 296-28-010 and 296-28-030.

**WAC 296-860-200 Maintain safe clearances and walkways.**

- Clarifies responsibility of employers to prevent injuries by maintaining safe railroad clearances.
- Added requirement of maintaining safe walkways.

**WAC 296-860-20010 Post warning signs and give training to your employees when you have clearances that were approved before April 3, 1961.**

- Added requirement to increase employee safety.

**WAC 296-860-20020 Construct and maintain rail yard walkways for employee safety.**

- Added requirement adapted from UTC rule.

**WAC 296-860-20030 Install radiation detectors according to manufacturer's specifications.**

- Added requirement to eliminate the need for variances for the employers utilizing radiation detectors.

**WAC 296-860-20040 Maintain overhead clearances.**

- Moved requirements relating to overhead clearances from WAC 296-28-020.

**WAC 296-860-20050 Maintain side clearances.**

- Moved requirements relating to side clearances from WAC 296-28-025.

**WAC 296-860-20060 Maintain clearances between tracks.**

- Moved requirements relating to clearances between tracks from WAC 296-28-030.

**WAC 296-860-20070 Move excessive height and/or width rail car loads with care.**

- Moved requirements relating to oversize cars from WAC 296-28-040.

**WAC 296-860-20080 Follow these requirements to conduct narrow gauge rail operations.**

- Moved requirements relating to narrow gauge rail operations from WAC 296-28-050.

**WAC 296-860-300 Definitions.**

- Definitions appropriate to this chapter.

Citation of Existing Rules Affected by this Order: Repealing chapter 296-28 WAC, Clearance rules—Railroads in private yards and plants; WAC 296-28-001 Forward, 296-28-005 Beginning of order, 296-28-0010 Exemptions, 296-28-015 Definitions, 296-28-020 Overhead clearances, 296-28-025 Side clearances, 296-28-030 Track clearances, 296-28-035 Marking of cars, 296-28-040 Operation of excess dimension loads, 296-28-045 Narrow gauge railroads transporting freight cars, and 296-28-050 Illustrations.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 02-07-101 on March 20, 2002.

Changes Other than Editing from Proposed to Adopted Version: The department renumbered the sections of this rule since the CR-102 filing to make the numbering consistent with the style of the rest of the clear writing projects.

The department also received public comment on the following sections and modified the proposed amendments to these sections as indicated below.

**Changes made as a result of public comment:****WAC 296-860-100 Scope.**

- Department clarified wording, changing "your employees" to "employees."

**WAC 296-860-20020 Construct and maintain rail yard walkways for employee safety.**

- Department clarified wording, changing "your employees" to "employees, and adding the phrase "as soon as reasonably possible" to the directive to "Remove all standing water from walkways.""

**WAC 296-860-20010 Post warning signs and give training to your employees when you have clearances that were approved before April 3, 1961.**

- Department classified wording, changing "your employees" to "employees."

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 10, Amended 0, Repealed 11.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 0, Repealed 11.

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 10, Amended 0, Repealed 11.

Effective Date of Rule: October 1, 2002.

August 21, 2002

Gary Moore

Director

## Chapter 296-860 WAC

### RAILROAD CLEARANCES AND WALKWAYS IN PRIVATE RAIL YARDS AND PLANTS

#### NEW SECTION

#### WAC 296-860-100 Scope.

##### IMPORTANT:

This chapter applies to all railroad clearances and walkways in rail yards and plants including logging railroad yards such as mill yards, maintenance yards and sorting yards.

If you are uncertain about which WISHA requirements to follow, you must comply with those that best protect employees' safety and health. Contact your local L&I office if you need assistance in making this decision.

##### Exemptions:

- These exemptions apply to chapter 296-860 WAC, Railroad clearances and walkways in private rail yards and plants, and do not require a department variance:

- You may move the following equipment, using less than the minimum standard clearances, if the situation is unavoidable and you have taken all reasonable steps to protect your employees:

- Track construction or maintenance materials
- Special work equipment used for railroad construction, maintenance or operations
- Any railroad equipment during emergencies.

- You may have overhead or side clearances less than the minimum standard clearances required in this chapter if they were legally created before April 3, 1961.

**Note:** If a building, structure, or facility constructed before April 3, 1961, is relocated or reconstructed, the clearance requirements in this chapter apply unless the department grants a variance.

- Tracks built before April 3, 1961:

- May be extended according to the legal track clearance requirements in effect when they were originally constructed

- Are exempt from the track clearance requirements in WAC 296-860-10050, Table 5.

- Chapter 296-54 WAC, Safety standards—Logging operations, regulates all logging railroads or any rail operations related to logging, except for yard clearances.

##### Other rules that may apply to your workplace

The *WISHA Safety & Health Core Rules* book, chapter 296-800 WAC, contains the basic requirements that apply to employers in Washington. It also contains:

- An introduction that lists important information you should know, including a section on building, fire and electrical codes
- A resource section that includes a complete list of all WISHA rules

Other WISHA rules may apply to you, depending upon the activities and operations of your workplace. Contact your local L&I office if you are uncertain about which WISHA requirements pertain to you.

- To access the *Safety & Health Core Rules* book online: <http://www.lni.wa.gov/wisha/corerules/default.htm>

- For a CD or paper copy contact us:

Labor and Industries

P.O. Box 44620

Olympia, WA 98504-4620

Telephone: 1-800-4be-safe (1-800-423-7233)

#### NEW SECTION

#### WAC 296-860-200 Maintain safe clearances and walkways.

##### SUMMARY

##### Your responsibility:

To prevent injuries and fatalities to employees by maintaining safe railroad clearances and walkways in your rail yards and plants.

##### You must:

Post warning signs and train employees about clearances approved before April 3, 1961

WAC 296-860-20010

Construct and maintain rail yard walkways for employee safety

WAC 296-860-20020

Install radiation detectors according to manufacturer's specifications

WAC 296-860-20030

Maintain overhead clearances

WAC 296-860-20040

Maintain side clearances

WAC 296-860-20050

Maintain clearances between tracks

WAC 296-860-20060

Move excessive height and/or width rail car loads with care

WAC 296-860-20070

Conduct narrow gauge rail operations according to the requirements of this section

WAC 296-860-20080.

#### NEW SECTION

#### WAC 296-860-20010 Post warning signs and train employees about clearances approved before April 3, 1961.

##### You must:

(1) Post warning signs near tracks with clearances approved before April 3, 1961, so employees are aware of the minimal clearances and their potential hazards. The signs must:

- Be highly visible

- Be easy to read

- Alert employees to the danger of railway equipment operating on your yard and plant tracks.

(2) Include in your employee safety and health training information about:

- Any minimal clearances and their location
- Potential hazards associated with them
- The location of any clearance warning signs.

**NEW SECTION**

**WAC 296-860-20020 Construct and maintain rail yard walkways for employee safety.**

**Important:**

• You have two years from October 01, 2002, (the effective date of this rule), to comply with the construction requirements of this section, unless the department determines during an inspection that your walkways create a serious safety hazard.

• If you are not sure a serious safety hazard exists in your workplace, you can request a free consultation from the department by calling your local L&I office.

**Construction of walkways**

**You must:**

• Build walkways in rail yard areas where employees regularly work on the ground.

• Construct rail yard walkways that can be maintained in a safe condition:

- With reasonably smooth walking surfaces
- That will not interfere with track drainage.

• Use any of the following materials when constructing your walkway:

- Crushed material that does not exceed 1 1/2 inches in size. For this rule, "1 1/2 inches in size" means one of the following (percentages refer to weight measurement and sieve size standard in the industry):

Percentage of material passing through a sieve opening	Sieve opening size
100	1 1/2 inch square
90 - 100	1 inch square
40 - 80	3/4 inch square
15 - 60	1/2 inch square
0 - 30	3/8 inch square
0 - 10	#4
0 - 5	#8
0 - 0.5	#200

Smaller crushed material is preferred and should be used where drainage and durability is not an issue. Crushed material that is 3/4 inch or less in size is recommended for switching leads in yards.

• Asphalt, concrete, planking, grating, or other similar material.

• Natural materials such as gravel or dirt.

**You must:**

• Construct walkways wide enough for employees to safely perform their duties

• Construct walkways with a grade or slope in any direction with not more than one inch of elevation for each eight

inches of horizontal length, unless it is geographically impractical.

**Maintenance of walkways**

**You must:**

• Keep all walkways clear of vegetation, debris, mud, or other obstructions that create a potential hazard for employees.

• Remove all standing water from all walkways as soon as reasonably possible.

• Reopen walkways temporarily closed for a construction project within thirty days after the project is completed.

**You must:**

• Repair walkways that have been damaged and temporarily closed because of an emergency within thirty days after the emergency ends.

**Definition:**

Emergency: Any unforeseen occurrence endangering life, limb, or property.

• Obtain a department variance before permanently removing any bridge or trestle walkway from use after October 1, 2002 (the effective date of this rule).

**Note:** The requirements for filing a variance are located in the Safety and health core rules, chapter 296-350 WAC, and WISHA appeals, penalties, and other procedural rules.

**NEW SECTION**

**WAC 296-860-20030 Install radiation detectors according to manufacturer's specifications.**

**IMPORTANT.**

This section applies only to those private yards and plants where the installation of radiation detectors beside railroad tracks is required due to the nature of the business; for example, scrap metal yards.

**You must:**

• Install radiation detectors beside the railroad tracks in your yard and/or plant according to the manufacturer's specifications.

• Post signs on each radiation detector installed less than eight feet six inches from the centerline of the track:

- Warning employees that the side clearances between the detector and the track centerline are less than the required standard minimum side clearances found in this chapter

- Prohibiting employees from riding on the side of any rail car passing through the detector.

**NEW SECTION**

**WAC 296-860-20040 Maintain overhead clearances.**

**Exemption:**

Engine houses and car shops are exempt from the overhead clearance requirements of this section.

**You must:**

• Make sure overhead railroad clearances are at least twenty-two feet six inches unless a clearance requirement found in Table 1 applies.

**Note:** Clearance requirements are based on the assumption that generally used rail equipment in private yards and plants is no more than ten feet ten inches wide by fifteen feet six inches high.

PERMANENT

- WAC 296-860-10060 regulates the use of any rail equipment that exceeds the above dimensions.
- Minimum vertical clearances for all overhead wires are specified in Parts 1, 2, and 3 of the National Electrical

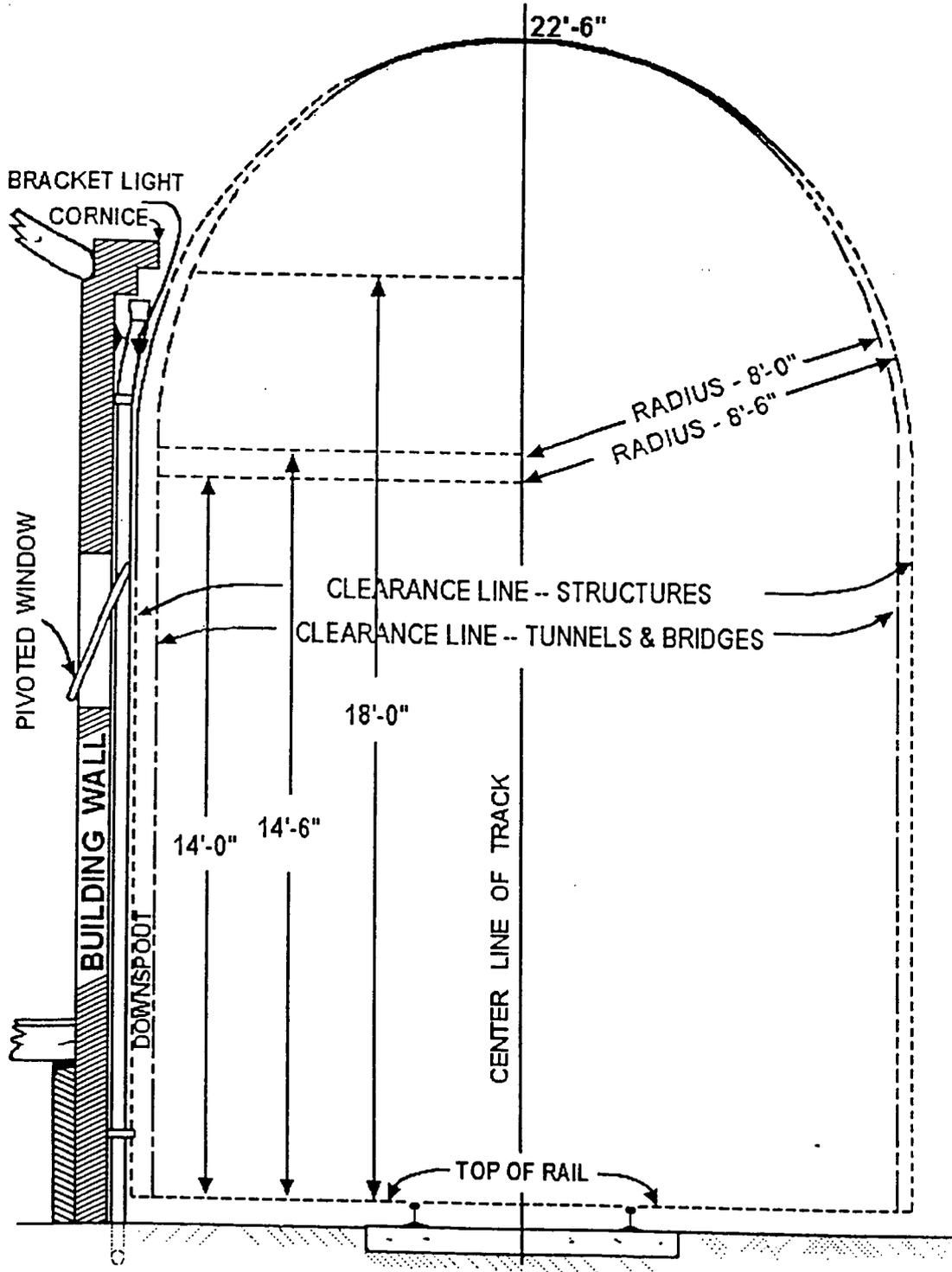
Safety Code (NESC) as referenced in WAC 296-45-045, electrical workers safety rules, NESC applicable. See NESC 231 and 232.

**Table 1 - Minimum Overhead Clearances for Buildings, Structures, Tunnels, and Bridges**

<b>If your overhead clearance involves:</b>	<b>Then the minimum overhead clearance requirements are:</b>
An entirely enclosed building	18 feet when tracks end inside an entirely enclosed building. Also: <ul style="list-style-type: none"> <li>• The department must approve any reduction from 22 feet 6 inches before the reduction takes place.</li> <li>• If an overhead clearance is less than 22 feet 6 inches, all cars, locomotives or other equipment must come to a full stop before entering the building.</li> <li>• See Illustration 1.</li> </ul>
All other structures	Defined by the half-circumference of a circle whose: <ul style="list-style-type: none"> <li>• Radius is 8 feet 6 inches</li> </ul> AND <ul style="list-style-type: none"> <li>• Center is located on a line perpendicular to the track's centerline and 14 feet above the top of the highest rail.</li> <li>• See Illustration 1.</li> </ul>
Tunnels, over-crossings, and bridges	Defined by the half-circumference of a circle whose: <ul style="list-style-type: none"> <li>• Radius is 8 feet</li> </ul> AND <ul style="list-style-type: none"> <li>• Center is located on a line perpendicular to the track's centerline and 14 feet 6 inches above the top of the highest rail.</li> <li>• See Illustration 1.</li> </ul>

PERMANENT

Illustration 1 - Minimum Overhead Clearances for Buildings, Structures, Tunnels, and Bridges



PERMANENT

NEW SECTION

WAC 296-860-20050 Maintain side clearances.

You must:

- Make sure side clearances are at least eight feet six inches from the track centerline unless clearance requirements found in Tables 2, 3, or 4 apply.

**Note:** All side clearances in Tables 2, 3, and 4 that reference "the track centerline" are based on the assumption that private rail operations generally use track that is standard gauge width (4 feet 8 1/2 inches).

**Table 2 - Minimum Side Clearance for Platforms**

If Your Platform Type is:	Then the Minimum Clearance Requirements Between the Track Centerline and a Platform Edge are:
<b>Type 1</b> Platforms with heights of 8 inches or less above the top of the rail.	4 feet 8 inches  See Illustration 2.
<b>Type 2</b> Platforms with heights of 4 feet or less above the top of the rail.	7 feet 3 inches  See Illustration 2.
<b>Type 3</b> Platforms with heights of 4 feet 6 inches or less above the top of the rail and the platforms are used primarily for loading and/or unloading refrigerator cars.	8 feet  See Illustration 2.
<b>Type 4</b> Icing platforms and supports.	7 feet 3 inches See Illustration 2.
<b>Type 5</b> Retractable platforms attached to permanent structures.	When not in use, use the clearance requirements for a platform of its height.
<b>Type 6</b> Platforms that are a combination of Types 1 through 3. (Only Types 1 through 3 platforms can be combined.)	<b>Platforms may be combined</b> if the Type 1 platform has a level surface no more than 4 feet 8 inches from the track centerline to the face of the platform wall with which it is combined.

PERMANENT

Illustration 2 - Minimum Side Clearances for Platforms

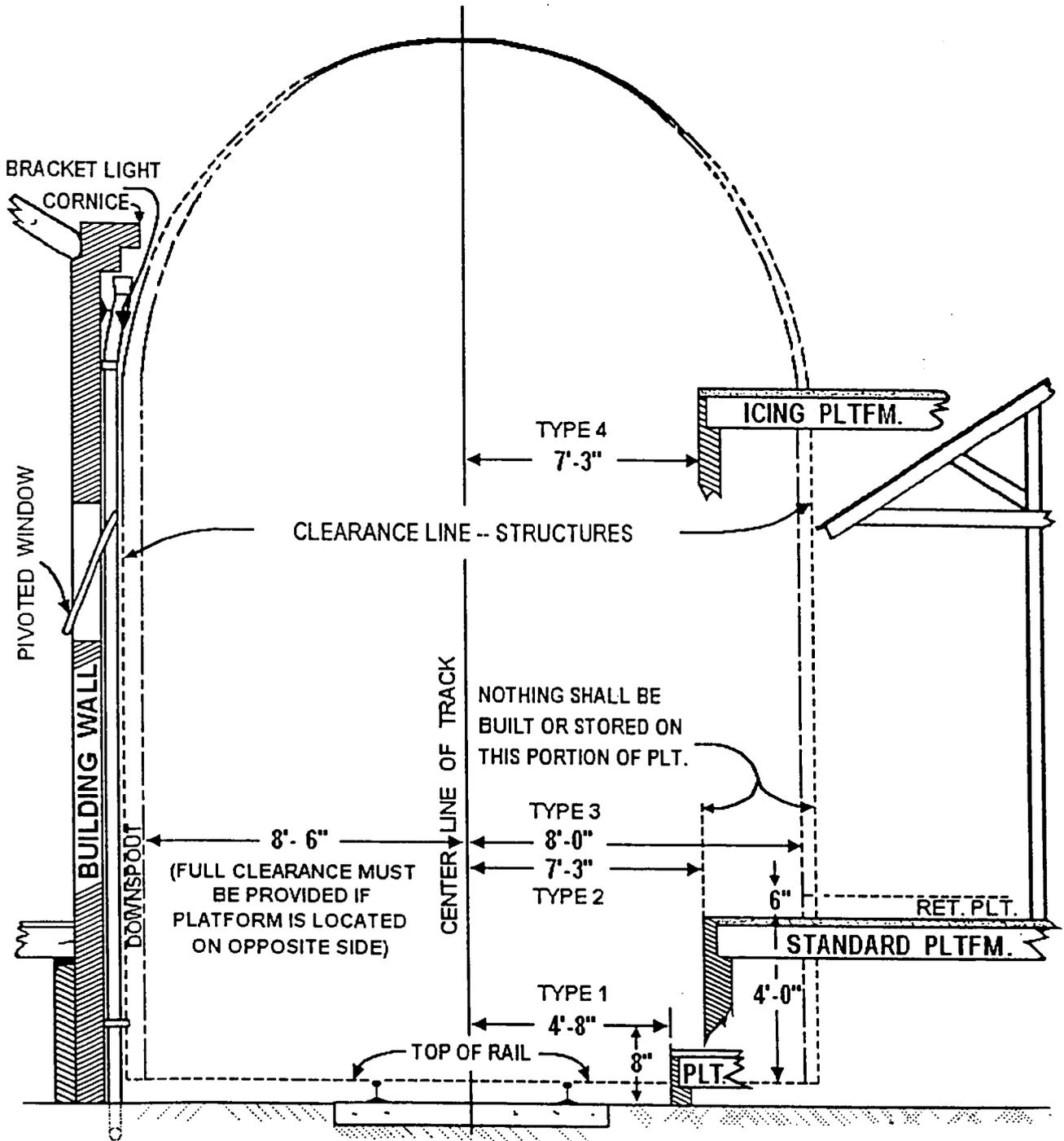


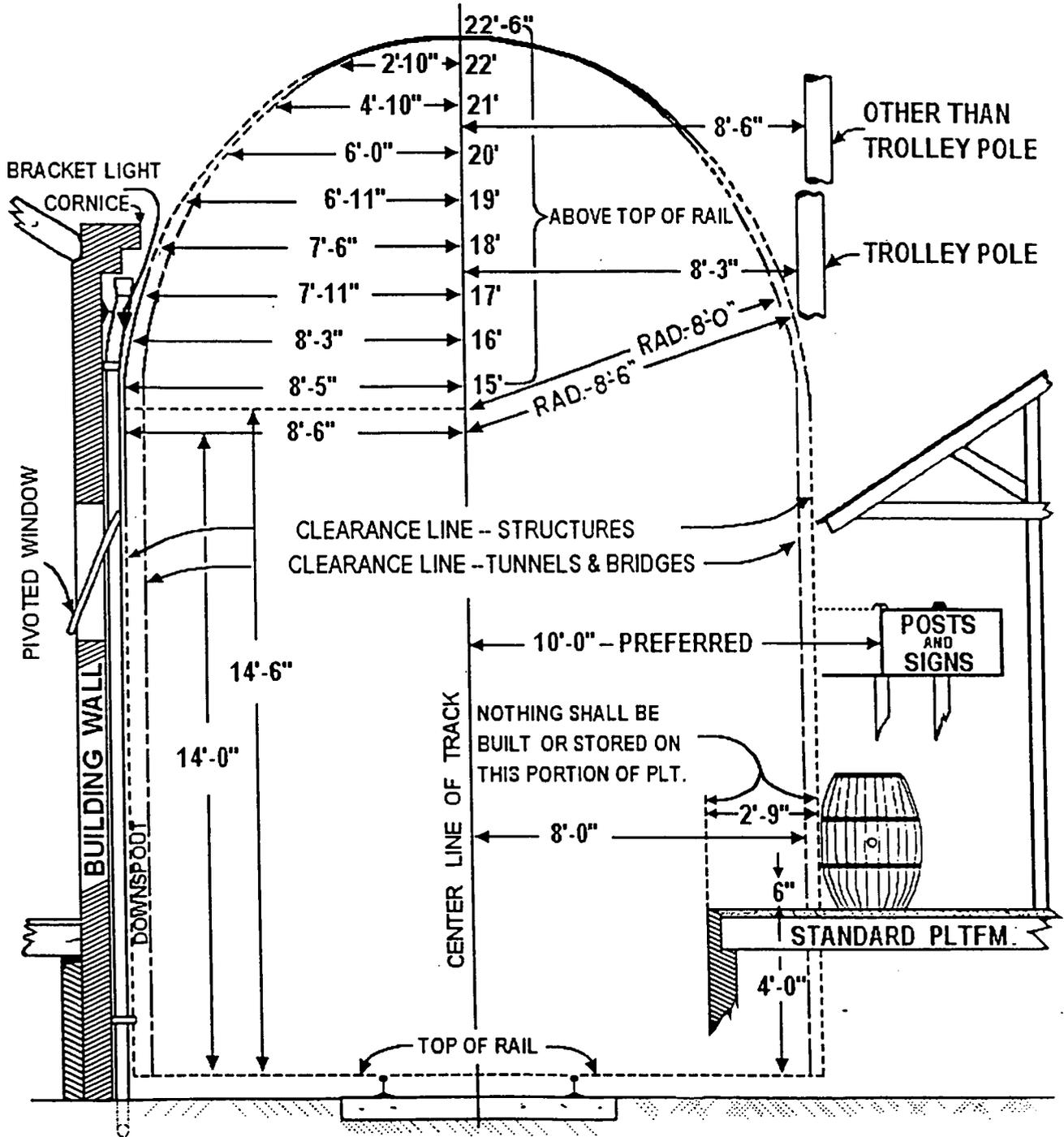
Table 3 - Minimum Side Clearances for Bridges, Tunnels and Related Structures

- Exemption:** • Except for handrail and water barrel clearances, the clearance requirements in Table 3 do not apply to bridge decks where railroad employees couple or uncouple cars on a switching lead unless the department approves them.
- Note:** • The requirements for filing a variance are located in the Safety and health core rules, chapter 296-350 WAC, and WISHA appeals, penalties and other procedural rules.

If your side clearance requirement involves:	Then the minimum side clearance requirements between the track centerline and the bridge, tunnel or related structure are:
Bridge and tunnel sides - lower section	8 feet
Bridge and tunnel sides - upper section	Defined by the half-circumference of a circle whose: <ul style="list-style-type: none"> <li>• Radius is 8 feet</li> <li>AND</li> <li>• Center is located on a line perpendicular to the track's centerline and 14 feet 6 inches above the top of the highest rail.</li> <li>• See Illustration 3.</li> </ul>
Related structures on bridges and in tunnels - lower section structures (or portions of them) that are no more than 4 feet above the top of the rail. For example: <ul style="list-style-type: none"> <li>• Refuge platforms on bridges and trestles.</li> <li>• Water columns, oil columns, and block signals.</li> <li>• Cattle chutes.</li> </ul>	Defined by lines extending: <ul style="list-style-type: none"> <li>• 5 feet laterally from the track centerline to a point level with the top of the rail and then diagonally upward to another point 4 feet above the top of the rail</li> <li>AND</li> <li>• 8 feet laterally from the track centerline to a point 4 feet above the top of the rail.</li> <li>• See Illustration 3A. The shaded portion of the illustration designates the area that must be free of refuge platforms, water columns, oil columns, block signals and cattle chutes.</li> </ul>
Hand rails and water barrels	7 feet 6 inches
Fences of cattle guards	6 feet 9 inches

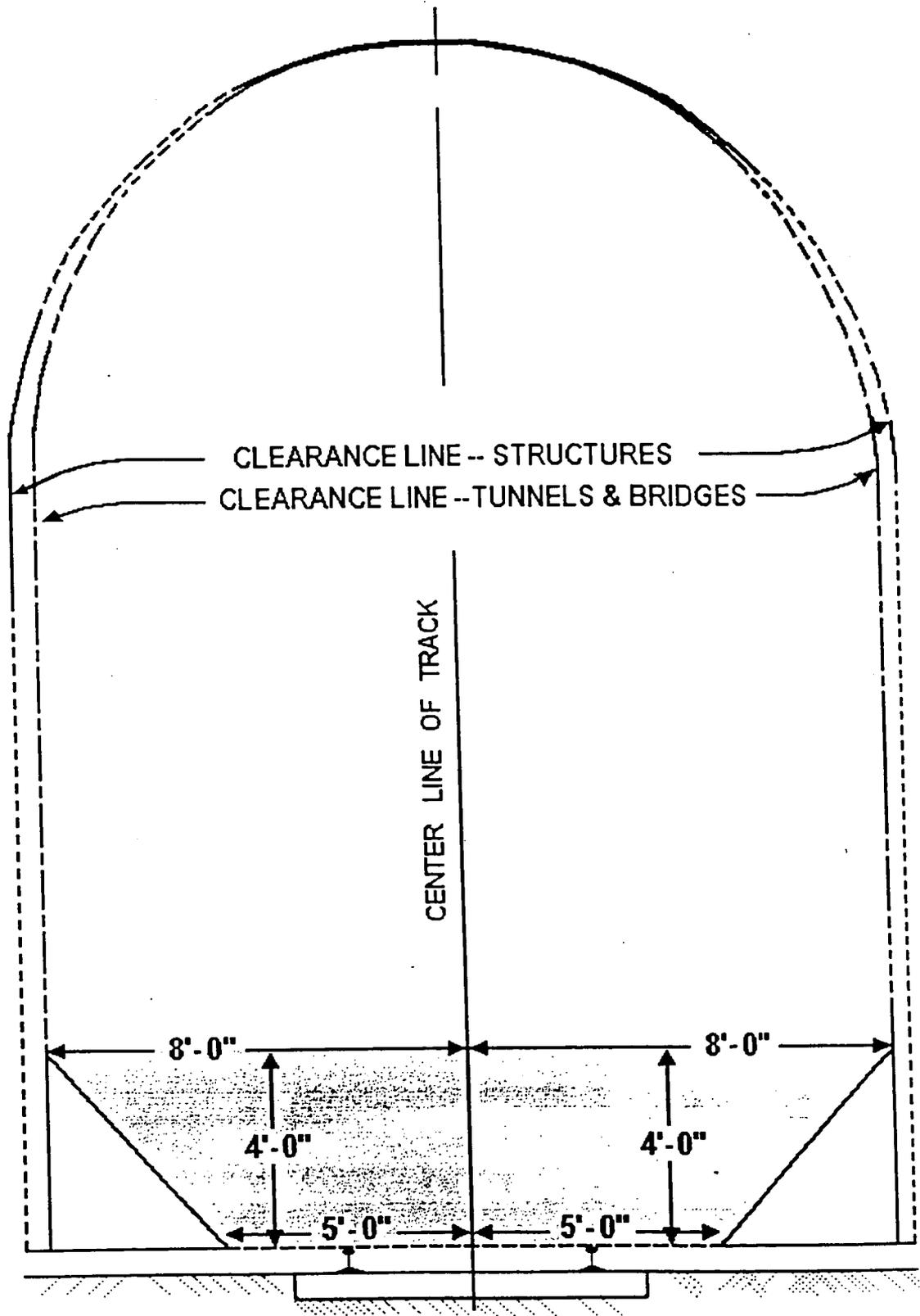
PERMANENT

Illustration 3 - Minimum Side Clearances for Bridges, Tunnels and Related structures



PERMANENT

Illustration 3A - Minimum Side Clearance for Certain Structures in or on the Lower Sections of Bridges and Tunnels



PERMANENT

**Table 4 - Other Minimum Side Clearance Requirements\***

- Note:**
- The department must approve all minimum clearances for car pulling units and related structures.
  - The requirements for filing a variance are located in the Safety and health core rules, chapter 296-350 WAC, and the WISHA appeals, penalties and other procedural rules.

<b>If your side clearance requirement involves:</b>	<b>Then the minimum side clearance requirements from the track centerline are:</b>
<b>Type A</b> Engine house and car repair shop doors.	7 feet 6 inches
<b>Type B</b> Interlocking mechanism, switch boxes, and other similar devices projecting no more than 4 feet above the top of the rail.	3 feet
<b>Type C</b> Poles supporting trolley contact.	8 feet 3 inches
<b>Type D</b> Signals and switch stands no more than 3 feet high and located between tracks where it is not possible to allow other clearances required in this chapter.	6 feet
<b>Type E</b> Signals and switch stands other than those described in Type B and Type D.	8 feet
<b>Type F</b> Material, merchandise, inventory, storage bins or equipment stacked or stored on ground or platforms adjacent to tracks.	8 feet 6 inches  <b>Note:</b> This requirement does not apply to: <ul style="list-style-type: none"> <li>• Railroad maintenance operations</li> <li>• Emergency situations</li> <li>• Local conditions that make compliance impossible.</li> </ul>
<b>Type G</b> Space adjacent to curved track.	Increased to equal tangent track clearances. As a general rule, side clearances on curved track should be increased 1-1/2" for each degree of curvature.

\*Table 4 does not have an accompanying illustration.

**NEW SECTION**

**WAC 296-860-20060 Maintain clearances between tracks.**

**You must:**

- Comply with the track clearance requirements in Table 5.

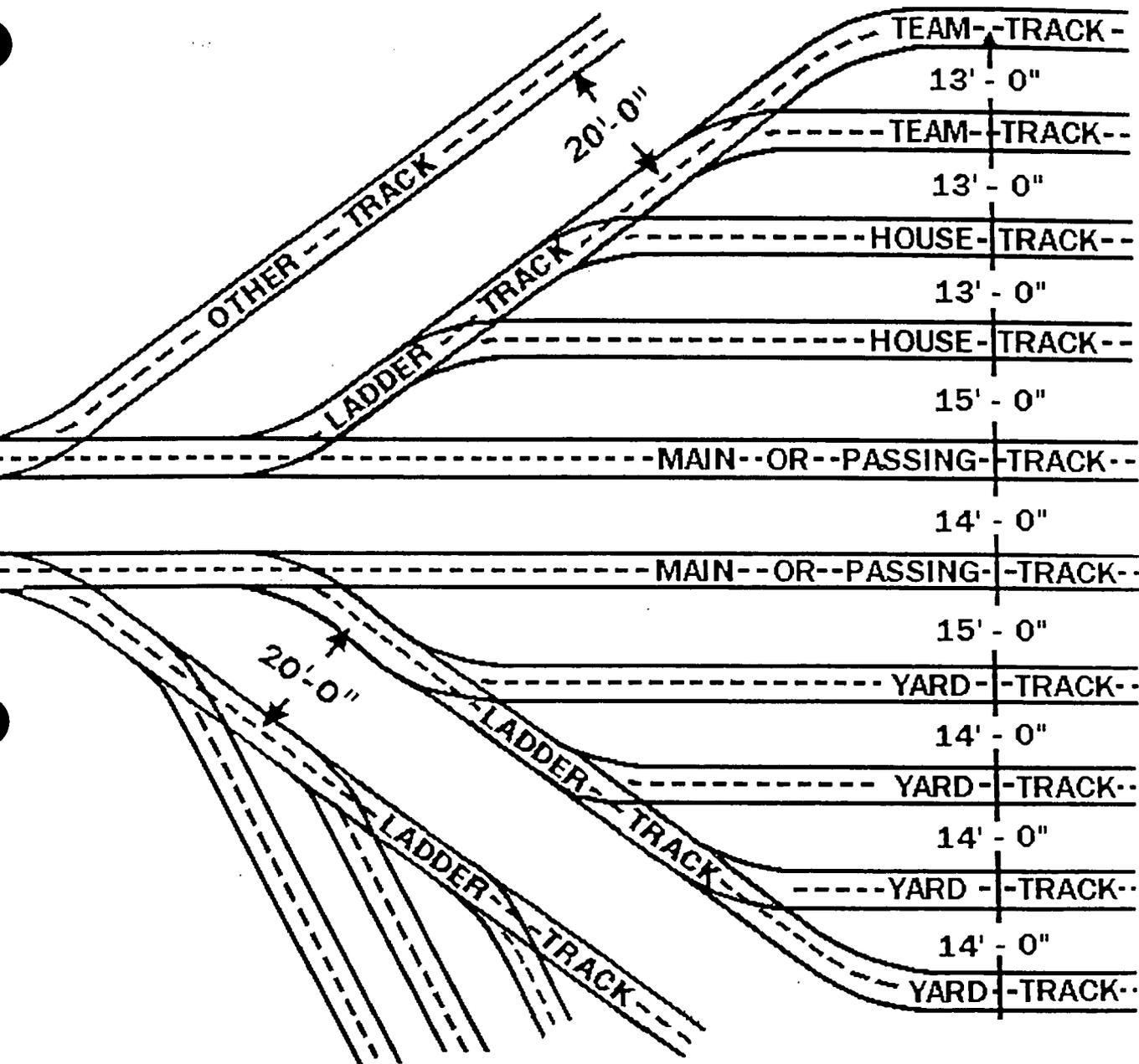
**Table 5 - Minimum Standard Gauge Track Clearances**

<b>If your track clearance involves:</b>	<b>Then the minimum clearance requirements between centerlines of standard gauge parallel tracks are:</b>
Main or passing tracks used for transporting cars, locomotives, motors, or like equipment	14 feet
Any tracks adjacent to main or passing tracks	15 feet
Team, house, or industry tracks	13 feet
Yard tracks	14 feet
Ladder and other tracks	20 feet

**Note:** The following illustration will help you understand the track clearance requirements discussed in this section and WAC 296-860-20080 regulating narrow gauge rail operations.

PERMANENT

STANDARD GAUGE TRACK CLEARANCES



PERMANENT

**NEW SECTION**

**WAC 296-860-20070 Move excessive height or width rail car loads with care.**

**Note:** This section regulates rail cars whose dimensions exceed ten feet ten inches wide by fifteen feet six inches high.

**You must:**

- Make sure your yard supervisor is given advanced notice regarding the arrival of any excess height or width cars so they can safeguard any employees working in the yard.
- Make sure no one is allowed to ride on the:
  - Roof of any excessive height car
  - Side of any excessive width car

- Side of any car with a load extending more than five feet five inches from the car's centerline.

**NEW SECTION**

**WAC 296-860-20080 Follow these requirements to conduct narrow gauge rail operations.**

**You must:**

- Base your clearance measurements upon your widest narrow gauge cars.
- Make sure the distance between the cars and objects on narrow gauge track is equal to or greater than the distance

required between ten foot ten inch wide cars and other cars or objects on standard gauge track.

- Comply with all other applicable requirements in this chapter.

**NEW SECTION**

**WAC 296-860-300 Definitions.** The following definitions apply to this chapter.

**Car width** - Twice the distance from the centerline of a railroad car to its extreme outside part.

**Common carrier** - All railroads, railroad companies, street railroads, street railroad companies, corporations, partnerships, persons, cities or towns that own, operate, manage, or control any public use enterprise within Washington state that transports people or property for hire.

**Department** - The Washington state department of labor and industries.

**Emergency** - Any unforeseen occurrence that endangers life, limb, or property.

**Icing platforms** - Structures used to ice, precool, heat, ventilate or service private railroad cars that handle commodities requiring these services.

**Over-crossing** - Any point or place where a highway, road, or ramp carrying vehicular traffic crosses a private rail yard or track by passing above it.

**Overhead clearance** - The perpendicular distance between the top of the highest rail and the lowest point of an overhead structure or obstruction.

**Private rail operation** - A nonrailroad company operating railroad facilities, structures, tracks and equipment in the company's yard or plant. Chapter 296-860 WAC applies to:

- Any equipment, facility or structure owned or operated by the company

AND

- The construction and reconstruction of tracks or structures adjacent to any facility or structure owned or operated by the company.

**Railroad** - Every public use railroad, other than street railroads, operated to transport people or property for hire. This definition also includes all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, and terminal facilities of every kind that are used, operated, controlled, or owned by or in connection with any such public use railroad.

**Side clearance** - The shortest distance between the centerline of a track and a structure or other track side obstructions such as downspouts, ladders, equipment, piles of material or inventory, etc.

**Track clearance** - The shortest distance between the centerlines of adjacent railroad tracks.

**Walkways** - Pathways located alongside or in the vicinity of a railroad track, or on a trestle or bridge, providing space so a private railroad employee can perform duties associated with the track, trestle, or bridge.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 296-28-001	Foreword.
WAC 296-28-005	Beginning of order.
WAC 296-28-010	Exemptions.
WAC 296-28-015	Definitions.
WAC 296-28-020	Overhead clearances.
WAC 296-28-025	Side clearances.
WAC 296-28-030	Track clearances.
WAC 296-28-035	Marking of cars.
WAC 296-28-040	Operation of excess dimension loads.
WAC 296-28-045	Narrow gauge railroads transporting freight cars.
WAC 296-28-050	Illustrations.

**WSR 02-17-113**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed August 21, 2002, 10:35 a.m.]

Date of Adoption: August 14, 2002.

Purpose: These rules are being revised to reflect the following changes: (1) Changes in the state and federal revenues in the levy base; (2) EBH [EHB] 3011 which prorates local effort assistance (LEA) for 2003 to 99% of the formula allocation otherwise provided; and (3) rescind rule changes adopted two years ago to adjust levy base for differences between budgeted and actual revenues in the levy base.

Citation of Existing Rules Affected by this Order: Amending WAC 392-139-008, 392-139-205, 392-139-310, 392-139-660, and 392-139-670.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 84.52.0531(9).

Adopted under notice filed as WSR 02-14-143 on July 3, 2002.

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 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.

PERMANENT

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 20, 2002

Tom J. Kelly

for Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**AMENDATORY SECTION** (Amending WSR 01-22-098, filed 11/6/01, effective 12/7/01)

**WAC 392-139-008 Effective date.** This chapter applies to levy authority and local effort assistance calculations for the ~~((2002))~~ 2003 calendar year and thereafter. Levy authority and local effort assistance calculations for ~~((2000 and 2001))~~ prior calendar years are governed by rules in effect ~~((at the time of the calculations))~~ as of January 1 of the calendar year.

**AMENDATORY SECTION** (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-139-205 Definition—F-195.** As used in this chapter, "F-195" means the annual school district budget document including budget extensions officially adopted by each school district pursuant to chapter 28A.505 RCW for each year's operations. This document includes estimates of revenues to be received from federal sources during the school year. The federal revenues reported on a school district's F-195 for the prior school year are included in the district's excess levy base pursuant to WAC 392-139-310 if they qualify for inclusion and are not reported on Report 1197. The accounts included in the levy base and reported on the F-195 are listed in WAC 392-139-310 (4)(b).

**AMENDATORY SECTION** (Amending WSR 01-22-098, filed 11/6/01, effective 12/7/01)

**WAC 392-139-310 Determination of excess levy base.** The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations for the prior school year:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - operations; and

4499 Transportation - depreciation.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education; and

6124 Special education supplemental.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

4155 Learning assistance;

~~((4162 Better schools—staff;))~~

4165 Transitional bilingual;

4166 Student achievement ~~((2001-02 school year and thereafter));~~

6151 Remediation through 2001-02 school year;

6151 Disadvantaged (2002-03 school year and thereafter);

6153 Migrant;

6164 Limited English proficiency (2002-03 school year and thereafter);

6264 Bilingual (direct);

6267 Indian education - JOM;

6268 Indian education - ED; and

6367 Indian education - JOM.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);

6198 School food services (federal); and

6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

~~((4163 Better schools—professional development;))~~

4175 Local education program enhancement ~~((including student learning improvement allocations))~~ (through 2001-02 school year);

4175 Flexible education (2002-03 school year and thereafter); and

6176 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - unassigned;

6100 Special purpose - OSPI - unassigned;

6121 Special education - Medicaid reimbursement;

6138 Secondary vocational education;

6146 Skills center;

6152 School improvement (2002-03 school year and thereafter);

6154 Reading first (2002-03 school year and thereafter);

6177 Eisenhower professional development;

6200 Direct special purpose grants; and

6300 Federal grants through other agencies - unassigned;

and

6310 Medicaid administrative match (2002-03 school year and thereafter).

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington, revised 2001, except those identi-

fied for the 2002-03 school year and thereafter, which are from the accounting manual revised 2002.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

4121 Special education;  
4155 Learning assistance;  
~~((4162 Better schools—staff;  
4163 Better schools—professional development;))~~  
4165 Transitional bilingual;  
4166 Student achievement ~~((2001-02 school year and thereafter));~~

4174 Highly capable;  
4175 Local education program enhancement (through 2001-02 school year);

4175 Flexible education (2002-03 school year and thereafter);

4198 School food services (state);  
4199 Transportation - operations;  
4499 Transportation - depreciation;  
6121 Special education - Medicaid reimbursements;  
6124 Special education - supplemental;  
6138 Secondary vocational education;  
6146 Skills center;  
6151 Remediation (through 2001-02 school year);  
6151 Disadvantaged (2002-03 school year and thereafter);

6152 School improvement (2002-03 school year and thereafter);

6153 Migrant;  
6154 Reading first (2002-03 school year and thereafter);  
6164 Limited English proficiency (2002-03 school year and thereafter);

6176 Targeted assistance;  
6177 Eisenhower professional development; and  
6198 School food services (federal).

(b) The following state and federal allocations are taken from the F-195:

5200 General purpose direct federal grants - unassigned;  
6100 Special purpose - OSPI - unassigned;  
6200 Direct special purpose grants;  
6264 Bilingual (direct);  
6267 Indian education - JOM;  
6268 Indian education - ED;  
6300 Federal grants through other agencies - unassigned;  
6310 Medicaid administrative match (2002-03 school year and thereafter);

6367 Indian education - JOM; and  
6998 USDA commodities.

(5) ~~((Effective for levy authority and local effort assistance calculations for 2003 and thereafter, allocations in subsections (4)(b) of this section shall be adjusted by the difference between actual and budgeted allocations for the school year before the prior school year calculated as follows:~~

~~(a) Sum actual revenues for these accounts from Report F-196; and~~

~~(b) Subtract final budgeted revenues for these accounts from Report F-195.~~

~~(6)) State moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.~~

~~((7)) (6) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.~~

AMENDATORY SECTION (Amending WSR 00-09-017, filed 4/11/00, effective 5/12/00)

**WAC 392-139-660 Determination of maximum local effort assistance.** The superintendent of public instruction shall calculate maximum local effort assistance for each eligible school district as follows:

(1) Subtract the statewide average twelve percent levy rate from the district twelve percent levy rate;

(2) Divide the result obtained in subsection (1) of this section by the district twelve percent levy rate; and

(3) Multiply the result obtained in subsection (2) of this section by the district twelve percent levy amount.

(4) For the 2003 calendar year only, multiply the result of subsection (3) of this section by 0.99.

AMENDATORY SECTION (Amending WSR 00-09-017, filed 4/11/00, effective 5/12/00)

**WAC 392-139-670 Local effort assistance allocations.** The superintendent of public instruction shall calculate each eligible school district's local effort assistance entitlement as the lesser of the ~~((following))~~ amounts in subsections (1) and (2) of this section:

(1)(a) For the 2003 calendar year, the school district's certified excess levy for the calendar year as reported to the superintendent of public instruction pursuant to WAC 392-139-665 times the school district's state matching ratio for the calendar year calculated pursuant to WAC 392-139-625 times 0.99; ((or))

(b) For the 2004 calendar year and thereafter, the school district's certified excess levy for the calendar year as reported to the superintendent of public instruction pursuant to WAC 392-139-665 times the school district's state matching ratio for the calendar year calculated pursuant to WAC 392-139-625;

(2) The school district's maximum local effort assistance calculated pursuant to WAC 392-139-660.

## WSR 02-17-114

### PERMANENT RULES

### PERSONNEL RESOURCES BOARD

[Filed August 21, 2002, 11:21 a.m., effective September 30, 2002]

Date of Adoption: August 14, 2002.

Purpose: These rules are a result of 2002 legislative action. SB 6372 gives the director of the Department of Per-

sonnel authorization to adopt rule for the operation of the Washington combined fund drive.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 02-13-131 on June 19, 2002.

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 16, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 16, 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 16, Amended 0, Repealed 0.

Effective Date of Rule: September 30, 2002.

August 21, 2002

E. C. Matt  
Director

#### NEW SECTION

**WAC 356-60-010 Committee established.** (1) In accordance with RCW 41.04.035, 41.04.036 and 41.04.230 and in order to implement Senate Bill 6372 and Executive Order EO 01-01, a committee is established to conduct a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes.

(2) The committee shall be known as the Washington state combined fund drive committee.

(3) The committee shall be composed of not more than twelve members appointed by the governor for three year terms. The members shall be selected from the following groups:

- (a) Public employees' unions;
- (b) The legislative branch;
- (c) The judicial branch;
- (d) State agencies;
- (e) Higher education institutions;
- (f) Elected officials;
- (g) Retired public employees;
- (h) Other groups as may be recommended by the Director of the Department of Personnel.

(4) The committee shall elect a chairperson annually, and such other officers as may be needed.

(5) Members of the committee shall serve without additional salary, but shall be reimbursed by their employing agencies for travel, lodging and meals in accordance with state law and regulations.

(6) The committee shall be a policy committee which shall organize and effect one solicitation effort each year.

(7) The committee shall establish standards and criteria for participation in the fund drive. (WAC 356-60-040 and 356-60-050.)

(8) The committee shall print and distribute an application form which agencies shall use to apply for participation in the fund drive.

(9) The committee shall evaluate each application, based on its criteria, and determine which agencies engaged in charitable and public health, welfare and social service purposes shall participate in one annual combined effort to secure funds from state employees through payroll deduction or other payment method.

(10) The committee may establish departmental combined fund drive leaders, local combined fund drive coordinators, local campaign steering committees and local campaign managers to assist in the fund drive.

(11) Agency directors, elected officials, and higher education presidents may allow employees the opportunity to serve as CFD campaign executives to assist in the conduct of the state's annual charitable campaign. The CFD campaign executive opportunity is a rotational assignment that develops leadership, communication, and teamwork skills that will benefit the employing organization upon the employee's return. Those appointed as CFD campaign executives remain on the payroll of their employing organization during this assignment.

(12) State agencies and higher education institutions, at their discretion, are authorized to use reasonable state resources to support, promote, and conduct the annual Combined Fund Drive campaign within their organization.

(13) The department of personnel shall provide the administrative support for the operation of the committee.

(14) All costs such as printing of brochures, preparation of slide presentations, and other promotional costs shall be the responsibility of those organizations designated to participate in the distribution of all funds collected. In circumstances where promotional costs cannot be associated with an individual charitable service organization, the costs shall be shared in a percentage relating to the total funds distributed.

#### NEW SECTION

**WAC 356-60-020 Purposes.** (1) The following rules are promulgated to implement a payroll deduction plan for the efficient, long-term collection of voluntary employee and public agency retiree contributions to qualifying charitable, human health and welfare organizations. By establishing a uniform policy toward charitable fund raising efforts among state employees and public agency retirees, the state hopes to encourage generosity in voluntary financial support for the charitable services of the qualified organizations.

(2) The intent of these regulations is to:

(a) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;

(b) Provide a convenient channel through which state employees and public agency retirees may contribute to the efforts of the qualifying voluntary health and welfare organizations providing services in the community or region where the employees live and work and overseas;

(c) Minimize both the disruption of the state work place and the costs to taxpayers that multiple charitable fund drives have caused; and

(d) Ensure that recipient agencies are fiscally responsible in the uses of the moneys so raised.

#### NEW SECTION

**WAC 356-60-030 Definitions.** (1) Committee - The Washington state combined fund drive committee described in WAC 356-60-010.

(2) State combined fund drive campaign - An arrangement by which the committee provides one or more other participating organizations with the opportunity to receive funds contributed to them in the annual campaign, based on their compliance with the regulations herein.

(3) Participating organization - A health and welfare agency whose application has been accepted by the committee.

(4) Annual campaign - The once-a-year period of organized solicitation of state employees and public agency retirees conducted annually to obtain voluntary contributions from state employees and public agency retirees for charitable commitments to be allocated during the ensuing year of contributions.

(5) Year of contributions - The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees and public agency retirees pursuant to these regulations. The normal, full annual calendar year shall begin with January and end with the ensuing December.

(6) Health and welfare agency - The terms "voluntary agency," "voluntary health and welfare agency," "voluntary charitable agency," and "voluntary charitable health and welfare agency" mean an organization that is organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services for the benefit of human beings:

(a) Delivery of health care to ill or infirm individuals;

(b) Education and training of personnel for the delivery of health care to ill or infirm individuals;

(c) Health research for the benefit of ill or infirm individuals;

(d) Delivery of education, training, and care to physically and mentally handicapped individuals;

(e) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(f) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;

(g) Neighborhood and community-wide social services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;

(h) Protection of families that, on account of economic or other need, poverty, indigence, or emergency, are in long-

term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

(i) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;

(j) Relief of needy, poor, and indigent adults and of the elderly;

(k) Delivery of services or assistance that conserve, protect, or restore the environment;

(l) Delivery of services or assistance to threatened or endangered species;

(m) Delivery of services in the performing, visual, literary and media arts.

(7) Local presence - Demonstration of direct and substantial presence in the local campaign community:

(a) The availability of services, such as examinations, treatments, inoculations, preventive care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing to persons working or residing in the local campaign community.

(b) The presence within the local campaign community, or within reasonable commuting distance thereof, of a facility at which services may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider, or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof.

(c) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service.

(8) Overseas - Areas outside of the District of Columbia and the fifty states of the United States.

#### NEW SECTION

**WAC 356-60-040 Basic standards and criteria for agency membership applicable to all agencies.** (1) Basic standards.

(a) Federal exemption. Each charitable organization must submit a copy of the Internal Revenue Service determination letter indicating that it is an exempt organization under Internal Revenue Code Section 501 (c)(3), or is a governmental entity receiving charitable contributions which are entitled to a deduction under Internal Revenue Code Section 170 (c)(1). An advance ruling on its exempt status shall meet this requirement.

(b) Registration and reporting. Each charitable organization shall have registered as a charitable organization with the secretary of state under the provisions of chapter 19.09 RCW (charitable solicitations) unless specifically exempt from registration by state law, and shall have filed all required reports within any established time limits.

(c) Integrity of operations. Each charitable organization must have at least a minimal history of service and demonstrate a real capability to serve. Funds distributed to charitable organizations must be used for their announced purposes. There shall be no payment of commissions for fund-raising,

no mailing of commercial merchandise, and no paid general telephone solicitors.

(d) **Finances.** The charitable organization must use standards of accounting and a financial system based on generally accepted accounting principles which includes accounting procedures that would be acceptable to the American Institute of Certified Public Accountants. The committee may require an independent audit by a certified public accountant. The charitable organization must conduct its fiscal operations in accordance with a detailed annual program budget which is prepared and approved at the beginning of each fiscal year by the board of directors. Prior authorizations by the board of directors shall be required for any significant variation from the approved budget. The committee may require that the charitable organization prepare and make available to the general public an annual financial report.

(e) **Nondiscrimination.** The charitable organization shall have a policy and procedure of nondiscrimination in regard to race, color, religion, national origin, handicap, age, or sex applicable to persons served by the charitable organization.

(f) **Annual reports.** The charitable organization shall prepare an annual report available to the general public which includes a full description of the charitable organization's activities including types of solicitation for contributions, the names of its chief administrative personnel, and a full disclosure of the source and use of contributions.

(g) **Agency organization.** The charitable organization must maintain an active volunteer board of directors, serving without compensation through regular meetings and exercising satisfactory administrative controls in accordance with the agency's articles of incorporation, bylaws, and, preferably, standards adopted by its national or state affiliate.

(h) **Fund-raising costs.** Each organization shall disclose to the committee the estimated percentages of the money collected which will be applied to the cost of solicitation and to the charitable purpose. The information thus provided will be disclosed to state employees during the campaign.

(i) **Application deadline.** Completed applications must be received before the closing date established annually by the committee.

(2) **Criteria.**

(a) **Service programs.** Each charitable agency must have a substantial local presence in a Washington state community with a history of providing programs aimed toward direct services, research, and education in an effort to meet human health, welfare, or social service needs within a Washington state community: Provided, That voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for agency membership; and each must be able to comply with integrity and other applicable standards that such services are indeed provided.

(b) **Participation in eligible federations.**

(i) No charitable organization may participate in more than one eligible federation (umbrella organization) in a county.

(ii) No charitable organization may participate both individually and as a member of an eligible federation (umbrella organization) within a county.

(iii) Applications submitted on behalf of eligible federations (umbrella organizations) shall include a certification that all participating constituent agencies meet the basic standards and criteria, and agree to comply with rules and regulations as set forth by the committee.

NEW SECTION

**WAC 356-60-050 Required characteristics of eligible federations (umbrella organizations).** In addition to meeting the requirements set out in WAC 356-60-040, each federated organization (umbrella organization) must demonstrate the following:

(1) **Scope.** It is representative of its constituent parts. While it may not accept responsibility for the exact nature of program objectives and administrative and financial procedures of its affiliates, it must be in a position to affirm that the operations and fund-raising of its affiliates comply with the standards and criteria set out in WAC 356-60-040.

(2) It has good will and acceptability within this state, including ability to demonstrate a well recognized service to or in behalf of citizens of this state: Provided, That voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for agency membership.

(3) It has sufficient volunteers or staff, or both, to contribute to the organization and conduct of the Washington state employee combined fund drive and has at least six months of prior operation within this state.

(4) It has registered and been approved under chapter 19.09 RCW (Charitable solicitations).

(5) It has at least five organizational members.

(6) It adheres to high standards in services, management and public accountability as required by the standards and criteria set out in WAC 356-60-040.

NEW SECTION

**WAC 356-60-055 Determination of eligibility—Procedure for reconsideration.** Using the information supplied under this chapter and the standards set forth in WAC 356-60-040 and 356-60-050, the committee will determine which agencies and which federated organizations are eligible to participate in annual state combined fund drive campaigns. Any agency or federated organization determined not to be eligible may, within fifteen days after receiving notice of noneligibility, request reconsideration in writing, submitting responsive materials relating to the noneligibility notice in support of the request at the same time. The committee will duly reconsider the eligibility of the requesting agency or federated organization and will issue written notice of its final decision on eligibility within thirty days of receiving the request. Any decision on reconsideration will be a final determination of eligibility.

For the purposes of this section, any written requests or notices will be presumed to be received no more than three business days after mailing.

#### NEW SECTION

**WAC 356-60-057 Decertification and disqualification.** (1) Once approved for participation, any health and welfare agency or federated organization may be decertified and disqualified from participation in the state employee combined fund drive campaign by majority vote of the committee for any one or more of the following reasons:

(a) Failure to comply with the rules contained in this chapter;

(b) Filing an application to participate in the state combined fund drive campaign which contains false or intentionally misleading information;

(c) An annual contribution pledge from an annual campaign of two hundred fifty dollars or less.

(2) Any decertified health and welfare agency or federated organization shall be disqualified from participating in the next state employee combined fund drive campaign.

(3) The committee may order that the annual net estimated contribution for any health and welfare agency or federated organization receiving an annual pledge of two hundred fifty dollars or less in an annual campaign may be made in a lump sum at the end of the year of contributions.

(4) Any health and welfare agency or federated organization decertified under subsection (1)(a) or (b) of this section shall have any further payment of contributions terminated. The committee shall determine the method of disbursement of any future payments originally pledged in an annual campaign to such health and welfare agency or federated organization.

(5) Any decertified health and welfare agency or federated organization may request reconsideration of the committee's action using the procedures described under WAC 356-60-055.

#### NEW SECTION

**WAC 356-60-060 Qualifications for local campaign manager.** In selecting a local campaign manager, the local steering committee must assess the following qualities of an applicant to determine the applicant's capability to manage a successful charitable campaign:

(1) The local manager shall demonstrate the administrative and financial capability to manage and operate a fund-raising campaign with integrity and in an efficient manner yielding contributions comparable to those made by state employees in the past.

(2) The local manager shall demonstrate that a broad base of community support has been established within the state and demonstrate continuing positive relationships with a significant number of the state's charitable organizations.

(3) The local manager shall demonstrate the ability to effectively promote and publicize a charitable fund-raising campaign among the state employee work force.

(4) The local manager shall demonstrate the ability to give guidance to, train, and supervise volunteer solicitors and other state employee volunteers in the campaign.

(5) The local manager shall demonstrate the ability to publish and distribute informational literature and other material relative to the programs of participating agencies in a fair and equitable manner.

(6) The local manager shall demonstrate a history of integrity, and a direct and substantial presence in the local (or regional) community.

(7) The local manager shall demonstrate the intent to cooperate fully with the local steering committee and with state officials.

#### NEW SECTION

**WAC 251-30-010 Committee established.** (1) In accordance with RCW 41.04.035, 41.04.036 and 41.04.230 and in order to implement Senate Bill 6372 and Executive Order EO 01-01, a committee is established to conduct a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable and public health, welfare and service purposes.

(2) The committee shall be known as the Washington employee combined fund drive committee.

(3) The committee shall be composed of not more than twelve members appointed by the governor for three year terms. The members shall be selected from the following groups:

(a) Public employees' unions;

(b) The legislative branch;

(c) The judicial branch;

(d) State agencies;

(e) Higher education institutions;

(f) Elected officials;

(g) Retired public employees;

(h) Other groups as may be recommended by the Director of the Department of Personnel.

(4) The committee shall elect a chairperson annually, and such other officers as may be needed.

(5) Members of the committee shall serve without additional salary, but shall be reimbursed by their employing agencies for travel, lodging and meals in accordance with state law and regulations.

(6) The committee shall be a policy committee which shall organize and effect one solicitation effort each year.

(7) The committee shall establish standards and criteria for participation in the fund drive. (WAC 251-30-040 and 251-30-050.)

(8) The committee shall print and distribute an application form which agencies shall use to apply for participation in the fund drive.

(9) The committee shall evaluate each application, based on its criteria, and determine which agencies engaged in charitable and public health, welfare and social service purposes shall participate in one annual combined effort to secure funds from state employees through payroll deduction or other payment method.

(10) The committee may establish departmental combined fund drive leaders, local combined fund drive coordi-

nators, local campaign steering committees and local campaign managers to assist in the fund drive.

(11) Agency directors, elected officials, and higher education presidents may allow employees the opportunity to serve as CFD campaign executives to assist in the conduct of the state's annual charitable campaign. The CFD campaign executive opportunity is a rotational assignment that develops leadership, communication, and teamwork skills that will benefit the employing organization upon the employee's return. Those appointed as CFD campaign executives remain on the payroll of their employing organization during this assignment.

(12) State agencies and higher education institutions, at their discretion, are authorized to use reasonable state resources to support, promote, and conduct the annual Combined Fund Drive campaign within their organization.

(13) The department of personnel shall provide the administrative support for the operation of the committee.

(14) All costs such as printing of brochures, preparation of slide presentations, and other promotional costs shall be the responsibility of those organizations designated to participate in the distribution of all funds collected. In circumstances where promotional costs cannot be associated with an individual charitable service organization, the costs shall be shared in a percentage relating to the total funds distributed.

#### NEW SECTION

**WAC 251-30-020 Purposes.** (1) The following rules are promulgated to implement a payroll deduction plan for the efficient, long-term collection of voluntary employee and public agency retiree contributions to qualifying charitable, human health and welfare organizations. By establishing a uniform policy toward charitable fund raising efforts among state employees and public agency retirees, the state hopes to encourage generosity in voluntary financial support for the charitable services of the qualified organizations.

(2) The intent of these regulations is to:

(a) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;

(b) Provide a convenient channel through which state employees and public agency retirees may contribute to the efforts of the qualifying voluntary health and welfare organizations providing services in the community or region where the employees live and work and overseas;

(c) Minimize both the disruption of the state work place and the costs to taxpayers that multiple charitable fund drives have caused; and

(d) Ensure that recipient agencies are fiscally responsible in the uses of the moneys so raised.

#### NEW SECTION

**WAC 251-30-030 Definitions.** (1) Committee - The Washington state combined fund drive committee described in WAC 251-30-010.

(2) State combined fund drive campaign - An arrangement by which the committee provides one or more other participating organizations with the opportunity to receive funds

contributed to them in the annual campaign, based on their compliance with the regulations herein.

(3) Participating organization - A health and welfare agency whose application has been accepted by the committee.

(4) Annual campaign - The once-a-year period of organized solicitation of state employees and public agency retirees conducted annually to obtain voluntary contributions from state employees and public agency retirees for charitable commitments to be allocated during the ensuing year of contributions.

(5) Year of contributions - The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees and public agency retirees pursuant to these regulations. The normal, full annual calendar year shall begin with January and end with the ensuing December.

(6) Health and welfare agency - The terms "voluntary agency," "voluntary health and welfare agency," "voluntary charitable agency," and "voluntary charitable health and welfare agency" mean an organization that is organized and operated for the purpose of rendering, or of materially or financially supporting the rendering of, one or more of the following services for the benefit of human beings:

(a) Delivery of health care to ill or infirm individuals;

(b) Education and training of personnel for the delivery of health care to ill or infirm individuals;

(c) Health research for the benefit of ill or infirm individuals;

(d) Delivery of education, training, and care to physically and mentally handicapped individuals;

(e) Treatment, care, rehabilitation, and counseling of juvenile delinquents, criminals, released convicts, persons who abuse drugs or alcohol, persons who are victims of intra-family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

(f) Relief of victims of crime, war, casualty, famine, natural disasters, and other catastrophes and emergencies;

(g) Neighborhood and community-wide social services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, the preparation and delivery of meals, educational opportunities, and job training;

(h) Protection of families that, on account of economic or other need, poverty, indigence, or emergency, are in long-term or short-term need of family, child-care, and maternity services, child and marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

(i) Relief of needy, poor, and indigent infants and children, and of orphans, including the provision of adoption services;

(j) Relief of needy, poor, and indigent adults and of the elderly;

(k) Delivery of services or assistance that conserve, protect, or restore the environment;

(l) Delivery of services or assistance to threatened or endangered species;

(m) Delivery of services in the performing, visual, literary and media arts.

(7) Local presence - Demonstration of direct and substantial presence in the local campaign community:

(a) The availability of services, such as examinations, treatments, inoculations, preventive care, counseling, training, scholarship assistance, transportation, feeding, institutionalization, shelter, and clothing to persons working or residing in the local campaign community.

(b) The presence within the local campaign community, or within reasonable commuting distance thereof, of a facility at which services may be obtained, such as an office, clinic, mobile unit, field agency, or direct provider, or specific demonstrable effects of research, such as personnel or facilities engaged therein or specific local applications thereof.

(c) The availability to persons working or residing in the local campaign community of communication with the voluntary charitable agency by means of home visits, transportation, or telephone calls, provided by the voluntary agency at no charge to the recipient or beneficiary of the service.

(8) Overseas - Areas outside of the District of Columbia and the fifty states of the United States.

#### NEW SECTION

**WAC 251-30-040 Basic standards and criteria for agency membership applicable to all agencies.** (1) Basic standards.

(a) Federal exemption. Each charitable organization must submit a copy of the Internal Revenue Service determination letter indicating that it is an exempt organization under Internal Revenue Code Section 501 (c)(3), or is a governmental entity receiving charitable contributions which are entitled to a deduction under Internal Revenue Code Section 170 (c)(1). An advance ruling on its exempt status shall meet this requirement.

(b) Registration and reporting. Each charitable organization shall have registered as a charitable organization with the secretary of state under the provisions of chapter 19.09 RCW (charitable solicitations) unless specifically exempt from registration by state law, and shall have filed all required reports within any established time limits.

(c) Integrity of operations. Each charitable organization must have at least a minimal history of service and demonstrate a real capability to serve. Funds distributed to charitable organizations must be used for their announced purposes. There shall be no payment of commissions for fund-raising, no mailing of commercial merchandise, and no paid general telephone solicitors.

(d) Finances. The charitable organization must use standards of accounting and a financial system based on generally accepted accounting principles which includes accounting procedures that would be acceptable to the American Institute of Certified Public Accountants. The committee may require an independent audit by a certified public accountant. The charitable organization must conduct its fiscal operations in accordance with a detailed annual program budget which is prepared and approved at the beginning of each fiscal year by the board of directors. Prior authorizations by the board of directors shall be required for any sig-

nificant variation from the approved budget. The committee may require that the charitable organization prepare and make available to the general public an annual financial report.

(e) Nondiscrimination. The charitable organization shall have a policy and procedure of nondiscrimination in regard to race, color, religion, national origin, handicap, age, or sex applicable to persons served by the charitable organization.

(f) Annual reports. The charitable organization shall prepare an annual report available to the general public which includes a full description of the charitable organization's activities including types of solicitation for contributions, the names of its chief administrative personnel, and a full disclosure of the source and use of contributions.

(g) Agency organization. The charitable organization must maintain an active volunteer board of directors, serving without compensation through regular meetings and exercising satisfactory administrative controls in accordance with the agency's articles of incorporation, bylaws, and, preferably, standards adopted by its national or state affiliate.

(h) Fund-raising costs. Each organization shall disclose to the committee the estimated percentages of the money collected which will be applied to the cost of solicitation and to the charitable purpose. The information thus provided will be disclosed to state employees during the campaign.

(i) Application deadline. Completed applications must be received before the closing date established annually by the committee.

(2) Criteria.

(a) Service programs. Each charitable agency must have a substantial local presence in a Washington state community with a history of providing programs aimed toward direct services, research, and education in an effort to meet human health, welfare, or social service needs within a Washington state community: Provided, That voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for agency membership; and each must be able to comply with integrity and other applicable standards that such services are indeed provided.

(b) Participation in eligible federations.

(i) No charitable organization may participate in more than one eligible federation (umbrella organization) in a county.

(ii) No charitable organization may participate both individually and as a member of an eligible federation (umbrella organization) within a county.

(iii) Applications submitted on behalf of eligible federations (umbrella organizations) shall include a certification that all participating constituent agencies meet the basic standards and criteria, and agree to comply with rules and regulations as set forth by the committee.

#### NEW SECTION

**WAC 251-30-050 Required characteristics of eligible federations (umbrella organizations).** In addition to meeting the requirements set out in WAC 251-30-040, each feder-

ated organization (umbrella organization) must demonstrate the following:

(1) **Scope.** It is representative of its constituent parts. While it may not accept responsibility for the exact nature of program objectives and administrative and financial procedures of its affiliates, it must be in a position to affirm that the operations and fund-raising of its affiliates comply with the standards and criteria set out in WAC 251-30-040.

(2) It has good will and acceptability within this state, including ability to demonstrate a well recognized service to or in behalf of citizens of this state: Provided, That voluntary charitable health and welfare agencies whose services are rendered exclusively or in substantial preponderance overseas, and that meet all the criteria set forth except for the requirement of direct and substantial presence in the local campaign community, shall be eligible for agency membership.

(3) It has sufficient volunteers or staff, or both, to contribute to the organization and conduct of the Washington state employee combined fund drive and has at least six months of prior operation within this state.

(4) It has registered and been approved under chapter 19.09 RCW (Charitable solicitations).

(5) It has at least five organizational members.

(6) It adheres to high standards in services, management and public accountability as required by the standards and criteria set out in WAC 251-30-040.

#### NEW SECTION

**WAC 251-30-055 Determination of eligibility—Procedure for reconsideration.** Using the information supplied under this chapter and the standards set forth in WAC 251-30-040 and 251-30-050, the committee will determine which agencies and which federated organizations are eligible to participate in annual state combined fund drive campaigns. Any agency or federated organization determined not to be eligible may, within fifteen days after receiving notice of noneligibility, request reconsideration in writing, submitting responsive materials relating to the noneligibility notice in support of the request at the same time. The committee will duly reconsider the eligibility of the requesting agency or federated organization and will issue written notice of its final decision on eligibility within thirty days of receiving the request. Any decision on reconsideration will be a final determination of eligibility.

For the purposes of this section, any written requests or notices will be presumed to be received no more than three business days after mailing.

#### NEW SECTION

**WAC 251-30-057 Decertification and disqualification.** (1) Once approved for participation, any health and welfare agency or federated organization may be decertified and disqualified from participation in the state employee combined fund drive campaign by majority vote of the committee for any one or more of the following reasons:

(a) Failure to comply with the rules contained in this chapter;

(b) Filing an application to participate in the state combined fund drive campaign which contains false or intentionally misleading information;

(c) An annual contribution pledge from an annual campaign of two hundred fifty dollars or less.

(2) Any decertified health and welfare agency or federated organization shall be disqualified from participating in the next state employee combined fund drive campaign.

(3) The committee may order that the annual net estimated contribution for any health and welfare agency or federated organization receiving an annual pledge of two hundred fifty dollars or less in an annual campaign may be made in a lump sum at the end of the year of contributions.

(4) Any health and welfare agency or federated organization decertified under subsection (1)(a) or (b) of this section shall have any further payment of contributions terminated. The committee shall determine the method of disbursement of any future payments originally pledged in an annual campaign to such health and welfare agency or federated organization.

(5) Any decertified health and welfare agency or federated organization may request reconsideration of the committee's action using the procedures described under WAC 251-30-055.

#### NEW SECTION

**WAC 251-30-060 Qualifications for local campaign manager.** In selecting a local campaign manager, the local steering committee must assess the following qualities of an applicant to determine the applicant's capability to manage a successful charitable campaign:

(1) The local manager shall demonstrate the administrative and financial capability to manage and operate a fund-raising campaign with integrity and in an efficient manner yielding contributions comparable to those made by state employees in the past.

(2) The local manager shall demonstrate that a broad base of community support has been established within the state and demonstrate continuing positive relationships with a significant number of the state's charitable organizations.

(3) The local manager shall demonstrate the ability to effectively promote and publicize a charitable fund-raising campaign among the state employee work force.

(4) The local manager shall demonstrate the ability to give guidance to, train, and supervise volunteer solicitors and other state employee volunteers in the campaign.

(5) The local manager shall demonstrate the ability to publish and distribute informational literature and other material relative to the programs of participating agencies in a fair and equitable manner.

(6) The local manager shall demonstrate a history of integrity, and a direct and substantial presence in the local (or regional) community.

(7) The local manager shall demonstrate the intent to cooperate fully with the local steering committee and with state officials.

**WSR 02-17-115****PERMANENT RULES****PERSONNEL RESOURCES BOARD**

[Filed August 21, 2002, 11:22 a.m., effective September 30, 2002]

Date of Adoption: August 14, 2002.

Purpose: This modification is a result of legislative action (SHB 1268).

Citation of Existing Rules Affected by this Order: Amending WAC 356-56-001.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 02-13-130 on June 19, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: September 30, 2002.

August 21, 2002

E. C. Matt  
DirectorAMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93, effective 1/18/94)**WAC 356-56-001 Declaration of purpose.** (1) The general purpose of this chapter of rules is to establish for the state a system of personnel administration called the Washington management service, as authorized in RCW 41.06.500.

(2) Except as provided in RCW 41.06.070, the director of the department of personnel is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in WAC 356-56-002.

(3) In establishing rules for managers, the director shall adhere to the following goals:

(a) A simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) A compensation system consistent with RCW 41.06.150((17)) (14). The system shall provide flexibility in setting and changing salaries;

(c) A performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthened management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making, and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Provisions that managers may only be reduced, dismissed, suspended, or demoted for cause;

(g) Facilitation of decentralized and regional administration; and,

(h) Ensure that decisions are not based on patronage or political affiliation.

**WSR 02-17-116****PERMANENT RULES****PERSONNEL RESOURCES BOARD**

[Filed August 21, 2002, 11:23 a.m., effective September 30, 2002]

Date of Adoption: August 14, 2002.

Purpose: Due to the passage of the Civil Service Reform Bill (SHB 1268).

Citation of Existing Rules Affected by this Order: Repealing WAC 356-56-125.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 02-13-129 on June 19, 2002.

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 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: September 30, 2002.

August 21, 2002

E. C. Matt  
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 356-56-125 Salary surveys.

**WSR 02-17-117****PERMANENT RULES****PERSONNEL RESOURCES BOARD**

[Filed August 21, 2002, 11:24 a.m., effective September 30, 2002]

Date of Adoption: August 14, 2002.

Purpose: SHB 1268 gives the director of personnel exempt authority.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 02-14-039 on June 26, 2002.

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 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: September 30, 2002.

August 21, 2002

E. C. Matt  
Director

NEW SECTION

**WAC 356-03-010 Exemptions.** (1) The provisions of this chapter do not apply to positions specifically exempted in individual agency statutes, positions listed in RCW 41.06.070(1), and to the following:

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

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

(c) Part-time local health officers;

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

(e) Part-time or temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide training oppor-

tunity, and all temporary employees not in federal grant-in-aid programs.

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

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

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

(2) In addition, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director stating the reasons for requesting such exemptions. The director shall hold a public hearing after proper notice. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection is as specified in RCW 41.06.070(3).

(3) The salary and fringe benefits of all positions presently or hereafter exempted except for those specified in RCW 41.06.070 (3) and (1)(b) through (h) of this rule, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

(a) All agencies under the director's salary authority shall use the exempt management service band and salary structure according to the following:

(i) The creation and band establishment of any positions to be newly exempted must be brought to the director for consideration through the normal director's meeting process, including an approved fiscal impact statement.

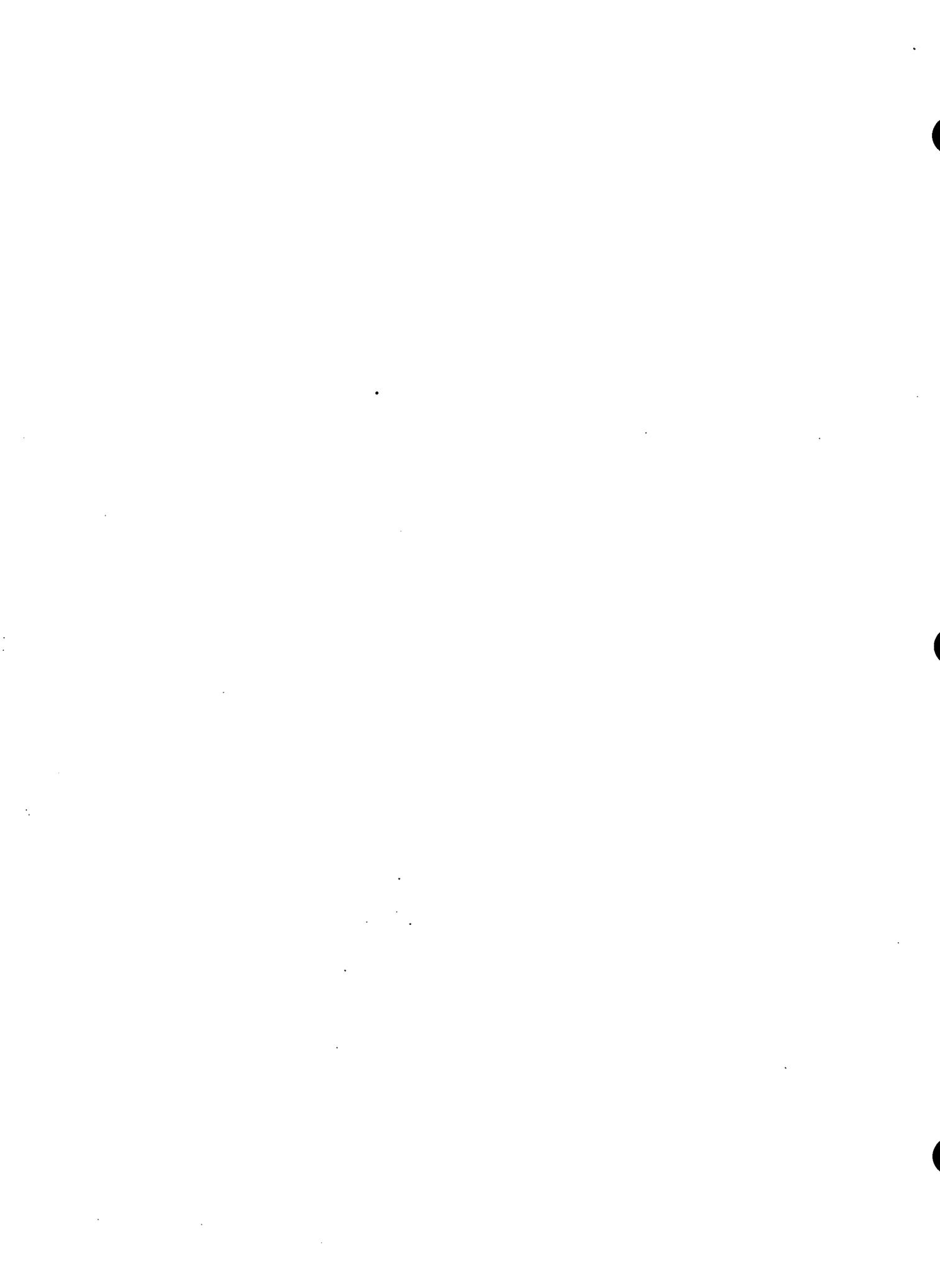
(ii) Request to band existing exempt positions shall follow the guidelines established by the department of personnel.

(iii) Agencies shall band existing exempt positions after receiving approval of their proposal by the director.

(iv) Following the implementation of banding, any movement of a position to a different band is subject to approval by the director. In addition, adjustments to any exempt position greater than ten percent for any single adjustment or cumulative adjustments of greater than twenty percent over the life of the position must be brought to the director for review and approval prior to implementation.

(A) Exceptions to these maximum adjustment percentages include legislatively approved increases, job reevaluations resulting in higher evaluation points, and increases to bring a salary to the band minimum.

(4) Any classified employee whose position is exempted or who accepts an appointment in an exempt position shall have the right of reversion as specified in RCW 41.06.070(3).



**WSR 02-17-010**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-191—Filed August 8, 2002, 4:58 p.m., effective August 9, 2002,  
 12:01 a.m.]

Date of Adoption: August 8, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-24-04000G; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047.

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: A harvestable surplus of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council in accordance with preseason fishing plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 9, 2002, 12:01 a.m.

August 8, 2002

J. P. Koenings  
 Director

by Larry Peck

**NEW SECTION**

**WAC 220-24-04000G All-citizen commercial salmon troll.** Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open August 9 through August 18, 2002. It is unlawful to possess wild coho. It is unlawful to possess hatchery coho taken from Areas 2, 3, or

4. Coho must be landed south of Leadbetter Point. The Cape Flattery and Columbia River Control Zones are closed.

(2) Minimum size for chinook salmon is 28 inches in length. Minimum size for coho is 16 inches in length. No minimum size for pink, sockeye or chum salmon.

(3) Lawful troll gear is restricted to single point, single shank barbless hooks. In Areas 2, 3 and 4 legal gear is restricted to plugs with a one piece body that is at least six inches long, not including hooks or attachments.

(4) No vessel may possess, land or deliver more than 400 chinook for the entire ten day period.

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and must land within the Salmon Management and Catch Reporting Areas fished, or within an adjacent Salmon Management and Catch Reporting Area closed to all-citizen troll fishing.

(6) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. EEZ: and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude and west of 125°05'00" W longitude.

(7) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" West. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(8) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management

and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(9) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfistickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species including halibut.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 18, 2002:

WAC 220-24-04000G All-citizen commercial salmon troll.

**WSR 02-17-011  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-192—Filed August 8, 2002, 4:58 p.m., effective August 10, 2002, 12:01 a.m.]

Date of Adoption: August 8, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000E; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.047.

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 emergency rule is necessary to harvest more of the harvestable hatchery coho. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 10, 2002, 12:01 a.m.

August 8, 2002

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 232-28-62000F Coastal salmon seasons—2002 North of Falcon.** Notwithstanding the provisions of WAC 232-28-620, effective 12:01 a.m. August 10, 2002 until fur-

ther notice, it is unlawful to fish for salmon in coastal waters during 2002 except as provided in this section:

(1) Area 1:

(a) Immediately through August 15, 2002 - Open Sunday through Thursdays only, daily limit 2 salmon except release chinook and wild coho. Minimum size 16 inches in length for coho.

(b) Effective August 16 through September 30, 2002 fishing is open seven days per week. Daily limit 2 salmon except release chinook and wild coho. Minimum size 16 inches in length for coho.

(2) Areas 2 2-1, and 2-2:

(a) Immediately through August 15, 2002 - Open Sunday through Thursdays only, daily limit 2 salmon only one of which may be a chinook and release wild coho. Minimum size for chinook is 28 inches in length and 16 inches in length for coho.

(3) Area 3:

(a) Open immediately until further notice - Daily limit 2 salmon except release chinook and wild coho. Minimum size 16 inches in length for coho.

(4) Area 4:

(a) Open immediately until further notice - Daily limit 2 salmon except release chinook wild coho and chum. Minimum size 16 inches in length for coho.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 10, 2002:

WAC 232-28-62000E Coastal salmon seasons—2002 North of Falcon. (02-162)

**WSR 02-17-012  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-189—Filed August 8, 2002, 4:58 p.m., effective August 9, 2002, 6:00 p.m.]

Date of Adoption: August 8, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-48-015.

Statutory Authority for Adoption: RCW 77.12.047.

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 Pacific cod quota has been taken in Marine Fish-Shellfish Management and Catch Reporting Area 23C. There is insufficient time to promulgate permanent rules.

EMERGENCY

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 9, 2002, 6:00 p.m.

August 8, 2002

J. P. Koenings

Director

by Larry Peck

vest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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.

August 8, 2002

J. P. Koenings

Director

## NEW SECTION

**WAC 220-48-01500P Beam trawl and bottom trawl—Seasons.** Notwithstanding the provisions of WAC 220-48-015, effective 6:00 p.m. August 9, 2002 until further notice, it is unlawful to fish for or possess bottomfish taken with beam trawl and bottom trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 23C.

**WSR 02-17-020**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-190—Filed August 9, 2002, 3:44 p.m.]

Date of Adoption: August 8, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100H; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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 rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements: (1) Closes the shrimp fishery in Region 1A; (2) increases spot shrimp weekly trip limit in 1C; (3) reopens spot shrimp fish in 1B and 23B with a weekly trip limit; and (4) closes the trawl fishery in 23A-W. Spot shrimp quotas are projected to be completed in areas closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overhar-

## NEW SECTION

**WAC 220-52-05100I Puget Sound shrimp pot and beam trawl fishery—Seasons & weekly trip limits.** Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Crustacean Management Regions 1, 2, 3, and 6 are open to harvest of all shrimp species until further notice, except as provided below:

(i) Effective immediately it is unlawful to harvest shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Area 23A-W and unlawful to harvest spot shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Areas 23B, 23D, 25D and 26D and Crustacean Management Regions 1B and 2E (described in 1 (e)(f)(i)).

(ii) Effective immediately, until further notice, it is unlawful to exceed 100 pounds of spot shrimp per week from 23A-E and 1A, or to exceed 150 lbs per week from 1C.

(iii) Effective 9:00 p.m. August 11, 2002, until further notice, it is unlawful to harvest shrimp for commercial purposes in Crustacean Regions 1A.

(iv) Effective 5:00 a.m. August 12, 2002 until further notice, it is lawful to harvest spot shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Area 23B and Crustacean Management Region 1B, except it is unlawful to exceed 200 pounds of spot shrimp per week in these areas and in Crustacean Management Region 1C.

(b) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 2W (described

in 1(i)), and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C, 29, and 23A-S described in ((1)(e)(f)) or any combination of these areas, shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information.

(i) The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(c) above.

(e) For purposes of shrimp pot harvest allocation, fishing season, and catch reporting, that portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line due east from the international boundary to Lime Kiln Point light on San Juan Island, then south of the shores of San Juan Island, then south of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, then south of the shores of Lopez Island to Point Colville shall be considered to be part of Marine Fish-Shellfish Management and Catch Reporting Area 23A.

(f) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 23A is divided into three subareas: 23A-E (east) is those waters of Catch Area 23A east of a line projected 122.59° N longitude. 23A-W (west) is those waters of Catch Area 23A east of a line projected 335 degrees true from the Dungeness lighthouse and west of a line projected 122.59°N longitude. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(g) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 26A is divided into two subareas: 26A-E (east); those waters of Catch Area 26A north and east of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore. 26A-W (west); those waters of Catch Area 26A south and west of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(h) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 26B is divided into two subareas: 26B-1; those waters of Catch Area 26B westerly of a line projected from West Point to Alki Point. 26B-2; those waters easterly of a line projected from West Point to Alki Point.

(i) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Crustacean Management Region 2 is divided into two subareas: 2E; those waters of Marine Fish-Shellfish Catch and Reporting Areas 24A, 24B, 24C, 24D, and 26A-E; 2W; those waters of Marine Fish-Shellfish Catch and Reporting Areas 25B, 25D, and 26A-W.

(2) Shrimp beam trawl gear:

(a) Marine Fish-Shellfish Catch and Reporting Area 20A -open immediately until further notice.

(b) Crustacean Management Regions 1B and 3 - Open until further notice, except as provided below:

(i) Marine Fish-Shellfish Catch and Reporting Areas 20B and 23AW - closed immediately until further notice.

(c) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear in waters shallower than 100 feet.

(d) The following restrictions apply to shrimp trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(i) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(ii) Closed in waters shallower than 20 fathoms.

(e) For purpose of shrimp trawl catch reporting, 23A East is that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23A, east of a line projected true north from the Dungeness lighthouse. 23A West is that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23A, west of the line described herein.

(3) It is unlawful to harvest shrimp using shellfish pot or shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(4) It is unlawful to fish for shrimp in Puget Sound with shellfish pot or beam trawl gear in the Discovery Bay Shrimp District, the Port Angeles Shrimp District, the Sequim Bay Shrimp District, the Hood Canal Shrimp District, and the Carr Inlet Shrimp District.

(5) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

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

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

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100H

Puget Sound shrimp pot and beam trawl fishery—Seasons

and weekly trip limits. (02-177)

**WSR 02-17-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-188—Filed August 9, 2002, 3:44 p.m.]

Date of Adoption: August 9, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Q; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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 available under the guideline of 16,800. This season is consistent with the 2002 fall management agreement. This rule is consistent with actions of the Columbia River compact on August 9, 2002, and is included in the biological assessment of ESA listed stocks. The biological opinion covering these fisheries has not been completed however, "...NMFS concludes that impacts associated with the proposed 2002 state and tribal fisheries expected to occur through August 16, 2002, are low and unlikely to substantially affect the prospects for survival of the listed ESUs." (Dygart, July 29, 2002). There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

August 9, 2002  
Evan Jacoby  
for J. P. Koenings  
Director

NEW SECTION

**WAC 220-33-01000Q Columbia River season below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

1) OPEN AREA: SMCRA 1A, 1B, and 1C upstream to the Longview Bridge

a) SEASON: 7:00 p.m. Friday, August 9, 2002 to 7:00 a.m. Saturday, August 10, 2002

2) OPEN AREA: SMCRA 1B and 1C

a) SEASON: 7:00 p.m. Sunday, August 11, 2002 to 7:00 a.m. Monday, August 12, 2002

3) GEAR: 8 inch minimum mesh and 9-3/4 inch maximum mesh.

Monofilament gear is allowed.

4) SANCTUARIES: Cowlitz, Kalama, Lewis-A, Grays River, Elokomina-A.

5) ALLOWABLE SALE: Salmon. Possession or sale of sturgeon is prohibited.

6) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. August 12, 2002:

WAC 220-33-01000Q Columbia River seasons below Bonneville.

**WSR 02-17-022  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed August 9, 2002, 4:01 p.m., effective August 10, 2002]

Date of Adoption: August 5, 2002.

Purpose: Medical Assistance Administration (MAA) is filing a second emergency CR-103 to continue the emergency rule that was adopted under WSR 02-09-053 on April 12, 2002, and expires on August 10, 2002. Under WSR 02-03-092, MAA is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. MAA is discontinuing enhanced payments to hospitals and trauma services centers for trauma care patients covered under the medically indigent or general assistance-unemployable programs. State funds appropriated by the legislature for the emergency medical services and trauma care systems trust account for the 2001-2003 biennium period have been exhausted.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-4800 Hospital payment method—State-only programs.

Statutory Authority for Adoption: RCW 43.88.290, 74.08.090, 74.09.035(1), and 74.09.700.

EMERGENCY

Other Authority: Washington State Omnibus Operating Budget 2001-2003.

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 legislature's 2001-03 supplemental operating budget (chapter 371, Laws of 2002) transferred about \$6.1 million from the trauma care fund reserve to the state general fund to be used for other purposes. In addition, there was a substantial and unanticipated increase in past biennia catch up payments during the early months of this biennium. It is necessary to suspend the enhanced payments to providers of trauma care to stay within the appropriation for the biennium. State law prohibits officers or employees of the state from intentionally overexpending any appropriation made by law.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 1, Repealed 0.

Effective Date of Rule: August 10, 2002.

August 5, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-4800 Hospital payment method—State-only programs.** (1) The medical assistance administration (MAA):

(a) Calculates payments to hospitals for covered services provided to eligible clients under the state-only MI and medical care services programs using one of the following payment methods:

(i) Diagnosis-related group (DRG); or

(ii) Ratio of costs-to-charges (RCC) methodologies; and

(b) Calculates the respective state-only program RCC rate and cost based conversion factor (CBCF) by reducing:

(i) The hospital's Title XIX inpatient RCC rate by the hospital's ratable; and

(ii) The hospital's Title XIX DRG CBCF.

(2) To calculate ratables, MAA:

(a) Adds a hospital's Medicare and Medicaid revenues, to the value of the hospital's charity care and bad debts. MAA deducts the hospital's low-income disproportionate share hospital (LIDSH) revenue from this total to arrive at the hospital's community care dollars; then

(b) Subtracts revenue generated by hospital-based physicians from total hospital revenue. Both revenues are as reported in the hospital's HCFA 2552 cost report; then

(c) Divides the amount derived in step (2)(a) by the amount derived in step (2)(b) to obtain the ratio of community care dollars to total revenue; then

(d) Subtracts the result of step (2)(c) from 1.000 to obtain the hospital's ratable. The hospital's Title XIX CBCF is multiplied by (1 minus the ratable), and that result is multiplied by the equivalency factor (EF) to calculate the state-only CBCF. The hospital's Title XIX RCC rate is multiplied by (1 minus the ratable) to calculate the state-only program RCC.

(e) The payments for services under the state-only MI and medical care services programs are mathematically represented as follows:

State-only program RCC = Title XIX RCC x (1 minus the ratable) x EF

State-only program CBCF = Title XIX Conversion Factor x (1 minus the ratable) x EF

(3) MAA updates each hospital's ratable annually on August 1.

(4) MAA:

(a) Uses the EF to hold the DRG reimbursement rates for the state-only programs at their current level prior to any rebasing. MAA applies the EF only to the Title XIX DRG CBCFs, not to the Title XIX RCCS. The EF does not apply when the DRG rate change is due to the application of an inflation factor.

(b) Calculates a hospital's equivalency factor as follows:

EF = (Current state-only program CBCF divided by (Title XIX CBCF) multiplied by (1 minus the ratable))

(5) Subject to availability of funds when a client eligible for the MI program or medical care services program has a trauma that qualifies under the trauma program, the hospital ~~((is reimbursed the full Medicaid reimbursement amount))~~ receives an enhanced payment when care has been provided in a nongovernmental hospital designated by the department of health (DOH) as a trauma services center. Subject to available funds, MAA gives an annual grant for trauma services to governmental hospitals certified by DOH.

WSR 02-17-036

EMERGENCY RULES

DEPARTMENT OF  
FISH AND WILDLIFE

[Order 02-195—Filed August 13, 2002; 2:49 p.m.]

Date of Adoption: August 13, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900X; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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 part of the agreed to North of Falcon annual fish management plans. These rules are interim until permanent rules take effect.

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.

August 13, 2002

J. P. Koenings

Director

by Larry Peck

## NEW SECTION

**WAC 232-28-61900D Exceptions to statewide rules—Baker, Cispus, Cowlitz, Green, Hoh, Klickitat, Lewis (including North Fork), Nooksack, Puyallup, Skagit, and Toutle (including North Fork) rivers and Lake Scanewa (Cowlitz Falls Reservoir).** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions:

(1) Baker River (Skagit County) - Mouth to Highway 20 Bridge closed through August 31, 2002.

(2) Cispus River (Lewis County) -

(a) Effective immediately until further notice, special daily limit of six salmon no more than one may be an adult in those waters of the Cispus River from posted markers at Lewis County PUD kayak launch upstream to the North Fork.

(3) Cowlitz River (Cowlitz/Lewis County)

(a) Effective immediately until further notice, special daily limit of six salmon no more than two may be adults in those waters of the Cowlitz River from boundary markers at mouth upstream to 400 feet or posted markers below barrier dam.

(b) Effective immediately until further notice, up to three hatchery steelhead may be retained as part of the trout daily limit in those waters of the Cowlitz River from the boundary markers at the mouth upstream to 400 feet or posted markers below the barrier dam. Wild steelhead and steelhead with missing right ventral fins must be released.

(c) Effective immediately until further notice, those waters of the Cowlitz River from Mill Creek to 400 feet or posted deadline below the barrier dam on the south side of the river are re-opened to fishing.

(d) Effective immediately until further notice, special daily limit of six salmon no more than one may be an adult in those waters of the Cowlitz River from the upstream boundary of Lake Scanewa (Cowlitz Falls Reservoir) upstream to the confluence of Muddy and Ohanapecoh rivers.

(4) Lake Scanewa (Cowlitz Falls Reservoir) (Lewis County)

(a) Effective immediately until further notice, special daily limit of six salmon no more than one may be an adult in those waters of Lake Scanewa from Cowlitz Falls Dam upstream to the posted Lewis County PUD sign on Peters Road on the Cowlitz Arm and the posted markers at the Lewis County PUD kayak launch on the Cispus Arm.

(5) Green River (Cowlitz County) Release wild chinook from mouth upstream to 2800 Road Bridge.

(6) Hoh River (Jefferson County): Mouth to Willoughby Creek:

(a) Season: open to angling immediately until further notice, except closed to salmon fishing on Mondays and Tuesdays in August.

(b) Size and daily limits:

(i) Trout - 14 inch minimum size, 2 fish daily limit, wild steelhead release.

(ii) Other game fish - statewide rules

(iii) Salmon - through August 31: 12 inch minimum size, 6 fish daily limit, no more than 1 adult salmon. September 1 through November 30: 12 inch minimum size, 6 fish daily limit, no more than 2 adult salmon.

(7) Hoh River (Jefferson County) Willoughby Creek to Morgan's Crossing Boat Launch:

(a) Season: open to angling immediately until further notice, except closed to salmon fishing through October 15.

(b) Size and daily limits:

(i) Trout - 14 inch minimum size, 2 fish daily limit, wild steelhead release.

(ii) Other game fish - statewide rules

(iii) Salmon - 12 inch minimum size, 6 fish daily limit, no more than 2 adult salmon.

(c) Selective gear rules in effect through October 15.

(8) Hoh River (Jefferson County) Morgan's Crossing Boat Launch to Olympic National Park Boundary below mouth of South Fork Hoh River:

(a) Season: open to angling immediately until further notice, except closed to salmon fishing.

(b) Size and daily limits:

(i) Trout - 14 inch minimum size, 2 fish daily limit, wild steelhead release.

(ii) Other game fish - statewide rules

(c) Selective gear rules in effect.

(9) Hoh River, South Fork (Jefferson County) Effective immediately until further notice, selective gear rules are in effect.

(10) Klickitat River (Klickitat County) - Effective immediately until further notice, special daily limit of six salmon, no more than two may be adults in those waters of the Klickitat River from 400 feet above #5 fishway upstream to boundary markers just below Klickitat Hatchery.

(11) Lewis River from boundary markers at mouth upstream to mouth of east fork (Clark County)

(a) Effective immediately until further notice, special daily limit of six salmon, no more than two may be adults.

(b) Effective immediately until further notice, up to three hatchery steelhead may be retained as part of the trout daily limit. Trout minimum size is 20 inches. Wild steelhead must be released.

(12) North Fork Lewis River from forks to Colvin Creek (Clark County).

(a) Effective immediately until further notice, special daily limit of six salmon, no more than two may be adult salmon.

(b) Effective immediately until further notice, up to three hatchery steelhead may be retained as part of the trout daily limit. Trout minimum size is 20 inches. Wild steelhead must be released.

(c) Effective immediately until further notice, those waters of the North Fork Lewis River between Johnson Creek and Colvin Creek are open to boat and bank fishing.

(13) North Fork Lewis River from Colvin Creek to overhead power lines below Merwin Dam (Clark County).

(a) Effective immediately through September 30, 2002, special daily limit of six salmon, no more than two may be adults. Minimum size 12 inches.

(b) Effective immediately through September 30, 2002, up to three hatchery steelhead may be retained as part of the trout daily limit. Trout minimum size is 20 inches. Wild steelhead must be released.

(14) Nooksack River (Whatcom County) - Effective August 1 until further notice nonbuoyant lures allowed.

(15) Puyallup River (Pierce County) - Effective August 1 until further notice salmon daily limit may contain no more than 1 adult chinook.

(16) Skagit River (Skagit County) - Gilligan Creek to Bacon Creek salmon fishing closed until further notice.

(17) Toutle River (Cowlitz County) - Effective August 1, 2002 until further notice lawful to retain chinook in daily limit in those waters of the Toutle River from mouth to forks. Release chum and wild coho.

(18) North Fork Toutle River (Cowlitz County) - Effective August 1, 2002 until further notice lawful to retain chinook in daily limit in those waters of the North Fork Toutle River from confluence at the forks upstream to posted deadline downstream of the fish collection facility. Release chum and wild coho.

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

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900X	Exceptions to statewide rules—Baker, Cispus, Cowlitz, Green, Hoh, Klickitat, Lewis (including North Fork), Nooksack, Puyallup, Skagit, Skykomish and Toutle (including North Fork) rivers and Lake Scanewa (Cowlitz Falls Reservoir). (02-148)
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**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 02-17-037

### EMERGENCY RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Order 02-197—Filed August 13, 2002, 2:52 p.m., effective August 15, 2002, 9:00 p.m.]

Date of Adoption: August 13, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100I; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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 rule is necessary to meet allocation, conservation and management agreements. Closures are consistent with these elements: This regulation closes the spot shrimp fishery in Region 1C. Spot shrimp quotas are projected to be completed in the area closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 15, 2002, 9:00 p.m.

August 13, 2002

J. P. Koenings

Director

by Larry Peck

## NEW SECTION

**WAC 220-52-05100J Puget Sound shrimp pot and beam trawl fishery—Seasons & weekly trip limits.** Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Crustacean Management Regions 1, 2, 3, and 6 are open to harvest of all shrimp species until further notice, except as provided below:

(i) Effective immediately it is unlawful to harvest shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Area 23A-W and Crustacean Region 1A and unlawful to harvest spot shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Areas 23D, 25D and 26D and Crustacean Management Region 2E (described in 1(e)(f) (i).

(ii) Effective immediately, until further notice, it is unlawful to exceed 100 pounds of spot shrimp per week from Marine Fish-Shellfish Catch and Reporting Area 23A-E.

(iii) Effective 9:00 p.m. August 15, 2002, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Crustacean Region 1C.

(iv) Effective immediately until further notice, it is unlawful to exceed 200 pounds of spot shrimp per week in Marine Fish-Shellfish Catch and Reporting Area 23B and Crustacean Management Regions 1B.

(b) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 2W (described in 1(i)), and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C, 29, and 23A-S described in ((1)(e)(f)) or any combination of these areas, shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear

from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information.

(i) The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(c) above.

(e) For purposes of shrimp pot harvest allocation, fishing season, and catch reporting, that portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A south of a line due east from the international boundary to Lime Kiln Point light on San Juan Island, then south of the shores of San Juan Island, then south of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, then south of the shores of Lopez Island to Point Colville shall be considered to be part of Marine Fish-Shellfish Management and Catch Reporting Area 23A.

(f) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 23A is divided into three subareas: 23A-E (east) is those waters of Catch Area 23A east of a line projected 122.59° N longitude. 23A-W (west) is those waters of Catch Area 23A east of a line projected 335 degrees true from the Dungeness lighthouse and west of a line projected 122.59°N longitude. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(g) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 26A is divided into two subareas: 26A-E (east); those waters of Catch Area 26A north and east of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore. 26A-W (west); those waters of Catch Area 26A south and west of a line projected 110 degrees true from the southern tip of Possession Point on Whidbey Island to the shipwreck on the opposite shore.

(h) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Catch and Reporting Area 26B is divided into two subareas: 26B-1; those waters of Catch Area 26B westerly of a line projected from West Point to Alki Point. 26B-2; those waters easterly of a line projected from West Point to Alki Point.

(i) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Crustacean Management Region 2 is divided into two subareas: 2E; those waters of Marine Fish-Shellfish Catch and Reporting Areas 24A, 24B, 24C, 24D, and 26A-E; 2W; those waters of Marine Fish-Shellfish Catch and Reporting Areas 25B, 25D, and 26A-W.

(2) Shrimp beam trawl gear:

EMERGENCY

(a) Marine Fish-Shellfish Catch and Reporting Area 20A - open immediately until further notice.

(b) Crustacean Management Regions 1B and 3 - Open until further notice, except as provided below:

(i) Marine Fish-Shellfish Catch and Reporting Areas 20B and 23AW - closed immediately until further notice.

(c) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear in waters shallower than 100 feet.

(d) The following restrictions apply to shrimp trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(i) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(ii) Closed in waters shallower than 20 fathoms.

(e) For purpose of shrimp trawl catch reporting, 23A East is that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23A, east of a line projected true north from the Dungeness lighthouse. 23A West is that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23A, west of the line described herein.

(3) It is unlawful to harvest shrimp using shellfish pot or shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(4) It is unlawful to fish for shrimp in Puget Sound with shellfish pot or beam trawl gear in the Discovery Bay Shrimp District, the Port Angeles Shrimp District, the Sequim Bay Shrimp District, the Hood Canal Shrimp District, and the Carr Inlet Shrimp District.

(5) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 p.m. August 15, 2002:

WAC 220-52-05100I Puget Sound shrimp pot and beam trawl fishery—Seasons and weekly trip limits. (02-190)

**WSR 02-17-038  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-198—Filed August 13, 2002, 2:54 p.m.]

Date of Adoption: August 13, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-19500J; and amending WAC 220-56-195.

Statutory Authority for Adoption: RCW 77.12.047.

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 part of the agreed to North of Falcon annual fish management plans and are interim until permanent rules take effect.

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.

August 13, 2002

J. P. Koenings

Director

by Larry Peck

#### NEW SECTION

**WAC 220-56-19500J Closed saltwater salmon areas—2002 North of Falcon.** Notwithstanding the provisions of WAC 220-56-195, effective immediately until further notice, it is lawful to retain salmon during open seasons in waters of Areas 4 and 5 southerly of a line from Kydaka Point to Shipwreck Point.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 30, 2002:

WAC 220-56-19500J Closed saltwater salmon areas—2002 North of Falcon.

**WSR 02-17-039  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 13, 2002, 4:38 p.m., effective August 28, 2002]

Date of Adoption: August 13, 2002.

Purpose: This amended rule explains how the department treats the value of vehicles when calculating food assistance eligibility. Certain vehicles can be excluded in their entirety. If a vehicle cannot be completely excluded, we must count it towards the resource limit. The department has initiated a rule-making proceeding on this rule. A proposed rule-making notice was filed as WSR 02-16-032 on July 29, 2002.

Citation of Existing Rules Affected by this Order: Amending WAC 388-470-0075.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The current rule is incorrect and does not accurately reflect federal regulations. This exposes the state to payment errors and could potentially result in federal sanctions.

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 1, Repealed 0.

Effective Date of Rule: August 28, 2002.

August 6, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-16-134, filed 7/31/01, effective 11/1/01)

**WAC 388-470-0075 How is my vehicle counted for food assistance?** This rule applies to food assistance only.

(1) A vehicle is a motorized device that the client can use as a regular means of transportation.

(2) If you own a licensed vehicle we (the department) do not count its entire value (even when you are temporarily unemployed,) if the vehicle (is):

(a) Has an equity value (Fair Market Value (FMV) minus what you owe on the vehicle) of one thousand five hundred dollars or less.

(b) Is used over fifty percent of the time (for) to make income (producing purposes). This includes vehicles such as a taxi, truck, or fishing boat. If you are a self-employed farmer or fisher and your self-employment ends, we (continue to) still exclude your vehicle for one year from the date you end your self-employment.

~~((b)) (c) Is used to (produce) make income each year that is consistent with its (fair market value (FMV)) (FMV), even if used on a seasonal basis.~~

~~((e) Necessary)~~

~~(d) Is needed for long-distance travel, other than daily commuting, for the employment of (a household member whose resources are considered available to the assistance unit (AU), such as an ineligible alien or disqualified person.~~

~~(d) Needed for hunting or fishing to support the household) an assistance unit (AU).~~

~~(e) Is used as (the) your AU's home.~~

~~(f) Is used to carry fuel for heating or water for home use when this is the primary source of fuel or water for (the) your AU.~~

~~(g) Is needed to transport a physically disabled AU member, no matter if the disability is permanent or temporary.~~

~~((h) Likely to produce an equity value (FMV less what is owed on the vehicle) of no more than one thousand five hundred dollars.~~

~~(2) If your)~~

~~(3) For licensed (vehicle is) vehicles we did not (exclude) exclude in subsection ((1)) (2) above ((and the)), we subtract four thousand six hundred fifty dollars from the vehicle's FMV (is) and count the remaining amount toward the resource limit for:~~

~~(a) (Less than four thousand six hundred fifty dollars, we exclude each) One vehicle (less than four thousand six hundred fifty dollars) for each adult AU member no matter how it is used; and~~

~~(b) (Greater than four thousand six hundred fifty dollars, we count the amount in excess of four thousand six hundred fifty dollars toward the resource limit for:~~

~~(i) One vehicle for each adult household member no matter how it is used; and~~

~~(ii)) Any vehicle ((a household)) an AU member under age eighteen uses to drive to work, school, training, or to look for work.~~

~~((3)) (4) If you have other licensed vehicles, we count the larger value of the following toward (the) your AU's resource limit:~~

~~(a) FMV greater than four thousand six hundred fifty dollars; or~~

~~(b) Equity value (FMV (less) minus what is owed on the vehicle).~~

~~((4)) (5) If you are a tribal member and drive an unlicensed vehicle on (those reservations that don't) a reservation that does not require vehicle licensing, we count or exclude your vehicle ((will be treated like)) as if it was a licensed vehicle.~~

~~((5)) (6) For all other unlicensed vehicles we count the equity value towards (the) your AU's resource limit unless the vehicle is:~~

~~(a) Used to (produce) make income each year that is consistent with its FMV, even if used on a seasonal basis; or~~

~~(b) Work-related equipment ((necessary)) needed for employment or self-employment of a ((household)) member of your AU.~~

~~((6) When excluding vehicles due to their equity value,))~~

(7) We do not add ((up)) the equity values of ((multiple)) different vehicles together to perform the equity test. We look at each vehicle ((is evaluated)) separately ((and compared to your resource limit. For vehicles evaluated using the FMV test, we add the values of multiple vehicles together and compare the result to your resource limit)). If a vehicle passes the equity test, we do not count it towards the resource maximum.

(8) After we determine the countable value of each vehicle, we add those values to your other countable resources to see if your resources are below your resource limit.

**WSR 02-17-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-196—Filed August 14, 2002, 11:48 a.m.]

Date of Adoption: August 14, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 232-28-61900C; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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 cutoff date for retention of sturgeon was adopted because Washington and Oregon fish managers estimate that the harvest guideline of one hundred sixty-five fish will be caught in the area between John Day Dam upstream to McNary Dam. 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.

August 14, 2002  
Evan Jacoby  
for Jeff Koenings  
Director

NEW SECTION

**WAC 232-28-61900E Exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately through September 30, 2002, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam downstream to the mouth.

(2) Effective immediately until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to John Day Dam.

(3) Effective August 24, 2002 until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from John Day Dam upstream to McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900C	Exceptions to statewide rules—Columbia River. (02-171)
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**WSR 02-17-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 02-199—Filed August 14, 2002, 11:50 a.m.]

Date of Adoption: August 14, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-47-427.

Statutory Authority for Adoption: RCW 77.12.047.

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 original pool of applicants established on September 9, 1996, has been expended, and there are unfilled vacancies. All Puget Sound commercial salmon license holders were invited by mail to submit an application for the new pool. Applications were to be delivered to the Washington State Department of Fish and Wildlife by August 12, 2002. As of that date nine applications were received. A drawing was held on August 13, 2002, to determine the order in which vacancies would be offered. There is insufficient time to promulgate permanent rules prior to the start of the fishery which occurs on August 26, 2002.

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

EMERGENCY

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.

August 14, 2002

Evan Jacoby  
for Jeff Koenings  
Director

### NEW SECTION

**WAC 220-47-42700B Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.** Notwithstanding the provisions of WAC 220-47-427, effective immediately until further notice all vacant Quilcene Bay salmon beach seine experimental fishery permits will be filled from a pool of ranked applicants, the rankings having been established by random drawing on August 13, 2002.

**WSR 02-17-063  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-200—Filed August 16, 2002, 2:22 p.m., effective August 18, 2002, 8:00 p.m.]

Date of Adoption: August 16, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000R; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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 and sturgeon are available for the mainstem Columbia River. The select areas are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. This season is consistent with the 2002 fall management agreement and actions of the Columbia River compact on August 15, 2002, and is included in the biological assess-

ment of ESA listed stocks. The biological opinion covering these fisheries has been signed. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 18, 2002, 8:00 p.m.

August 16, 2002

J. P. Koenings  
Director

### NEW SECTION

**WAC 220-33-01000R Columbia River season below Bonneville.** Notwithstanding the provisions of WAC 220-33-005, WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1) OPEN AREA: SMCRA 1D upstream of the I-205 Bridge and 1E

a) SEASON: 8:00 p.m. August 18, 2002 to 6:00 a.m. August 19, 2002

8:00 p.m. August 20, 2002 to 6:00 a.m. August 21, 2002

8:00 p.m. August 22, 2002 to 6:00 a.m. August 23, 2002

8:00 p.m. August 25, 2002 to 6:00 a.m. August 26, 2002

8:00 p.m. August 27, 2002 to 6:00 a.m. August 28, 2002

b) GEAR: Gillnet - 9 inch minimum mesh and 9-3/4 inch maximum mesh.

c) ALLOWABLE SALE: Salmon. Up to 5 white sturgeon may be possessed or sold for each participating vessel per fishing period. Possession or sale of green sturgeon is prohibited.

d) SANCTUARIES: Washougal and Sandy river mouth sanctuaries are in effect.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) OPEN AREA: Blind Slough/Knapa Slough Select Area

Blind Slough fishing area includes all waters 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 waters extend downstream of the railroad bridge. Oregon State waters extend upstream of the railroad bridge.

Knappa Slough fishing area includes all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100' radius at the mouth of Big Creek defined by markers. All waters are under concurrent jurisdiction.

a) SEASON: 7:00 p.m. August 26 to 7:00 p.m. August 29, 2002 and

Monday, Tuesday, Wednesday, and Thursday nights from September 3 through October 31, 2002. Open hours from September 3 through 27 are 7:00 p.m. to 7:00 a.m. daily and beginning September 27, the open hours are 6:00 p.m. to 8:00 p.m. daily.

b) GEAR: Gillnet - 9 3/4 inch maximum mesh size prior to September 16 and 6-inch maximum mesh size after September 16. Maximum net length of 100 fathoms. No weight restriction on lead line.

c) ALLOWABLE SALE: Salmon and sturgeon.

3) OPEN AREA: Tongue Point/South Channel Select Area

Tongue Point fishing area includes 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 southwest end of Lois Island due westerly to a marker on the opposite bank. All waters are under concurrent jurisdiction.

South Channel area includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from September 3 through October 31, 2002. Open hours from September 3 through 27 are 7:00 p.m. to 7:00 a.m. daily and beginning September 27, the open hours are 6:00 p.m. to 8:00 p.m. daily. Only the Tongue Point area is open through September 13 and Tongue Point and South Channel areas are open after September 13.

b) GEAR: In the Tongue Point area the mesh size is restricted to Gillnets 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line.

In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line.

c) ALLOWABLE SALE: Salmon and sturgeon.

d) MISCELLANEOUS: Participants in the Tongue Point fishery may have stored on board their boats, gill nets with lead line in excess of two pounds per fathom.

4) OPEN AREA: Deep River Select Area

Deep River is open to fishing down river from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from September 3 through October 31, 2002. Open hours from September 3 through 27 are 7:00 p.m. to 7:00 a.m. daily and beginning September 27, the open hours are 6:00 p.m. to 8:00 p.m. daily.

b) GEAR: Gillnet - 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon.

5) OPEN AREA: Steamboat Slough Select Area

Steamboat Slough is open to fishing in waters bounded by markers on Price Island and the Washington shore, at both upstream and downstream ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from September 3 through October 31, 2002. Open hours from September 3 through 27 are 7:00 p.m. to 7:00 a.m. daily and beginning September 27, the open hours are 6:00 p.m. to 8:00 p.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon.

d) MISCELLANEOUS: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. September 27, 2002:

WAC 220-33-01000R Columbia River seasons below Bonneville.

#### WSR 02-17-064 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-201—Filed August 16, 2002, 2:23 p.m., effective August 19, 2002, 6:00 a.m.]

Date of Adoption: August 16, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

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: Sets first three weeks of tribal commercial fishing. Allows commercial sale from platform and hook and line fishery. Allows sale of fish caught in the

Klickitat River to be sold when the Klickitat River is open and the Columbia River is open to commercial sale. Harvestable numbers of salmon are available. Impacts on ESA-listed stocks are expected to be within the guidelines of the 2002 fall management agreement and the biological opinion. The biological opinion covering fall fisheries has been signed. Consistent with compact action of August 15, 2002. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 19, 2002, 6:00 a.m.

August 16, 2002

J. P. Koenings

Director

## NEW SECTION

**WAC 220-32-05100U Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, and the Klickitat River except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, or sturgeon under the following provisions pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. August 28 to 6:00 p.m. August 31, 2002

6:00 a.m. September 4 to 6:00 p.m. September 7, 2002

6:00 a.m. September 11 to 6:00 p.m. September 14, 2002

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gillnet 8-inch minimum mesh restriction

c) Allowable sale includes: salmon and shad

d) Spring Creek Hatchery Sanctuary: Those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to 1 1/2 miles downstream from the western shoreline of the mouth of Spring Creek are closed.

2) Open Periods: 6:00 a.m. August 19 until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, and the Klickitat River

b) Gear: Hoop nets, dip bag nets, or hook and line.

c) Allowable sale includes: salmon, shad.

d) Fish taken in the Klickitat River may be sold when the Klickitat River is open pursuant to lawfully enacted tribal rules. Klickitat River seasons are Tuesdays through Saturdays, weekly, from August 20 through September 14.

## **WSR 02-17-065**

### **EMERGENCY RULES**

### **DEPARTMENT OF**

### **FISH AND WILDLIFE**

[Order 02-202—Filed August 16, 2002, 2:23 p.m.]

Date of Adoption: August 16, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000F; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.047.

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 emergency rule is necessary to utilize the remaining harvestable chinook to maximize harvest of hatchery coho in Areas 2, 2-1 and 2-2. 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.

August 16, 2002

J. P. Koenings

Director

## NEW SECTION

**WAC 232-28-62000G Coastal salmon seasons.** Notwithstanding the provisions of WAC 232-28-620, effective 12:01 a.m. August 18, 2002 until further notice, it is unlawful

to fish for salmon in coastal waters during 2002 except as provided in this section:

(1) Area 1:

(a) Effective immediately through September 30, 2002 fishing is open seven days per week. Daily limit 2 salmon except release chinook and wild coho. Minimum size 16 inches in length for coho.

(2) Areas 2, 2-1, and 2-2:

(a) Open August 18 and 19, 2002, daily limit 2 salmon only one of which may be a chinook and release wild coho. Minimum size for chinook is 28 inches in length and 16 inches in length for coho.

(3) Area 3:

(a) Open immediately until further notice - Daily limit 2 salmon except release chinook and wild coho. Minimum size 16 inches in length for coho.

(4) Area 4:

(a) Open immediately until further notice - Daily limit 2 salmon except release chinook wild coho and chum. Minimum size 16 inches in length for coho.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 18, 2002:

WAC 232-28-62000F Coastal salmon seasons—  
2002 North of Falcon. (02-192)

**WSR 02-17-066  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 02-203—Filed August 16, 2002, 2:24 p.m., effective August 19, 2002, 6:00 a.m.]

Date of Adoption: August 16, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100X; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 19, 2002, 6:00 a.m.

August 16, 2002.

J. P. Koenings

Director

**NEW SECTION**

**WAC 220-52-07100Y Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. August 19, 2002 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 2 on August 19, 2002 from 6:00 a.m. to one-half hour before official sunset.

(2) Effective 6:00 a.m. August 19, 2002, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 4 on August 19 and August 26, 2002 from 6:00 a.m. to one-half hour before official sunset of each day.

(3) Effective 6:00 a.m. August 19, 2002, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Mondays, Tuesdays, and Wednesdays of each week from 6:00 a.m. to one-half hour before official sunset of each day.

(4) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on August 17, 18, 24, 25, 31 and September 1, 7, and 8, 2002.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. August 19, 2002:

WAC 220-52-07100X Sea cucumbers. (01-169)

EMERGENCY

**WSR 02-17-081**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed August 19, 2002, 4:16 p.m.]

Date of Adoption: August 16, 2002.

Purpose: MAA is filing a second emergency CR-103 to continue the current emergency rule which adopted the April 1, 2002, federal increase to the community spouse resource standards for long term care programs. The current emergency rule was adopted under WSR 02-10-017. The department has published a CR-101 preproposal statement of inquiry, filed as WSR 02-10-041 on April 24, 2002, and has initiated a rule-making proceeding.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1350 and 388-513-1380.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: Section 1924 (42 U.S.C. 1396R-5).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Implementation of this increase to the federal standards is required in order for the state of Washington to continue receiving federal funds.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, 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 2, Repealed 0.

Effective Date of Rule: Immediately.

August 16, 2002

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

**WAC 388-513-1350 Defining the maximum amount of resources allowed and determining resources availability for long-term care (LTC) services.** This section describes how the department defines the resource standard and available resources when determining a client's eligibility for LTC services. The department uses the term "resource standard" to describe the maximum amount of resources a

client can have and still be resource eligible for program benefits.

(1) The resource standard used to determine eligibility for LTC services equals:

(a) Two thousand dollars for a single client; or

(b) Three thousand dollars for a legally married couple, unless subsection (2) applies.

(2) If the department has already established eligibility for one spouse, then it applies the standard described in subsection (1)(a) to each spouse, unless doing so would make one of the spouses ineligible.

(3) The department applies the following rules when determining available resources for LTC services:

(a) WAC 388-470-0005, Resource eligibility and limits;

(b) WAC 388-470-0010, How to determine who owns a resource;

(c) WAC 388-470-0015, Availability of resources;

(d) WAC 388-470-0060(6), Resources of an alien's sponsor; and

(e) WAC 388-506-0620, SSI-related medical clients.

(4) For LTC services the department determines a client's nonexcluded resources as follows:

(a) For an SSI-related client, the department reduces available resources by excluding resources described in WAC 388-513-1360;

(b) For an SSI-related client who has a community spouse, the department:

(i) Excludes resources described in WAC 388-513-1360; and

(ii) Adds together the available resources of both spouses according to subsection (5)(a) or (b) as appropriate;

(c) For a client not described in subsection (4)(a) or (b), the department applies the resource rules of the program used to relate the client to medical eligibility.

(5) The department determines available resources of a legally married client, when both spouses are institutionalized, by following WAC 388-506-0620 (5) and (6). For legally married clients when only one spouse meets institutional status, the following rules apply. If the client's current period of institutional status began:

(a) Before October 1, 1989, the department adds together one-half the total amount of nonexcluded resources held in the name of:

(i) The institutionalized spouse; or

(ii) Both spouses.

(b) On or after October 1, 1989, the department adds together the total amount of nonexcluded resources held in the name of:

(i) Either spouse; or

(ii) Both spouses.

(6) If subsection (5)(b) applies, the department allocates the maximum amount of resources ordinarily allowed by law to the community spouse before determining nonexcluded resources used to establish eligibility for the institutionalized spouse. The maximum allocation amount is eighty-~~(seven)~~ nine thousand two-hundred eighty dollars effective January 1, ~~(2001)~~ 2002.

(7) The amount of allocated resources described in subsection (6) can be increased, only if:

(a) A court transfers additional resources to the community spouse; or

(b) An administrative law judge establishes in a fair hearing described in chapter 388-02 WAC or by consent order, that the amount is inadequate to provide a minimum monthly maintenance needs amount for the community spouse.

(8) The department considers resources of the community spouse unavailable to the institutionalized spouse the month after eligibility for LTC services is established, unless subsection (9)(a), (b), or (c) applies.

(9) A redetermination of the couple's resources as described in subsections (4)(b) or (c) is required, if:

(a) The institutionalized spouse has a break of at least thirty consecutive days in a period of institutional status;

(b) The institutionalized spouse's nonexcluded resources exceed the standard described in subsection (1)(a), if subsection (5)(b) applies; or

(c) The institutionalized spouse does not transfer the amount described in subsections (6) or (7) to the community spouse or to another person for the sole benefit of the community spouse as described in WAC 388-513-1365(4) by either:

(i) The first regularly scheduled eligibility review; or

(ii) The reasonable amount of additional time necessary to obtain a court order for the support of the community spouse.

**AMENDATORY SECTION** (Amending WSR 01-18-055, filed 8/30/01, effective 9/30/01)

**WAC 388-513-1380 Determining a client's participation in the cost of care for long-term care (LTC) services.** This rule describes how the department allocates income and excess resources when determining participation in the cost of care (in the post-eligibility process). The department applies rules described in WAC 388-513-1315 to define which income and resources must be used in this process.

(1) For a client receiving institutional or hospice services in a medical facility, the department applies all subsections of this rule.

(2) For a client receiving waived services at home or in an alternate living facility, the department applies only those subsections of this rule that are cited in the rules for those programs.

(3) For a client receiving hospice services at home, the department applies rules used for the community options program entry system (COPES).

(4) Excess resources are reduced in an amount equal to incurred medical expenses (for definition see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(a) Health insurance and Medicare premiums, deductions, and co-insurance charges;

(b) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; and

(c) The amount of excess resources is limited to the following amounts:

(i) For LTC services provided under the categorically needy (CN) program, the amount described in WAC 388-513-1315(3); or

(ii) For LTC services provided under the medically needy (MN) program, the amount described in WAC 388-513-1395 (2)(a) or (b).

(5) The department allocates nonexcluded income up to a total of the medically needy income level (MNIL) in the following order:

(a) A personal needs allowance (PNA) of:

(i) One hundred sixty dollars for a client living in a state veterans' home;

(ii) Ninety dollars for a veteran or a veteran's surviving spouse, who receives a VA improved pension and does not live in a state veterans' home; or

(iii) Forty-one dollars and sixty-two cents for all other clients in a medical facility.

(b) Federal, state, or local income taxes incurred during the time period covered by the PNA, whether paid or unpaid.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program as described in WAC 388-503-0510(1); and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction employment expenses are not deducted.

(d) Guardianship fees and administrative costs including any attorney fees paid by the guardian, after June 15, 1998, only as allowed by chapter 388-79 WAC.

(6) The department allocates nonexcluded income after deducting amounts described in subsection (5) in the following order:

(a) Income garnished for child support:

(i) For the time period covered by the PNA; and

(ii) Not deducted under another provision in the post-eligibility process.

(b) A monthly maintenance needs allowance for the community spouse not to exceed, effective January 1, ~~((2001) 2002~~, two thousand ~~((one hundred seventy five))~~ two hundred thirty-two dollars, unless a greater amount is allocated as described in subsection (8) of this section. The monthly maintenance needs allowance:

(i) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide a total of one thousand four hundred ~~((fifty two))~~ ninety-three dollars; and

(B) Excess shelter expenses as specified under subsection (7) of this section; and

(ii) Is allowed only to the extent the client's income is made available to the community spouse.

(c) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse who:

(i) Resides with the community spouse, equal to one-third of the amount that one thousand four hundred ~~((fifty two))~~ ninety-three dollars exceeds the dependent family member's income.

(ii) Does not reside with the community spouse, equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from noncustodial parent is the child's income.

(d) Incurred medical expenses described in subsections (4)(a) and (b) not used to reduce excess resources.

(e) Maintenance of the home of a single client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social services staff documents initial need for the income exemption and reviews the client's circumstances after ninety days.

(7) For the purposes of this section, "excess shelter expenses" means the actual expenses under subsection (7)(b) less the standard shelter allocation under subsection (7)(a). For the purposes of this rule:

(a) The standard shelter allocation is four hundred ~~((thirty-six))~~ forty-eight dollars, effective April 1, ~~((2001))~~ 2002; and

(b) Shelter expenses are the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

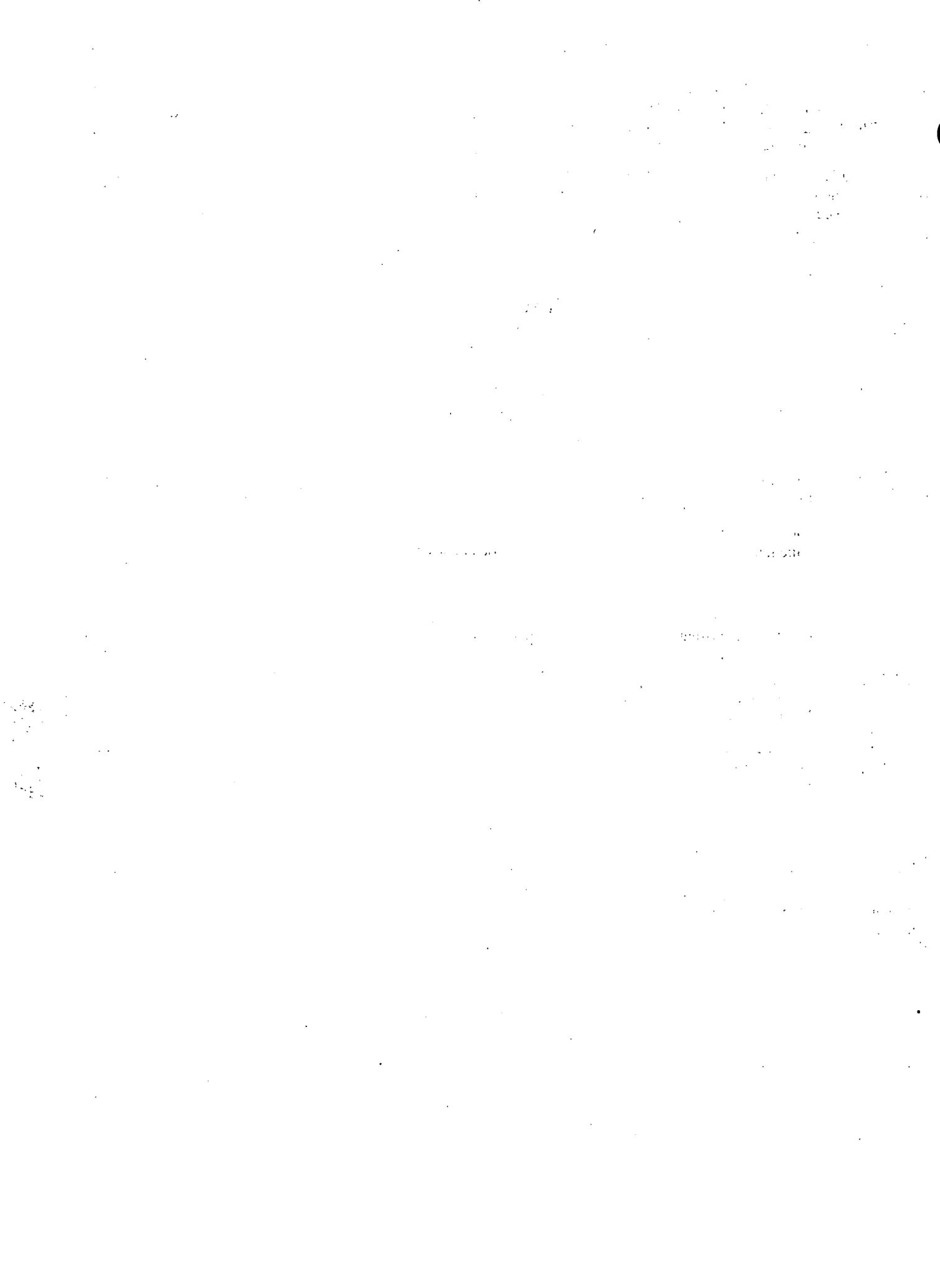
(v) The food stamp standard utility allowance for four persons, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(8) The amount allocated to the community spouse may be greater than the amount in subsection (6)(b) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(9) A client who is admitted to a medical facility for ninety days or less and continues to receive full SSI benefits is not required to use the SSI income in the cost of care for medical services. Income allocations are allowed as described in this section from non-SSI income.



**WSR 02-17-003**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—August 8, 2002]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for Thursday, August 15, 2002, has been canceled and rescheduled for Friday, August 23, 2002, 9:00 a.m., in the College Services

Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

The board of trustees of Bellingham Technical College will hold a study session to discuss the operating budget on Friday, August 23, 2002, 8:30 a.m. to 9:00 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

**WSR 02-17-006**  
**AGENDA**  
**DEPARTMENT OF TRANSPORTATION**  
 [Filed August 8, 2002, 1:10 p.m.]

**Department of Transportation**  
**Semi- Annual Rule Agenda**  
**July 1, 2002 - December 31, 2002**

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approx. CR-101 Filing Date
468-58-080	Guides for control of access on crossroads and interchange ramps.	(1)(c)(d) (2)(b)(c)(d) (3)(b)(v)(e)	To update the current WAC to new practices and delete obsolete references.	Darlene Sharar (360) 705-7251	11/02
468-58-100	Guides for the application of modified access control on existing state highways.	(1)(v)(d) (2)(c)	To update the current WAC to new practices and delete obsolete references.	Darlene Sharar (360) 705-7251	11/02
468-22	County ferry franchises, tolls, and financial assistance.	020, 040	To update the current WAC to new practices and delete obsolete references.	Joan Neff 705-7373	Flexible
468-300	State ferries and toll bridges.	010, 020, 220	The commission and department review the ferry fares annually to adopt any necessary revisions.	Tim McGuigan, Washington State Ferries	12/02
468-38	Vehicle size and weight.	new	Establish Pilot/Escort Oversight Committee.	Barry Diseth	10/02
New chapter 468-14	Small works roster.	010 through 110	RCW 39.04.155, requires agencies who use a small works roster to award contracts estimated to cost two hundred thousand dollars or less to adopt rules for implementing the process.	Ken Walker	10/02

MISC.

**WSR 02-17-007**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed August 8, 2002, 3:32 p.m.]

**Notice of Grant Application to be published in the Wash-  
 ington State Register**

The public is invited to review the year 2003 Washington state application for federal substance abuse prevention and treatment (SAPT) block grant funding. The application is submitted annually to the federal Centers for Substance Abuse Treatment and Substance Abuse Prevention. The 2003 application will result in approximately \$37 million in federal funds being awarded to the state of Washington for substance abuse prevention and treatment.

A public hearing to review the application and consider questions or comments will be held September 26, 2002, at 10:00 a.m. The location of the public hearing is the SeaTac Radisson Hotel located at 17001 Pacific Highway South, Seattle, WA 98188. The hearing is sponsored by The Citizens Advisory Council on Alcoholism and Drug Addition, a statutorily empowered body charged with the role of advising the Department of Social and Health Services on matters relating to the state substance abuse program.

The application is being prepared by the Department of Social and Health Services, Division of Alcohol and Substance Abuse. A summary of the SAPT block grant requirements and the plan for award allocation is available to anyone interested upon request.

If you have questions, or wish to request a copy of the review material, please contact Vince Collins, Federal Block Grant Administrator, Department of Social and Health Services, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, (360) 438-8226, fax (360) 438-8078, e-mail colliv1@dshs.wa.gov.

Brian Lindgren, Manager  
 Rules and Policies Assistance Unit

**WSR 02-17-008**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 8, 2002, 4:30 p.m.]

**Prevailing Rate of Wage**

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 and as was distributed to all state and local agencies, other interested parties, and posted on the Internet on August 1, 2002, the industrial statistician has determined the state-wide prevailing rates of wage as provided in the attachments. These prevailing rates of wage are effective for public works projects bid on or after August 31, 2002.

Every contractor and subcontractor on every public works project must file a statement of intent to pay prevailing wages and an affidavit of wages paid. Both forms must be filed on every project. The filing of the affidavit of wages paid does not set aside the requirements to also file the state-

ment of intent to pay prevailing wages. The department may fine contractors \$500 for failure to file these forms.

For more information on prevailing wage or a copy of the rates please visit our website at [www.lni.wa.gov/prevailing-wage](http://www.lni.wa.gov/prevailing-wage) or call (360) 902-5335.

Jim Christensen  
 Industrial Statistician

**WSR 02-17-025**  
**OFFICE OF THE GOVERNOR**

[Filed August 12, 2002, 2:52 p.m.]

**NOTICE OF APPEAL**  
**(RCW 34.05.330(3))**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On August 6, 2002, the Governor received an appeal to the July 19, 2002 denial by the Department of Labor and Industries to adopt regulations related to closed systems for certain Category 1 and Category 2 pesticides.

DATED: August 9, 2002

Everett H. Billingslea  
 General Counsel to the Governor

**WSR 02-17-026**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**

(Commission on Pesticide Registration)

[Memorandum—August 9, 2002]

**REGULAR MEETING DATES FOR**  
**WASHINGTON STATE COMMISSION ON PESTICIDE REGIS-**  
**TRATION**

The Washington State Commission on Pesticide Registration has determined a revised schedule for the remainder of fiscal year 2003. Per RCW 42.30.075, we are making this schedule available to the public through your office.

**SCHEDULE FOR THE REMAINDER OF FISCAL YEAR 2003**

Wednesday	September 11, 2002	Mt. Vernon, WSU
Tuesday - Wednesday	October 29-30, 2002	Ellensburg, location to be determined
Tuesday - Wednesday	January 7-8, 2003	Portland, Oregon, location to be determined
Tuesday	March 11, 2003	Olympia, Department of Ecology
Thursday	May 8, 2003	Moses Lake, Washington State Potato Commission office

Meetings commence at 10:00 a.m. and are open to the public.

Proposals are accepted throughout the year but must be received thirty days prior to the meeting at which they will be presented. October and January meetings have been desig-

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nated to hear proposals. A mechanism is in place to accept emergency requests at any time.

Examples available: <http://www.wscpr.org>. For information, call (509) 266-4305.

Should you have any further questions in regard to WSCPR proposals or meetings specifics, please contact Alan Schreiber, 2621 Ringold Road, Eltopia, WA 99330, [aschreib@centurytel.net](mailto:aschreib@centurytel.net); or Donna Gorham, 2621 Ringold Road, Eltopia, WA 99330, [dgorham@centurytel.net](mailto:dgorham@centurytel.net).

### WSR 02-17-040

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed August 13, 2002, 4:41 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 224.

Subject: Refunding overpayments from income withholding.

Effective Date: August 14, 2002.

Document Description: This canary notice explains to DCS staff what to do on a case when overpayments from income withholding are discovered.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail [sschille@dshs.wa.gov](mailto:sschille@dshs.wa.gov).

August 9, 2002  
Stephanie Schiller

### WSR 02-17-057

#### NOTICE OF PUBLIC MEETINGS WASHINGTON STATE PATROL

(Fire Protection Policy Board)

[Memorandum—August 13, 2002]

The Washington State Fire Protection Policy Board has scheduled a special meeting that will be held on September 25, 2002, beginning at 9:00 a.m. The location of the meeting is WSP Headquarters Conference Room, General Administration Building, 210 11th Street S.W., Olympia, WA 98504.

For further information, please contact Ellen Tombleson at (360) 753-0411.

### WSR 02-17-060

#### NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—August 14, 2002]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday**,

**August 20, 2002, at 2:00 p.m.** in Room 209, of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

### WSR 02-17-061

#### NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—August 14, 2002]

A meeting of the Washington State Convention and Trade Center board of directors Design and Construction Committee will be held on **Tuesday, August 20, 2002, at 12:30 p.m.** in the Administrative Boardroom, 5th Floor of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

### WSR 02-17-067

#### DEPARTMENT OF AGRICULTURE

[Filed August 16, 2002, 2:27 p.m.]

#### LEGAL NOTICE

The Washington State Department of Agriculture (WSDA) Laboratory Services Division is hereby notifying the affected public that the herbicide Rodeo® (glyphosate), surfactant (R-11, X-77 or LI-700) and marker dyes may be used between June 15, 2002, and October 31, 2002. Properly licensed pesticide applicators who have obtained coverage under a WSDA National Pollutant Discharge Elimination System Waste Discharge General Permit may apply Rodeo® to control the noxious weed *Spartina* on the saltwater tide-flats of Grays Harbor, Hood Canal, Willapa Bay, Puget Sound, and the north and west sides of the Olympic Peninsula.

Use of the herbicide Rodeo® is one of the options used to control *Spartina*. These infestations may also be treated by mowing, digging or covering.

For more information, including locations of possible applications sites, contact the WSDA *Spartina* Control Program at (360) 902-1923 or (360) 902-1853 or write WSDA *Spartina* Program, P.O. Box 42560, Olympia, WA 98504-2560. The Washington State Department of Ecology 24-hour emergency/spill response hotline is (425) 649-7000 (northwest region) or (360) 407-6300 (southwest region).

**WSR 02-17-072**  
**AGENDA**  
**WHATCOM COMMUNITY COLLEGE**  
 [Memorandum—August 19, 2002]

Semi-Annual Rule Agenda

Following is the Whatcom Community College's semi-annual rules development agenda, which is being sent to you in compliance with RCW 34.05.314.

If you have any questions, please call (360) 676-2170 ext. 3275 or email Jennifer Dixon at jdixon@whatcom.ctc.

WAC	Rule Title	Purpose of Rule	Agency Contact	CR-101	CR-102	CR-103
Chapter 132U-120 WAC	Student rights and responsibilities	To update and clarify process.	Jennifer Dixon (360) 676-2170 ext. 3275	3/5/02		
Chapter 132U-52 WAC	Control of dogs	To update and bring into compliance the current wording.	Jennifer Dixon (360) 676-2170 ext. 3275	3/5/02		

**WSR 02-17-073**  
**NOTICE OF PUBLIC MEETINGS**  
**PIERCE COLLEGE**  
 [Memorandum—August 19, 2002]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a **change of date and place of their regular September board meeting**. This meeting is open to the public.

Original Meeting Date Time  
 Monday, September 11, 2002 12:30 p.m.

Pierce College Puyallup  
 Puyallup, WA 98374

New Meeting Date Time  
 Monday, September 9, 2002 12:30 p.m.

**Puyallup City Library**  
 324 South Meridian  
 Puyallup, WA 98371

Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

**WSR 02-17-085**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE GOVERNOR**  
 [Memorandum—August 19, 2002]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following change in its meeting schedule: At the request of the chair of the Board of Clemency and Pardons, the September 13, 2002, meeting is canceled.

**WSR 02-17-095**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed August 20, 2002, 4:18 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-09 MAA.  
 Subject: Pharmacy reimbursement for Plan B emergency contraceptive pills (ECPs).

Effective Date: Effective for dates of service on and after March 1, 2002.

Document Description: **Effective for claims with dates of service on and after March 1, 2002**, the Medical Assistance Administration (MAA) will reimburse pharmacy providers for Plan B emergency contraceptive pills (ECPs).

To receive a copy of the interpretive or policy statement contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

**WSR 02-17-084**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Memorandum—August 23, 2002]

EASTERN WASHINGTON UNIVERSITY  
 BOARD OF TRUSTEES  
**August 23, 2002**

**Open Public Meeting at 9:00 a.m.**  
**Executive Session at 12:00 p.m.**

**Spokane Center**  
**Second Floor Mall**

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities.

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725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

August 15, 2002

E. A. Myers, Manager  
Rules and Publications Section

### WSR 02-17-096

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed August 20, 2002, 4:19 p.m.]

##### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-67 MAA.

Subject: Increase in discount applied to the average wholesale price (AWP) of drugs paid for by the medical assistance program.

Effective Date: July 1, 2002.

Document Description: **Effective with dates of service on and after August 1, 2002**, the Medical Assistance Administration (MAA) will increase the discount applied to the average wholesale price (AWP) of drugs.

- For single source drugs and multiple source drugs with fewer than five manufacturers/labelers, the discount from AWP will increase from 11.0% to 14.0%.
- The discount from AWP for multiple source drugs with five or more manufacturers/labelers will increase from 11.0% to 50.0%.

To receive a copy of the interpretive or policy statement contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

August 15, 2002

E. A. Myers, Manager  
Rules and Publications Section

### WSR 02-17-097

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed August 20, 2002, 4:20 p.m.]

##### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-47 MAA.

Subject: Vendor rate increase for medical nutrition.

Effective Date: July 1, 2002.

Document Description: **Retroactive for dates of service on and after July 1, 2002**, the Medical Assistance Adminis-

tration (MAA) will implement a 1.5% vendor rate increase for medical nutrition equipment and supplies as authorized by the 2001-2003 Biennium Appropriations Act. The fees for state-unique codes have been realigned in the medical nutrition program. Medicare rates are used for HCPCS\* codes; as a result, some rates may be decreased. Medical nutrition product pricing is currently under review.

To receive a copy of the interpretive or policy statement contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

August 15, 2002

E. A. Myers, Manager  
Rules and Publications Section

### WSR 02-17-119

#### NOTICE OF PUBLIC MEETINGS DEPARTMENT OF LABOR AND INDUSTRIES

(Board of Boiler Rules)

[Memorandum—August 21, 2002]

##### Board of Boiler Rules Public Meeting Schedule - September Meeting Changed

The time and place of the September regular meeting for the Board of Boiler Rules (as was published as WSR 02-01-085 on December 14, 2001) has been changed to the dates, times, and location listed below. As is customary, the first day of the meeting is a study day, which is open to the public, and is for purposes of board discussion only.

Date:	September 30 and October 1, 2002
Time:	10:00 a.m. (for both days)
Location:	950 Broadway, Suite 200 Tacoma, WA 98402-4453

Please call (360) 902-5271 if you have any questions.

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**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
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited rule making
- 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 #
4-25-410	AMD	02-04-064	16-154-040	REP-P	02-04-109	16-157-220	NEW-P	02-04-109
4-25-520	AMD	02-04-064	16-154-050	REP-P	02-04-109	16-157-220	NEW	02-10-090
4-25-530	AMD-P	02-13-022	16-154-053	REP-P	02-04-109	16-157-230	NEW-P	02-04-109
4-25-530	AMD-S	02-17-050	16-154-060	REP-P	02-04-109	16-157-230	NEW	02-10-090
4-25-540	AMD	02-04-064	16-154-070	REP-P	02-04-109	16-157-240	NEW-P	02-04-109
4-25-610	AMD	02-04-064	16-154-080	REP-P	02-04-109	16-157-240	NEW	02-10-090
4-25-610	PREP	02-11-007	16-154-090	REP-P	02-04-109	16-157-250	NEW-P	02-04-109
4-25-620	AMD	02-04-064	16-154-100	REP-P	02-04-109	16-157-250	NEW	02-10-090
4-25-626	AMD	02-04-064	16-154-110	REP-P	02-04-109	16-157-255	NEW-P	02-04-109
4-25-630	AMD	02-04-064	16-154-120	REP-P	02-04-109	16-157-255	NEW	02-10-090
4-25-631	AMD	02-04-064	16-154-180	REP-P	02-04-109	16-157-260	NEW-P	02-04-109
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4-25-640	AMD-P	02-17-049	16-156-005	REP-P	02-04-109	16-157-270	NEW	02-10-090
4-25-660	AMD	02-04-064	16-156-010	REP-P	02-04-109	16-157-275	NEW-P	02-04-109
4-25-710	PREP	02-04-063	16-156-020	REP-P	02-04-109	16-157-275	NEW	02-10-090
4-25-710	AMD	02-04-064	16-156-030	REP-P	02-04-109	16-157-280	NEW-P	02-04-109
4-25-720	AMD	02-04-064	16-156-035	REP-P	02-04-109	16-157-280	NEW	02-10-090
4-25-721	AMD	02-04-064	16-156-040	REP-P	02-04-109	16-157-290	NEW-P	02-04-109
4-25-730	AMD	02-04-064	16-156-050	REP-P	02-04-109	16-157-290	NEW	02-10-090
4-25-735	NEW	02-04-064	16-156-060	REP-P	02-04-109	16-158-010	REP-P	02-04-109
4-25-745	AMD	02-04-064	16-156-070	REP-P	02-04-109	16-158-020	REP-P	02-04-109
4-25-746	AMD	02-04-064	16-157	AMD-C	02-07-117	16-158-027	REP-P	02-04-109
4-25-750	AMD	02-04-064	16-157	PREP	02-16-098	16-158-028	REP-P	02-04-109
4-25-752	NEW	02-04-064	16-157-010	NEW-P	02-04-109	16-158-030	REP-P	02-04-109
4-25-756	NEW	02-04-064	16-157-010	NEW	02-10-090	16-158-040	REP-P	02-04-109
4-25-783	AMD	02-04-064	16-157-020	NEW-P	02-04-109	16-158-050	REP-P	02-04-109
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4-25-791	AMD	02-04-064	16-157-030	NEW-P	02-04-109	16-158-080	REP-P	02-04-109
4-25-792	AMD	02-04-064	16-157-030	NEW	02-10-090	16-158-090	REP-P	02-04-109
4-25-793	NEW	02-04-064	16-157-100	NEW-P	02-04-109	16-158-100	REP-P	02-04-109
4-25-795	AMD	02-04-064	16-157-100	NEW	02-10-090	16-158-110	REP-P	02-04-109
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4-25-830	AMD	02-04-064	16-157-110	NEW	02-10-090	16-158-130	REP-P	02-04-109
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4-25-930	NEW-P	02-13-021	16-157-120	NEW	02-10-090	16-158-150	REP-P	02-04-109
4-25-930	NEW	02-17-051	16-157-200	NEW-P	02-04-109	16-160	PREP	02-16-097
16-104	PREP	02-06-050	16-157-200	NEW	02-10-090	16-162-010	REP-P	02-04-109
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16-154-030	REP-P	02-04-109	16-157-210	NEW	02-10-090	16-162-030	REP-P	02-04-109

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-162-034	REP-P	02-04-109	16-301-045	AMD	02-12-060	16-303-317	PREP	02-03-127
16-162-036	REP-P	02-04-109	16-301-050	PREP	02-05-083	16-303-317	AMD-P	02-09-060
16-162-037	REP-P	02-04-109	16-301-050	AMD-P	02-09-059	16-303-317	AMD	02-12-061
16-162-040	REP-P	02-04-109	16-301-050	AMD	02-12-060	16-303-320	PREP	02-03-127
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16-162-050	REP-P	02-04-109	16-302-091	AMD-P	02-09-059	16-303-320	AMD	02-12-061
16-162-070	REP-P	02-04-109	16-302-091	AMD	02-12-060	16-303-330	PREP	02-03-127
16-162-100	REP-P	02-04-109	16-302-125	PREP	02-05-083	16-303-330	AMD-P	02-09-060
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16-164-040	REP-P	02-04-109	16-302-250	PREP	02-05-083	16-324-361	AMD-P	02-08-087
16-164-050	REP-P	02-04-109	16-302-250	AMD-P	02-09-059	16-324-361	AMD	02-12-010
16-164-055	REP-P	02-04-109	16-302-250	AMD	02-12-060	16-324-375	AMD-P	02-08-087
16-164-060	REP-P	02-04-109	16-302-260	PREP	02-05-083	16-324-375	AMD	02-12-010
16-164-070	REP-P	02-04-109	16-302-260	AMD-P	02-09-059	16-324-398	AMD-P	02-08-087
16-164-080	REP-P	02-04-109	16-302-260	AMD	02-12-060	16-324-398	AMD	02-12-010
16-164-085	REP-P	02-04-109	16-302-330	PREP	02-05-083	16-324-401	AMD-P	02-08-087
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16-164-100	REP-P	02-04-109	16-302-330	AMD	02-12-060	16-324-401	AMD	02-12-010
16-164-110	REP-P	02-04-109	16-302-385	PREP	02-05-083	16-324-431	AMD-P	02-08-087
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16-228-1235	NEW-E	02-06-048	16-302-385	AMD	02-12-060	16-324-720	AMD-P	02-08-087
16-228-1235	NEW-P	02-07-080	16-302-390	PREP	02-05-083	16-324-720	AMD	02-12-010
16-228-1235	NEW-C	02-11-070	16-302-390	AMD-P	02-09-059	16-324-730	AMD-P	02-08-087
16-228-1235	NEW	02-12-017	16-302-390	AMD	02-12-060	16-324-730	AMD	02-12-010
16-228-12351	NEW-E	02-06-048	16-302-410	PREP	02-05-083	16-324-740	AMD-P	02-08-087
16-228-12351	NEW-P	02-07-080	16-302-410	AMD-P	02-09-059	16-324-740	AMD	02-12-010
16-228-12351	NEW-C	02-11-070	16-302-410	AMD	02-12-060	16-324-750	AMD-P	02-08-087
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16-228-2005	NEW-P	02-14-092	16-303-210	PREP	02-03-127	16-403-190	AMD-C	02-12-005
16-228-2015	NEW-P	02-14-092	16-303-210	AMD-P	02-09-060	16-403-190	AMD	02-12-011
16-228-2020	REP-P	02-14-092	16-303-210	AMD	02-12-061	16-403-280	AMD-P	02-07-118
16-228-2025	NEW-P	02-14-092	16-303-230	PREP	02-03-127	16-403-280	AMD-C	02-12-005
16-228-2030	REP-P	02-14-092	16-303-230	AMD-P	02-09-060	16-403-280	AMD	02-12-011
16-228-2035	NEW-P	02-14-092	16-303-230	AMD	02-12-061	16-449	PREP	02-16-089
16-228-2040	REP-P	02-14-092	16-303-250	PREP	02-03-127	16-458	PREP	02-14-128
16-228-2045	NEW-P	02-14-092	16-303-250	PREP	02-05-083	16-458-075	AMD-E	02-14-127
16-228-2050	NEW-P	02-14-092	16-303-250	AMD-P	02-09-060	16-458-075	AMD-P	02-17-101
16-228-2060	NEW-P	02-14-092	16-303-250	AMD	02-12-061	16-458-080	REP-E	02-14-127
16-301-025	PREP	02-05-083	16-303-300	PREP	02-03-127	16-458-080	REP-P	02-17-101
16-301-025	AMD-P	02-09-059	16-303-300	AMD-P	02-09-060	16-458-085	AMD-E	02-14-127
16-301-025	AMD	02-12-060	16-303-300	AMD	02-12-061	16-458-085	AMD-P	02-17-101
16-301-045	PREP	02-05-083	16-303-310	PREP	02-03-127	16-459	PREP	02-16-089
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16-462-021	AMD-P	02-08-085	16-501-005	NEW-P	02-13-132	16-675	AMD-P	02-12-129
16-462-021	AMD	02-11-100	16-501-005	NEW	02-16-045	16-675	AMD	02-15-140
16-462-022	AMD-P	02-08-085	16-501-010	NEW-P	02-13-132	16-675-010	AMD-P	02-12-129
16-462-022	AMD	02-11-100	16-501-010	NEW	02-16-045	16-675-010	AMD	02-15-140
16-462-025	AMD-P	02-08-085	16-501-015	NEW-P	02-13-132	16-675-030	AMD-P	02-12-129
16-462-025	AMD	02-11-100	16-501-015	NEW	02-16-045	16-675-030	AMD	02-15-140
16-462-030	AMD-P	02-08-085	16-532-020	AMD-P	02-06-130	16-675-040	AMD-P	02-12-129
16-462-030	AMD	02-11-100	16-532-020	AMD-W	02-12-099	16-675-040	AMD	02-15-140
16-462-050	AMD-P	02-08-085	16-532-025	NEW-P	02-06-130	16-675-050	NEW-P	02-12-129
16-462-050	AMD	02-11-100	16-532-025	NEW-W	02-12-099	16-675-050	NEW	02-15-140
16-462-055	AMD-P	02-08-085	16-532-040	AMD-P	02-06-130	16-675-060	NEW-P	02-12-129
16-462-055	AMD	02-11-100	16-532-040	AMD-W	02-12-099	16-675-060	NEW	02-15-140
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16-470-800	NEW-E	02-07-120	16-555-020	AMD	02-15-128	16-695-070	AMD-P	02-07-122
16-470-800	NEW	02-09-099	16-557-010	REP-C	02-09-005	16-695-070	AMD	02-12-031
16-470-810	NEW-P	02-06-131	16-557-010	REP-W	02-11-083	16-750	PREP	02-17-089
16-470-810	NEW-E	02-07-120	16-557-020	REP-C	02-09-005	16-752	PREP	02-05-089
16-470-810	NEW	02-09-099	16-557-020	REP-W	02-11-083	16-752-610	AMD-P	02-09-098
16-470-820	NEW-P	02-06-131	16-557-025	REP-C	02-09-005	16-752-610	AMD	02-12-030
16-470-820	NEW-E	02-07-120	16-557-025	REP-W	02-11-083	36-12	PREP	02-13-139
16-470-820	NEW	02-09-099	16-557-030	REP-C	02-09-005	36-12-010	REP	02-03-069
16-470-830	NEW-P	02-06-131	16-557-030	REP-W	02-11-083	36-12-011	AMD	02-03-069
16-470-830	NEW-E	02-07-120	16-557-040	REP-C	02-09-005	36-12-011	AMD-P	02-16-060
16-470-830	NEW	02-09-099	16-557-040	REP-W	02-11-083	36-12-011	AMD-W	02-17-059
16-470-840	NEW-P	02-06-131	16-557-041	REP-C	02-09-005	36-12-011	AMD-P	02-17-103
16-470-840	NEW-E	02-07-120	16-557-041	REP-W	02-11-083	36-12-020	AMD	02-03-069
16-470-840	NEW	02-09-099	16-557-050	REP-C	02-09-005	36-12-030	AMD	02-03-069
16-470-850	NEW-P	02-06-131	16-557-050	REP-W	02-11-083	36-12-030	AMD-P	02-16-060
16-470-850	NEW-E	02-07-120	16-557-060	REP-C	02-09-005	36-12-030	AMD-W	02-17-059
16-470-850	NEW	02-09-099	16-557-060	REP-W	02-11-083	36-12-030	AMD-P	02-17-103
16-470-860	NEW-P	02-06-131	16-557-070	REP-C	02-09-005	36-12-040	AMD	02-03-069
16-470-860	NEW-E	02-07-120	16-557-070	REP-W	02-11-083	36-12-050	AMD	02-03-069
16-470-860	NEW	02-09-099	16-557-080	REP-C	02-09-005	36-12-060	REP	02-03-069
16-470-870	NEW-P	02-06-131	16-557-080	REP-W	02-11-083	36-12-070	AMD	02-03-069
16-470-870	NEW-E	02-07-120	16-585	AMD-P	02-10-121	36-12-080	REP	02-03-069
16-470-870	NEW	02-09-099	16-585	AMD	02-14-091	36-12-100	AMD	02-03-069
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16-484-210	AMD	02-12-009	16-585-010	AMD	02-14-091	36-12-100	AMD-W	02-17-059
16-484-220	AMD-P	02-08-086	16-585-020	AMD-P	02-10-121	36-12-100	AMD-P	02-17-103
16-484-220	AMD	02-12-009	16-585-020	AMD	02-14-091	36-12-110	AMD	02-03-069
16-484-230	AMD-P	02-08-086	16-662-105	AMD-X	02-07-121	36-12-110	AMD-P	02-16-060
16-484-230	AMD	02-12-009	16-662-105	AMD	02-12-029	36-12-110	AMD-W	02-17-059
16-484-240	AMD-P	02-08-086	16-674	PREP	02-08-084	36-12-110	AMD-P	02-17-103
16-484-240	AMD	02-12-009	16-674	AMD-P	02-12-128	36-12-120	REP	02-03-069
16-484-250	AMD-P	02-08-086	16-674	AMD	02-15-141	36-12-130	AMD	02-03-069
16-484-250	AMD	02-12-009	16-674-010	AMD-P	02-12-128	36-12-130	AMD-P	02-16-060
16-484-260	AMD-P	02-08-086	16-674-010	AMD	02-15-141	36-12-130	AMD-W	02-17-059
16-484-260	AMD	02-12-009	16-674-030	AMD-P	02-12-128	36-12-130	AMD-P	02-17-103
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16-489-010	NEW	02-13-125	16-674-040	AMD-P	02-12-128	36-12-140	AMD-P	02-16-060
16-489-020	NEW-P	02-10-123	16-674-040	AMD	02-15-141	36-12-140	AMD-W	02-17-059
16-489-020	NEW	02-13-125	16-674-055	NEW-P	02-12-128	36-12-140	AMD-P	02-17-103
16-489-030	NEW-P	02-10-123	16-674-055	NEW	02-15-141	36-12-150	AMD	02-03-069
16-489-030	NEW	02-13-125	16-674-065	REP-P	02-12-128	36-12-160	REP	02-03-069
16-489-040	NEW-P	02-10-123	16-674-065	REP	02-15-141	36-12-170	AMD	02-03-069
16-489-040	NEW	02-13-125	16-674-080	REP-P	02-12-128	36-12-170	AMD-P	02-16-060
16-489-050	NEW-P	02-10-123	16-674-080	REP	02-15-141	36-12-170	AMD-W	02-17-059
16-489-050	NEW	02-13-125	16-674-090	REP-P	02-12-128	36-12-170	AMD-P	02-17-103
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36-12-200	AMD	02-03-069	36-13-100	REP-P	02-17-103	44-10-222	AMD-P	02-10-060
36-12-200	AMD-P	02-16-060	36-13-110	AMD-P	02-16-060	44-10-222	AMD	02-12-093
36-12-200	AMD-W	02-17-059	36-13-110	AMD-W	02-17-059	44-10-300	AMD-P	02-10-060
36-12-200	AMD-P	02-17-103	36-13-110	AMD-P	02-17-103	44-10-300	AMD	02-12-093
36-12-210	REP	02-03-069	36-13-120	AMD-P	02-16-060	44-10-310	AMD-P	02-10-060
36-12-220	REP	02-03-069	36-13-120	AMD-W	02-17-059	44-10-310	AMD	02-12-093
36-12-240	AMD	02-03-069	36-13-120	AMD-P	02-17-103	51-11	PREP	02-14-029
36-12-240	AMD-P	02-16-060	36-13-130	AMD-P	02-16-060	51-11-0530	AMD-E	02-14-032
36-12-240	AMD-W	02-17-059	36-13-130	AMD-W	02-17-059	51-11-0533	AMD-E	02-14-032
36-12-240	AMD-P	02-17-103	36-13-130	AMD-P	02-17-103	51-11-0625	AMD-E	02-14-032
36-12-250	AMD	02-03-069	36-14	PREP	02-13-139	51-40-1004	PREP	02-15-103
36-12-260	AMD	02-03-069	36-14-105	NEW-P	02-16-060	51-40-905	PREP	02-15-103
36-12-270	AMD	02-03-069	36-14-105	NEW-W	02-17-059	51-56-1500	NEW-W	02-05-032
36-12-280	AMD	02-03-069	36-14-105	NEW-P	02-17-103	82-50-021	AMD-X	02-09-025
36-12-285	NEW	02-03-069	36-14-106	NEW-P	02-16-060	82-50-021	AMD	02-13-087
36-12-290	AMD	02-03-069	36-14-106	NEW-W	02-17-059	98-08-001	NEW-P	02-14-058
36-12-300	AMD	02-03-069	36-14-106	NEW-P	02-17-103	98-08-010	REP-P	02-14-058
36-12-310	AMD	02-03-069	36-14-110	AMD-P	02-16-060	98-08-030	REP-P	02-14-058
36-12-320	AMD	02-03-069	36-14-110	AMD-W	02-17-059	98-08-040	REP-P	02-14-058
36-12-330	REP	02-03-069	36-14-110	AMD-P	02-17-103	98-08-050	REP-P	02-14-058
36-12-340	REP	02-03-069	36-14-120	NEW-P	02-16-060	98-08-060	REP-P	02-14-058
36-12-350	REP	02-03-069	36-14-120	NEW-W	02-17-059	98-08-070	REP-P	02-14-058
36-12-360	AMD	02-03-069	36-14-120	NEW-P	02-17-103	98-08-080	REP-P	02-14-058
36-12-363	REP	02-03-069	36-14-400	AMD-P	02-16-060	98-08-090	REP-P	02-14-058
36-12-364	AMD	02-03-069	36-14-400	AMD-W	02-17-059	98-08-100	REP-P	02-14-058
36-12-465	AMD	02-03-069	36-14-400	AMD-P	02-17-103	98-08-110	REP-P	02-14-058
36-12-465	AMD-P	02-16-060	36-14-410	AMD-P	02-16-060	98-08-120	REP-P	02-14-058
36-12-465	AMD-W	02-17-059	36-14-410	AMD-W	02-17-059	98-08-130	REP-P	02-14-058
36-12-465	AMD-P	02-17-103	36-14-410	AMD-P	02-17-103	98-08-140	REP-P	02-14-058
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36-12-475	AMD-W	02-17-059	44-10-010	AMD-P	02-10-060	98-08-170	REP-P	02-14-058
36-12-475	AMD-P	02-17-103	44-10-010	AMD	02-12-093	98-08-190	REP-P	02-14-058
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36-13-010	AMD-P	02-16-060	44-10-050	AMD	02-12-093	98-08-210	REP-P	02-14-058
36-13-010	AMD-W	02-17-059	44-10-060	AMD-P	02-10-060	98-08-220	REP-P	02-14-058
36-13-010	AMD-P	02-17-103	44-10-060	AMD	02-12-093	98-08-370	REP-P	02-14-058
36-13-020	AMD-P	02-16-060	44-10-070	AMD-P	02-10-060	98-08-380	REP-P	02-14-058
36-13-020	AMD-W	02-17-059	44-10-070	AMD	02-12-093	98-08-390	REP-P	02-14-058
36-13-020	AMD-P	02-17-103	44-10-080	AMD-P	02-10-060	98-08-400	REP-P	02-14-058
36-13-030	AMD-P	02-16-060	44-10-080	AMD	02-12-093	98-08-410	REP-P	02-14-058
36-13-030	AMD-W	02-17-059	44-10-100	AMD-P	02-10-060	98-08-420	REP-P	02-14-058
36-13-030	AMD-P	02-17-103	44-10-100	AMD	02-12-093	98-08-430	REP-P	02-14-058
36-13-040	AMD-P	02-16-060	44-10-110	AMD-P	02-10-060	98-08-440	REP-P	02-14-058
36-13-040	AMD-W	02-17-059	44-10-110	AMD	02-12-093	98-08-450	REP-P	02-14-058
36-13-040	AMD-P	02-17-103	44-10-120	AMD-P	02-10-060	98-08-460	REP-P	02-14-058
36-13-050	AMD-P	02-16-060	44-10-120	AMD	02-12-093	98-08-470	REP-P	02-14-058
36-13-050	AMD-W	02-17-059	44-10-130	AMD-P	02-10-060	98-08-480	REP-P	02-14-058
36-13-050	AMD-P	02-17-103	44-10-130	AMD	02-12-093	98-08-490	REP-P	02-14-058
36-13-060	REP-P	02-16-060	44-10-140	AMD-P	02-10-060	98-08-500	REP-P	02-14-058
36-13-060	REP-W	02-17-059	44-10-140	AMD	02-12-093	98-08-510	REP-P	02-14-058
36-13-060	REP-P	02-17-103	44-10-150	AMD-P	02-10-060	98-08-520	REP-P	02-14-058
36-13-070	REP-P	02-16-060	44-10-150	AMD	02-12-093	98-08-530	REP-P	02-14-058
36-13-070	REP-W	02-17-059	44-10-160	AMD-P	02-10-060	98-08-540	REP-P	02-14-058
36-13-070	REP-P	02-17-103	44-10-160	AMD	02-12-093	98-08-550	REP-P	02-14-058
36-13-080	REP-P	02-16-060	44-10-170	AMD-P	02-10-060	98-08-560	REP-P	02-14-058
36-13-080	REP-W	02-17-059	44-10-170	AMD	02-12-093	98-08-570	REP-P	02-14-058
36-13-080	REP-P	02-17-103	44-10-200	AMD-P	02-10-060	98-08-580	REP-P	02-14-058
36-13-090	REP-P	02-16-060	44-10-200	AMD	02-12-093	98-08-590	REP-P	02-14-058
36-13-090	REP-W	02-17-059	44-10-210	AMD-P	02-10-060	98-14-050	AMD-P	02-14-058
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98- 15-010	NEW-P	02-14-058	132G-104-030	REP	02-11-090	132H-410-020	NEW	02-10-070
98- 15-020	NEW-P	02-14-058	132H-106-030	AMD-P	02-05-052	132H-410-030	NEW-P	02-03-107
98- 40-010	REP-P	02-14-058	132H-106-030	AMD	02-10-067	132H-410-030	NEW	02-10-070
98- 40-020	REP-P	02-14-058	132H-120-030	AMD-P	02-03-106	132H-410-040	NEW-P	02-03-107
98- 40-030	REP-P	02-14-058	132H-120-030	AMD	02-10-069	132H-410-040	NEW	02-10-070
98- 40-040	REP-P	02-14-058	132H-120-050	AMD-P	02-03-106	132H-410-050	NEW-P	02-03-107
98- 40-050	REP-P	02-14-058	132H-120-050	AMD	02-10-069	132H-410-050	NEW	02-10-070
98- 40-060	REP-P	02-14-058	132H-120-200	AMD-P	02-03-106	132H-410-060	NEW-P	02-03-107
98- 40-070	REP-P	02-14-058	132H-120-200	AMD	02-10-069	132H-410-060	NEW	02-10-070
98- 40-080	REP-P	02-14-058	132H-120-220	AMD-P	02-03-106	132H-410-070	NEW-P	02-03-107
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98- 80-030	NEW-P	02-14-058	132H-120-300	AMD	02-10-069	132H-410-080	NEW	02-10-070
98- 80-040	NEW-P	02-14-058	132H-120-350	AMD-P	02-03-106	132H-410-090	NEW-P	02-03-107
98- 80-050	NEW-P	02-14-058	132H-120-350	AMD	02-10-069	132H-410-090	NEW	02-10-070
98- 80-060	NEW-P	02-14-058	132H-120-410	AMD-P	02-03-106	132H-410-100	NEW-P	02-03-107
98- 80-070	NEW-P	02-14-058	132H-120-410	AMD	02-10-069	132H-410-100	NEW	02-10-070
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106-116-304	AMD-P	02-15-116	132H-120-440	AMD	02-10-069	132H-450-010	NEW	02-10-068
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173-350-710	NEW-P	02-14-061	173-700-254	NEW-W	02-12-058	173-700-611	NEW-W	02-12-058
173-350-715	NEW-P	02-14-061	173-700-255	NEW-W	02-12-058	173-700-612	NEW-W	02-12-058
173-350-900	NEW-P	02-14-061	173-700-256	NEW-W	02-12-058	173-700-620	NEW-W	02-12-058
173-350-990	NEW-P	02-14-061	173-700-257	NEW-W	02-12-058	173-700-630	NEW-W	02-12-058
173-400-075	AMD-X	02-10-107	173-700-258	NEW-W	02-12-058	173-700-700	NEW-W	02-12-058
173-400-075	AMD	02-15-068	173-700-300	NEW-W	02-12-058	173-700-710	NEW-W	02-12-058
173-401	PREP	02-05-011	173-700-310	NEW-W	02-12-058	173-700-720	NEW-W	02-12-058
173-401-200	AMD-P	02-10-031	173-700-311	NEW-W	02-12-058	173-700-730	NEW-W	02-12-058
173-401-300	AMD-P	02-10-031	173-700-320	NEW-W	02-12-058	173-700-731	NEW-W	02-12-058
173-401-500	AMD-P	02-10-031	173-700-330	NEW-W	02-12-058	173-700-732	NEW-W	02-12-058
173-401-530	AMD-P	02-10-031	173-700-340	NEW-W	02-12-058	173-700-740	NEW-W	02-12-058
173-401-615	AMD-P	02-10-031	173-700-350	NEW-W	02-12-058	173-700-750	NEW-W	02-12-058
173-401-710	AMD-P	02-10-031	173-700-351	NEW-W	02-12-058	173-700-800	NEW-W	02-12-058
173-401-722	AMD-P	02-10-031	173-700-352	NEW-W	02-12-058	180-08	PREP	02-08-041
173-422	PREP	02-05-071	173-700-353	NEW-W	02-12-058	180-08	AMD-P	02-14-115
173-422-020	AMD-P	02-09-066	173-700-354	NEW-W	02-12-058	180-08-001	NEW-P	02-14-115
173-422-020	AMD	02-12-072	173-700-355	NEW-W	02-12-058	180-08-002	NEW-P	02-14-115
173-422-030	AMD-P	02-09-066	173-700-356	NEW-W	02-12-058	180-08-003	REP-P	02-14-115
173-422-030	AMD	02-12-072	173-700-357	NEW-W	02-12-058	180-08-004	NEW-P	02-14-115
173-422-031	AMD-P	02-09-066	173-700-357	NEW-W	02-12-058	180-08-005	REP-P	02-14-115
173-422-031	AMD	02-12-072	173-700-358	NEW-W	02-12-058	180-08-006	NEW-P	02-14-115
173-422-060	AMD-P	02-09-066	173-700-359	NEW-W	02-12-058	180-08-008	NEW-P	02-14-115
173-422-060	AMD	02-12-072	173-700-360	NEW-W	02-12-058	180-10	PREP	02-08-041
173-422-065	AMD-P	02-09-066	173-700-361	NEW-W	02-12-058	180-10-001	REP-P	02-14-115
173-422-065	AMD	02-12-072	173-700-370	NEW-W	02-12-058	180-10-003	REP-P	02-14-115
173-422-070	AMD-P	02-09-066	173-700-371	NEW-W	02-12-058	180-10-005	REP-P	02-14-115
173-422-070	AMD	02-12-072	173-700-372	NEW-W	02-12-058	180-10-007	REP-P	02-14-115
173-422-075	AMD-P	02-09-066	173-700-373	NEW-W	02-12-058	180-10-010	REP-P	02-14-115
173-422-075	AMD	02-12-072	173-700-374	NEW-W	02-12-058	180-10-015	REP-P	02-14-115
173-422-190	AMD-P	02-09-066	173-700-375	NEW-W	02-12-058	180-10-020	REP-P	02-14-115
173-422-190	AMD	02-12-072	173-700-376	NEW-W	02-12-058	180-10-025	REP-P	02-14-115
173-422-195	AMD-P	02-09-066	173-700-380	NEW-W	02-12-058	180-10-030	REP-P	02-14-115
173-422-195	AMD	02-12-072	173-700-380	NEW-W	02-12-058	180-10-035	REP-P	02-14-115
173-434	PREP	02-07-097	173-700-390	NEW-W	02-12-058	180-10-040	REP-P	02-14-115
173-700-010	NEW-W	02-12-058	173-700-391	NEW-W	02-12-058	180-10-045	REP-P	02-14-115
173-700-020	NEW-W	02-12-058	173-700-392	NEW-W	02-12-058	180-16	PREP	02-08-039
173-700-030	NEW-W	02-12-058	173-700-393	NEW-W	02-12-058	180-16	PREP	02-08-044
173-700-040	NEW-W	02-12-058	173-700-394	NEW-W	02-12-058	180-16-002	AMD-E	02-08-038
173-700-100	NEW-W	02-12-058	173-700-395	NEW-W	02-12-058	180-16-002	AMD-E	02-14-114
173-700-200	NEW-W	02-12-058	173-700-400	NEW-W	02-12-058	180-16-002	AMD-P	02-14-117
173-700-201	NEW-W	02-12-058	173-700-401	NEW-W	02-12-058	180-16-006	REP-E	02-08-038
173-700-202	NEW-W	02-12-058	173-700-402	NEW-W	02-12-058	180-16-006	REP-E	02-14-114
173-700-203	NEW-W	02-12-058	173-700-403	NEW-W	02-12-058	180-16-006	REP-P	02-14-117
173-700-204	NEW-W	02-12-058	173-700-404	NEW-W	02-12-058	180-16-162	AMD-P	02-14-126
173-700-205	NEW-W	02-12-058	173-700-405	NEW-W	02-12-058	180-16-191	AMD-P	02-14-126
173-700-220	NEW-W	02-12-058	173-700-410	NEW-W	02-12-058	180-16-195	AMD-E	02-08-038
173-700-221	NEW-W	02-12-058	173-700-411	NEW-W	02-12-058	180-16-195	AMD-E	02-14-114
173-700-222	NEW-W	02-12-058	173-700-412	NEW-W	02-12-058	180-16-195	AMD-P	02-14-117
173-700-223	NEW-W	02-12-058	173-700-413	NEW-W	02-12-058	180-16-215	AMD-P	02-14-126
173-700-224	NEW-W	02-12-058	173-700-414	NEW-W	02-12-058	180-16-220	AMD-E	02-08-038
173-700-230	NEW-W	02-12-058	173-700-415	NEW-W	02-12-058	180-16-220	AMD-E	02-14-114
173-700-231	NEW-W	02-12-058	173-700-416	NEW-W	02-12-058	180-16-220	AMD-P	02-14-117
173-700-232	NEW-W	02-12-058	173-700-420	NEW-W	02-12-058	180-16-227	NEW-E	02-08-038
173-700-233	NEW-W	02-12-058	173-700-421	NEW-W	02-12-058	180-16-227	NEW-E	02-14-114
173-700-234	NEW-W	02-12-058	173-700-422	NEW-W	02-12-058	180-16-227	NEW-P	02-14-117
173-700-235	NEW-W	02-12-058	173-700-423	NEW-W	02-12-058	180-18	PREP	02-08-039
173-700-240	NEW-W	02-12-058	173-700-500	NEW-W	02-12-058	180-18-010	AMD-E	02-08-038
173-700-241	NEW-W	02-12-058	173-700-501	NEW-W	02-12-058	180-18-010	AMD-E	02-14-114
173-700-250	NEW-W	02-12-058	173-700-502	NEW-W	02-12-058	180-18-010	AMD-P	02-14-117
173-700-251	NEW-W	02-12-058	173-700-503	NEW-W	02-12-058	180-18-020	REP-E	02-08-038
173-700-252	NEW-W	02-12-058	173-700-504	NEW-W	02-12-058	180-18-020	REP-E	02-14-114
			173-700-505	NEW-W	02-12-058			
			173-700-600	NEW-W	02-12-058			

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-18-020	REP-P	02-14-117	180-24-410	AMD	02-14-113	180-53-030	REP-E	02-14-114
180-20	PREP	02-10-049	180-24-415	AMD-E	02-08-035	180-53-030	REP-P	02-14-117
180-20	PREP	02-10-084	180-24-415	AMD-P	02-10-053	180-53-035	REP-E	02-08-038
180-20-005	AMD-P	02-14-116	180-24-415	AMD	02-14-113	180-53-035	REP-E	02-14-114
180-20-007	NEW-P	02-14-116	180-25	PREP	02-06-053	180-53-035	REP-P	02-14-117
180-20-009	NEW-P	02-14-116	180-26	PREP	02-06-054	180-53-040	REP-E	02-08-038
180-20-030	REP-P	02-14-116	180-27	PREP	02-06-055	180-53-040	REP-E	02-14-114
180-20-031	AMD-P	02-14-116	180-29	PREP	02-06-056	180-53-040	REP-P	02-14-117
180-20-034	REP-P	02-14-116	180-31	PREP	02-06-057	180-53-045	REP-E	02-08-038
180-20-090	REP-P	02-14-116	180-32	PREP	02-06-058	180-53-045	REP-E	02-14-114
180-20-095	REP-P	02-14-116	180-33	PREP	02-06-059	180-53-045	REP-P	02-14-117
180-20-101	AMD-P	02-14-116	180-34	PREP	02-08-046	180-53-050	REP-E	02-08-038
180-20-111	AMD-P	02-14-116	180-34-005	REP-P	02-14-119	180-53-050	REP-E	02-14-114
180-20-115	REP-P	02-14-116	180-34-010	REP-P	02-14-119	180-53-050	REP-P	02-14-117
180-20-120	AMD-P	02-14-116	180-36	PREP	02-06-060	180-53-055	REP-E	02-08-038
180-20-123	REP-P	02-14-116	180-37-005	PREP	02-10-051	180-53-055	REP-E	02-14-114
180-20-125	REP-P	02-14-116	180-37-005	NEW-P	02-14-120	180-53-055	REP-P	02-14-117
180-20-130	REP-P	02-14-116	180-37-010	PREP	02-10-051	180-53-060	REP-E	02-08-038
180-20-135	AMD-P	02-14-116	180-37-010	NEW-P	02-14-120	180-53-060	REP-E	02-14-114
180-22	PREP	02-08-045	180-38	PREP	02-08-043	180-53-060	REP-P	02-14-117
180-22-100	AMD-P	02-14-118	180-38	AMD-P	02-14-140	180-53-070	REP-E	02-08-038
180-22-105	REP-P	02-14-118	180-38-005	AMD-P	02-14-140	180-53-070	REP-E	02-14-114
180-22-140	AMD-P	02-14-118	180-38-010	REP-P	02-14-140	180-53-070	REP-P	02-14-117
180-22-150	AMD-P	02-14-118	180-38-020	AMD-P	02-14-140	180-55	PREP	02-08-039
180-22-201	NEW-P	02-14-118	180-38-025	REP-P	02-14-140	180-55-005	AMD-E	02-08-038
180-22-205	NEW-P	02-14-118	180-38-030	REP-P	02-14-140	180-55-005	AMD-E	02-14-114
180-22-210	NEW-P	02-14-118	180-38-035	REP-P	02-14-140	180-55-005	AMD-P	02-14-117
180-22-215	NEW-P	02-14-118	180-38-040	REP-P	02-14-140	180-55-010	REP-E	02-08-038
180-22-220	NEW-P	02-14-118	180-38-045	AMD-P	02-14-140	180-55-010	REP-E	02-14-114
180-22-225	NEW-P	02-14-118	180-38-050	AMD-P	02-14-140	180-55-010	REP-P	02-14-117
180-23	PREP	02-08-045	180-38-055	REP-P	02-14-140	180-55-015	AMD-E	02-08-038
180-23-037	REP-P	02-14-118	180-38-060	REP-P	02-14-140	180-55-015	AMD-E	02-14-114
180-23-040	REP-P	02-14-118	180-38-065	AMD-P	02-14-140	180-55-015	AMD-P	02-14-117
180-23-043	REP-P	02-14-118	180-38-070	REP-P	02-14-140	180-55-020	AMD-E	02-08-038
180-23-047	REP-P	02-14-118	180-39	PREP	02-06-061	180-55-020	AMD-E	02-14-114
180-23-050	REP-P	02-14-118	180-40	PREP	02-06-062	180-55-020	AMD-P	02-14-117
180-23-055	REP-P	02-14-118	180-41	PREP	02-06-063	180-55-025	REP-E	02-08-038
180-23-058	REP-P	02-14-118	180-43	PREP	02-08-042	180-55-025	REP-E	02-14-114
180-23-060	REP-P	02-14-118	180-43-005	AMD-P	02-14-123	180-55-025	REP-P	02-14-117
180-23-065	REP-P	02-14-118	180-43-010	AMD-P	02-14-123	180-55-030	REP-E	02-08-038
180-23-070	REP-P	02-14-118	180-43-015	AMD-P	02-14-123	180-55-030	REP-E	02-14-114
180-23-075	REP-P	02-14-118	180-44	PREP	02-06-064	180-55-030	REP-P	02-14-117
180-23-077	REP-P	02-14-118	180-46	PREP	02-06-065	180-55-032	NEW-E	02-08-038
180-23-078	REP-P	02-14-118	180-50	PREP	02-06-066	180-55-032	NEW-E	02-14-114
180-23-080	REP-P	02-14-118	180-50-135	PREP	02-15-026	180-55-032	NEW-P	02-14-117
180-23-085	REP-P	02-14-118	180-52-070	NEW-P	02-08-092	180-55-034	NEW-E	02-08-038
180-23-090	REP-P	02-14-118	180-52-070	NEW-P	02-10-089	180-55-034	NEW-E	02-14-114
180-23-095	REP-P	02-14-118	180-52-070	NEW	02-14-125	180-55-034	NEW-P	02-14-117
180-23-100	REP-P	02-14-118	180-53	PREP	02-08-039	180-55-035	REP-E	02-08-038
180-23-105	REP-P	02-14-118	180-53-005	REP-E	02-08-038	180-55-035	REP-E	02-14-114
180-23-110	REP-P	02-14-118	180-53-005	REP-E	02-14-114	180-55-035	REP-P	02-14-117
180-23-115	REP-P	02-14-118	180-53-010	REP-E	02-08-038	180-55-050	REP-E	02-08-038
180-23-120	REP-P	02-14-118	180-53-010	REP-E	02-14-114	180-55-050	REP-E	02-14-114
180-24	PREP	02-06-052	180-53-010	REP-P	02-14-117	180-55-050	REP-P	02-14-117
180-24-400	AMD-E	02-08-035	180-53-020	REP-E	02-08-038	180-55-070	REP-E	02-08-038
180-24-400	AMD-P	02-10-053	180-53-020	REP-E	02-14-114	180-55-070	REP-E	02-14-114
180-24-400	AMD	02-14-113	180-53-020	REP-E	02-14-114	180-55-070	REP-P	02-14-117
180-24-405	REP-E	02-08-035	180-53-020	REP-P	02-14-117	180-55-075	REP-E	02-08-038
180-24-405	REP-P	02-10-053	180-53-025	REP-E	02-08-038	180-55-075	REP-E	02-14-114
180-24-405	REP	02-14-113	180-53-025	REP-E	02-14-114	180-55-075	REP-P	02-14-117
180-24-410	AMD-E	02-08-035	180-53-025	REP-P	02-14-117	180-55-080	REP-E	02-08-038
180-24-410	AMD-P	02-10-053	180-53-030	REP-E	02-08-038	180-55-080	REP-E	02-14-114

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180-55-080	REP-P	02-14-117	180-77A-006	AMD	02-04-018	180-81	PREP	02-06-072
180-55-085	REP-E	02-08-038	180-77A-025	AMD	02-04-018	180-82	PREP	02-06-073
180-55-085	REP-E	02-14-114	180-77A-029	AMD	02-04-018	180-82-105	AMD	02-04-018
180-55-085	REP-P	02-14-117	180-77A-030	AMD	02-04-018	180-82-105	PREP	02-10-045
180-55-090	REP-E	02-08-038	180-77A-033	AMD	02-04-018	180-82-105	AMD-P	02-14-108
180-55-090	REP-E	02-14-114	180-77A-037	AMD	02-04-018	180-82-110	PREP	02-16-009
180-55-090	REP-P	02-14-117	180-77A-040	AMD	02-04-018	180-82-120	AMD-P	02-14-109
180-55-095	REP-E	02-08-038	180-77A-057	AMD	02-04-018	180-82-202	AMD	02-04-018
180-55-095	REP-E	02-14-114	180-77A-165	AMD	02-04-018	180-82-322	AMD	02-04-018
180-55-095	REP-P	02-14-117	180-77A-180	AMD	02-04-018	180-82-346	AMD	02-04-016
180-55-100	REP-E	02-08-038	180-77A-195	AMD	02-04-018	180-82-350	AMD	02-04-018
180-55-100	REP-E	02-14-114	180-78A	PREP	02-06-070	180-82A-002	NEW	02-04-013
180-55-100	REP-P	02-14-117	180-78A-010	AMD-P	02-14-109	180-82A-004	NEW-W	02-13-028
180-55-105	REP-E	02-08-038	180-78A-100	AMD-P	02-14-109	180-82A-200	NEW	02-04-013
180-55-105	REP-E	02-14-114	180-78A-200	AMD-P	02-14-109	180-82A-201	NEW-W	02-13-028
180-55-105	REP-P	02-14-117	180-78A-209	AMD	02-04-018	180-82A-202	NEW	02-04-013
180-55-110	REP-E	02-08-038	180-78A-220	AMD	02-04-014	180-82A-204	NEW	02-04-013
180-55-110	REP-E	02-14-114	180-78A-250	AMD-P	02-14-109	180-82A-206	NEW	02-04-013
180-55-110	REP-P	02-14-117	180-78A-255	AMD	02-04-014	180-82A-215	NEW	02-04-013
180-55-115	REP-E	02-08-038	180-78A-261	AMD	02-04-014	180-83	PREP	02-06-074
180-55-115	REP-E	02-14-114	180-78A-264	AMD	02-04-014	180-85	PREP	02-06-075
180-55-115	REP-P	02-14-117	180-78A-270	AMD	02-04-018	180-85	PREP	02-15-027
180-55-120	REP-E	02-08-038	180-78A-270	AMD-P	02-14-109	180-85-025	AMD-P	02-14-107
180-55-120	REP-E	02-14-114	180-78A-325	AMD-P	02-14-109	180-85-033	NEW-P	02-14-107
180-55-120	REP-P	02-14-117	180-78A-400	AMD-P	02-14-109	180-85-035	AMD	02-04-017
180-55-125	REP-E	02-08-038	180-78A-500	AMD-P	02-14-109	180-85-075	AMD	02-04-017
180-55-125	REP-E	02-14-114	180-78A-505	PREP	02-06-051	180-85-075	PREP	02-06-081
180-55-125	REP-P	02-14-117	180-78A-505	AMD-P	02-10-085	180-85-075	AMD-P	02-10-086
180-55-130	REP-E	02-08-038	180-78A-505	AMD-P	02-14-109	180-85-075	AMD	02-14-112
180-55-130	REP-E	02-14-114	180-78A-505	AMD	02-14-111	180-86	PREP	02-06-076
180-55-130	REP-P	02-14-117	180-78A-507	NEW-P	02-14-109	180-86-011	AMD-P	02-10-052
180-55-135	REP-E	02-08-038	180-78A-535	AMD-P	02-14-109	180-86-011	AMD-P	02-14-122
180-55-135	REP-E	02-14-114	180-78A-540	AMD-P	02-14-109	180-86-013	AMD-P	02-10-052
180-55-135	REP-P	02-14-117	180-78A-700	PREP	02-15-028	180-86-013	AMD-P	02-14-122
180-55-150	NEW-E	02-08-038	180-79A	PREP	02-06-071	180-86-020	PREP	02-03-084
180-55-150	NEW-E	02-14-114	180-79A-015	REP-P	02-14-109	180-86-020	REP-P	02-10-052
180-55-150	NEW-P	02-14-117	180-79A-020	REP-P	02-14-109	180-86-020	REP-P	02-14-122
180-57	PREP	02-16-007	180-79A-022	REP-P	02-14-109	180-86-030	AMD-P	02-10-052
180-72	PREP	02-06-067	180-79A-030	AMD	02-04-015	180-86-030	AMD-P	02-14-122
180-77	AMD	02-04-018	180-79A-107	NEW-E	02-14-036	180-86-055	PREP	02-03-084
180-77	PREP	02-06-068	180-79A-117	AMD	02-04-018	180-86-055	REP-P	02-10-052
180-77-002	AMD	02-04-018	180-79A-130	AMD	02-04-018	180-86-055	REP-P	02-14-122
180-77-003	AMD	02-04-018	180-79A-131	AMD-P	02-14-109	180-86-065	AMD-P	02-10-052
180-77-005	AMD	02-04-018	180-79A-140	AMD	02-04-018	180-86-065	AMD-P	02-14-122
180-77-012	AMD	02-04-018	180-79A-140	AMD	02-13-027	180-86-070	AMD-P	02-10-052
180-77-014	AMD	02-04-018	180-79A-140	AMD-P	02-14-109	180-86-070	AMD-P	02-14-122
180-77-020	AMD	02-04-018	180-79A-145	AMD-P	02-14-109	180-86-075	AMD-P	02-10-052
180-77-025	AMD	02-04-018	180-79A-150	AMD	02-04-018	180-86-075	AMD-P	02-14-122
180-77-031	AMD	02-04-018	180-79A-150	PREP	02-10-050	180-86-100	AMD-P	02-10-052
180-77-041	AMD	02-04-018	180-79A-150	AMD-P	02-14-109	180-86-100	AMD-P	02-14-122
180-77-041	PREP	02-10-048	180-79A-155	PREP	02-16-008	180-86-116	AMD-P	02-10-052
180-77-041	AMD-P	02-14-106	180-79A-206	PREP	02-05-061	180-86-116	AMD-P	02-14-122
180-77-068	AMD	02-04-018	180-79A-206	AMD-P	02-10-085	180-86-130	AMD-P	02-10-052
180-77-070	AMD	02-04-018	180-79A-206	AMD	02-14-111	180-86-130	AMD-P	02-14-122
180-77-075	AMD	02-04-018	180-79A-211	AMD	02-04-018	180-86-140	AMD-P	02-10-052
180-77-080	AMD	02-04-018	180-79A-211	AMD-P	02-14-109	180-86-140	AMD-P	02-14-122
180-77-110	AMD	02-04-018	180-79A-231	AMD	02-13-027	180-86-145	AMD-P	02-10-052
180-77-120	AMD	02-04-018	180-79A-231	PREP	02-16-010	180-86-145	AMD-P	02-14-122
180-77-122	AMD	02-04-018	180-79A-250	PREP	02-05-060	180-86-160	AMD-P	02-10-052
180-77A	AMD	02-04-018	180-79A-250	AMD-P	02-10-087	180-86-160	AMD-P	02-14-122
180-77A	PREP	02-06-069	180-79A-250	AMD-W	02-12-123	180-86-170	AMD-P	02-10-052
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180-86-185	AMD-P	02-10-052	180-97	PREP	02-08-040	192-16-047	REP-P	02-07-065
180-86-185	AMD-P	02-14-122	180-97-003	AMD-E	02-08-034	192-150-055	NEW-X	02-08-071
180-87	PREP	02-06-077	180-97-003	AMD-P	02-14-121	192-150-055	NEW	02-14-035
180-90	PREP	02-06-078	180-97-005	REP-E	02-08-034	192-150-060	NEW	02-08-072
180-90-105	AMD-E	02-08-037	180-97-005	REP-P	02-14-121	192-170-050	NEW	02-08-072
180-90-105	AMD-P	02-10-088	180-97-010	AMD-E	02-08-034	192-180-012	NEW	02-08-072
180-90-105	AMD-W	02-14-110	180-97-010	AMD-P	02-14-121	192-210-005	AMD-P	02-12-126
180-90-105	AMD-P	02-14-124	180-97-015	REP-E	02-08-034	192-210-005	AMD-E	02-12-127
180-90-110	REP-E	02-08-037	180-97-015	REP-P	02-14-121	192-210-015	AMD-P	02-12-126
180-90-110	REP-P	02-10-088	180-97-020	REP-E	02-08-034	192-210-015	AMD-E	02-12-127
180-90-110	REP-W	02-14-110	180-97-020	REP-P	02-14-121	192-210-020	NEW-P	02-12-126
180-90-110	REP-P	02-14-124	180-97-040	AMD-E	02-08-034	192-210-020	NEW-E	02-12-127
180-90-112	AMD-E	02-08-037	180-97-040	AMD-P	02-14-121	192-240-010	NEW-E	02-03-074
180-90-112	AMD-P	02-10-088	180-97-050	REP-E	02-08-034	192-240-015	NEW-E	02-03-074
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180-90-112	AMD-P	02-14-124	180-97-060	AMD-E	02-08-034	192-240-025	NEW-E	02-03-074
180-90-115	REP-E	02-08-037	180-97-060	AMD-P	02-14-121	192-240-030	NEW-E	02-03-074
180-90-115	REP-P	02-10-088	180-97-070	REP-E	02-08-034	192-240-030	NEW-E	02-07-065
180-90-115	REP-W	02-14-110	180-97-070	REP-P	02-14-121	192-240-035	NEW-E	02-03-074
180-90-115	REP-P	02-14-124	180-97-080	AMD-E	02-08-034	192-240-040	NEW-E	02-03-074
180-90-119	REP-E	02-08-037	180-97-080	AMD-P	02-14-121	192-240-040	NEW-E	02-07-065
180-90-119	REP-P	02-10-088	180-97-090	REP-E	02-08-034	192-240-045	NEW-E	02-07-065
180-90-119	REP-W	02-14-110	180-97-090	REP-P	02-14-121	196-09	PREP	02-13-079
180-90-119	REP-P	02-14-124	180-97-100	REP-E	02-08-034	196-24-041	PREP	02-13-079
180-90-120	REP-E	02-08-037	180-97-100	REP-P	02-14-121	196-26-020	REP-P	02-08-075
180-90-120	REP-P	02-10-088	181-01-001	NEW-P	02-17-100	196-26-020	REP	02-13-080
180-90-120	REP-W	02-14-110	182	PREP	02-11-034	196-26-030	REP-P	02-08-075
180-90-120	REP-P	02-14-124	182	PREP	02-11-035	196-26-030	REP	02-13-080
180-90-123	REP-E	02-08-037	182-08-190	AMD-P	02-15-178	196-26A-010	NEW-P	02-08-075
180-90-123	REP-P	02-10-088	182-12-111	AMD-P	02-15-177	196-26A-010	NEW	02-13-080
180-90-123	REP-W	02-14-110	182-12-119	AMD-P	02-15-177	196-26A-020	NEW-P	02-08-075
180-90-123	REP-P	02-14-124	182-12-132	AMD-P	02-15-177	196-26A-020	NEW	02-13-080
180-90-125	REP-E	02-08-037	182-12-220	AMD-P	02-15-178	196-26A-025	NEW-P	02-08-075
180-90-125	REP-P	02-10-088	182-12-230	NEW-P	02-05-078	196-26A-025	NEW	02-13-080
180-90-125	REP-W	02-14-110	182-12-230	NEW	02-08-047	196-26A-030	NEW-P	02-08-075
180-90-125	REP-P	02-14-124	182-12-230	AMD-P	02-15-177	196-26A-030	NEW	02-13-080
180-90-130	AMD-E	02-08-037	182-20-250	NEW-P	02-15-179	196-26A-035	NEW-P	02-08-075
180-90-130	AMD-P	02-10-088	182-25-020	AMD-P	02-15-176	196-26A-035	NEW	02-13-080
180-90-130	AMD-W	02-14-110	182-25-040	AMD-P	02-15-180	196-26A-040	NEW-P	02-08-075
180-90-130	AMD-P	02-14-124	182-25-080	AMD-P	02-15-176	196-26A-040	NEW	02-13-080
180-90-133	REP-E	02-08-037	182-25-085	AMD-P	02-15-180	196-26A-045	NEW-P	02-08-075
180-90-133	REP-P	02-10-088	182-25-090	AMD-P	02-15-180	196-26A-045	NEW	02-13-080
180-90-133	REP-W	02-14-110	192-16-013	REP-X	02-08-071	196-26A-050	NEW-P	02-08-075
180-90-133	REP-P	02-14-124	192-16-013	REP	02-14-035	196-26A-050	NEW	02-13-080
180-90-135	REP-E	02-08-037	192-16-021	REP	02-08-072	196-26A-055	NEW-P	02-08-075
180-90-135	REP-P	02-10-088	192-16-033	REP-E	02-03-074	196-26A-055	NEW	02-13-080
180-90-135	REP-W	02-14-110	192-16-033	PREP	02-07-064	196-26A-060	NEW-P	02-08-075
180-90-135	REP-P	02-14-124	192-16-033	REP-E	02-07-065	196-26A-060	NEW	02-13-080
180-90-137	REP-E	02-08-037	192-16-036	REP-E	02-03-074	196-26A-070	NEW-P	02-08-075
180-90-137	REP-P	02-10-088	192-16-036	PREP	02-07-064	196-26A-070	NEW	02-13-080
180-90-137	REP-W	02-14-110	192-16-036	REP-P	02-07-065	196-27-010	REP-P	02-15-139
180-90-137	REP-P	02-14-124	192-16-040	REP-E	02-03-074	196-27-020	REP-P	02-15-139
180-90-141	AMD-E	02-08-037	192-16-040	PREP	02-07-064	196-27A-010	NEW-P	02-15-139
180-90-141	AMD-P	02-10-088	192-16-040	REP-P	02-07-065	196-27A-020	NEW-P	02-15-139
180-90-141	AMD-W	02-14-110	192-16-042	REP-E	02-03-074	196-27A-030	NEW-P	02-15-139
180-90-141	AMD-P	02-14-124	192-16-042	PREP	02-07-064	204-24-030	AMD-P	02-15-072
180-90-160	AMD-E	02-08-037	192-16-042	REP-P	02-07-065	204-24-050	AMD-P	02-15-072
180-90-160	AMD-P	02-10-088	192-16-045	REP-E	02-03-074	204-36-030	AMD	02-07-055
180-90-160	AMD-W	02-14-110	192-16-045	PREP	02-07-064	204-36-040	AMD	02-07-055
180-90-160	AMD-P	02-14-124	192-16-045	REP-P	02-07-065	204-36-060	AMD	02-07-055

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204- 91A-060	AMD	02-07-056	212- 12-040	AMD-P	02-11-038	220- 16-780	NEW	02-08-048
204- 91A-090	AMD	02-07-056	212- 12-040	AMD	02-16-023	220- 16-780	AMD-P	02-13-088
204- 91A-120	AMD	02-07-056	212- 12-044	PREP	02-07-018	220- 16-780	NEW-W	02-15-088
204- 91A-130	AMD	02-07-056	212- 12-044	AMD-P	02-11-038	220- 16-780	AMD	02-17-017
204- 91A-140	AMD	02-07-056	212- 12-044	AMD	02-16-023	220- 16-78000A	NEW-E	02-10-118
204- 91A-170	AMD	02-07-056	212- 12-200	NEW-E	02-03-060	220- 16-790	NEW	02-08-048
204- 91A-180	AMD	02-07-056	212- 12-200	NEW-P	02-17-102	220- 16-790	AMD-P	02-13-088
204- 95	PREP	02-11-037	212- 12-210	NEW-E	02-03-060	220- 16-790	NEW-W	02-15-088
204- 95-030	AMD-P	02-16-046	212- 12-210	NEW-P	02-17-102	220- 16-790	AMD	02-17-017
204- 95-080	AMD-P	02-16-046	212- 12-220	NEW-E	02-03-060	220- 16-79000A	NEW-E	02-10-118
208-424-010	NEW-P	02-11-010	212- 12-220	NEW-P	02-17-102	220- 16-800	NEW-W	02-15-088
208-424-010	NEW	02-14-038	212- 12-230	NEW-E	02-03-060	220- 20-001	NEW-P	02-13-085
208-424-020	NEW-P	02-11-010	212- 12-230	NEW-P	02-17-102	220- 20-001	NEW	02-16-069
208-424-020	NEW	02-14-038	212- 12-240	NEW-E	02-03-060	220- 20-010	AMD	02-08-048
208-424-030	NEW-P	02-11-010	212- 12-240	NEW-P	02-17-102	220- 20-015	AMD-X	02-15-025
208-424-030	NEW	02-14-038	212- 12-250	NEW-E	02-03-060	220- 20-016	PREP	02-06-107
208-472	AMD	02-04-094	212- 12-250	NEW-P	02-17-102	220- 20-016	AMD-X	02-11-073
208-472-010	AMD	02-04-094	212- 12-260	NEW-E	02-03-060	220- 20-016	AMD-C	02-16-002
208-472-012	REP	02-04-094	212- 12-260	NEW-P	02-17-102	220- 20-020	AMD-X	02-15-025
208-472-015	AMD	02-04-094	212- 12-270	NEW-E	02-03-060	220- 20-025	AMD	02-08-048
208-472-020	AMD	02-04-094	212- 12-270	NEW-P	02-17-102	220- 20-025	AMD-X	02-15-025
208-472-025	AMD	02-04-094	212- 12-280	NEW-E	02-03-060	220- 20-075	NEW	02-05-046
208-472-030	NEW	02-04-094	212- 12-280	NEW-P	02-17-102	220- 20-080	NEW-P	02-13-134
208-472-035	NEW	02-04-094	212- 12-290	NEW-E	02-03-060	220- 20-08000A	NEW-E	02-14-089
208-472-041	REP	02-04-094	212- 12-290	NEW-P	02-17-102	220- 20-100	NEW	02-08-048
208-472-045	REP	02-04-094	212- 12-300	NEW-E	02-03-060	220- 20-100	NEW-W	02-15-088
208-472-050	REP	02-04-094	212- 12-300	NEW-P	02-17-102	220- 24-04000B	NEW-E	02-10-078
208-472-060	REP	02-04-094	212- 12-310	NEW-E	02-03-060	220- 24-04000B	REP-E	02-10-078
208-472-065	REP	02-04-094	212- 12-310	NEW-P	02-17-102	220- 24-04000B	REP-E	02-10-120
208-472-070	REP	02-04-094	212- 12-320	NEW-E	02-03-060	220- 24-04000C	NEW-E	02-10-120
208-472-075	REP	02-04-094	212- 12-320	NEW-P	02-17-102	220- 24-04000C	REP-E	02-10-120
208-472-080	REP	02-04-094	212- 12-330	NEW-E	02-03-060	220- 24-04000C	REP-E	02-13-003
208-620-160	AMD-P	02-12-004	212- 12-330	NEW-P	02-17-102	220- 24-04000D	NEW-E	02-14-090
208-660-125	AMD-P	02-12-003	212- 12-340	NEW-E	02-03-060	220- 24-04000D	REP-E	02-14-090
212- 12-001	PREP	02-07-018	212- 12-340	NEW-P	02-17-102	220- 24-04000E	NEW-E	02-15-041
212- 12-001	AMD-P	02-11-038	212- 12-350	NEW-E	02-03-060	220- 24-04000E	REP-E	02-15-041
212- 12-001	AMD	02-16-023	212- 12-350	NEW-P	02-17-102	220- 24-04000F	NEW-E	02-16-013
212- 12-005	PREP	02-07-018	212- 12-360	NEW-E	02-03-060	220- 24-04000F	REP-E	02-16-013
212- 12-005	AMD-P	02-11-038	212- 12-360	NEW-P	02-17-102	220- 24-04000G	NEW-E	02-17-010
212- 12-005	AMD	02-16-023	212- 12-370	NEW-E	02-03-060	220- 24-04000G	REP-E	02-17-010
212- 12-010	PREP	02-07-018	212- 12-370	NEW-P	02-17-102	220- 32-05100K	REP-E	02-04-073
212- 12-010	AMD-P	02-11-038	212- 12-380	NEW-E	02-03-060	220- 32-05100L	NEW-E	02-04-073
212- 12-010	AMD	02-16-023	212- 12-380	NEW-P	02-17-102	220- 32-05100L	REP-E	02-04-073
212- 12-011	PREP	02-07-018	212- 12-390	NEW-E	02-03-060	220- 32-05100L	REP-E	02-07-011
212- 12-011	AMD-P	02-11-038	212- 12-390	NEW-P	02-17-102	220- 32-05100M	NEW-E	02-07-011
212- 12-011	AMD	02-16-023	212- 12-400	NEW-E	02-03-060	220- 32-05100M	REP-E	02-07-011
212- 12-015	PREP	02-07-018	212- 12-400	NEW-P	02-17-102	220- 32-05100M	REP-E	02-07-044
212- 12-015	AMD-P	02-11-038	212- 12-410	NEW-E	02-03-060	220- 32-05100N	NEW-E	02-07-044
212- 12-015	AMD	02-16-023	212- 12-410	NEW-P	02-17-102	220- 32-05100N	REP-E	02-07-044
212- 12-020	PREP	02-07-018	212- 12-420	NEW-E	02-03-060	220- 32-05100P	NEW-E	02-10-042
212- 12-020	AMD-P	02-11-038	212- 12-420	NEW-P	02-17-102	220- 32-05100P	REP-E	02-10-042
212- 12-020	AMD	02-16-023	220- 12-005	NEW-P	02-13-107	220- 32-05100Q	NEW-E	02-11-003
212- 12-025	PREP	02-07-018	220- 12-090	NEW-P	02-13-107	220- 32-05100Q	REP-E	02-11-003
212- 12-025	AMD-P	02-11-038	220- 12-09000A	NEW-E	02-15-001	220- 32-05100R	NEW-E	02-11-049
212- 12-025	AMD	02-16-023	220- 16-028	AMD	02-08-048	220- 32-05100R	REP-E	02-11-049
212- 12-030	PREP	02-07-018	220- 16-410	AMD-W	02-05-035	220- 32-05100S	NEW-E	02-11-085
212- 12-030	AMD-P	02-11-038	220- 16-480	AMD	02-08-027	220- 32-05100S	REP-E	02-11-085
212- 12-030	AMD	02-16-023	220- 16-760	NEW	02-08-048	220- 32-05100S	REP-E	02-11-146
212- 12-035	PREP	02-07-018	220- 16-760	AMD-P	02-13-088	220- 32-05100T	NEW-E	02-14-138
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220-32-05500E	REP-E	02-11-146	220-47-428	AMD	02-16-004	220-52-073	AMD-P	02-13-090
220-32-05700P	NEW-E	02-11-146	220-47-430	AMD-X	02-11-073	220-52-073	AMD	02-17-016
220-32-05700P	REP-E	02-11-146	220-47-430	AMD	02-16-004	220-52-07300Q	REP-E	02-03-025
220-33-01000I	NEW-E	02-04-077	220-47-901	NEW-E	02-16-056	220-52-07300R	NEW-E	02-03-025
220-33-01000I	REP-E	02-04-077	220-48-005	AMD	02-08-026	220-52-07300R	REP-E	02-03-067
220-33-01000J	NEW-E	02-05-056	220-48-015	AMD-W	02-15-086	220-52-07300S	NEW-E	02-03-067
220-33-01000J	REP-E	02-05-056	220-48-01500P	NEW-E	02-17-012	220-52-07300S	REP-E	02-03-090
220-33-01000J	REP-E	02-07-010	220-48-029	AMD-P	02-13-108	220-52-07300T	NEW-E	02-03-090
220-33-01000K	NEW-E	02-07-010	220-48-029	AMD-W	02-15-086	220-52-07300T	REP-E	02-04-035
220-33-01000K	REP-E	02-07-010	220-48-032	AMD-P	02-13-108	220-52-07300U	NEW-E	02-04-035
220-33-01000K	REP-E	02-07-094	220-49-013	AMD	02-08-026	220-52-07300U	REP-E	02-04-078
220-33-01000L	NEW-E	02-07-094	220-49-056	AMD	02-08-026	220-52-07300V	NEW-E	02-04-078
220-33-01000L	REP-E	02-07-094	220-52-03000R	NEW-E	02-11-043	220-52-07300V	REP-E	02-07-046
220-33-01000L	REP-E	02-08-014	220-52-03000R	REP-E	02-11-043	220-52-07300W	NEW-E	02-07-092
220-33-01000M	NEW-E	02-08-014	220-52-04000F	REP-E	02-03-068	220-52-07300W	REP-E	02-07-092
220-33-01000M	REP-E	02-08-025	220-52-04000G	NEW-E	02-15-124	220-52-07500D	NEW-E	02-09-021
220-33-01000N	NEW-E	02-08-025	220-52-04000G	REP-E	02-15-124	220-52-07500D	REP-E	02-10-004
220-33-01000N	REP-E	02-08-025	220-52-04600A	REP-E	02-03-024	220-52-07500E	NEW-E	02-10-004
220-33-01000P	NEW-E	02-16-063	220-52-04600B	NEW-E	02-03-024	220-55-001	AMD-P	02-13-084
220-33-01000P	REP-E	02-16-063	220-52-04600B	REP-E	02-03-050	220-55-001	AMD	02-16-070
220-33-01000Q	NEW-E	02-17-021	220-52-04600C	NEW-E	02-03-050	220-55-00100A	NEW-E	02-10-106
220-33-01000Q	REP-E	02-17-021	220-52-04600C	REP-E	02-04-093	220-55-100	AMD-P	02-13-084
220-33-01000R	NEW-E	02-17-063	220-52-04600D	NEW-E	02-04-093	220-55-100	AMD	02-16-070
220-33-01000R	REP-E	02-17-063	220-52-04600D	REP-E	02-07-037	220-55-200	NEW-P	02-12-130
220-33-03000S	NEW-E	02-11-014	220-52-04600E	NEW-E	02-07-037	220-55-200	NEW	02-15-038
220-33-03000S	REP-E	02-11-014	220-52-04600E	REP-E	02-07-075	220-55-20000A	REP-P	02-12-130
220-33-04000N	REP-E	02-04-072	220-52-04600F	NEW-E	02-07-075	220-55-20000A	REP	02-15-038
220-33-04000P	NEW-E	02-04-072	220-52-04600F	REP-E	02-08-070	220-55-20000B	NEW-E	02-13-045
220-33-04000P	REP-E	02-04-072	220-52-04600G	NEW-E	02-08-070	220-56-100	AMD	02-08-048
220-33-04000P	REP-E	02-04-102	220-52-04600G	REP-E	02-08-070	220-56-105	AMD	02-08-048
220-33-04000Q	NEW-E	02-04-102	220-52-050	AMD-W	02-11-026	220-56-115	AMD	02-09-001
220-33-04000Q	REP-E	02-04-102	220-52-05000E	NEW-E	02-15-013	220-56-116	AMD	02-08-048
220-33-04000Q	REP-E	02-06-036	220-52-05100A	NEW-E	02-10-004	220-56-124	AMD-X	02-10-127
220-33-04000R	NEW-E	02-06-036	220-52-05100A	REP-E	02-10-043	220-56-124	AMD	02-15-097
220-33-04000R	REP-E	02-06-036	220-52-05100B	NEW-E	02-10-043	220-56-128	AMD	02-08-048
220-36-02300B	NEW-E	02-16-050	220-52-05100B	REP-E	02-13-023	220-56-15600A	NEW-E	02-10-108
220-36-02300B	REP-E	02-16-103	220-52-05100C	NEW-E	02-13-023	220-56-193	NEW-P	02-10-124
220-36-02300C	NEW-E	02-16-103	220-52-05100C	REP-E	02-14-068	220-56-193	NEW	02-13-026
220-40-02100W	NEW-E	02-15-040	220-52-05100D	NEW-E	02-14-068	220-56-194	NEW-P	02-10-124
220-40-02100W	REP-E	02-15-040	220-52-05100D	REP-E	02-15-031	220-56-194	NEW	02-13-026
220-40-027	AMD-X	02-11-072	220-52-05100E	NEW-E	02-15-031	220-56-195	AMD-X	02-10-127
220-40-027	AMD	02-16-021	220-52-05100E	REP-E	02-15-104	220-56-195	AMD	02-15-097
220-44-05000H	REP-E	02-04-060	220-52-05100F	NEW-E	02-15-104	220-56-19500I	NEW-E	02-11-086
220-44-05000I	NEW-E	02-04-060	220-52-05100F	REP-E	02-16-011	220-56-19500I	REP-E	02-11-086
220-44-05000I	REP-E	02-07-093	220-52-05100G	NEW-E	02-16-011	220-56-19500J	NEW-E	02-17-038
220-44-05000J	NEW-E	02-07-093	220-52-05100G	REP-E	02-16-049	220-56-19500J	REP-E	02-17-038
220-44-05000J	REP-E	02-11-042	220-52-05100H	NEW-E	02-16-049	220-56-210	AMD	02-08-048
220-44-05000K	NEW-E	02-11-042	220-52-05100H	REP-E	02-17-020	220-56-235	AMD	02-09-001
220-44-05000K	REP-E	02-15-036	220-52-05100I	NEW-E	02-17-020	220-56-23500L	NEW-E	02-03-002
220-44-05000L	NEW-E	02-15-036	220-52-05100I	REP-E	02-17-037	220-56-23500L	REP-E	02-07-004
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220-47-401	AMD	02-16-004	220-52-07100W	NEW-E	02-15-002	220-56-25500A	NEW-E	02-14-139
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220-56-25500C	REP-E	02-15-109	220-56-33000H	REP-E	02-11-094	220-77-100	NEW-W	02-11-027
220-56-25500D	NEW-E	02-15-109	220-56-33000I	NEW-E	02-11-050	220-77-105	NEW-W	02-11-027
220-56-25500X	NEW-E	02-09-045	220-56-33000I	REP-E	02-11-094	220-88C-04000	NEW-E	02-13-051
220-56-25500X	REP-E	02-12-014	220-56-33000J	NEW-E	02-11-094	220-95-100	AMD-P	02-13-086
220-56-25500Y	NEW-E	02-12-014	220-56-33000J	REP-E	02-11-132	220-95-100	AMD	02-17-014
220-56-25500Y	REP-E	02-13-044	220-56-33000K	NEW-E	02-11-132	220-95-110	AMD-P	02-13-086
220-56-25500Z	NEW-E	02-13-044	220-56-33000K	REP-E	02-13-002	220-95-110	AMD	02-17-014
220-56-25500Z	REP-E	02-14-139	220-56-33000L	NEW-E	02-13-002	220-130-040	AMD-W	02-02-089
220-56-265	AMD	02-08-048	220-56-33000L	REP-E	02-14-025	222-10-040	AMD-P	02-05-087
220-56-270	AMD	02-08-048	220-56-33000M	NEW-E	02-14-025	222-10-040	AMD	02-11-075
220-56-27000L	REP-E	02-06-036	220-56-33000M	REP-E	02-15-039	222-10-041	AMD-P	02-05-087
220-56-27000M	NEW-E	02-06-036	220-56-33000N	NEW-E	02-15-039	222-10-041	AMD	02-11-075
220-56-27000M	REP-E	02-06-036	220-56-335	AMD	02-08-048	222-16-050	AMD-E	02-05-086
220-56-282	AMD	02-08-048	220-56-350	AMD	02-08-048	222-16-050	PREP	02-07-023
220-56-28200D	NEW-E	02-06-017	220-56-350	AMD-P	02-13-091	222-16-050	AMD-P	02-11-138
220-56-28200D	REP-E	02-06-017	220-56-350	AMD	02-17-019	222-16-050	AMD-E	02-15-083
220-56-28200E	NEW-E	02-10-119	220-56-35000J	REP-E	02-06-035	222-16-050	AMD	02-17-099
220-56-28200F	NEW-E	02-15-014	220-56-35000K	NEW-E	02-06-035	222-21	PREP	02-17-098
220-56-28200F	REP-E	02-15-095	220-56-35000K	REP-E	02-10-029	222-21-010	AMD	02-05-084
220-56-285	AMD	02-08-048	220-56-35000L	NEW-E	02-10-029	222-21-020	AMD	02-05-084
220-56-28500B	NEW-E	02-05-010	220-56-35000L	REP-E	02-13-011	222-21-045	AMD	02-05-084
220-56-28500B	REP-E	02-10-063	220-56-35000M	NEW-E	02-13-011	222-21-050	AMD	02-05-084
220-56-28500C	NEW-E	02-11-006	220-56-355	AMD	02-08-048	222-21-061	NEW	02-05-084
220-56-28500C	REP-E	02-11-006	220-56-355	AMD-P	02-13-091	226-01-040	AMD-X	02-03-038
220-56-28500C	REP-E	02-11-039	220-56-355	AMD	02-17-019	226-01-040	AMD	02-08-076
220-56-28500D	NEW-E	02-11-039	220-56-35500B	NEW-E	02-07-076	226-01-050	AMD-X	02-03-038
220-56-307	REP	02-08-048	220-56-35500C	NEW-E	02-15-120	226-01-050	AMD	02-08-076
220-56-310	AMD	02-08-048	220-56-36000L	NEW-E	02-03-053	226-12-080	AMD-X	02-03-038
220-56-31000U	NEW-E	02-09-003	220-56-36000L	REP-E	02-03-053	226-12-080	AMD	02-08-076
220-56-31000U	REP-E	02-09-003	220-56-36000L	REP-E	02-04-039	226-16-160	AMD-X	02-03-038
220-56-315	AMD	02-08-048	220-56-36000M	NEW-E	02-04-039	226-16-160	AMD	02-08-076
220-56-315	AMD-P	02-15-106	220-56-36000M	REP-E	02-04-039	226-20-010	AMD-X	02-03-038
220-56-31500A	NEW-E	02-09-003	220-56-36000N	NEW-E	02-07-012	226-20-010	AMD	02-08-076
220-56-31500A	REP-E	02-09-003	220-56-36000N	REP-E	02-07-012	230-02-145	REP-P	02-07-081
220-56-31500B	NEW-E	02-11-020	220-56-36000P	NEW-E	02-10-012	230-02-145	REP	02-11-084
220-56-32500A	NEW-E	02-15-125	220-56-36000P	REP-E	02-10-012	230-02-205	AMD-S	02-03-077
220-56-32500A	REP-E	02-16-044	220-56-36000Q	NEW-E	02-11-012	230-02-205	AMD-W	02-16-083
220-56-32500B	NEW-E	02-16-044	220-56-36000Q	REP-E	02-11-012	230-04-064	AMD-P	02-06-037
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220-56-32500U	NEW-E	02-10-028	220-56-38000D	NEW-E	02-06-035	230-04-180	AMD	02-17-034
220-56-32500U	REP-E	02-11-013	220-56-38000D	REP-E	02-10-029	230-04-202	AMD-W	02-02-090
220-56-32500V	NEW-E	02-11-013	220-56-38000E	NEW-E	02-10-029	230-04-202	AMD-P	02-13-111
220-56-32500V	REP-E	02-11-041	220-69	PREP	02-10-105	230-04-202	AMD-W	02-16-024
220-56-32500W	NEW-E	02-11-041	220-69-240	AMD-P	02-13-134	230-04-202	AMD-P	02-17-032
220-56-32500W	REP-E	02-11-134	220-69-24000A	NEW-E	02-10-004	230-04-203	AMD-P	02-13-111
220-56-32500X	NEW-E	02-11-134	220-69-24000A	REP-E	02-10-043	230-04-203	AMD-W	02-16-024
220-56-32500X	REP-E	02-12-054	220-69-24000B	NEW-E	02-10-043	230-04-203	AMD-P	02-17-032
220-56-32500Y	NEW-E	02-12-054	220-69-24000B	REP-E	02-13-023	230-04-204	AMD-P	02-17-032
220-56-32500Y	REP-E	02-14-004	220-69-24000C	NEW-E	02-13-023	230-04-315	REP-P	02-13-111
220-56-32500Z	NEW-E	02-14-004	220-69-24000C	REP-E	02-14-068	230-08-017	AMD-P	02-17-032
220-56-32500Z	REP-E	02-15-125	220-69-24000D	NEW-E	02-14-068	230-08-255	AMD-P	02-06-037
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220-56-33000E	NEW-E	02-05-001	220-74-020	AMD	02-10-023	230-12-045	NEW	02-11-084
220-56-33000E	REP-E	02-07-037	220-77-020	AMD	02-06-018	230-12-050	AMD-P	02-07-081
220-56-33000F	NEW-E	02-07-037	220-77-040	AMD	02-06-018	230-12-050	AMD	02-11-084
220-56-33000F	REP-E	02-07-075	220-77-09000A	NEW-E	02-04-069	230-12-090	AMD-P	02-13-111
220-56-33000G	NEW-E	02-07-075	220-77-09000A	REP-E	02-04-089	230-12-090	AMD	02-17-035
220-56-33000G	REP-E	02-08-070	220-77-09000B	NEW-E	02-04-089	230-12-330	AMD-P	02-06-038
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230- 12-340	AMD	02-10-003	232- 28-02220	AMD	02-11-069	232- 28-61900K	NEW-E	02-03-014
230- 20-002	NEW-P	02-13-111	232- 28-02240	AMD-P	02-06-124	232- 28-61900K	NEW-E	02-11-039
230- 20-002	NEW	02-17-035	232- 28-02240	AMD	02-11-069	232- 28-61900K	REP-E	02-11-039
230- 20-005	NEW-P	02-13-111	232- 28-248	AMD-P	02-06-124	232- 28-61900L	NEW-E	02-03-015
230- 20-005	NEW	02-17-035	232- 28-248	AMD	02-11-069	232- 28-61900L	REP-E	02-03-015
230- 20-070	AMD-P	02-13-111	232- 28-266	AMD-P	02-06-121	232- 28-61900L	NEW-E	02-11-040
230- 20-070	AMD	02-17-035	232- 28-273	AMD-P	02-06-121	232- 28-61900M	NEW-E	02-03-066
230- 20-104	AMD-P	02-13-111	232- 28-273	AMD	02-11-069	232- 28-61900M	REP-E	02-10-063
230- 20-104	AMD	02-17-035	232- 28-276	AMD-P	02-10-128	232- 28-61900M	NEW-E	02-11-068
230- 20-111	REP-P	02-07-081	232- 28-276	AMD	02-15-018	232- 28-61900M	REP-E	02-11-068
230- 20-111	REP	02-11-084	232- 28-277	AMD-P	02-06-125	232- 28-61900N	NEW-E	02-04-019
230- 20-125	REP-P	02-07-081	232- 28-277	REP-P	02-10-128	232- 28-61900N	REP-E	02-04-019
230- 20-125	REP	02-11-084	232- 28-277	AMD	02-11-069	232- 28-61900N	NEW-E	02-11-071
230- 20-170	AMD-P	02-13-111	232- 28-277	REP	02-15-019	232- 28-61900N	REP-E	02-11-071
230- 20-170	AMD	02-17-035	232- 28-278	AMD-P	02-06-126	232- 28-61900P	NEW-E	02-04-103
230- 20-230	REP-P	02-07-081	232- 28-278	AMD	02-11-069	232- 28-61900P	REP-E	02-12-013
230- 20-230	REP	02-11-084	232- 28-279	AMD-P	02-06-123	232- 28-61900Q	NEW-E	02-05-007
230- 20-244	AMD	02-06-006	232- 28-279	AMD	02-11-069	232- 28-61900Q	REP-E	02-11-040
230- 20-246	AMD	02-06-006	232- 28-279	AMD-P	02-13-138	232- 28-61900Q	NEW-E	02-11-086
230- 20-249	AMD	02-06-006	232- 28-279	AMD-P	02-10-128	232- 28-61900Q	REP-E	02-11-086
230- 30-033	AMD	02-06-007	232- 28-282	NEW-P	02-10-128	232- 28-61900Q	REP-E	02-12-013
230- 30-045	AMD	02-06-007	232- 28-282	NEW	02-15-019	232- 28-61900Q	REP-E	02-12-013
230- 30-072	AMD	02-06-007	232- 28-289	AMD-P	02-10-128	232- 28-61900R	NEW-E	02-05-008
230- 30-106	AMD-P	02-06-038	232- 28-289	AMD	02-15-018	232- 28-61900R	REP-E	02-05-008
230- 30-106	AMD	02-10-003	232- 28-425	REP-P	02-13-137	232- 28-61900R	NEW-E	02-11-114
230- 40-120	AMD-W	02-14-103	232- 28-42500C	NEW-E	02-03-052	232- 28-61900R	REP-E	02-11-114
230- 40-610	AMD-P	02-12-076	232- 28-42500C	REP-E	02-03-052	232- 28-61900S	NEW-E	02-05-010
230- 40-610	AMD	02-17-033	232- 28-426	NEW-P	02-13-137	232- 28-61900S	REP-E	02-09-009
230- 40-800	AMD-P	02-07-081	232- 28-619	AMD	02-08-048	232- 28-61900S	NEW-E	02-12-013
230- 40-800	AMD	02-11-084	232- 28-619	AMD-X	02-10-127	232- 28-61900S	REP-E	02-13-052
230- 40-897	REP-P	02-07-081	232- 28-619	AMD-P	02-13-088	232- 28-61900T	NEW-E	02-05-075
230- 40-897	REP	02-11-084	232- 28-619	AMD	02-15-097	232- 28-61900T	REP-E	02-07-096
230- 50-010	AMD-P	02-13-111	232- 28-619	AMD-P	02-15-106	232- 28-61900T	NEW-E	02-12-019
230- 50-010	AMD	02-17-035	232- 28-61900A	NEW-E	02-08-022	232- 28-61900T	REP-E	02-12-019
232- 12-011	AMD-P	02-06-122	232- 28-61900A	REP-E	02-11-001	232- 28-61900U	REP-E	02-03-022
232- 12-011	AMD	02-08-048	232- 28-61900A	NEW-E	02-15-159	232- 28-61900U	NEW-E	02-06-100
232- 12-011	AMD	02-11-069	232- 28-61900A	REP-E	02-15-159	232- 28-61900U	REP-E	02-06-100
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232- 12-014	AMD	02-11-069	232- 28-61900B	NEW-E	02-08-004	232- 28-61900U	REP-E	02-14-046
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232- 12-01600A	NEW-E	02-15-001	232- 28-61900B	NEW-E	02-16-001	232- 28-61900V	REP-E	02-06-099
232- 12-017	AMD-P	02-13-107	232- 28-61900C	NEW-E	02-09-023	232- 28-61900V	NEW-E	02-14-046
232- 12-019	AMD	02-08-048	232- 28-61900C	REP-E	02-09-023	232- 28-61900V	REP-E	02-15-032
232- 12-073	NEW-P	02-13-089	232- 28-61900C	NEW-E	02-16-022	232- 28-61900W	NEW-E	02-07-061
232- 12-147	REP	02-08-048	232- 28-61900C	REP-E	02-17-041	232- 28-61900W	REP-E	02-07-061
232- 12-151	REP	02-08-048	232- 28-61900D	REP-E	02-05-075	232- 28-61900W	NEW-E	02-15-030
232- 12-168	AMD	02-08-048	232- 28-61900D	NEW-E	02-09-009	232- 28-61900X	NEW-E	02-07-019
232- 12-16800B	NEW-E	02-07-095	232- 28-61900D	REP-E	02-10-063	232- 28-61900X	REP-E	02-07-019
232- 12-16800B	REP-E	02-07-095	232- 28-61900D	NEW-E	02-17-036	232- 28-61900X	NEW-E	02-15-032
232- 12-181	AMD-P	02-17-118	232- 28-61900E	NEW-E	02-10-024	232- 28-61900X	REP-E	02-17-036
232- 12-243	AMD-P	02-13-133	232- 28-61900E	REP-E	02-10-024	232- 28-61900Y	NEW-E	02-07-066
232- 12-243	AMD	02-17-013	232- 28-61900E	NEW-E	02-17-041	232- 28-61900Y	REP-E	02-07-066
232- 12-245	NEW-W	02-11-025	232- 28-61900F	NEW-E	02-10-077	232- 28-61900Y	NEW-E	02-15-037
232- 12-253	NEW	02-05-021	232- 28-61900G	NEW-E	02-10-062	232- 28-61900Y	REP-E	02-15-037
232- 12-253	AMD-P	02-10-125	232- 28-61900H	REP-E	02-03-014	232- 28-61900Z	NEW-E	02-07-096
232- 12-253	AMD	02-16-043	232- 28-61900H	NEW-E	02-10-063	232- 28-61900Z	REP-E	02-07-096
232- 12-267	AMD-P	02-10-128	232- 28-61900H	REP-E	02-11-006	232- 28-61900Z	NEW-E	02-15-095
232- 12-267	AMD	02-15-018	232- 28-61900I	NEW-E	02-03-022	232- 28-61900Z	REP-E	02-16-022
232- 12-272	NEW	02-08-048	232- 28-61900I	REP-E	02-03-022	232- 28-620	AMD-X	02-10-127
232- 12-619	AMD	02-08-048	232- 28-61900I	NEW-E	02-11-001	232- 28-620	AMD	02-15-097
232- 12-828	AMD-P	02-13-135	232- 28-61900J	NEW-E	02-03-023	232- 28-62000D	NEW-E	02-11-086
			232- 28-61900J	NEW-E	02-11-006	232- 28-62000D	REP-E	02-11-086

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232- 28-62000D	REP-E	02-15-121	246-224-0040	NEW	02-14-050	246-229-060	REP	02-14-050
232- 28-62000E	NEW-E	02-15-121	246-224-0050	NEW-P	02-07-021	246-229-070	REP-P	02-07-021
232- 28-62000E	REP-E	02-17-011	246-224-0050	NEW	02-14-050	246-229-070	REP	02-14-050
232- 28-62000F	NEW-E	02-17-011	246-224-0060	NEW-P	02-07-021	246-229-080	REP-P	02-07-021
232- 28-62000F	REP-E	02-17-065	246-224-0060	NEW	02-14-050	246-229-080	REP	02-14-050
232- 28-62000G	NEW-E	02-17-065	246-224-0070	NEW-P	02-07-021	246-229-090	REP-P	02-07-021
232- 28-621	AMD	02-08-048	246-224-0070	NEW	02-14-050	246-229-090	REP	02-14-050
232- 28-621	AMD-X	02-10-127	246-224-0080	NEW-P	02-07-021	246-229-100	REP-P	02-07-021
232- 28-621	AMD	02-15-097	246-224-0080	NEW	02-14-050	246-229-100	REP	02-14-050
232- 28-62100G	NEW-E	02-11-086	246-224-0090	NEW-P	02-07-021	246-229-110	REP-P	02-07-021
232- 28-62100G	REP-E	02-11-086	246-224-0090	NEW	02-14-050	246-229-110	REP	02-14-050
232- 28-62100G	REP-E	02-14-069	246-224-010	REP-P	02-07-021	246-252-030	AMD-X	02-11-021
232- 28-62100H	NEW-E	02-14-069	246-224-010	REP	02-14-050	246-252-030	AMD	02-17-005
232- 28-62100H	REP-E	02-15-033	246-224-0100	NEW-P	02-07-021	246-254-053	AMD-P	02-04-034
232- 28-62100I	NEW-E	02-15-033	246-224-0100	NEW	02-14-050	246-254-053	AMD	02-07-085
232- 28-62100I	REP-E	02-15-096	246-224-0110	NEW-P	02-07-021	246-254-070	AMD	02-04-025
232- 28-62100J	NEW-E	02-15-096	246-224-0110	NEW	02-14-050	246-254-080	AMD	02-04-025
236- 48	PREP	02-16-025	246-224-0120	NEW-P	02-07-021	246-254-090	AMD	02-04-025
236- 48-002	PREP	02-16-025	246-224-0120	NEW	02-14-050	246-254-100	AMD	02-04-025
236- 48-003	PREP	02-16-025	246-224-020	REP-P	02-07-021	246-254-120	AMD	02-04-025
236- 49	PREP	02-16-026	246-224-020	REP	02-14-050	246-272	PREP	02-03-137
236- 70	PREP	02-13-127	246-224-050	REP-P	02-07-021	246-282-990	AMD-P	02-12-102
246- 12-040	AMD-X	02-09-042	246-224-050	REP	02-14-050	246-282-990	AMD	02-15-094
246- 50	PREP-W	02-09-027	246-224-060	REP-P	02-07-021	246-310	PREP	02-14-047
246-100-011	AMD-P	02-16-102	246-224-060	REP	02-14-050	246-310-990	AMD-P	02-10-064
246-100-036	AMD-P	02-16-102	246-224-070	REP-P	02-07-021	246-310-990	AMD	02-14-051
246-100-040	NEW-P	02-16-102	246-224-070	REP	02-14-050	246-320	PREP	02-11-076
246-100-045	NEW-P	02-16-102	246-224-090	REP-P	02-07-021	246-320	PREP-W	02-17-056
246-100-050	NEW-P	02-16-102	246-224-090	REP	02-14-050	246-320-990	AMD-P	02-10-131
246-100-055	NEW-P	02-16-102	246-224-100	REP-P	02-07-021	246-320-990	AMD	02-13-061
246-100-060	NEW-P	02-16-102	246-224-100	REP	02-14-050	246-322-990	AMD-P	02-10-131
246-100-065	NEW-P	02-16-102	246-229-0001	NEW-P	02-07-021	246-322-990	AMD	02-13-061
246-100-070	NEW-P	02-16-102	246-229-0001	NEW	02-14-050	246-323-990	AMD-P	02-13-058
246-100-166	PREP	02-10-066	246-229-001	REP-P	02-07-021	246-323-990	AMD	02-16-068
246-100-166	AMD-E	02-14-075	246-229-001	REP	02-14-050	246-324-990	AMD-P	02-10-131
246-100-206	AMD-P	02-08-018	246-229-0010	NEW-P	02-07-021	246-324-990	AMD	02-13-061
246-100-206	AMD	02-12-106	246-229-0010	NEW	02-14-050	246-325-990	AMD-P	02-13-059
246-100-207	AMD-P	02-08-018	246-229-0020	NEW-P	02-07-021	246-326-990	AMD-P	02-13-059
246-100-207	AMD	02-12-106	246-229-0020	NEW	02-14-050	246-327-010	REP-P	02-12-103
246-100-208	AMD-P	02-08-018	246-229-0030	NEW-P	02-07-021	246-327-025	REP-P	02-12-103
246-100-208	AMD	02-12-106	246-229-0030	NEW	02-14-050	246-327-030	REP-P	02-12-103
246-101-505	AMD-P	02-16-102	246-229-0040	NEW-P	02-07-021	246-327-035	REP-P	02-12-103
246-145-001	NEW	02-11-109	246-229-0040	NEW	02-14-050	246-327-065	REP-P	02-12-103
246-145-010	NEW	02-11-109	246-229-0050	NEW-P	02-07-021	246-327-077	REP-P	02-12-103
246-145-020	NEW	02-11-109	246-229-0050	NEW	02-14-050	246-327-085	REP-P	02-12-103
246-145-030	NEW	02-11-109	246-229-0060	NEW-P	02-07-021	246-327-090	REP-P	02-12-103
246-145-040	NEW	02-11-109	246-229-0060	NEW	02-14-050	246-327-095	REP-P	02-12-103
246-215-150	AMD-P	02-04-091	246-229-0070	NEW-P	02-07-021	246-327-105	REP-P	02-12-103
246-215-150	AMD	02-09-028	246-229-0070	NEW	02-14-050	246-327-115	REP-P	02-12-103
246-224	AMD-P	02-07-021	246-229-0080	NEW-P	02-07-021	246-327-125	REP-P	02-12-103
246-224	AMD	02-14-050	246-229-0080	NEW	02-14-050	246-327-135	REP-P	02-12-103
246-224-0001	NEW-P	02-07-021	246-229-0090	NEW-P	02-07-021	246-327-145	REP-P	02-12-103
246-224-0001	NEW	02-14-050	246-229-0090	NEW	02-14-050	246-327-165	REP-P	02-12-103
246-224-001	REP-P	02-07-021	246-229-0100	NEW-P	02-07-021	246-327-185	REP-P	02-12-103
246-224-001	REP	02-14-050	246-229-0100	NEW	02-14-050	246-327-990	REP-P	02-12-103
246-224-0010	NEW-P	02-07-021	246-229-0100	NEW	02-14-050	246-328-200	REP-X	02-14-054
246-224-0010	NEW	02-14-050	246-229-020	REP-P	02-07-021	246-328-990	REP-X	02-14-054
246-224-0020	NEW-P	02-07-021	246-229-020	REP	02-14-050	246-329-990	AMD-P	02-10-131
246-224-0020	NEW	02-14-050	246-229-030	REP-P	02-07-021	246-329-990	AMD	02-13-061
246-224-0030	NEW-P	02-07-021	246-229-030	REP	02-14-050	246-331-010	REP-P	02-12-103
246-224-0030	NEW	02-14-050	246-229-050	REP-P	02-07-021	246-331-025	REP-P	02-12-103
246-224-0040	NEW-P	02-07-021	246-229-050	REP	02-14-050	246-331-030	REP-P	02-12-103
			246-229-060	REP-P	02-07-021			

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-331-035	REP-P	02-12-103	246-335-210	NEW-P	02-12-103	246-388-080	REP-P	02-13-075
246-331-065	REP-P	02-12-103	246-335-220	NEW-P	02-12-103	246-388-080	REP	02-17-001
246-331-077	REP-P	02-12-103	246-335-225	NEW-P	02-12-103	246-388-090	REP-P	02-13-075
246-331-085	REP-P	02-12-103	246-335-230	NEW-P	02-12-103	246-388-090	REP	02-17-001
246-331-095	REP-P	02-12-103	246-335-235	NEW-P	02-12-103	246-388-100	REP-P	02-13-075
246-331-100	REP-P	02-12-103	246-335-240	NEW-P	02-12-103	246-388-100	REP	02-17-001
246-331-105	REP-P	02-12-103	246-335-245	NEW-P	02-12-103	246-388-110	REP-P	02-13-075
246-331-115	REP-P	02-12-103	246-335-250	NEW-P	02-12-103	246-388-110	REP	02-17-001
246-331-125	REP-P	02-12-103	246-335-255	NEW-P	02-12-103	246-388-120	REP-P	02-13-075
246-331-135	REP-P	02-12-103	246-335-260	NEW-P	02-12-103	246-388-120	REP	02-17-001
246-331-165	REP-P	02-12-103	246-335-265	NEW-P	02-12-103	246-388-130	REP-P	02-13-075
246-331-185	REP-P	02-12-103	246-335-270	NEW-P	02-12-103	246-388-130	REP	02-17-001
246-331-990	REP-P	02-12-103	246-335-275	NEW-P	02-12-103	246-388-140	REP-P	02-13-075
246-333-010	REP-X	02-10-132	246-335-280	NEW-P	02-12-103	246-388-140	REP	02-17-001
246-333-010	REP	02-15-164	246-335-285	NEW-P	02-12-103	246-388-150	REP-P	02-13-075
246-333-020	REP-X	02-10-132	246-335-290	NEW-P	02-12-103	246-388-150	REP	02-17-001
246-333-020	REP	02-15-164	246-335-295	NEW-P	02-12-103	246-388-160	REP-P	02-13-075
246-333-030	REP-X	02-10-132	246-335-990	NEW-P	02-12-103	246-388-160	REP	02-17-001
246-333-030	REP	02-15-164	246-336-010	REP-P	02-12-103	246-388-170	REP-P	02-13-075
246-333-040	REP-X	02-10-132	246-336-025	REP-P	02-12-103	246-388-170	REP	02-17-001
246-333-040	REP	02-15-164	246-336-030	REP-P	02-12-103	246-388-180	REP-P	02-13-075
246-335-001	NEW-P	02-12-103	246-336-035	REP-P	02-12-103	246-388-180	REP	02-17-001
246-335-010	NEW-P	02-12-103	246-336-065	REP-P	02-12-103	246-388-190	REP-P	02-13-075
246-335-015	NEW-P	02-12-103	246-336-077	REP-P	02-12-103	246-388-190	REP	02-17-001
246-335-020	NEW-P	02-12-103	246-336-085	REP-P	02-12-103	246-388-200	REP-P	02-13-075
246-335-025	NEW-P	02-12-103	246-336-095	REP-P	02-12-103	246-388-200	REP	02-17-001
246-335-030	NEW-P	02-12-103	246-336-100	REP-P	02-12-103	246-388-210	REP-P	02-13-075
246-335-035	NEW-P	02-12-103	246-336-105	REP-P	02-12-103	246-388-210	REP	02-17-001
246-335-040	NEW-P	02-12-103	246-336-115	REP-P	02-12-103	246-388-220	REP-P	02-13-075
246-335-045	NEW-P	02-12-103	246-336-125	REP-P	02-12-103	246-388-220	REP	02-17-001
246-335-050	NEW-P	02-12-103	246-336-135	REP-P	02-12-103	246-388-230	REP-P	02-13-075
246-335-055	NEW-P	02-12-103	246-336-165	REP-P	02-12-103	246-388-230	REP	02-17-001
246-335-060	NEW-P	02-12-103	246-336-990	REP-P	02-12-103	246-388-240	REP-P	02-13-075
246-335-065	NEW-P	02-12-103	246-338-020	PREP	02-03-138	246-388-240	REP	02-17-001
246-335-070	NEW-P	02-12-103	246-338-020	AMD-P	02-09-026	246-388-250	REP-P	02-13-075
246-335-075	NEW-P	02-12-103	246-338-020	AMD	02-12-105	246-388-250	REP	02-17-001
246-335-080	NEW-P	02-12-103	246-338-990	PREP	02-03-138	246-388-260	REP-P	02-13-075
246-335-085	NEW-P	02-12-103	246-338-990	AMD-P	02-09-026	246-388-260	REP	02-17-001
246-335-090	NEW-P	02-12-103	246-338-990	AMD	02-12-105	246-388-270	REP-P	02-13-075
246-335-095	NEW-P	02-12-103	246-360-990	AMD-P	02-12-104	246-388-270	REP	02-17-001
246-335-100	NEW-P	02-12-103	246-361-010	AMD-X	02-17-054	246-388-280	REP-P	02-13-075
246-335-105	NEW-P	02-12-103	246-361-025	AMD-X	02-17-054	246-388-280	REP	02-17-001
246-335-110	NEW-P	02-12-103	246-380-990	AMD-P	02-13-059	246-388-290	REP-P	02-13-075
246-335-115	NEW-P	02-12-103	246-388	PREP	02-08-017	246-388-290	REP	02-17-001
246-335-120	NEW-P	02-12-103	246-388-001	REP-P	02-13-075	246-388-300	REP-P	02-13-075
246-335-125	NEW-P	02-12-103	246-388-001	REP	02-17-001	246-388-300	REP	02-17-001
246-335-130	NEW-P	02-12-103	246-388-010	REP-P	02-13-075	246-388-310	REP-P	02-13-075
246-335-135	NEW-P	02-12-103	246-388-010	REP	02-17-001	246-388-310	REP	02-17-001
246-335-140	NEW-P	02-12-103	246-388-020	REP-P	02-13-075	246-388-320	REP-P	02-13-075
246-335-145	NEW-P	02-12-103	246-388-020	REP	02-17-001	246-388-320	REP	02-17-001
246-335-150	NEW-P	02-12-103	246-388-030	REP-P	02-13-075	246-388-330	REP-P	02-13-075
246-335-155	NEW-P	02-12-103	246-388-030	REP	02-17-001	246-388-330	REP	02-17-001
246-335-160	NEW-P	02-12-103	246-388-040	REP-P	02-13-075	246-388-340	REP-P	02-13-075
246-335-165	NEW-P	02-12-103	246-388-040	REP	02-17-001	246-388-340	REP	02-17-001
246-335-170	NEW-P	02-12-103	246-388-050	REP-P	02-13-075	246-388-350	REP-P	02-13-075
246-335-175	NEW-P	02-12-103	246-388-050	REP	02-17-001	246-388-350	REP	02-17-001
246-335-180	NEW-P	02-12-103	246-388-060	REP-P	02-13-075	246-388-360	REP-P	02-13-075
246-335-185	NEW-P	02-12-103	246-388-060	REP	02-17-001	246-388-360	REP	02-17-001
246-335-190	NEW-P	02-12-103	246-388-070	REP-P	02-13-075	246-388-370	REP-P	02-13-075
246-335-195	NEW-P	02-12-103	246-388-070	REP	02-17-001	246-388-370	REP	02-17-001
246-335-200	NEW-P	02-12-103	246-388-072	REP-P	02-13-075	246-388-380	REP-P	02-13-075
246-335-205	NEW-P	02-12-103	246-388-072	REP	02-17-001	246-388-380	REP	02-17-001

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246-388-390	REP-P	02-13-075	246-808-101	REP-W	02-11-105	246-826-301	NEW	02-06-115
246-388-390	REP	02-17-001	246-808-320	REP-W	02-11-105	246-826-302	NEW	02-06-115
246-388-400	REP-P	02-13-075	246-808-330	REP-W	02-11-105	246-826-303	NEW	02-06-115
246-388-400	REP	02-17-001	246-808-340	REP-W	02-11-105	246-828	PREP-W	02-11-105
246-388-410	REP-P	02-13-075	246-808-350	REP-W	02-11-105	246-828-080	PREP-W	02-11-105
246-388-410	REP	02-17-001	246-808-360	REP-W	02-11-105	246-828-090	PREP-W	02-11-105
246-388-420	REP-P	02-13-075	246-808-370	REP-W	02-11-105	246-828-100	PREP-W	02-11-105
246-388-420	REP	02-17-001	246-808-380	REP-W	02-11-105	246-828-290	AMD	02-14-052
246-388-430	REP-P	02-13-075	246-808-390	REP-W	02-11-105	246-828-320	PREP-W	02-11-105
246-388-430	REP	02-17-001	246-808-640	REP-W	02-11-105	246-834	PREP	02-17-052
246-388-440	REP-P	02-13-075	246-808-700	REP-W	02-11-105	246-834-250	PREP	02-17-053
246-388-440	REP	02-17-001	246-809-600	NEW	02-11-108	246-840-020	PREP	02-04-033
246-388-450	REP-P	02-13-075	246-809-610	NEW	02-11-108	246-840-030	PREP	02-04-033
246-388-450	REP	02-17-001	246-809-620	NEW	02-11-108	246-840-040	PREP	02-04-033
246-388-990	REP-P	02-13-075	246-809-630	NEW	02-11-108	246-840-050	PREP	02-04-033
246-388-990	REP	02-17-001	246-809-640	NEW	02-11-108	246-840-060	PREP	02-04-033
246-491-001	NEW-P	02-16-100	246-809-650	NEW	02-11-108	246-840-070	PREP	02-04-033
246-491-010	NEW-P	02-16-100	246-810-320	REP	02-09-041	246-840-080	PREP	02-04-031
246-491-029	AMD-P	02-16-100	246-810-321	REP	02-09-041	246-840-090	PREP	02-04-031
246-491-039	AMD-P	02-16-100	246-810-332	REP	02-09-041	246-840-311	NEW-P	02-14-048
246-491-149	AMD-P	02-16-100	246-810-340	REP	02-09-041	246-840-700	AMD	02-06-117
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284- 18A-440	NEW-P	02-16-092	296- 17-90402	AMD-P	02-17-105	296- 23-225	REP-X	02-14-149
284- 18A-910	NEW-P	02-16-092	296- 17-90403	REP-P	02-17-105	296- 23-230	AMD-P	02-05-076
284- 18A-920	NEW-P	02-16-092	296- 17-90404	NEW-P	02-17-105	296- 23-230	AMD	02-10-129

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-24	PREP	02-04-107	296-24-51015	AMD	02-12-098	296-52-417	REP	02-03-125
296-24	PREP	02-04-108	296-24-60205	AMD-X	02-05-077	296-52-419	REP	02-03-125
296-24	PREP	02-09-091	296-24-60205	AMD	02-12-098	296-52-421	REP	02-03-125
296-24-012	AMD-X	02-05-077	296-24-63499	AMD-X	02-05-077	296-52-423	REP	02-03-125
296-24-012	AMD	02-12-098	296-24-63499	AMD	02-12-098	296-52-425	REP	02-03-125
296-24-102	REP-X	02-08-080	296-24-67513	AMD-X	02-05-077	296-52-429	REP	02-03-125
296-24-102	REP	02-16-087	296-24-67513	AMD	02-12-098	296-52-433	REP	02-03-125
296-24-10203	REP-X	02-08-080	296-24-67515	AMD-X	02-05-077	296-52-437	REP	02-03-125
296-24-10203	REP	02-16-087	296-24-67515	AMD	02-12-098	296-52-441	REP	02-03-125
296-24-125	REP-X	02-17-107	296-27-01113	AMD-X	02-17-104	296-52-445	REP	02-03-125
296-24-12501	REP-X	02-17-107	296-27-01117	AMD-X	02-17-104	296-52-449	REP	02-03-125
296-24-12503	REP-X	02-17-107	296-27-01119	AMD-X	02-17-104	296-52-453	REP	02-03-125
296-24-12504	REP-X	02-17-107	296-28-001	REP-P	02-07-101	296-52-457	REP	02-03-125
296-24-12505	REP-X	02-17-107	296-28-001	REP	02-17-106	296-52-461	REP	02-03-125
296-24-12507	REP-X	02-17-107	296-28-005	REP-P	02-07-101	296-52-465	REP	02-03-125
296-24-12509	REP-X	02-17-107	296-28-005	REP	02-17-106	296-52-469	REP	02-03-125
296-24-12511	REP-X	02-17-107	296-28-010	REP-P	02-07-101	296-52-477	REP	02-03-125
296-24-12513	REP-X	02-17-107	296-28-010	REP	02-17-106	296-52-481	REP	02-03-125
296-24-12515	REP-X	02-17-107	296-28-015	REP-P	02-07-101	296-52-485	REP	02-03-125
296-24-12517	REP-X	02-17-107	296-28-015	REP	02-17-106	296-52-487	REP	02-03-125
296-24-12519	REP-X	02-17-107	296-28-020	REP-P	02-07-101	296-52-489	REP	02-03-125
296-24-12521	REP-X	02-17-107	296-28-020	REP	02-17-106	296-52-493	REP	02-03-125
296-24-12523	REP-X	02-17-107	296-28-025	REP-P	02-07-101	296-52-497	REP	02-03-125
296-24-14001	AMD-X	02-05-077	296-28-025	REP	02-17-106	296-52-501	REP	02-03-125
296-24-14001	AMD	02-12-098	296-28-030	REP-P	02-07-101	296-52-505	REP	02-03-125
296-24-145	PREP	02-09-088	296-28-030	REP	02-17-106	296-52-509	REP	02-03-125
296-24-145	REP-P	02-13-118	296-28-035	REP-P	02-07-101	296-52-510	REP	02-03-125
296-24-14501	REP-P	02-13-118	296-28-035	REP	02-17-106	296-52-550	REP	02-03-125
296-24-14503	REP-P	02-13-118	296-28-040	REP-P	02-07-101	296-52-552	REP	02-03-125
296-24-14505	REP-P	02-13-118	296-28-040	REP	02-17-106	296-52-555	REP	02-03-125
296-24-14507	REP-P	02-13-118	296-28-045	REP-P	02-07-101	296-52-600	NEW-W	02-06-102
296-24-14509	REP-P	02-13-118	296-28-045	REP	02-17-106	296-52-60005	NEW	02-03-125
296-24-14511	REP-P	02-13-118	296-28-050	REP-P	02-07-101	296-52-60010	NEW	02-03-125
296-24-14513	REP-P	02-13-118	296-28-050	REP	02-17-106	296-52-60015	NEW	02-03-125
296-24-14515	REP-P	02-13-118	296-32	AMD-S	02-10-025	296-52-60020	NEW	02-03-125
296-24-14517	REP-P	02-13-118	296-32	AMD-W	02-15-132	296-52-60020	AMD-X	02-15-165
296-24-14519	REP-P	02-13-118	296-32-240	AMD-P	02-05-080	296-52-60025	NEW-W	02-06-102
296-24-23003	AMD-X	02-05-077	296-32-240	AMD-W	02-15-132	296-52-60030	NEW	02-03-125
296-24-23003	AMD	02-12-098	296-32-250	AMD-X	02-05-077	296-52-60035	NEW	02-03-125
296-24-405	REP-P	02-07-100	296-32-250	AMD	02-12-098	296-52-60040	NEW-W	02-06-102
296-24-405	REP	02-15-102	296-32-280	AMD-X	02-05-077	296-52-60045	NEW	02-03-125
296-24-40501	REP-P	02-07-100	296-32-280	AMD	02-12-098	296-52-60050	NEW	02-03-125
296-24-40501	REP	02-15-102	296-33-010	NEW	02-06-024	296-52-60055	NEW	02-03-125
296-24-40503	REP-P	02-07-100	296-400A	PREP	02-04-106	296-52-60060	NEW	02-03-125
296-24-40503	REP	02-15-102	296-401B	PREP	02-04-106	296-52-60065	NEW	02-03-125
296-24-40505	REP-P	02-07-100	296-401B	PREP	02-15-167	296-52-60070	NEW-W	02-06-102
296-24-40505	REP	02-15-102	296-402A	PREP	02-15-167	296-52-60075	NEW	02-03-125
296-24-40507	REP-P	02-07-100	296-45	AMD-S	02-10-025	296-52-60080	NEW	02-03-125
296-24-40507	REP	02-15-102	296-45	AMD-W	02-15-132	296-52-60085	NEW	02-03-125
296-24-40509	REP-P	02-07-100	296-45-52530	AMD-P	02-05-080	296-52-60090	NEW	02-03-125
296-24-40509	REP	02-15-102	296-45-52530	AMD-W	02-15-132	296-52-60095	NEW	02-03-125
296-24-40511	REP-P	02-07-100	296-46A	PREP	02-04-106	296-52-60100	NEW	02-03-125
296-24-40511	REP	02-15-102	296-46A	PREP	02-15-167	296-52-60105	NEW	02-03-125
296-24-40513	REP-P	02-07-100	296-46A-910	AMD-P	02-09-095	296-52-60110	NEW-W	02-06-102
296-24-40513	REP	02-15-102	296-46A-910	AMD	02-12-022	296-52-60115	NEW	02-03-125
296-24-40515	REP-P	02-07-100	296-46A-915	AMD-P	02-09-095	296-52-60120	NEW	02-03-125
296-24-40515	REP	02-15-102	296-46A-915	AMD	02-12-022	296-52-60125	NEW	02-03-125
296-24-51009	AMD-X	02-05-077	296-52	AMD	02-03-125	296-52-60130	NEW	02-03-125
296-24-51009	AMD	02-12-098	296-52-401	REP	02-03-125	296-52-60130	AMD-X	02-15-165
296-24-51011	AMD-X	02-05-077	296-52-405	REP	02-03-125	296-52-61005	NEW	02-03-125
296-24-51011	AMD	02-12-098	296-52-409	REP	02-03-125	296-52-61010	NEW	02-03-125
296-24-51015	AMD-X	02-05-077	296-52-413	REP	02-03-125	296-52-61015	NEW	02-03-125

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-52-61020	NEW	02-03-125	296-52-67010	NEW	02-03-125	296-52-68060	NEW	02-03-125
296-52-61025	NEW	02-03-125	296-52-67015	NEW-W	02-06-102	296-52-68060	AMD-X	02-15-165
296-52-61030	NEW	02-03-125	296-52-67020	NEW	02-03-125	296-52-68065	NEW	02-03-125
296-52-61035	NEW	02-03-125	296-52-67025	NEW	02-03-125	296-52-68070	NEW-W	02-06-102
296-52-61040	NEW	02-03-125	296-52-67030	NEW	02-03-125	296-52-68075	NEW	02-03-125
296-52-61045	NEW	02-03-125	296-52-67035	NEW	02-03-125	296-52-68080	NEW	02-03-125
296-52-61050	NEW	02-03-125	296-52-67040	NEW	02-03-125	296-52-68085	NEW	02-03-125
296-52-62005	NEW	02-03-125	296-52-67045	NEW	02-03-125	296-52-69005	NEW	02-03-125
296-52-62010	NEW	02-03-125	296-52-67050	NEW	02-03-125	296-52-69010	NEW	02-03-125
296-52-62020	NEW-W	02-06-102	296-52-67055	NEW	02-03-125	296-52-69010	AMD-X	02-15-165
296-52-62025	NEW	02-03-125	296-52-67060	NEW	02-03-125	296-52-69015	NEW	02-03-125
296-52-62030	NEW	02-03-125	296-52-67065	NEW	02-03-125	296-52-69015	AMD-X	02-15-165
296-52-62035	NEW	02-03-125	296-52-67065	AMD-X	02-15-165	296-52-69020	NEW	02-03-125
296-52-62040	NEW	02-03-125	296-52-67070	NEW	02-03-125	296-52-69025	NEW	02-03-125
296-52-62045	NEW	02-03-125	296-52-67075	NEW	02-03-125	296-52-69030	NEW	02-03-125
296-52-63005	NEW	02-03-125	296-52-67080	NEW	02-03-125	296-52-69035	NEW	02-03-125
296-52-63010	NEW	02-03-125	296-52-67085	NEW	02-03-125	296-52-69040	NEW	02-03-125
296-52-63015	NEW-W	02-06-102	296-52-67090	NEW	02-03-125	296-52-69045	NEW	02-03-125
296-52-63020	NEW	02-03-125	296-52-67095	NEW	02-03-125	296-52-69050	NEW	02-03-125
296-52-63025	NEW	02-03-125	296-52-67100	NEW	02-03-125	296-52-69055	NEW	02-03-125
296-52-63030	NEW	02-03-125	296-52-67105	NEW	02-03-125	296-52-69060	NEW	02-03-125
296-52-64005	NEW	02-03-125	296-52-67110	NEW	02-03-125	296-52-69065	NEW	02-03-125
296-52-64010	NEW-W	02-06-102	296-52-67115	NEW	02-03-125	296-52-69070	NEW	02-03-125
296-52-64015	NEW-W	02-06-102	296-52-67120	NEW-W	02-06-102	296-52-69075	NEW-W	02-06-102
296-52-64020	NEW	02-03-125	296-52-67125	NEW	02-03-125	296-52-69080	NEW	02-03-125
296-52-64025	NEW-W	02-06-102	296-52-67130	NEW	02-03-125	296-52-69085	NEW	02-03-125
296-52-64030	NEW	02-03-125	296-52-67135	NEW	02-03-125	296-52-69090	NEW	02-03-125
296-52-64035	NEW	02-03-125	296-52-67140	NEW	02-03-125	296-52-69095	NEW	02-03-125
296-52-64040	NEW	02-03-125	296-52-67145	NEW	02-03-125	296-52-69095	AMD-X	02-15-165
296-52-64045	NEW	02-03-125	296-52-67150	NEW-W	02-06-102	296-52-69100	NEW-W	02-06-102
296-52-64050	NEW	02-03-125	296-52-67155	NEW-W	02-06-102	296-52-69105	NEW	02-03-125
296-52-64055	NEW	02-03-125	296-52-67160	NEW	02-03-125	296-52-69110	NEW	02-03-125
296-52-64060	NEW-W	02-06-102	296-52-67160	AMD-X	02-15-165	296-52-69115	NEW	02-03-125
296-52-64065	NEW	02-03-125	296-52-67165	NEW	02-03-125	296-52-69120	NEW	02-03-125
296-52-64070	NEW-W	02-06-102	296-52-67170	NEW	02-03-125	296-52-69125	NEW	02-03-125
296-52-64075	NEW	02-03-125	296-52-67175	NEW-W	02-06-102	296-52-69125	AMD-X	02-15-165
296-52-64080	NEW	02-03-125	296-52-67180	NEW	02-03-125	296-52-69130	NEW-X	02-15-165
296-52-64085	NEW	02-03-125	296-52-67185	NEW	02-03-125	296-52-700	NEW	02-03-125
296-52-64090	NEW	02-03-125	296-52-67190	NEW	02-03-125	296-52-70005	NEW	02-03-125
296-52-64095	NEW	02-03-125	296-52-67195	NEW	02-03-125	296-52-70010	NEW	02-03-125
296-52-64100	NEW	02-03-125	296-52-67200	NEW	02-03-125	296-52-70010	AMD-X	02-15-165
296-52-650	NEW	02-03-125	296-52-67205	NEW-W	02-06-102	296-52-70015	NEW	02-03-125
296-52-65005	NEW	02-03-125	296-52-67210	NEW	02-03-125	296-52-70020	NEW	02-03-125
296-52-65010	NEW	02-03-125	296-52-67215	NEW	02-03-125	296-52-70025	NEW	02-03-125
296-52-65015	NEW	02-03-125	296-52-67220	NEW	02-03-125	296-52-70030	NEW	02-03-125
296-52-65020	NEW	02-03-125	296-52-67225	NEW	02-03-125	296-52-70035	NEW	02-03-125
296-52-65025	NEW	02-03-125	296-52-67230	NEW	02-03-125	296-52-70040	NEW	02-03-125
296-52-65030	NEW	02-03-125	296-52-67235	NEW	02-03-125	296-52-70045	NEW	02-03-125
296-52-660	NEW	02-03-125	296-52-67240	NEW	02-03-125	296-52-70050	NEW	02-03-125
296-52-66005	NEW	02-03-125	296-52-67245	NEW	02-03-125	296-52-70055	NEW	02-03-125
296-52-66010	NEW	02-03-125	296-52-67250	NEW-W	02-06-102	296-52-70060	NEW	02-03-125
296-52-66015	NEW	02-03-125	296-52-68005	NEW-W	02-06-102	296-52-70065	NEW	02-03-125
296-52-66020	NEW	02-03-125	296-52-68010	NEW	02-03-125	296-52-70070	NEW	02-03-125
296-52-66025	NEW-W	02-06-102	296-52-68015	NEW	02-03-125	296-52-70075	NEW-W	02-06-102
296-52-66030	NEW	02-03-125	296-52-68020	NEW	02-03-125	296-52-70080	NEW	02-03-125
296-52-66035	NEW	02-03-125	296-52-68025	NEW	02-03-125	296-52-70085	NEW	02-03-125
296-52-66040	NEW	02-03-125	296-52-68030	NEW	02-03-125	296-52-710	NEW	02-03-125
296-52-66045	NEW	02-03-125	296-52-68035	NEW-W	02-06-102	296-52-710	AMD-X	02-15-165
296-52-66050	NEW	02-03-125	296-52-68040	NEW	02-03-125	296-52-71005	NEW-W	02-06-102
296-52-66055	NEW	02-03-125	296-52-68045	NEW	02-03-125	296-52-71010	NEW-W	02-06-102
296-52-66060	NEW	02-03-125	296-52-68050	NEW	02-03-125	296-52-71015	NEW	02-03-125
296-52-67005	NEW-W	02-06-102	296-52-68055	NEW	02-03-125	296-52-71020	NEW	02-03-125

TABLE

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-52-71020	AMD-X	02-15-165	296-62-41001	REP	02-11-141	296-86A-074	REP	02-12-022
296-52-71025	NEW	02-03-125	296-62-41003	REP	02-11-141	296-86A-075	REP-P	02-09-095
296-52-71030	NEW-W	02-06-102	296-62-41010	REP	02-11-141	296-86A-075	REP	02-12-022
296-52-71035	NEW	02-03-125	296-62-41011	REP	02-11-141	296-86A-080	REP-P	02-09-095
296-52-71040	NEW	02-03-125	296-62-41013	REP	02-11-141	296-86A-080	REP	02-12-022
296-52-71040	AMD-X	02-15-165	296-62-41015	REP	02-11-141	296-96	PREP	02-04-106
296-52-71045	NEW	02-03-125	296-62-41017	REP	02-11-141	296-96	PREP	02-09-090
296-52-71045	AMD-X	02-15-165	296-62-41019	REP	02-11-141	296-96-01010	AMD-P	02-09-095
296-52-71050	NEW-W	02-06-102	296-62-41020	REP	02-11-141	296-96-01010	AMD	02-12-022
296-52-71055	NEW	02-03-125	296-62-41021	REP	02-11-141	296-96-01012	NEW-P	02-09-095
296-52-71060	NEW	02-03-125	296-62-41023	REP	02-11-141	296-96-01012	NEW	02-12-022
296-52-71065	NEW	02-03-125	296-62-41025	REP	02-11-141	296-96-01015	REP-P	02-09-095
296-52-71070	NEW-W	02-06-102	296-62-41030	REP	02-11-141	296-96-01015	REP	02-12-022
296-52-71075	NEW	02-03-125	296-62-41031	REP	02-11-141	296-96-01025	AMD-P	02-09-095
296-52-71080	NEW	02-03-125	296-62-41033	REP	02-11-141	296-96-01025	AMD	02-12-022
296-52-71085	NEW-W	02-06-102	296-62-41035	REP	02-11-141	296-96-01027	AMD-P	02-09-095
296-52-71090	NEW	02-03-125	296-62-41040	REP	02-11-141	296-96-01027	AMD	02-12-022
296-52-71095	NEW	02-03-125	296-62-41041	REP	02-11-141	296-96-01030	AMD-P	02-09-095
296-52-71100	NEW	02-03-125	296-62-41042	REP	02-11-141	296-96-01030	AMD	02-12-022
296-52-71105	NEW	02-03-125	296-62-41043	REP	02-11-141	296-96-01035	AMD-P	02-09-095
296-52-720	NEW	02-03-125	296-62-41044	REP	02-11-141	296-96-01035	AMD	02-12-022
296-52-725	NEW	02-03-125	296-62-41045	REP	02-11-141	296-96-01040	AMD-P	02-09-095
296-62	PREP	02-04-107	296-62-41046	REP	02-11-141	296-96-01040	AMD	02-12-022
296-62	PREP	02-10-130	296-62-41047	REP	02-11-141	296-96-01045	AMD-P	02-09-095
296-62	PREP	02-13-114	296-62-41060	REP	02-11-141	296-96-01045	AMD	02-12-022
296-62	PREP	02-13-116	296-62-41061	REP	02-11-141	296-96-01050	AMD-P	02-09-095
296-62-060	AMD-P	02-09-092	296-62-41063	REP	02-11-141	296-96-01050	AMD	02-12-022
296-62-060	AMD	02-16-047	296-62-41080	REP	02-11-141	296-96-01055	AMD-P	02-09-095
296-62-070	AMD-P	02-09-092	296-62-41081	REP	02-11-141	296-96-01055	AMD	02-12-022
296-62-070	AMD	02-16-047	296-62-41082	REP	02-11-141	296-96-01060	AMD-P	02-09-095
296-62-071	PREP	02-11-140	296-62-41084	REP	02-11-141	296-96-01060	AMD	02-12-022
296-62-07302	AMD-X	02-05-077	296-62-41085	REP	02-11-141	296-96-01065	AMD-P	02-09-095
296-62-07302	AMD	02-12-098	296-62-41086	REP	02-11-141	296-96-01065	AMD	02-12-022
296-62-07304	AMD-X	02-05-077	296-67-053	AMD-X	02-15-166	296-104	PREP	02-04-105
296-62-07304	AMD	02-12-098	296-67-291	AMD-X	02-15-166	296-104	PREP	02-08-090
296-62-07312	AMD-X	02-05-077	296-78-56501	AMD	02-03-124	296-104-010	AMD-P	02-17-120
296-62-07312	AMD	02-12-098	296-78-56505	AMD	02-03-124	296-104-020	AMD-P	02-17-120
296-62-07314	AMD-X	02-05-077	296-78-71015	AMD-P	02-07-100	296-104-021	NEW-P	02-17-120
296-62-07314	AMD	02-12-098	296-78-71015	AMD	02-15-102	296-104-050	AMD-P	02-17-120
296-62-07421	AMD-X	02-05-077	296-79-140	AMD-X	02-05-077	296-104-055	AMD-P	02-09-094
296-62-07421	AMD	02-12-098	296-79-140	AMD	02-12-098	296-104-055	AMD	02-12-021
296-62-07501	AMD-X	02-05-077	296-86A-010	REP-P	02-09-095	296-104-060	AMD-P	02-09-094
296-62-07501	AMD	02-12-098	296-86A-010	REP	02-12-022	296-104-060	AMD	02-12-021
296-62-07527	AMD-X	02-05-077	296-86A-020	REP-P	02-09-095	296-104-060	AMD-P	02-17-120
296-62-07527	AMD	02-12-098	296-86A-020	REP	02-12-022	296-104-125	AMD-P	02-17-120
296-62-07540	AMD-X	02-05-077	296-86A-025	REP-P	02-09-095	296-104-140	AMD-P	02-17-120
296-62-07540	AMD	02-12-098	296-86A-025	REP	02-12-022	296-104-145	AMD-P	02-17-120
296-62-080	AMD-P	02-09-092	296-86A-028	REP-P	02-09-095	296-104-150	AMD-P	02-17-120
296-62-080	AMD	02-16-047	296-86A-028	REP	02-12-022	296-104-151	AMD-P	02-17-120
296-62-11021	AMD-P	02-07-100	296-86A-030	REP-P	02-09-095	296-104-155	AMD-P	02-17-120
296-62-11021	AMD	02-15-102	296-86A-030	REP	02-12-022	296-104-170	AMD-P	02-17-120
296-62-130	AMD-P	02-09-092	296-86A-040	REP-P	02-09-095	296-104-200	AMD-P	02-17-120
296-62-130	AMD	02-16-047	296-86A-040	REP	02-12-022	296-104-230	AMD-P	02-17-120
296-62-14105	AMD-X	02-05-077	296-86A-060	REP-P	02-09-095	296-104-240	REP-P	02-17-120
296-62-14105	AMD	02-12-098	296-86A-060	REP	02-12-022	296-104-256	RECOD-P	02-17-120
296-62-14110	AMD-X	02-05-077	296-86A-065	REP-P	02-09-095	296-104-260	A/R-P	02-17-120
296-62-14110	AMD	02-12-098	296-86A-065	REP	02-12-022	296-104-265	RECOD-P	02-17-120
296-62-14155	AMD-X	02-05-077	296-86A-070	REP-P	02-09-095	296-104-270	A/R-P	02-17-120
296-62-14155	AMD	02-12-098	296-86A-070	REP	02-12-022	296-104-273	A/R-P	02-17-120
296-62-14171	AMD-X	02-05-077	296-86A-073	REP-P	02-09-095	296-104-300	RECOD-P	02-17-120
296-62-14171	AMD	02-12-098	296-86A-073	REP	02-12-022	296-104-305	RECOD-P	02-17-120
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296-104-320	RECOD-P	02-17-120	296-155-607	NEW-P	02-05-080	296-155-72405	NEW-P	02-06-114
296-104-502	AMD-P	02-17-120	296-155-607	NEW-W	02-15-132	296-155-72405	NEW-W	02-13-115
296-104-700	AMD-P	02-09-094	296-155-608	NEW-P	02-05-080	296-155-72406	NEW-P	02-06-114
296-104-700	AMD	02-12-021	296-155-608	NEW-W	02-15-132	296-155-72406	NEW-W	02-13-115
296-104-700	AMD-P	02-17-120	296-155-609	NEW-P	02-05-080	296-155-960	AMD-X	02-05-077
296-130	PREP	02-11-139	296-155-609	NEW-W	02-15-132	296-155-960	AMD	02-12-098
296-150C-0800	AMD-P	02-09-095	296-155-610	AMD-P	02-05-080	296-200A-080	AMD-P	02-09-095
296-150C-0800	AMD	02-12-022	296-155-610	AMD-W	02-15-132	296-200A-080	AMD	02-12-022
296-150C-3000	AMD-P	02-09-095	296-155-611	NEW-P	02-05-080	296-200A-900	AMD-P	02-09-095
296-150C-3000	AMD	02-12-022	296-155-611	NEW-W	02-15-132	296-200A-900	AMD	02-12-022
296-150F-3000	AMD-E	02-14-073	296-155-612	NEW-P	02-05-080	296-305	PREP	02-13-114
296-150M-0020	AMD	02-03-048	296-155-612	NEW-W	02-15-132	296-305-04001	AMD-X	02-05-077
296-150M-0020	AMD-E	02-14-073	296-155-615	AMD-P	02-05-080	296-305-04001	AMD	02-12-098
296-150M-0049	NEW	02-03-048	296-155-615	AMD-W	02-15-132	296-305-05003	AMD-X	02-05-077
296-150M-0049	AMD-E	02-14-073	296-155-655	AMD-P	02-05-080	296-305-05003	AMD	02-12-098
296-150M-0050	AMD-E	02-14-073	296-155-655	AMD-W	02-15-132	296-305-05011	AMD-X	02-15-166
296-150M-0051	NEW-E	02-14-073	296-155-66405	AMD-X	02-05-077	296-307	PREP	02-04-107
296-150M-0140	AMD	02-03-048	296-155-66405	AMD	02-12-098	296-307-039	AMD-X	02-05-077
296-150M-0302	NEW	02-03-048	296-155-66411	AMD-X	02-05-077	296-307-039	AMD	02-12-098
296-150M-0304	NEW-W	02-09-070	296-155-66411	AMD	02-12-098	296-307-08009	AMD-X	02-05-077
296-150M-0320	AMD-E	02-14-073	296-155-700	REP-P	02-06-114	296-307-08009	AMD	02-12-098
296-150M-0322	NEW-E	02-14-073	296-155-700	REP	02-13-115	296-307-14520	PREP	02-07-103
296-150M-3000	AMD-E	02-14-073	296-155-701	NEW-P	02-06-114	296-307-16303	AMD-X	02-17-109
296-150P-3000	AMD-P	02-09-095	296-155-701	NEW	02-13-115	296-307-452	NEW	02-11-141
296-150P-3000	AMD	02-12-022	296-155-702	NEW-P	02-06-114	296-307-45210	NEW	02-11-141
296-150R-3000	AMD-P	02-09-095	296-155-702	NEW	02-13-115	296-307-45220	NEW	02-11-141
296-150R-3000	AMD	02-12-022	296-155-703	NEW-P	02-06-114	296-307-45230	NEW	02-11-141
296-150T-3000	AMD-P	02-09-095	296-155-703	NEW	02-13-115	296-307-45240	NEW	02-11-141
296-150T-3000	AMD	02-12-022	296-155-704	NEW-P	02-06-114	296-307-45400	NEW	02-11-141
296-150V-0800	AMD-P	02-09-095	296-155-704	NEW	02-13-115	296-307-45410	NEW	02-11-141
296-150V-0800	AMD	02-12-022	296-155-705	REP-P	02-06-114	296-307-45420	NEW	02-11-141
296-150V-3000	AMD-P	02-09-095	296-155-705	REP	02-13-115	296-307-45430	NEW	02-11-141
296-150V-3000	AMD	02-12-022	296-155-706	NEW-P	02-06-114	296-307-45440	NEW	02-11-141
296-155	PREP	02-09-091	296-155-706	NEW	02-13-115	296-307-45450	NEW	02-11-141
296-155	AMD-S	02-10-025	296-155-707	NEW-P	02-06-114	296-307-45600	NEW	02-11-141
296-155	AMD-W	02-15-132	296-155-707	NEW	02-13-115	296-307-45610	NEW	02-11-141
296-155-110	AMD-P	02-05-080	296-155-708	NEW-P	02-06-114	296-307-45620	NEW	02-11-141
296-155-110	AMD-W	02-15-132	296-155-708	NEW	02-13-115	296-307-45800	NEW	02-11-141
296-155-165	AMD-P	02-05-080	296-155-709	NEW-P	02-06-114	296-307-46000	NEW	02-11-141
296-155-165	AMD-W	02-15-132	296-155-709	NEW	02-13-115	296-400A	PREP	02-09-089
296-155-200	AMD-P	02-05-080	296-155-710	REP-P	02-06-114	296-400A	AMD-P	02-09-096
296-155-200	AMD-W	02-15-132	296-155-710	REP	02-13-115	296-400A	AMD	02-14-074
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296-155-24525	AMD	02-12-098	296-155-711	NEW	02-13-115	296-400A-005	AMD	02-14-074
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296-155-441	AMD	02-12-098	296-155-714	NEW	02-13-115	296-400A-020	AMD	02-14-074
296-155-525	AMD-X	02-05-077	296-155-715	REP-P	02-06-114	296-400A-025	AMD-P	02-09-096
296-155-525	AMD	02-12-098	296-155-715	REP	02-13-115	296-400A-026	AMD-P	02-09-096
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296-155-530	AMD	02-12-098	296-155-716	NEW	02-13-115	296-400A-030	AMD	02-14-074
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296-155-601	NEW-W	02-15-132	296-155-717	NEW	02-13-115	296-400A-031	AMD	02-14-074
296-155-602	NEW-P	02-05-080	296-155-720	REP-P	02-06-114	296-400A-035	AMD-P	02-09-096
296-155-602	NEW-W	02-15-132	296-155-720	REP	02-13-115	296-400A-035	AMD	02-14-074
296-155-603	NEW-P	02-05-080	296-155-72401	NEW-P	02-06-114	296-400A-045	AMD-P	02-09-096
296-155-603	NEW-W	02-15-132	296-155-72401	NEW-W	02-13-115	296-400A-045	AMD	02-14-074
296-155-604	NEW-P	02-05-080	296-155-72402	NEW-P	02-06-114	296-400A-070	AMD-P	02-09-096
296-155-604	NEW-W	02-15-132	296-155-72402	NEW-W	02-13-115	296-400A-070	AMD	02-14-074
296-155-605	AMD-P	02-05-080	296-155-72403	NEW-P	02-06-114	296-400A-100	AMD-P	02-09-096
296-155-605	AMD-W	02-15-132	296-155-72403	NEW-W	02-13-115	296-400A-100	AMD	02-14-074
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296-400A-121	AMD	02-14-074	296-800-13020	NEW	02-16-047	296-824-11020	AMD-X	02-15-166
296-400A-122	NEW-P	02-09-096	296-800-13025	NEW-P	02-09-092	296-824-11050	NEW	02-11-141
296-400A-122	NEW	02-14-074	296-800-13025	NEW	02-16-047	296-824-11050	AMD-X	02-15-166
296-400A-130	AMD-P	02-09-096	296-800-13030	NEW-P	02-09-092	296-824-11060	NEW	02-11-141
296-400A-130	AMD	02-14-074	296-800-13035	NEW-P	02-09-092	296-824-11060	AMD-X	02-15-166
296-400A-140	AMD-P	02-09-096	296-800-13040	NEW-P	02-09-092	296-824-12010	NEW	02-11-141
296-400A-140	AMD	02-14-074	296-800-150	AMD-P	02-09-092	296-824-12010	AMD-X	02-15-166
296-400A-430	NEW-P	02-09-096	296-800-150	AMD	02-16-047	296-824-12020	NEW	02-11-141
296-400A-430	NEW	02-14-074	296-800-15030	NEW-P	02-09-092	296-824-12020	AMD-X	02-15-166
296-401B-700	AMD-P	02-09-095	296-800-15030	NEW	02-16-047	296-824-12030	NEW	02-11-141
296-401B-700	AMD	02-12-022	296-800-15035	NEW-P	02-09-092	296-824-12030	AMD-X	02-15-166
296-402A-040	AMD-P	02-09-097	296-800-15035	NEW	02-16-047	296-824-12040	NEW	02-11-141
296-402A-410	AMD-P	02-09-097	296-800-15040	NEW-P	02-09-092	296-824-12040	AMD-X	02-15-166
296-402A-630	AMD-P	02-09-097	296-800-15040	NEW	02-16-047	296-824-12050	NEW	02-11-141
296-403-010	REP-P	02-09-097	296-800-16050	AMD-P	02-09-092	296-824-12050	AMD-X	02-15-166
296-403-020	REP-P	02-09-097	296-800-16050	AMD	02-16-047	296-824-12060	NEW	02-11-141
296-403-030	REP-P	02-09-097	296-800-16070	AMD-P	02-09-092	296-824-12060	AMD-X	02-15-166
296-403-040	REP-P	02-09-097	296-800-16070	AMD	02-16-047	296-824-13010	NEW	02-11-141
296-403-050	REP-P	02-09-097	296-800-170	AMD-P	02-09-092	296-824-13010	AMD-X	02-15-166
296-403-060	REP-P	02-09-097	296-800-170	AMD	02-16-047	296-824-13020	NEW	02-11-141
296-403-070	REP-P	02-09-097	296-800-17020	AMD-P	02-09-092	296-824-13020	AMD-X	02-15-166
296-403-080	REP-P	02-09-097	296-800-17020	AMD	02-16-047	296-824-13030	NEW	02-11-141
296-403-090	REP-P	02-09-097	296-800-17025	AMD-P	02-09-092	296-824-13030	AMD-X	02-15-166
296-403-100	REP-P	02-09-097	296-800-17025	AMD	02-16-047	296-824-14010	NEW	02-11-141
296-403-110	REP-P	02-09-097	296-800-17030	AMD-P	02-09-092	296-824-14010	AMD-X	02-15-166
296-403-120	REP-P	02-09-097	296-800-17030	AMD	02-16-047	296-824-15010	NEW	02-11-141
296-403-130	REP-P	02-09-097	296-800-18010	AMD-P	02-09-092	296-824-15010	AMD-X	02-15-166
296-403-140	REP-P	02-09-097	296-800-18010	AMD	02-16-047	296-824-200	NEW-X	02-15-166
296-403-150	REP-P	02-09-097	296-800-18015	AMD-P	02-09-092	296-824-20005	NEW-X	02-15-166
296-403-160	REP-P	02-09-097	296-800-18015	AMD	02-16-047	296-824-300	NEW-X	02-15-166
296-403A-100	NEW-P	02-09-097	296-800-20005	AMD-P	02-09-092	296-824-30005	NEW-X	02-15-166
296-403A-110	NEW-P	02-09-097	296-800-20005	AMD	02-16-047	296-824-400	NEW-X	02-15-166
296-403A-120	NEW-P	02-09-097	296-800-23010	AMD-P	02-09-092	296-824-40005	NEW-X	02-15-166
296-403A-130	NEW-P	02-09-097	296-800-23010	AMD	02-16-047	296-824-40010	NEW-X	02-15-166
296-403A-140	NEW-P	02-09-097	296-800-23020	AMD-P	02-09-092	296-824-500	NEW-X	02-15-166
296-403A-150	NEW-P	02-09-097	296-800-23020	AMD	02-16-047	296-824-50005	NEW-X	02-15-166
296-403A-160	NEW-P	02-09-097	296-800-25015	AMD-P	02-09-092	296-824-50010	NEW-X	02-15-166
296-403A-170	NEW-P	02-09-097	296-800-25015	AMD	02-16-047	296-824-50015	NEW-X	02-15-166
296-403A-180	NEW-P	02-09-097	296-800-28040	AMD-P	02-09-092	296-824-50020	NEW-X	02-15-166
296-403A-190	NEW-P	02-09-097	296-800-28040	AMD	02-16-047	296-824-50025	NEW-X	02-15-166
296-403A-195	NEW-P	02-09-097	296-800-28045	AMD-P	02-09-092	296-824-50030	NEW-X	02-15-166
296-403A-200	NEW-P	02-09-097	296-800-28045	AMD	02-16-047	296-824-600	NEW-X	02-15-166
296-403A-210	NEW-P	02-09-097	296-800-32025	AMD-P	02-09-092	296-824-60005	NEW-X	02-15-166
296-403A-220	NEW-P	02-09-097	296-800-32025	AMD	02-16-047	296-824-60010	NEW-X	02-15-166
296-403A-230	NEW-P	02-09-097	296-800-35030	AMD-P	02-09-092	296-824-60015	NEW-X	02-15-166
296-403A-240	NEW-P	02-09-097	296-800-35030	AMD	02-16-047	296-824-700	NEW-X	02-15-166
296-800	PREP	02-04-107	296-800-35040	AMD-P	02-09-092	296-824-70005	NEW-X	02-15-166
296-800-110	AMD-P	02-09-092	296-800-35040	AMD	02-16-047	296-824-800	NEW-X	02-15-166
296-800-110	AMD	02-16-047	296-800-35056	AMD-P	02-09-092	296-832-100	NEW	02-16-087
296-800-11040	NEW-P	02-09-092	296-800-35056	AMD	02-16-047	296-832-10000	NEW-X	02-08-080
296-800-11040	NEW	02-16-047	296-800-35076	AMD-P	02-09-092	296-832-10005	NEW-X	02-08-080
296-800-11045	NEW-P	02-09-092	296-800-35076	AMD	02-16-047	296-832-10010	NEW-X	02-08-080
296-800-11045	NEW	02-16-047	296-800-370	AMD-P	02-09-092	296-832-10015	NEW-X	02-08-080
296-800-130	AMD-P	02-09-092	296-800-370	AMD	02-16-047	296-832-10020	NEW-X	02-08-080
296-800-130	AMD	02-16-047	296-817	PREP	02-13-114	296-832-10025	NEW-X	02-08-080
296-800-13005	REP-P	02-09-092	296-824-100	NEW	02-11-141	296-832-200	NEW	02-16-087
296-800-13005	REP	02-16-047	296-824-100	AMD-X	02-15-166	296-832-20005	NEW	02-16-087
296-800-13010	REP-P	02-09-092	296-824-110	NEW	02-11-141	296-832-20010	NEW	02-16-087
296-800-13010	REP	02-16-047	296-824-110	AMD-X	02-15-166	296-832-300	NEW	02-16-087
296-800-13015	REP-P	02-09-092	296-824-11010	NEW	02-11-141	296-832-30005	NEW	02-16-087

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296-832-30015	NEW	02-16-087	296-835-12045	NEW	02-15-102	296-878-15020	NEW-P	02-13-118
296-833-100	NEW-X	02-17-107	296-835-12050	NEW-P	02-07-100	296-878-15025	NEW-P	02-13-118
296-833-10010	NEW-X	02-17-107	296-835-12050	NEW	02-15-102	296-878-160	NEW-P	02-13-118
296-833-200	NEW-X	02-17-107	296-835-12055	NEW-P	02-07-100	296-878-16005	NEW-P	02-13-118
296-833-20005	NEW-X	02-17-107	296-835-12055	NEW	02-15-102	296-878-170	NEW-P	02-13-118
296-833-20010	NEW-X	02-17-107	296-835-12060	NEW-P	02-07-100	296-878-17005	NEW-P	02-13-118
296-833-300	NEW-X	02-17-107	296-835-12060	NEW	02-15-102	296-878-180	NEW-P	02-13-118
296-833-30005	NEW-X	02-17-107	296-835-12065	NEW-P	02-07-100	296-878-18005	NEW-P	02-13-118
296-833-30010	NEW-X	02-17-107	296-835-12065	NEW	02-15-102	296-878-18010	NEW-P	02-13-118
296-833-30015	NEW-X	02-17-107	296-835-130	NEW-P	02-07-100	296-878-18015	NEW-P	02-13-118
296-833-30020	NEW-X	02-17-107	296-835-130	NEW	02-15-102	296-878-18020	NEW-P	02-13-118
296-833-400	NEW-X	02-17-107	296-835-13005	NEW-P	02-07-100	296-878-190	NEW-P	02-13-118
296-833-40005	NEW-X	02-17-107	296-835-13005	NEW	02-15-102	296-878-19005	NEW-P	02-13-118
296-833-40010	NEW-X	02-17-107	296-835-13010	NEW-P	02-07-100	296-878-19010	NEW-P	02-13-118
296-833-500	NEW-X	02-17-107	296-835-13010	NEW	02-15-102	296-878-200	NEW-P	02-13-118
296-833-50005	NEW-X	02-17-107	296-835-13015	NEW-P	02-07-100	296-878-20005	NEW-P	02-13-118
296-833-50010	NEW-X	02-17-107	296-835-13015	NEW	02-15-102	296-878-20010	NEW-P	02-13-118
296-833-600	NEW-X	02-17-107	296-835-13020	NEW-P	02-07-100	296-878-20015	NEW-P	02-13-118
296-833-60005	NEW-X	02-17-107	296-835-13020	NEW	02-15-102	296-878-210	NEW-P	02-13-118
296-833-60010	NEW-X	02-17-107	296-835-13025	NEW-P	02-07-100	296-878-21005	NEW-P	02-13-118
296-835-100	NEW-P	02-07-100	296-835-13025	NEW	02-15-102	296-878-220	NEW-P	02-13-118
296-835-100	NEW	02-15-102	296-835-13030	NEW-P	02-07-100	308-08-085	AMD-X	02-14-001
296-835-110	NEW-P	02-07-100	296-835-13030	NEW	02-15-102	308-08-600	AMD	02-11-011
296-835-110	NEW	02-15-102	296-835-140	NEW-P	02-07-100	308-12-010	AMD-P	02-04-114
296-835-11005	NEW-P	02-07-100	296-835-140	NEW	02-15-102	308-12-010	AMD	02-11-082
296-835-11005	NEW	02-15-102	296-860-100	NEW-P	02-07-101	308-12-031	AMD-P	02-04-114
296-835-11010	NEW-P	02-07-100	296-860-100	NEW	02-17-106	308-12-031	AMD	02-11-082
296-835-11010	NEW	02-15-102	296-860-10005	NEW-P	02-07-101	308-12-050	AMD-P	02-04-114
296-835-11015	NEW-P	02-07-100	296-860-10010	NEW-P	02-07-101	308-12-050	AMD	02-11-082
296-835-11015	NEW	02-15-102	296-860-10020	NEW-P	02-07-101	308-12-081	AMD-P	02-04-114
296-835-11020	NEW-P	02-07-100	296-860-10025	NEW-P	02-07-101	308-12-081	AMD	02-11-082
296-835-11020	NEW	02-15-102	296-860-10030	NEW-P	02-07-101	308-12-085	AMD-P	02-04-114
296-835-11025	NEW-P	02-07-100	296-860-10040	NEW-P	02-07-101	308-12-085	AMD	02-11-082
296-835-11025	NEW	02-15-102	296-860-10050	NEW-P	02-07-101	308-12-115	AMD-P	02-04-114
296-835-11030	NEW-P	02-07-100	296-860-10060	NEW-P	02-07-101	308-12-115	AMD	02-11-082
296-835-11030	NEW	02-15-102	296-860-10070	NEW-P	02-07-101	308-12-150	AMD-P	02-04-114
296-835-11035	NEW-P	02-07-100	296-860-10100	NEW-P	02-07-101	308-12-150	AMD	02-11-082
296-835-11035	NEW	02-15-102	296-860-200	NEW	02-17-106	308-12-210	AMD-P	02-04-114
296-835-11040	NEW-P	02-07-100	296-860-20010	NEW	02-17-106	308-12-210	AMD	02-11-082
296-835-11040	NEW	02-15-102	296-860-20020	NEW	02-17-106	308-12-220	AMD-P	02-04-114
296-835-11045	NEW-P	02-07-100	296-860-20030	NEW	02-17-106	308-12-220	AMD	02-11-082
296-835-11045	NEW	02-15-102	296-860-20040	NEW	02-17-106	308-12-230	AMD-P	02-04-114
296-835-11050	NEW-P	02-07-100	296-860-20050	NEW	02-17-106	308-12-230	AMD	02-11-082
296-835-11050	NEW	02-15-102	296-860-20060	NEW	02-17-106	308-12-240	AMD-P	02-04-114
296-835-120	NEW-P	02-07-100	296-860-20070	NEW	02-17-106	308-12-240	AMD	02-11-082
296-835-120	NEW	02-15-102	296-860-20080	NEW	02-17-106	308-12-320	AMD-P	02-04-114
296-835-12005	NEW-P	02-07-100	296-860-300	NEW	02-17-106	308-12-320	AMD	02-11-082
296-835-12005	NEW	02-15-102	296-878-100	NEW-P	02-13-118	308-12-321	REP-P	02-04-114
296-835-12010	NEW-P	02-07-100	296-878-10005	NEW-P	02-13-118	308-12-321	REP	02-11-082
296-835-12010	NEW	02-15-102	296-878-110	NEW-P	02-13-118	308-12-322	REP-P	02-04-114
296-835-12015	NEW-P	02-07-100	296-878-11005	NEW-P	02-13-118	308-12-322	REP	02-11-082
296-835-12015	NEW	02-15-102	296-878-120	NEW-P	02-13-118	308-12-323	REP-P	02-04-114
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296-835-12020	NEW	02-15-102	296-878-130	NEW-P	02-13-118	308-12-324	REP-P	02-04-114
296-835-12025	NEW-P	02-07-100	296-878-13005	NEW-P	02-13-118	308-12-324	REP	02-11-082
296-835-12025	NEW	02-15-102	296-878-13010	NEW-P	02-13-118	308-12-325	REP-P	02-04-114
296-835-12030	NEW-P	02-07-100	296-878-140	NEW-P	02-13-118	308-12-325	REP	02-11-082
296-835-12035	NEW-P	02-07-100	296-878-14005	NEW-P	02-13-118	308-12-330	NEW-P	02-04-114
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296-835-12040	NEW-P	02-07-100	296-878-15005	NEW-P	02-13-118	308-13-005	AMD-P	02-04-113
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308-13-024	AMD-P	02-04-113	308-47-020	NEW-P	02-14-059	308-56A-330	PREP	02-05-014
308-13-024	AMD	02-07-047	308-47-030	NEW-P	02-14-059	308-56A-460	PREP	02-08-005
308-13-036	NEW-P	02-04-113	308-47-040	NEW-P	02-14-059	308-56A-460	AMD-E	02-13-005
308-13-036	NEW	02-07-047	308-47-050	NEW-P	02-14-059	308-56A-460	AMD-P	02-15-034
308-13-050	AMD-P	02-04-113	308-47-060	NEW-P	02-14-059	308-56A-500	AMD-P	02-07-035
308-13-050	AMD	02-07-047	308-47-070	NEW-P	02-14-059	308-56A-500	AMD-E	02-13-005
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308-13-150	AMD-P	02-12-077	308-48-040	AMD-P	02-14-059	308-56A-530	NEW-P	02-07-035
308-13-150	AMD	02-16-018	308-48-050	AMD-P	02-14-059	308-56A-530	NEW-E	02-13-005
308-14-085	AMD-P	02-08-074	308-48-060	AMD-P	02-14-059	308-56A-530	NEW-W	02-13-025
308-14-085	AMD-W	02-11-057	308-48-070	REP-P	02-14-059	308-56A-530	NEW-P	02-15-034
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308-14-090	REP-W	02-11-057	308-48-100	REP-P	02-14-059	308-56A-640	PREP	02-05-017
308-14-100	AMD-P	02-08-074	308-48-145	AMD-P	02-14-059	308-61	PREP	02-12-095
308-14-100	AMD-W	02-11-057	308-48-180	AMD-P	02-14-059	308-61-026	AMD-P	02-16-067
308-14-120	AMD-P	02-08-074	308-48-185	REP-P	02-14-059	308-61-105	AMD-P	02-16-067
308-14-120	AMD-W	02-11-057	308-48-200	AMD-P	02-14-059	308-61-108	AMD-P	02-16-067
308-14-130	AMD-P	02-08-074	308-48-210	AMD-P	02-14-059	308-61-115	AMD-P	02-16-067
308-14-130	AMD-W	02-11-057	308-48-350	AMD-P	02-14-059	308-61-125	AMD-P	02-16-067
308-14-135	AMD-P	02-08-074	308-48-520	AMD-P	02-14-059	308-61-135	AMD-P	02-16-067
308-14-135	AMD-W	02-11-057	308-48-600	AMD-P	02-14-059	308-61-145	AMD-P	02-16-067
308-14-210	AMD-P	02-08-074	308-48-700	REP-P	02-14-059	308-61-158	AMD-P	02-16-067
308-14-210	AMD-W	02-11-057	308-48-710	REP-P	02-14-059	308-61-168	AMD-P	02-16-067
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308-15-040	AMD-W	02-16-095	308-48-740	REP-P	02-14-059	308-63	PREP	02-13-012
308-15-140	PREP	02-05-079	308-48-750	REP-P	02-14-059	308-63-090	AMD-E	02-13-005
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308-15-140	NEW-S	02-16-096	308-48-770	REP-P	02-14-059	308-66	PREP	02-04-059
308-17-150	AMD-P	02-03-130	308-49-150	AMD-P	02-14-059	308-66	PREP	02-12-096
308-17-150	AMD	02-11-098	308-49-164	AMD-P	02-14-059	308-66-110	AMD-P	02-09-057
308-17-310	PREP	02-07-069	308-49-170	AMD-P	02-14-059	308-66-110	AMD	02-12-062
308-17-320	PREP	02-07-069	308-49-210	NEW-P	02-14-059	308-66-120	AMD-P	02-09-057
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308-19-130	AMD	02-07-067	308-56A-056	PREP	02-05-019	308-90-080	AMD	02-05-073
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308-20-030	REP	02-04-012	308-56A-110	PREP	02-05-019	308-90-130	AMD	02-05-073
308-20-040	AMD	02-04-012	308-56A-115	PREP	02-05-019	308-90-140	AMD	02-05-073
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308-20-090	AMD	02-04-012	308-56A-160	PREP	02-05-018	308-91-030	PREP	02-12-124
308-20-105	AMD	02-04-012	308-56A-200	PREP	02-05-018	308-91-040	PREP	02-12-124
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308-20-130	REP	02-04-012	308-56A-265	PREP	02-05-016	308-91-095	PREP	02-12-124
308-20-150	REP	02-04-012	308-56A-270	PREP	02-05-016	308-91-120	PREP	02-12-124
308-20-155	REP	02-04-012	308-56A-275	PREP	02-05-016	308-91-130	PREP	02-12-124
308-20-171	REP	02-04-012	308-56A-295	PREP	02-05-019	308-91-140	PREP	02-12-124
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308- 93-230	PREP	02-11-097	308- 96A-110	AMD-P	02-08-036	308-124H-025	AMD	02-03-055
308- 93-241	PREP	02-08-006	308- 96A-110	AMD	02-11-096	308-124H-025	PREP	02-15-017
308- 93-242	PREP	02-08-006	308- 96A-117	PREP	02-14-003	308-124H-029	PREP	02-15-017
308- 93-243	PREP	02-08-006	308- 96A-136	PREP	02-03-086	308-124H-061	AMD	02-03-056
308- 93-244	PREP	02-08-006	308- 96A-136	AMD-P	02-08-036	308-124H-062	AMD	02-03-056
308- 93-250	REP	02-04-001	308- 96A-136	AMD	02-11-096	308-125-085	AMD-P	02-04-083
308- 93-270	AMD	02-04-001	308- 96A-161	AMD-P	02-07-014	308-125-085	AMD	02-10-022
308- 93-275	NEW	02-04-001	308- 96A-161	AMD	02-11-079	308-125-120	AMD	02-03-011
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308- 93-530	AMD	02-05-059	308- 96A-206	AMD-P	02-07-036	308-330-305	AMD	02-04-075
308- 93-540	AMD	02-05-059	308- 96A-206	AMD	02-11-095	308-330-307	AMD	02-04-075
308- 93-700	AMD	02-05-058	308- 96A-207	AMD-P	02-05-057	308-330-320	AMD	02-04-075
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308- 96A-056	AMD-P	02-12-078	308-103-010	NEW	02-11-011	314- 02-045	AMD-W	02-17-086
308- 96A-056	AMD	02-16-071	308-103-020	NEW	02-11-011	314- 02-050	REP-P	02-04-115
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308- 96A-057	AMD	02-16-071	308-103-050	NEW	02-11-011	314- 02-055	AMD-W	02-17-086
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308- 96A-064	PREP	02-09-004	308-103-090	NEW	02-11-011	314- 02-125	AMD-W	02-17-086
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308- 96A-098	AMD-P	02-07-014	308-124A-110	AMD	02-07-060	314- 11-040	AMD-P	02-04-110
308- 96A-098	AMD	02-11-079	308-124A-460	AMD	02-03-057	314- 11-040	AMD	02-11-054
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314- 11-065	AMD-P	02-04-110	315- 38-070	NEW-P	02-12-080	316- 02-820	AMD-X	02-08-029
314- 11-065	AMD	02-11-054	315- 38-070	NEW	02-15-122	316- 02-820	AMD	02-14-013
314- 11-070	AMD-P	02-04-110	315- 38-080	NEW-P	02-12-080	316- 65-005	AMD-X	02-08-029
314- 11-070	AMD	02-11-054	315- 38-080	NEW	02-15-122	316- 65-005	AMD	02-14-013
314- 11-072	NEW-P	02-04-110	315- 38-090	NEW-P	02-12-080	332- 10-041	AMD-X	02-11-056
314- 11-072	NEW	02-11-054	315- 38-090	NEW	02-15-122	332- 30-106	AMD-P	02-03-111
314- 11-095	AMD-P	02-04-110	315- 38-100	NEW-P	02-12-080	332- 30-106	AMD-S	02-14-157
314- 11-095	AMD	02-11-054	315- 38-100	NEW	02-15-122	332- 30-106	AMD-C	02-17-058
314- 16-190	REP-P	02-04-115	315- 38-110	NEW-P	02-12-080	332- 30-109	AMD-S	02-14-157
314- 16-190	REP-W	02-17-086	315- 38-110	NEW	02-15-122	332- 30-109	AMD-C	02-17-058
314- 16-196	REP-P	02-04-115	315- 38-120	NEW-P	02-12-080	332- 30-115	AMD-P	02-03-111
314- 16-196	REP-W	02-17-086	315- 38-120	NEW	02-15-122	332- 30-115	AMD-S	02-14-157
314- 21-005	NEW-P	02-04-112	315- 38-130	NEW-P	02-12-080	332- 30-115	AMD-C	02-17-058
314- 21-005	NEW	02-11-030	315- 38-130	NEW	02-15-122	332- 30-139	AMD-P	02-03-111
314- 21-015	NEW-P	02-04-112	315- 38-140	NEW-P	02-12-080	332- 30-139	AMD-S	02-14-157
314- 21-015	NEW	02-11-030	315- 38-140	NEW	02-15-122	332- 30-139	AMD-C	02-17-058
314- 21-025	NEW-P	02-04-112	315- 38-150	NEW-P	02-12-080	332- 30-144	AMD-P	02-03-111
314- 21-025	NEW	02-11-030	315- 38-150	NEW	02-15-122	332- 30-144	AMD-S	02-14-157
314- 60-040	AMD-P	02-04-111	315- 38-160	NEW-P	02-12-080	332- 30-144	AMD-C	02-17-058
314- 60-040	AMD	02-10-006	315- 38-160	NEW	02-15-122	332- 30-148	AMD-P	02-03-111
315- 06-040	AMD-P	02-07-072	315- 38-170	NEW-P	02-12-080	332- 30-148	AMD-S	02-14-157
315- 06-040	AMD	02-12-065	315- 38-170	NEW	02-15-122	332- 30-148	AMD-C	02-17-058
315- 06-123	PREP	02-09-081	315- 38-180	NEW-P	02-12-080	332- 30-171	NEW-P	02-03-111
315- 10	PREP	02-05-048	315- 38-180	NEW	02-15-122	332- 30-171	NEW-S	02-14-157
315- 20-010	AMD-C	02-03-108	315- 38-190	NEW-P	02-12-080	332- 30-171	NEW-C	02-17-058
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315- 37-010	NEW-P	02-03-109	315- 38-200	NEW-P	02-12-080	332-150-030	AMD	02-15-126
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315- 37-020	NEW	02-07-073	316- 02-001	AMD	02-14-013	352- 32-010	AMD-P	02-16-081
315- 37-030	NEW-P	02-03-109	316- 02-135	AMD-X	02-08-029	352- 32-250	AMD-E	02-14-014
315- 37-030	NEW	02-07-073	316- 02-135	AMD	02-14-013	352- 32-250	AMD-P	02-16-081
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315- 37-040	NEW	02-07-073	316- 02-150	AMD	02-14-013	356- 03-010	NEW-P	02-14-039
315- 37-050	NEW-P	02-03-109	316- 02-170	AMD-X	02-08-029	356- 03-010	NEW	02-17-117
315- 37-050	NEW	02-07-073	316- 02-170	AMD	02-14-013	356- 05-389	NEW	02-03-063
315- 37-060	NEW-P	02-03-109	316- 02-300	AMD-X	02-08-029	356- 05-415	AMD-S	02-04-082
315- 37-060	NEW	02-07-073	316- 02-300	AMD	02-14-013	356- 05-415	AMD	02-07-049
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315- 37-070	NEW	02-07-073	316- 02-310	REP	02-14-013	356- 06-020	REP-E	02-12-048
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315- 37-080	NEW	02-07-073	316- 02-340	REP	02-14-013	356- 06-020	REP	02-15-050
315- 37-090	NEW-P	02-03-109	316- 02-350	REP-X	02-08-029	356- 06-065	NEW-E	02-07-054
315- 37-090	NEW	02-07-073	316- 02-350	REP	02-14-013	356- 06-065	NEW-E	02-12-050
315- 37-100	NEW-P	02-03-109	316- 02-360	REP-X	02-08-029	356- 06-065	NEW-P	02-12-110
315- 37-100	NEW	02-07-073	316- 02-360	REP	02-14-013	356- 06-065	NEW	02-15-047
315- 37-110	NEW-P	02-03-109	316- 02-370	REP-X	02-08-029	356- 10-020	AMD-E	02-12-048
315- 37-110	NEW	02-07-073	316- 02-370	REP	02-14-013	356- 10-020	AMD-P	02-12-113
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315- 38-010	NEW	02-15-122	316- 02-610	AMD	02-14-013	356- 14-010	AMD	02-15-049
315- 38-020	NEW-P	02-12-080	316- 02-620	AMD-X	02-08-029	356- 14-026	AMD-E	02-12-049
315- 38-020	NEW	02-15-122	316- 02-620	AMD	02-14-013	356- 14-026	AMD-P	02-12-116
315- 38-030	NEW-P	02-12-080	316- 02-630	AMD-X	02-08-029	356- 14-026	AMD	02-15-049
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356-15-090	AMD	02-15-046	356-42-042	AMD	02-15-048	356-60-050	NEW-E	02-13-056
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356-15-100	AMD-E	02-12-051	356-42-045	AMD-P	02-12-111	356-60-050	NEW	02-17-114
356-15-100	AMD-P	02-12-112	356-42-045	AMD	02-15-048	356-60-055	NEW-E	02-13-056
356-15-100	AMD	02-15-046	356-42-049	REP-E	02-12-052	356-60-055	NEW-P	02-13-131
356-15-110	AMD-E	02-07-052	356-42-049	REP-P	02-12-111	356-60-055	NEW	02-17-114
356-15-110	AMD-P	02-12-112	356-42-049	REP	02-15-048	356-60-057	NEW-E	02-13-056
356-15-110	AMD-E	02-12-121	356-42-049	REP	02-15-048	356-60-057	NEW-P	02-13-131
356-15-110	AMD	02-15-046	356-42-060	REP-E	02-12-052	356-60-057	NEW	02-17-114
356-18-080	AMD-P	02-12-117	356-42-060	REP-P	02-12-111	356-60-060	NEW-E	02-13-056
356-18-080	AMD	02-15-053	356-42-060	REP	02-15-048	356-60-060	NEW-P	02-13-131
356-18-100	AMD	02-03-061	356-42-070	REP-E	02-12-052	356-60-060	NEW	02-17-114
356-18-100	AMD-P	02-12-109	356-42-070	REP-P	02-12-111	363-116-185	AMD-E	02-06-001
356-18-100	AMD	02-15-045	356-42-070	REP	02-15-048	363-116-185	AMD-P	02-10-081
356-18-112	AMD-S	02-04-082	356-42-080	REP-E	02-12-052	363-116-185	AMD	02-13-076
356-18-112	AMD	02-07-049	356-42-080	REP-P	02-12-111	363-116-300	AMD-P	02-08-053
356-18-120	AMD-E	02-07-052	356-42-080	REP	02-15-048	363-116-300	AMD	02-12-008
356-18-120	AMD-P	02-12-112	356-42-082	REP-E	02-12-052	365-18-040	AMD-X	02-12-001
356-18-120	AMD-E	02-12-121	356-42-082	REP-P	02-12-111	365-18-040	AMD	02-17-018
356-18-120	AMD	02-15-046	356-42-082	REP	02-15-048	365-120-080	AMD	02-05-012
356-18-160	AMD-E	02-12-046	356-42-082	REP	02-15-048	365-210	PREP	02-15-100
356-18-160	AMD-P	02-12-115	356-42-083	REP-E	02-12-052	365-220-005	NEW	02-07-026
356-18-160	AMD	02-15-052	356-42-083	REP-P	02-12-111	365-220-010	NEW	02-07-026
356-18-220	AMD-P	02-12-118	356-42-084	REP	02-15-048	365-220-015	NEW	02-07-026
356-18-220	AMD	02-15-055	356-42-084	REP-E	02-12-052	365-220-020	NEW	02-07-026
356-22-220	AMD-E	02-12-046	356-42-084	REP-P	02-12-111	365-220-025	NEW	02-07-026
356-22-220	AMD-P	02-12-115	356-42-085	REP	02-15-048	365-220-030	NEW	02-07-026
356-22-220	AMD	02-15-052	356-42-085	REP-E	02-12-052	365-220-035	NEW	02-07-026
356-26-040	AMD	02-03-062	356-42-086	REP	02-15-048	365-220-040	NEW	02-07-026
356-26-060	AMD-P	02-12-108	356-42-086	REP-E	02-12-052	365-220-045	NEW	02-07-026
356-26-060	AMD	02-15-044	356-42-086	REP-P	02-12-111	365-220-050	NEW	02-07-026
356-26-130	AMD	02-03-063	356-42-086	REP	02-15-048	365-220-055	NEW	02-07-026
356-26-140	AMD-P	02-04-080	356-42-088	REP-E	02-12-052	365-220-060	NEW	02-07-026
356-26-140	AMD	02-07-050	356-42-088	REP-P	02-12-111	365-220-065	NEW	02-07-026
356-30-025	AMD-S	02-04-082	356-42-088	REP	02-15-048	365-220-070	NEW	02-07-026
356-30-025	AMD	02-07-049	356-42-089	REP-E	02-12-052	365-220-075	NEW	02-07-026
356-30-065	AMD-S	02-04-082	356-42-089	REP-P	02-12-111	365-220-080	NEW	02-07-026
356-30-065	AMD	02-07-049	356-42-105	REP	02-15-048	365-220-085	NEW	02-07-026
356-30-067	AMD-S	02-04-082	356-42-105	AMD-E	02-12-052	365-220-090	NEW	02-07-026
356-30-067	AMD	02-07-049	356-42-105	AMD-P	02-12-111	365-220-095	NEW	02-07-026
356-30-140	AMD-S	02-04-082	356-56-001	AMD	02-15-048	365-220-100	NEW	02-07-026
356-30-140	AMD	02-07-049	356-56-001	AMD-E	02-13-053	365-220-105	NEW	02-07-026
356-30-260	AMD-P	02-12-117	356-56-001	AMD-P	02-13-130	365-220-110	NEW	02-07-026
356-30-260	AMD	02-15-053	356-56-001	AMD	02-17-115	365-220-115	NEW	02-07-026
356-30-305	AMD-P	02-12-117	356-56-070	NEW-E	02-07-053	365-220-120	NEW	02-07-026
356-30-305	AMD	02-15-053	356-56-070	NEW-E	02-12-045	365-220-125	NEW	02-07-026
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356-30-331	AMD	02-07-050	356-56-070	NEW	02-15-043	365-220-135	NEW	02-07-026
356-42-010	AMD-E	02-12-052	356-56-125	REP-E	02-13-055	365-220-140	NEW	02-07-026
356-42-010	AMD-P	02-12-111	356-56-125	REP-P	02-13-129	365-220-145	NEW	02-07-026
356-42-010	AMD	02-15-048	356-60-010	REP	02-17-116	365-220-150	NEW	02-07-026
356-42-020	REP-E	02-12-052	356-60-010	NEW-E	02-13-056	365-220-155	NEW	02-07-026
356-42-020	REP-P	02-12-111	356-60-010	NEW-P	02-13-131	365-220-160	NEW	02-07-026
356-42-020	REP	02-15-048	356-60-010	NEW	02-17-114	365-220-165	NEW	02-07-026
356-42-030	REP-E	02-12-052	356-60-020	NEW-E	02-13-056	365-220-170	NEW	02-07-026
356-42-030	REP-P	02-12-111	356-60-020	NEW-P	02-13-131	365-220-175	NEW	02-07-026
356-42-030	REP	02-15-048	356-60-020	NEW	02-17-114	365-220-180	NEW	02-07-026
356-42-040	REP-E	02-12-052	356-60-030	NEW-E	02-13-056	365-220-185	NEW	02-07-026
356-42-040	REP-P	02-12-111	356-60-030	NEW-P	02-13-131	365-220-190	NEW	02-07-026
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388- 01-015	NEW	02-15-119	388- 14A-3800	PREP	02-03-010	388- 15-049	NEW	02-17-045
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388- 02-0010	AMD-P	02-17-090	388- 14A-3810	PREP	02-13-042	388- 15-053	NEW	02-15-098
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388- 02-0215	AMD-P	02-17-090	388- 14A-3925	AMD	02-06-098	388- 15-057	NEW	02-15-098
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388- 02-0525	AMD-P	02-17-092	388- 14A-4300	PREP	02-03-010	388- 15-061	NEW-P	02-03-118
388- 02-0527	NEW-P	02-17-092	388- 14A-4301	PREP	02-03-010	388- 15-061	NEW	02-15-098
388- 02-0530	AMD-P	02-17-092	388- 14A-4302	PREP	02-03-010	388- 15-061	NEW	02-17-045
388- 02-0535	REP-P	02-17-091	388- 14A-4303	PREP	02-03-010	388- 15-065	NEW-P	02-03-118
388- 02-0540	AMD-P	02-17-092	388- 14A-4304	PREP	02-03-010	388- 15-065	NEW	02-15-098
388- 02-0545	AMD-P	02-17-092	388- 14A-5520	AMD-P	02-03-096	388- 15-065	NEW	02-17-045
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388- 02-0555	AMD-P	02-17-092	388- 14A-5525	AMD-P	02-03-096	388- 15-069	NEW	02-15-098
388- 02-0560	AMD-P	02-17-092	388- 14A-5525	AMD	02-06-098	388- 15-069	NEW	02-17-045
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388- 02-0625	AMD-P	02-17-091	388- 15-005	NEW	02-17-045	388- 15-085	NEW	02-15-098
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388- 02-0635	AMD-P	02-17-091	388- 15-009	NEW	02-15-098	388- 15-089	NEW-P	02-03-118
388- 02-0640	AMD-P	02-17-091	388- 15-009	NEW	02-17-045	388- 15-089	NEW	02-15-098
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388- 14A-2105	AMD	02-07-091	388- 15-013	NEW	02-17-045	388- 15-097	NEW	02-15-098
388- 14A-2107	NEW	02-07-091	388- 15-017	NEW-P	02-03-118	388- 15-097	NEW	02-17-045
388- 14A-2110	AMD	02-07-091	388- 15-017	NEW	02-15-098	388- 15-101	NEW-P	02-03-118
388- 14A-2112	NEW	02-07-091	388- 15-017	NEW	02-17-045	388- 15-101	NEW	02-15-098
388- 14A-2114	NEW	02-07-091	388- 15-021	NEW-P	02-03-118	388- 15-101	NEW	02-17-045
388- 14A-2115	AMD	02-07-091	388- 15-021	NEW	02-15-098	388- 15-105	NEW-P	02-03-118
388- 14A-2116	NEW	02-07-091	388- 15-021	NEW	02-17-045	388- 15-105	NEW	02-15-098
388- 14A-2120	AMD	02-07-091	388- 15-025	NEW-P	02-03-118	388- 15-105	NEW	02-17-045
388- 14A-2125	AMD	02-07-091	388- 15-025	NEW	02-15-098	388- 15-109	NEW-P	02-03-118
388- 14A-2130	NEW	02-07-091	388- 15-025	NEW	02-17-045	388- 15-109	NEW	02-15-098
388- 14A-2135	NEW	02-07-091	388- 15-029	NEW-P	02-03-118	388- 15-109	NEW	02-17-045
388- 14A-2140	NEW	02-07-091	388- 15-029	NEW	02-15-098	388- 15-113	NEW-P	02-03-118
388- 14A-3100	PREP	02-13-042	388- 15-029	NEW	02-17-045	388- 15-113	NEW	02-15-098
388- 14A-3100	AMD-E	02-13-043	388- 15-033	NEW-P	02-03-118	388- 15-113	NEW	02-17-045
388- 14A-3102	PREP	02-13-042	388- 15-033	NEW	02-15-098	388- 15-117	NEW-P	02-03-118
388- 14A-3102	AMD-E	02-13-043	388- 15-033	NEW	02-17-045	388- 15-117	NEW	02-15-098
388- 14A-3110	PREP	02-13-042	388- 15-037	NEW-P	02-03-118	388- 15-117	NEW	02-17-045
388- 14A-3110	AMD-E	02-13-043	388- 15-037	NEW	02-15-098	388- 15-121	NEW-P	02-03-118
388- 14A-3115	PREP	02-13-042	388- 15-037	NEW	02-17-045	388- 15-121	NEW	02-15-098
388- 14A-3115	AMD-E	02-13-043	388- 15-041	NEW-P	02-03-118	388- 15-121	NEW	02-17-045
388- 14A-3120	PREP	02-13-042	388- 15-041	NEW	02-15-098	388- 15-125	NEW-P	02-03-118
388- 14A-3120	AMD-E	02-13-043	388- 15-041	NEW	02-17-045	388- 15-125	NEW	02-15-098
388- 14A-3122	NEW-E	02-13-043	388- 15-045	NEW-P	02-03-118	388- 15-125	NEW	02-17-045
388- 14A-3130	AMD-P	02-03-096	388- 15-045	NEW	02-15-098	388- 15-129	NEW-P	02-03-118

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-15-129	NEW	02-15-098	388-15-657	PREP-W	02-15-058	388-71-05925	NEW	02-10-117
388-15-129	NEW	02-17-045	388-15-658	PREP	02-15-056	388-71-05926	NEW	02-10-117
388-15-130	REP-P	02-03-118	388-15-658	PREP-W	02-15-058	388-71-05927	NEW	02-10-117
388-15-130	REP	02-15-098	388-15-659	PREP	02-15-056	388-71-05928	NEW	02-10-117
388-15-130	REP	02-17-045	388-15-659	PREP-W	02-15-058	388-71-05929	NEW	02-10-117
388-15-131	REP-P	02-03-118	388-15-660	PREP	02-15-056	388-71-05930	NEW	02-10-117
388-15-131	REP	02-15-098	388-15-660	PREP-W	02-15-058	388-71-05931	NEW	02-10-117
388-15-131	REP	02-17-045	388-15-661	PREP	02-15-056	388-71-05932	NEW	02-10-117
388-15-132	REP-P	02-03-118	388-15-661	PREP-W	02-15-058	388-71-05933	NEW	02-10-117
388-15-132	REP	02-15-098	388-15-662	PREP	02-15-056	388-71-05934	NEW	02-10-117
388-15-132	REP	02-17-045	388-15-662	PREP-W	02-15-058	388-71-05935	NEW	02-10-117
388-15-133	NEW-P	02-03-118	388-15-880	PREP-W	02-05-064	388-71-05936	NEW	02-10-117
388-15-133	NEW	02-15-098	388-15-890	PREP-W	02-05-064	388-71-05937	NEW	02-10-117
388-15-133	NEW	02-17-045	388-27-0225	AMD-P	02-15-136	388-71-05938	NEW	02-10-117
388-15-134	REP-P	02-03-118	388-27-0375	AMD-P	02-15-136	388-71-05939	NEW	02-10-117
388-15-134	REP	02-15-098	388-71	PREP	02-11-064	388-71-05940	NEW	02-10-117
388-15-134	REP	02-17-045	388-71	PREP	02-15-056	388-71-05941	NEW	02-10-117
388-15-135	NEW-P	02-03-118	388-71	PREP-W	02-15-058	388-71-05942	NEW	02-10-117
388-15-135	NEW	02-15-098	388-71	AMD-P	02-16-080	388-71-05943	NEW	02-10-117
388-15-135	NEW	02-17-045	388-71-0194	NEW-P	02-16-080	388-71-05944	NEW	02-10-117
388-15-141	NEW-P	02-03-118	388-71-0202	NEW-P	02-16-080	388-71-05945	NEW	02-10-117
388-15-141	NEW	02-15-098	388-71-0203	NEW-P	02-16-080	388-71-05946	NEW	02-10-117
388-15-141	NEW	02-17-045	388-71-0205	NEW-P	02-16-080	388-71-05947	NEW	02-10-117
388-15-194	PREP-W	02-05-066	388-71-0410	PREP	02-04-096	388-71-05948	NEW	02-10-117
388-15-194	REP-P	02-16-080	388-71-0410	PREP-W	02-05-066	388-71-05949	NEW-S	02-11-129
388-15-202	PREP	02-04-096	388-71-0410	AMD-P	02-16-080	388-71-05949	NEW	02-15-064
388-15-202	PREP-W	02-05-064	388-71-0430	PREP	02-04-096	388-71-05950	NEW	02-10-117
388-15-202	PREP-W	02-05-065	388-71-0430	AMD-P	02-16-080	388-71-05951	NEW	02-10-117
388-15-202	PREP-W	02-05-066	388-71-0435	PREP	02-04-096	388-71-05952	NEW	02-10-117
388-15-202	REP-P	02-16-080	388-71-0435	AMD-P	02-16-080	388-71-05953	NEW-W	02-10-036
388-15-203	PREP	02-04-096	388-71-0440	PREP	02-04-096	388-71-0600	PREP	02-04-096
388-15-203	PREP-W	02-05-065	388-71-0440	PREP-W	02-05-066	388-71-0600	AMD-P	02-16-080
388-15-203	PREP-W	02-05-066	388-71-0445	PREP	02-04-096	388-71-0820	PREP	02-04-096
388-15-203	REP-P	02-16-080	388-71-0445	PREP-W	02-05-066	388-71-0820	AMD-P	02-12-067
388-15-204	PREP	02-04-096	388-71-0445	AMD-P	02-16-080	388-71-0820	AMD	02-15-138
388-15-204	PREP-W	02-05-066	388-71-0450	PREP	02-04-096	388-76-535	AMD-P	02-03-117
388-15-204	REP-P	02-16-080	388-71-0450	AMD-P	02-16-080	388-76-535	AMD	02-15-081
388-15-205	PREP-W	02-05-065	388-71-0500	PREP	02-04-096	388-76-540	PREP	02-04-096
388-15-205	PREP-W	02-05-066	388-71-0500	AMD	02-10-117	388-76-540	AMD-P	02-16-080
388-15-205	REP-P	02-16-080	388-71-0500	AMD-P	02-16-080	388-76-570	AMD-S	02-11-032
388-15-207	PREP-W	02-05-064	388-71-0515	PREP	02-04-096	388-76-570	AMD	02-15-065
388-15-214	PREP-W	02-05-064	388-71-0515	AMD-P	02-16-080	388-76-59100	REP-S	02-11-032
388-15-215	PREP-W	02-05-064	388-71-0520	AMD	02-10-117	388-76-59100	REP	02-15-065
388-15-219	PREP-W	02-05-064	388-71-0525	REP	02-10-117	388-76-59110	REP-S	02-11-032
388-15-600	PREP-W	02-05-064	388-71-0530	REP	02-10-117	388-76-59110	REP	02-15-065
388-15-620	PREP-W	02-05-064	388-71-0535	REP	02-10-117	388-76-59120	REP-S	02-11-032
388-15-630	PREP-W	02-05-064	388-71-0540	AMD	02-10-117	388-76-59120	REP	02-15-065
388-15-650	PREP	02-15-056	388-71-05910	NEW	02-10-117	388-76-61510	AMD-P	02-03-117
388-15-650	PREP-W	02-15-058	388-71-05911	NEW	02-10-117	388-76-61510	AMD	02-15-081
388-15-651	PREP	02-15-056	388-71-05912	NEW	02-10-117	388-76-640	REP-P	02-03-117
388-15-651	PREP-W	02-15-058	388-71-05913	NEW	02-10-117	388-76-640	REP-S	02-14-161
388-15-652	PREP	02-15-056	388-71-05914	NEW	02-10-117	388-76-64005	NEW-P	02-03-117
388-15-652	PREP-W	02-15-058	388-71-05915	NEW	02-10-117	388-76-64005	NEW-S	02-14-161
388-15-653	PREP	02-15-056	388-71-05916	NEW	02-10-117	388-76-64010	NEW-P	02-03-117
388-15-653	PREP-W	02-15-058	388-71-05917	NEW	02-10-117	388-76-64010	NEW-S	02-14-161
388-15-654	PREP	02-15-056	388-71-05918	NEW	02-10-117	388-76-64015	NEW-P	02-03-117
388-15-654	PREP-W	02-15-058	388-71-05919	NEW	02-10-117	388-76-64015	NEW-S	02-14-161
388-15-655	PREP	02-15-056	388-71-05920	NEW	02-10-117	388-76-64020	NEW-P	02-03-117
388-15-655	PREP-W	02-15-058	388-71-05921	NEW	02-10-117	388-76-64020	NEW-S	02-14-161
388-15-656	PREP	02-15-056	388-71-05922	NEW	02-10-117	388-76-64025	NEW-P	02-03-117
388-15-656	PREP-W	02-15-058	388-71-05923	NEW	02-10-117	388-76-64025	NEW-S	02-14-161
388-15-657	PREP	02-15-056	388-71-05924	NEW	02-10-117	388-76-64030	NEW-P	02-03-117

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-76-64030	NEW-S	02-14-161	388-97-35040	AMD	02-14-063	388-98-010	REP-P	02-07-116
388-76-64035	NEW-P	02-03-117	388-97-550	PREP	02-11-126	388-98-010	REP	02-14-063
388-76-64035	NEW-S	02-14-161	388-97-550	AMD-E	02-14-082	388-98-015	REP-P	02-07-116
388-76-64040	NEW-S	02-14-161	388-97-550	AMD-P	02-17-094	388-98-015	REP	02-14-063
388-76-64045	NEW-S	02-14-161	388-97-555	PREP	02-11-126	388-98-020	REP-P	02-07-116
388-76-64050	NEW-S	02-14-161	388-97-555	AMD-E	02-14-082	388-98-020	REP	02-14-063
388-76-64055	NEW-S	02-14-161	388-97-555	AMD-P	02-17-094	388-98-300	REP-P	02-07-116
388-76-655	AMD-S	02-11-032	388-97-565	AMD-P	02-07-116	388-98-300	REP	02-14-063
388-76-655	AMD	02-15-065	388-97-565	AMD	02-14-063	388-98-320	REP-P	02-07-116
388-76-660	AMD-S	02-11-032	388-97-570	AMD-P	02-07-116	388-98-320	REP	02-14-063
388-76-660	AMD	02-15-065	388-97-570	PREP	02-11-066	388-98-330	REP-P	02-07-116
388-76-710	AMD-P	02-03-117	388-97-570	AMD	02-14-063	388-98-330	REP	02-14-063
388-76-710	AMD	02-15-081	388-97-575	AMD-P	02-07-116	388-98-340	REP-P	02-07-116
388-76-765	REP-P	02-15-135	388-97-575	AMD	02-14-063	388-98-340	REP	02-14-063
388-76-76505	NEW-P	02-15-135	388-97-580	AMD-P	02-07-116	388-98-700	REP-P	02-07-116
388-76-76510	NEW-P	02-15-135	388-97-580	AMD	02-14-063	388-98-700	REP	02-14-063
388-76-76515	NEW-P	02-15-135	388-97-585	AMD-P	02-07-116	388-98-750	REP-P	02-07-116
388-76-76520	NEW-P	02-15-135	388-97-585	AMD	02-14-063	388-98-750	REP	02-14-063
388-78A-050	AMD-S	02-11-031	388-97-595	AMD-P	02-07-116	388-98-810	REP-P	02-07-116
388-78A-050	AMD	02-15-066	388-97-595	AMD	02-14-063	388-98-810	REP	02-14-063
388-78A-060	AMD-W	02-11-059	388-97-605	NEW-P	02-07-116	388-98-830	REP-P	02-07-116
388-78A-265	PREP	02-09-047	388-97-605	NEW	02-14-063	388-98-830	REP	02-14-063
388-78A-265	AMD-P	02-14-062	388-97-610	NEW-P	02-07-116	388-98-870	REP-P	02-07-116
388-78A-265	AMD	02-17-027	388-97-610	NEW	02-14-063	388-98-870	REP	02-14-063
388-79-010	AMD-P	02-11-067	388-97-615	NEW-P	02-07-116	388-98-890	REP-P	02-07-116
388-79-020	AMD-P	02-11-067	388-97-615	NEW	02-14-063	388-98-890	REP	02-14-063
388-79-030	AMD-P	02-11-067	388-97-620	NEW-P	02-07-116	388-105	AMD-E	02-14-081
388-79-040	AMD-P	02-11-067	388-97-620	NEW	02-14-063	388-105	PREP	02-14-099
388-96-713	AMD-E	02-04-011	388-97-625	NEW-P	02-07-116	388-105-0005	AMD-E	02-14-081
388-96-901	AMD-E	02-04-011	388-97-625	NEW	02-14-063	388-105-0030	NEW-E	02-14-081
388-97	PREP	02-11-066	388-97-630	NEW-P	02-07-116	388-105-0035	NEW-E	02-14-081
388-97-005	AMD-P	02-07-116	388-97-630	NEW	02-14-063	388-105-0040	NEW-E	02-14-081
388-97-005	AMD	02-14-063	388-97-635	NEW-P	02-07-116	388-110-020	PREP	02-04-096
388-97-043	AMD-P	02-07-116	388-97-635	NEW	02-14-063	388-110-020	AMD-P	02-16-080
388-97-043	AMD	02-14-063	388-97-640	NEW-P	02-07-116	388-110-110	REP-S	02-11-032
388-97-07005	AMD-P	02-07-116	388-97-640	NEW	02-14-063	388-110-110	REP	02-15-065
388-97-07005	AMD	02-14-063	388-97-645	NEW-P	02-07-116	388-110-210	PREP	02-04-096
388-97-07040	AMD-P	02-07-116	388-97-645	NEW	02-14-063	388-110-210	REP-P	02-16-080
388-97-07040	AMD	02-14-063	388-97-650	NEW-P	02-07-116	388-110-230	PREP	02-04-096
388-97-07050	AMD-P	02-07-116	388-97-650	NEW	02-14-063	388-110-230	REP-P	02-16-080
388-97-07050	AMD	02-14-063	388-97-655	NEW-P	02-07-116	388-110-250	REP-P	02-16-080
388-97-076	AMD-P	02-07-116	388-97-655	NEW	02-14-063	388-112-0001	NEW-S	02-11-032
388-97-076	AMD	02-14-063	388-97-660	NEW-P	02-07-116	388-112-0001	NEW	02-15-065
388-97-160	AMD-P	02-07-116	388-97-660	NEW	02-14-063	388-112-0005	NEW-S	02-11-032
388-97-160	AMD	02-14-063	388-97-665	NEW-P	02-07-116	388-112-0005	NEW	02-15-065
388-97-162	AMD-P	02-07-116	388-97-665	NEW	02-14-063	388-112-0010	NEW-S	02-11-032
388-97-162	AMD	02-14-063	388-97-670	NEW-P	02-07-116	388-112-0010	NEW	02-15-065
388-97-180	AMD-P	02-07-116	388-97-670	NEW	02-14-063	388-112-0015	NEW-S	02-11-032
388-97-180	AMD	02-14-063	388-97-675	NEW-P	02-07-116	388-112-0015	NEW	02-15-065
388-97-202	AMD-P	02-07-116	388-97-675	NEW	02-14-063	388-112-0020	NEW-S	02-11-032
388-97-202	AMD	02-14-063	388-97-680	NEW-P	02-07-116	388-112-0020	NEW	02-15-065
388-97-203	NEW-P	02-07-116	388-97-680	NEW	02-14-063	388-112-0025	NEW-S	02-11-032
388-97-203	NEW	02-14-063	388-97-685	NEW-P	02-07-116	388-112-0025	NEW	02-15-065
388-97-204	NEW-P	02-07-116	388-97-685	NEW	02-14-063	388-112-0030	NEW-S	02-11-032
388-97-204	NEW	02-14-063	388-97-690	NEW-P	02-07-116	388-112-0030	NEW	02-15-065
388-97-205	AMD-P	02-07-116	388-97-690	NEW	02-14-063	388-112-0035	NEW-S	02-11-032
388-97-205	AMD	02-14-063	388-97-695	NEW-P	02-07-116	388-112-0035	NEW	02-15-065
388-97-260	AMD-P	02-07-116	388-97-695	NEW	02-14-063	388-112-0040	NEW-S	02-11-032
388-97-260	AMD	02-14-063	388-98-001	REP-P	02-07-116	388-112-0040	NEW	02-15-065
388-97-285	AMD-P	02-07-116	388-98-001	REP	02-14-063	388-112-0045	NEW-S	02-11-032
388-97-285	AMD	02-14-063	388-98-003	REP-P	02-07-116	388-112-0045	NEW	02-15-065
388-97-35040	AMD-P	02-07-116	388-98-003	REP	02-14-063	388-112-0050	NEW-S	02-11-032

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388-112-0050	NEW	02-15-065	388-112-0205	NEW	02-15-066	388-112-0360	NEW	02-15-066
388-112-0055	NEW-S	02-11-032	388-112-0210	NEW-S	02-11-031	388-112-0365	NEW-S	02-11-031
388-112-0055	NEW	02-15-065	388-112-0210	NEW	02-15-066	388-112-0365	NEW	02-15-066
388-112-0060	NEW-S	02-11-032	388-112-0215	NEW-S	02-11-031	388-112-0370	NEW-S	02-11-031
388-112-0060	NEW	02-15-065	388-112-0215	NEW	02-15-066	388-112-0370	NEW	02-15-066
388-112-0065	NEW-S	02-11-032	388-112-0220	NEW-S	02-11-031	388-112-0375	NEW-S	02-11-031
388-112-0065	NEW	02-15-065	388-112-0220	NEW	02-15-066	388-112-0375	NEW	02-15-066
388-112-0070	NEW-S	02-11-032	388-112-0225	NEW-S	02-11-031	388-112-0380	NEW-S	02-11-031
388-112-0070	NEW	02-15-065	388-112-0225	NEW	02-15-066	388-112-0380	NEW	02-15-066
388-112-0075	NEW-S	02-11-032	388-112-0230	NEW-S	02-11-031	388-112-0385	NEW-S	02-11-031
388-112-0075	NEW	02-15-065	388-112-0230	NEW	02-15-066	388-112-0385	NEW	02-15-066
388-112-0080	NEW-S	02-11-032	388-112-0235	NEW-S	02-11-031	388-112-0390	NEW-S	02-11-031
388-112-0080	NEW	02-15-065	388-112-0235	NEW	02-15-066	388-112-0390	NEW	02-15-066
388-112-0085	NEW-S	02-11-032	388-112-0240	NEW-S	02-11-031	388-112-0395	NEW-S	02-11-031
388-112-0085	NEW	02-15-065	388-112-0240	NEW	02-15-066	388-112-0395	NEW	02-15-066
388-112-0090	NEW-S	02-11-032	388-112-0245	NEW-S	02-11-031	388-112-0400	NEW-S	02-11-031
388-112-0090	NEW	02-15-065	388-112-0245	NEW	02-15-066	388-112-0400	NEW	02-15-066
388-112-0095	NEW-S	02-11-032	388-112-0250	NEW-S	02-11-031	388-112-0405	NEW-S	02-11-031
388-112-0095	NEW	02-15-065	388-112-0250	NEW	02-15-066	388-112-0405	NEW	02-15-066
388-112-0100	NEW-S	02-11-032	388-112-0255	NEW-S	02-11-031	388-112-0410	NEW-S	02-11-031
388-112-0100	NEW	02-15-065	388-112-0255	NEW	02-15-066	388-112-0410	NEW	02-15-066
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388-112-0120	NEW	02-15-065	388-112-0275	NEW	02-15-066	388-148-0058	NEW-E	02-14-042
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388-112-0135	NEW	02-15-065	388-112-0290	NEW	02-15-066	388-148-0120	AMD-E	02-14-042
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388-112-0145	NEW	02-15-065	388-112-0300	NEW	02-15-066	388-148-0140	AMD-E	02-14-042
388-112-0150	NEW-S	02-11-032	388-112-0305	NEW-S	02-11-031	388-148-0220	PREP	02-06-083
388-112-0150	NEW	02-15-065	388-112-0305	NEW	02-15-066	388-148-0220	AMD-E	02-14-042
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388-112-0155	NEW	02-15-065	388-112-0310	NEW	02-15-066	388-148-0260	AMD-E	02-14-042
388-112-0160	NEW-S	02-11-032	388-112-0315	NEW-S	02-11-031	388-148-0270	AMD-E	02-14-042
388-112-0160	NEW	02-15-065	388-112-0315	NEW	02-15-066	388-148-0335	AMD-E	02-14-042
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388-112-0165	NEW	02-15-065	388-112-0320	NEW	02-15-066	388-148-0345	AMD-E	02-14-042
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478-117-230	NEW	02-08-023	478-118-100	NEW	02-15-174	480-75	AMD-P	02-12-132
478-117-240	NEW-P	02-03-085	478-118-200	NEW-E	02-06-042	480-75-002	REP-P	02-12-132
478-117-240	NEW-E	02-04-087	478-118-200	NEW-P	02-08-066	480-75-005	REP-P	02-12-132
478-117-240	NEW	02-08-023	478-118-200	NEW	02-15-174	480-75-010	REP-P	02-12-132
478-117-250	NEW-P	02-03-085	478-118-210	NEW-E	02-06-042	480-75-100	NEW-P	02-12-132
478-117-250	NEW-E	02-04-087	478-118-210	NEW-P	02-08-066	480-75-200	NEW-P	02-12-132
478-117-250	NEW	02-08-023	478-118-210	NEW	02-15-174	480-75-210	NEW-P	02-12-132
478-117-260	NEW-P	02-03-085	478-118-220	NEW-E	02-06-042	480-75-220	NEW-P	02-12-132
478-117-260	NEW-E	02-04-087	478-118-220	NEW-P	02-08-066	480-75-223	REP-P	02-12-132
478-117-260	NEW	02-08-023	478-118-220	NEW	02-15-174	480-75-230	REP-P	02-12-132
478-117-270	NEW-P	02-03-085	478-118-230	NEW-E	02-06-042	480-75-240	NEW	02-03-016
478-117-270	NEW-E	02-04-087	478-118-230	NEW-P	02-08-066	480-75-250	NEW-P	02-12-132
478-117-270	NEW	02-08-023	478-118-230	NEW	02-15-174	480-75-260	NEW-P	02-12-132
478-117-280	NEW-P	02-03-085	478-118-240	NEW-E	02-06-042	480-75-300	NEW-P	02-12-132
478-117-280	NEW-E	02-04-087	478-118-240	NEW-P	02-08-066	480-75-310	NEW-P	02-12-132
478-117-280	NEW	02-08-023	478-118-240	NEW	02-15-174	480-75-320	NEW-P	02-12-132
478-117-300	NEW-P	02-03-085	478-118-250	NEW-E	02-06-042	480-75-330	NEW-P	02-12-132
478-117-300	NEW-E	02-04-087	478-118-250	NEW-P	02-08-066	480-75-340	NEW-P	02-12-132
478-117-300	NEW	02-08-023	478-118-250	NEW	02-15-174	480-75-350	NEW-P	02-12-132
478-117-310	NEW-P	02-03-085	478-118-260	NEW-E	02-06-042	480-75-360	NEW-P	02-12-132
478-117-310	NEW-E	02-04-087	478-118-260	NEW-P	02-08-066	480-75-370	NEW-P	02-12-132
478-117-310	NEW	02-08-023	478-118-260	NEW	02-15-174	480-75-380	NEW-P	02-12-132
478-117-320	NEW-P	02-03-085	478-118-270	NEW-E	02-06-042	480-75-390	NEW-P	02-12-132
478-117-320	NEW-E	02-04-087	478-118-270	NEW-P	02-08-066	480-75-400	NEW-P	02-12-132
478-117-320	NEW	02-08-023	478-118-270	NEW	02-15-174	480-75-410	NEW-P	02-12-132
478-117-400	NEW-P	02-03-085	478-118-280	NEW-E	02-06-042	480-75-420	NEW-P	02-12-132
478-117-400	NEW-E	02-04-087	478-118-280	NEW-P	02-08-066	480-75-430	NEW-P	02-12-132
478-117-400	NEW	02-08-023	478-118-280	NEW	02-15-174	480-75-440	NEW-P	02-12-132
478-117-410	NEW-P	02-03-085	478-118-400	NEW-E	02-06-042	480-75-450	NEW-P	02-12-132
478-117-410	NEW-E	02-04-087	478-118-400	NEW-P	02-08-066	480-75-460	NEW-P	02-12-132
478-117-410	NEW	02-08-023	478-118-400	NEW	02-15-174	480-75-500	NEW-P	02-12-132
478-118	PREP	02-04-037	478-118-410	NEW-E	02-06-042	480-75-510	NEW-P	02-12-132
478-118	NEW-C	02-13-066	478-118-410	NEW-P	02-08-066	480-75-520	NEW-P	02-12-132
478-118-010	NEW-E	02-06-042	478-118-410	NEW	02-15-174	480-75-530	NEW-P	02-12-132
478-118-010	NEW-P	02-08-066	478-118-420	NEW-E	02-06-042	480-75-540	NEW-P	02-12-132
478-118-010	NEW	02-15-174	478-118-420	NEW-P	02-08-066	480-75-550	NEW-P	02-12-132
478-118-020	NEW-E	02-06-042	478-118-420	NEW	02-15-174	480-75-600	NEW-P	02-12-132
478-118-020	NEW-P	02-08-066	478-118-500	NEW-E	02-06-042	480-75-610	NEW-P	02-12-132
478-118-020	NEW	02-15-174	478-118-500	NEW-P	02-08-066	480-75-620	NEW-P	02-12-132
478-118-030	NEW-E	02-06-042	478-118-500	NEW	02-15-174	480-75-630	NEW-P	02-12-132
478-118-030	NEW-P	02-08-066	478-118-510	NEW-E	02-06-042	480-75-640	NEW-P	02-12-132
478-118-030	NEW	02-15-174	478-118-510	NEW-P	02-08-066	480-75-650	NEW-P	02-12-132
478-118-040	NEW-E	02-06-042	478-118-510	NEW	02-15-174	480-75-660	NEW-P	02-12-132
478-118-040	NEW-P	02-08-066	478-136-012	AMD	02-06-020	480-75-999	AMD-P	02-12-132
478-118-040	NEW	02-15-174	478-136-015	AMD	02-06-020	480-80-010	AMD	02-11-081
478-118-050	NEW-E	02-06-042	478-136-030	AMD-E	02-03-102	480-80-015	NEW	02-11-081
478-118-050	NEW-P	02-08-066	478-160-125	AMD	02-06-021	480-80-020	AMD	02-11-081
478-118-050	NEW	02-15-174	478-160-130	AMD	02-06-021	480-80-025	NEW	02-11-081
478-118-060	NEW-E	02-06-042	478-160-140	AMD	02-06-021	480-80-030	AMD	02-11-081
478-118-060	NEW-P	02-08-066	478-160-163	NEW	02-06-021	480-80-031	NEW	02-11-081
478-118-060	NEW	02-15-174	478-160-175	AMD	02-06-021	480-80-035	REP	02-11-081
478-118-070	NEW-E	02-06-042	480-14-999	AMD-X	02-12-131	480-80-040	REP	02-11-081
478-118-070	NEW-P	02-08-066	480-15-999	AMD-X	02-12-131	480-80-041	REP	02-11-081
478-118-070	NEW	02-15-174	480-30-999	AMD-X	02-12-131	480-80-045	REP	02-11-081
478-118-080	NEW-E	02-06-042	480-31-999	AMD-X	02-12-131	480-80-050	REP	02-11-081
478-118-080	NEW-P	02-08-066	480-40-999	AMD-X	02-12-131	480-80-060	REP	02-11-081
478-118-080	NEW	02-15-174	480-62-240	AMD-X	02-12-131	480-80-070	REP	02-11-081
478-118-090	NEW-E	02-06-042	480-62-999	AMD-X	02-12-131	480-80-080	REP	02-11-081
478-118-090	NEW-P	02-08-066				480-80-090	REP	02-11-081

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-80-100	REP	02-11-081	480-90-194	NEW	02-11-081	480-120-112	NEW-P	02-12-055
480-80-101	NEW	02-11-081	480-90-195	NEW	02-11-081	480-120-116	REP-P	02-12-055
480-80-102	NEW	02-11-081	480-90-197	NEW	02-11-081	480-120-121	REP-P	02-12-055
480-80-103	NEW	02-11-081	480-90-198	NEW	02-11-081	480-120-122	NEW-P	02-12-055
480-80-104	NEW	02-11-081	480-90-199	NEW	02-11-081	480-120-123	NEW-P	02-12-055
480-80-105	NEW	02-11-081	480-90-203	AMD-X	02-12-131	480-120-124	NEW-P	02-12-055
480-80-110	REP	02-11-081	480-90-208	AMD-X	02-12-131	480-120-125	NEW-P	02-12-055
480-80-111	NEW	02-11-081	480-90-999	AMD-X	02-12-131	480-120-126	REP-P	02-12-055
480-80-112	NEW	02-11-081	480-93-240	NEW	02-03-016	480-120-127	NEW	02-11-080
480-80-121	NEW	02-11-081	480-100	PREP	02-10-055	480-120-128	NEW-P	02-12-055
480-80-122	NEW	02-11-081	480-100-113	AMD-P	02-17-088	480-120-131	REP-P	02-12-055
480-80-123	NEW	02-11-081	480-100-118	AMD-P	02-17-088	480-120-132	NEW-P	02-12-055
480-80-124	NEW	02-11-081	480-100-148	PREP	02-10-055	480-120-133	NEW-P	02-12-055
480-80-125	REP	02-11-081	480-100-148	AMD-P	02-17-088	480-120-136	REP-P	02-12-055
480-80-130	REP	02-11-081	480-100-163	AMD-X	02-12-131	480-120-138	REP-P	02-12-055
480-80-131	NEW	02-11-081	480-100-193	AMD	02-11-081	480-120-139	REP-P	02-12-055
480-80-132	NEW	02-11-081	480-100-194	NEW	02-11-081	480-120-141	REP-P	02-12-055
480-80-133	NEW	02-11-081	480-100-195	NEW	02-11-081	480-120-144	REP-P	02-08-081
480-80-134	NEW	02-11-081	480-100-197	NEW	02-11-081	480-120-146	NEW-P	02-12-055
480-80-140	REP	02-11-081	480-100-198	NEW	02-11-081	480-120-147	NEW-P	02-12-055
480-80-141	NEW	02-11-081	480-100-199	NEW	02-11-081	480-120-148	NEW-P	02-12-055
480-80-142	NEW	02-11-081	480-100-203	AMD-X	02-12-131	480-120-151	REP-P	02-08-081
480-80-143	NEW	02-11-081	480-100-208	AMD-X	02-12-131	480-120-152	REP-P	02-08-081
480-80-150	REP	02-11-081	480-100-999	AMD-X	02-12-131	480-120-153	REP-P	02-08-081
480-80-160	REP	02-11-081	480-110	PREP	02-10-055	480-120-154	REP-P	02-08-081
480-80-170	REP	02-11-081	480-110-275	AMD-X	02-12-131	480-120-161	NEW-P	02-12-055
480-80-180	REP	02-11-081	480-110-335	AMD-P	02-17-088	480-120-162	NEW-P	02-12-055
480-80-190	REP	02-11-081	480-110-485	AMD-X	02-12-131	480-120-163	NEW-P	02-12-055
480-80-200	REP	02-11-081	480-110-999	NEW-X	02-12-131	480-120-164	NEW-P	02-12-055
480-80-201	NEW	02-11-081	480-120-011	AMD-P	02-12-055	480-120-165	NEW-P	02-12-055
480-80-202	NEW	02-11-081	480-120-015	AMD-P	02-12-055	480-120-166	NEW-P	02-12-055
480-80-203	NEW	02-11-081	480-120-017	NEW-P	02-12-055	480-120-167	NEW-P	02-12-055
480-80-204	NEW	02-11-081	480-120-019	NEW-P	02-12-055	480-120-171	NEW-P	02-12-055
480-80-205	NEW	02-11-081	480-120-021	AMD-P	02-12-055	480-120-172	NEW-P	02-12-055
480-80-206	NEW	02-11-081	480-120-029	REP-P	02-12-055	480-120-173	NEW-P	02-12-055
480-80-210	REP	02-11-081	480-120-031	REP-P	02-12-055	480-120-174	NEW-P	02-12-055
480-80-220	REP	02-11-081	480-120-032	REP-P	02-12-055	480-120-193	NEW	02-11-081
480-80-230	REP	02-11-081	480-120-033	REP-P	02-12-055	480-120-194	NEW	02-11-081
480-80-240	REP	02-11-081	480-120-041	REP-P	02-12-055	480-120-195	NEW	02-11-081
480-80-241	NEW	02-11-081	480-120-042	REP-P	02-12-055	480-120-196	NEW	02-11-081
480-80-242	NEW	02-11-081	480-120-043	REP	02-11-081	480-120-197	NEW	02-11-081
480-80-250	REP	02-11-081	480-120-043	REP-P	02-12-055	480-120-198	NEW	02-11-081
480-80-260	REP	02-11-081	480-120-045	REP-P	02-12-055	480-120-199	NEW	02-11-081
480-80-270	REP	02-11-081	480-120-046	REP-P	02-12-055	480-120-201	NEW-P	02-08-081
480-80-280	REP	02-11-081	480-120-051	REP-P	02-12-055	480-120-202	NEW-P	02-08-081
480-80-290	REP	02-11-081	480-120-052	REP	02-11-080	480-120-203	NEW-P	02-08-081
480-80-300	REP	02-11-081	480-120-056	REP-P	02-12-055	480-120-204	NEW-P	02-08-081
480-80-310	REP	02-11-081	480-120-057	REP-P	02-12-055	480-120-205	NEW-P	02-08-081
480-80-320	REP	02-11-081	480-120-058	REP	02-11-080	480-120-206	NEW-P	02-08-081
480-80-325	REP	02-11-081	480-120-061	AMD-P	02-12-055	480-120-207	NEW-P	02-08-081
480-80-326	REP	02-11-081	480-120-081	REP-P	02-12-055	480-120-208	NEW-P	02-08-081
480-80-330	REP	02-11-081	480-120-087	REP-P	02-12-055	480-120-209	NEW-P	02-08-081
480-80-335	REP	02-11-081	480-120-088	REP-P	02-12-055	480-120-211	NEW-P	02-08-081
480-80-340	REP	02-11-081	480-120-089	REP-P	02-12-055	480-120-212	NEW-P	02-08-081
480-80-350	REP	02-11-081	480-120-101	REP-P	02-12-055	480-120-213	NEW-P	02-08-081
480-80-360	REP	02-11-081	480-120-102	NEW-P	02-12-055	480-120-214	NEW-P	02-08-081
480-80-370	REP	02-11-081	480-120-103	NEW-P	02-12-055	480-120-215	NEW-P	02-08-081
480-80-380	REP	02-11-081	480-120-104	NEW-P	02-12-055	480-120-216	NEW-P	02-08-081
480-90	PREP	02-10-055	480-120-105	NEW-P	02-12-055	480-120-251	NEW-P	02-12-055
480-90-113	AMD-P	02-17-088	480-120-106	REP-P	02-12-055	480-120-252	NEW-P	02-12-055
480-90-118	AMD-P	02-17-088	480-120-107	NEW-P	02-12-055	480-120-253	NEW-P	02-12-055
480-90-193	AMD	02-11-081	480-120-108	NEW-P	02-12-055	480-120-254	NEW-P	02-12-055

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-120-255	NEW-P	02-12-055	480-121-061	AMD	02-11-080	504-25-018	NEW	02-15-075
480-120-256	NEW-P	02-12-055	480-121-062	AMD	02-11-080	504-25-020	AMD-P	02-11-093
480-120-257	NEW-P	02-12-055	480-121-063	AMD-S	02-07-041	504-25-020	AMD	02-15-075
480-120-261	NEW-P	02-12-055	480-121-063	AMD	02-11-080	504-25-025	AMD-P	02-11-093
480-120-262	NEW-P	02-12-055	480-121-064	AMD	02-11-080	504-25-025	AMD	02-15-075
480-120-263	NEW-P	02-12-055	480-121-065	NEW	02-11-081	504-25-030	AMD-P	02-11-093
480-120-264	NEW	02-11-080	480-121-070	REP	02-11-080	504-25-030	AMD	02-15-075
480-120-265	NEW-P	02-12-055	480-122-010	AMD	02-03-017	504-25-035	AMD-P	02-11-093
480-120-301	NEW-P	02-12-055	480-122-020	AMD	02-03-017	504-25-035	AMD	02-15-075
480-120-302	NEW-P	02-12-055	480-122-030	REP	02-03-017	504-25-040	AMD-P	02-11-093
480-120-303	NEW-P	02-12-055	480-122-040	REP	02-03-017	504-25-040	AMD	02-15-075
480-120-304	NEW-P	02-12-055	480-122-060	AMD	02-03-017	504-25-041	NEW-P	02-11-093
480-120-305	NEW-P	02-12-055	480-122-070	REP	02-03-017	504-25-041	NEW	02-15-075
480-120-311	NEW-P	02-12-055	480-122-080	AMD	02-03-017	504-25-042	NEW-P	02-11-093
480-120-312	NEW-P	02-12-055	480-122-090	REP	02-03-017	504-25-042	NEW	02-15-075
480-120-321	NEW-P	02-12-055	495C-120-040	AMD	02-04-022	504-25-045	AMD-P	02-11-093
480-120-322	NEW-P	02-12-055	495C-120-041	AMD	02-04-022	504-25-045	AMD	02-15-075
480-120-323	NEW-P	02-12-055	504-15-060	REP-P	02-11-092	504-25-050	AMD-P	02-11-093
480-120-340	REP-P	02-12-055	504-15-060	REP	02-14-071	504-25-050	AMD	02-15-075
480-120-350	REP-P	02-12-055	504-15-100	AMD-P	02-11-092	504-25-055	AMD-P	02-11-093
480-120-401	NEW-P	02-12-055	504-15-100	AMD	02-14-071	504-25-055	AMD	02-15-075
480-120-402	NEW-P	02-12-055	504-15-200	AMD-P	02-11-092	504-25-060	AMD-P	02-11-093
480-120-411	NEW-P	02-12-055	504-15-200	AMD	02-14-071	504-25-060	AMD	02-15-075
480-120-412	NEW-P	02-12-055	504-15-210	AMD-P	02-11-092	504-25-065	AMD-P	02-11-093
480-120-414	NEW-P	02-12-055	504-15-210	AMD	02-14-071	504-25-065	AMD	02-15-075
480-120-436	NEW-P	02-12-055	504-15-460	AMD-P	02-11-092	504-25-075	AMD-P	02-11-093
480-120-437	NEW-P	02-12-055	504-15-460	AMD	02-14-071	504-25-075	AMD	02-15-075
480-120-438	NEW-P	02-12-055	504-15-540	AMD-P	02-11-092	504-25-080	AMD-P	02-11-093
480-120-439	NEW-P	02-12-055	504-15-540	AMD	02-14-071	504-25-080	AMD	02-15-075
480-120-440	NEW-P	02-12-055	504-15-580	AMD-P	02-11-092	504-25-085	AMD-P	02-11-093
480-120-450	NEW-P	02-12-055	504-15-580	AMD	02-14-071	504-25-085	AMD	02-15-075
480-120-451	NEW-P	02-12-055	504-15-600	AMD-P	02-11-092	504-25-090	AMD-P	02-11-093
480-120-452	NEW-P	02-12-055	504-15-600	AMD	02-14-071	504-25-090	AMD	02-15-075
480-120-500	REP-P	02-12-055	504-15-650	AMD-P	02-11-092	504-25-095	AMD-P	02-11-093
480-120-505	REP-P	02-12-055	504-15-650	AMD	02-14-071	504-25-095	AMD	02-15-075
480-120-510	REP-P	02-12-055	504-15-810	AMD-P	02-11-092	504-25-100	AMD-P	02-11-093
480-120-515	REP-P	02-12-055	504-15-810	AMD	02-14-071	504-25-100	AMD	02-15-075
480-120-520	REP-P	02-12-055	504-15-830	AMD-P	02-11-092	504-25-115	AMD-P	02-11-093
480-120-525	REP-P	02-12-055	504-15-830	AMD	02-14-071	504-25-115	AMD	02-15-075
480-120-530	REP-P	02-12-055	504-25-001	NEW-P	02-11-093	504-25-120	AMD-P	02-11-093
480-120-531	REP-P	02-12-055	504-25-001	NEW	02-15-075	504-25-120	AMD	02-15-075
480-120-535	REP-P	02-12-055	504-25-002	NEW-P	02-11-093	504-25-125	AMD-P	02-11-093
480-120-541	REP-P	02-12-055	504-25-002	NEW	02-15-075	504-25-125	AMD	02-15-075
480-120-542	REP-P	02-12-055	504-25-003	NEW-P	02-11-093	504-25-130	AMD-P	02-11-093
480-120-543	REP-P	02-12-055	504-25-003	NEW	02-15-075	504-25-130	AMD	02-15-075
480-120-544	REP-P	02-12-055	504-25-004	NEW-P	02-11-093	504-25-135	AMD-P	02-11-093
480-120-545	REP-P	02-12-055	504-25-004	NEW	02-15-075	504-25-135	AMD	02-15-075
480-120-999	NEW-P	02-12-055	504-25-005	REP-P	02-11-093	504-25-137	NEW-P	02-11-093
480-121-010	REP	02-11-080	504-25-005	REP	02-15-075	504-25-137	NEW	02-15-075
480-121-011	NEW	02-11-080	504-25-010	REP-P	02-11-093	504-25-138	AMD-P	02-11-093
480-121-015	AMD	02-11-080	504-25-010	REP	02-15-075	504-25-138	AMD	02-15-075
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504- 25-210	REP	02-15-075	516- 23-090	REP-P	02-16-088			
504- 25-215	AMD-P	02-11-093	516- 23-095	REP-P	02-16-088			
504- 25-215	AMD	02-15-075	516- 23-100	REP-P	02-16-088			
504- 25-220	REP-P	02-11-093	516- 23-105	REP-P	02-16-088			
504- 25-220	REP	02-15-075	516- 23-110	REP-P	02-16-088			
504- 25-221	NEW-P	02-11-093	516- 23-115	REP-P	02-16-088			
504- 25-221	NEW	02-15-075	516- 23-120	REP-P	02-16-088			
504- 25-222	NEW-P	02-11-093	516- 23-125	REP-P	02-16-088			
504- 25-222	NEW	02-15-075	516- 23-130	REP-P	02-16-088			
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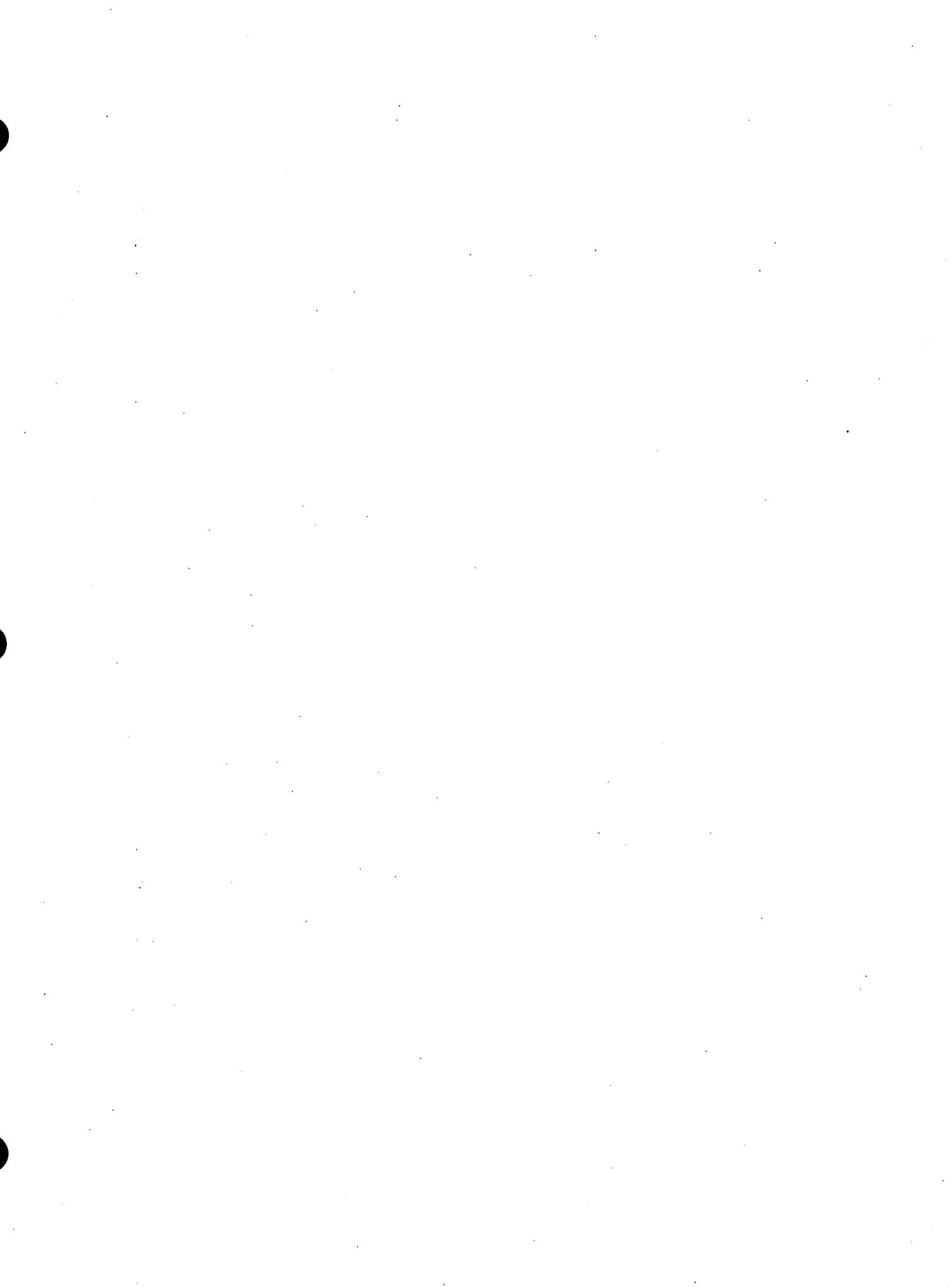
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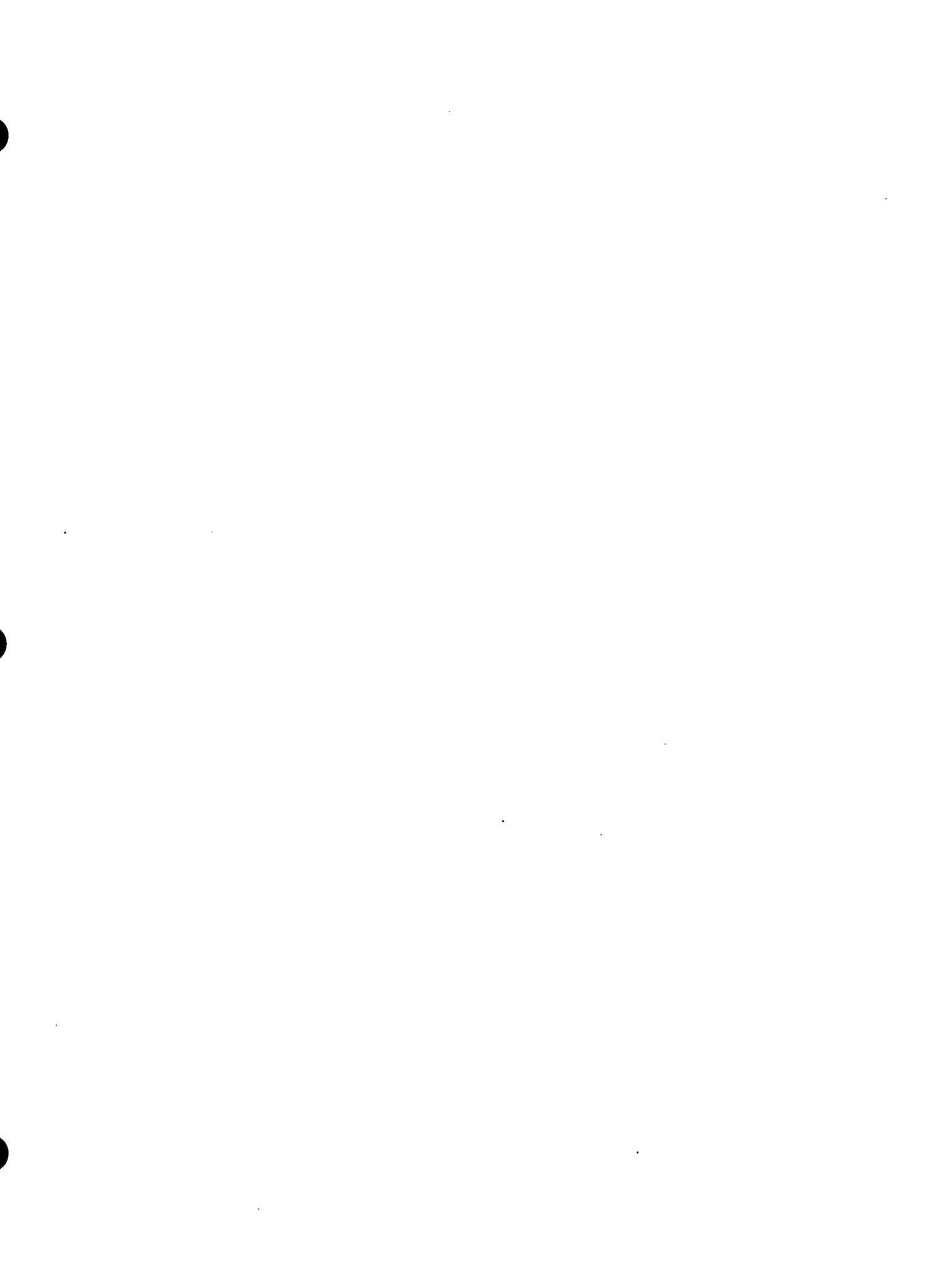
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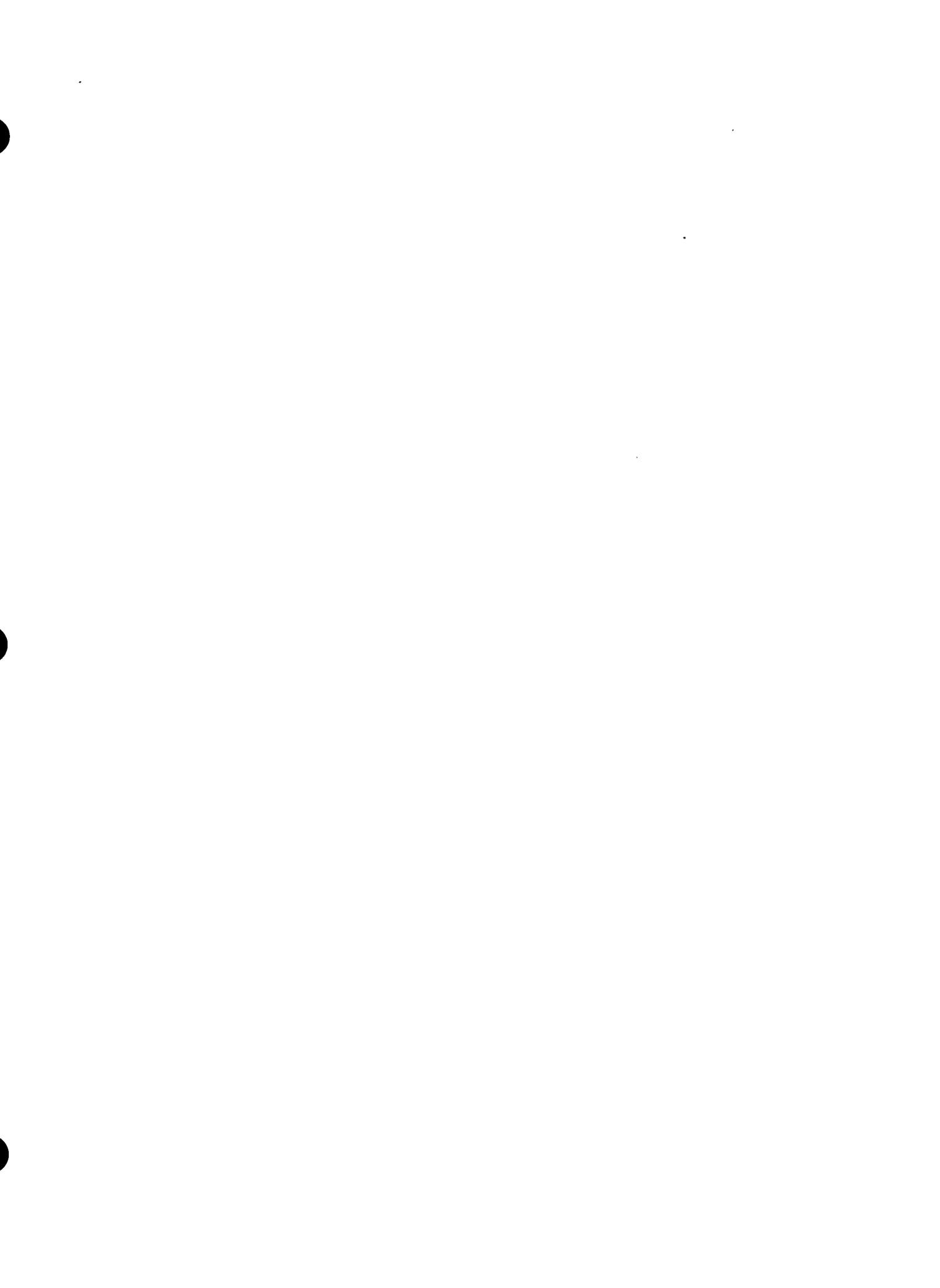
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