

Washington State Register

June 15, 2005

OLYMPIA, WASHINGTON

ISSUE 05-12



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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 in the basement of the Pritchard Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of June 2005 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of June 2005 is 5.177%.

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.

WASHINGTON STATE REGISTER

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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].

2004-2005

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Rule Making ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
04 - 15	Jun 23, 04	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 24, 04	Sep 21, 04
04 - 16	Jul 7, 04	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 7, 04	Oct 5, 04
04 - 17	Jul 21, 04	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 21, 04	Oct 19, 04
04 - 18	Aug 4, 04	Aug 18, 04	Sep 1, 04	Sep 15, 04	Oct 5, 04	Nov 2, 04
04 - 19	Aug 25, 04	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 26, 04	Nov 23, 04
04 - 20	Sep 8, 04	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 9, 04	Dec 7, 04
04 - 21	Sep 22, 04	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 23, 04	Dec 21, 04
04 - 22	Oct 6, 04	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 7, 04	Jan 4, 05
04 - 23	Oct 20, 04	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 21, 04	Jan 19, 05
04 - 24	Nov 3, 04	Nov 17, 04	Dec 1, 04	Dec 15, 04	Jan 4, 05	Feb 1, 05
05 - 01	Nov 24, 04	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 25, 05	Feb 23, 05
05 - 02	Dec 8, 04	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 8, 05	Mar 8, 05
05 - 03	Dec 22, 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 22, 05	Mar 22, 05
05 - 04	Jan 5, 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 8, 05	Apr 5, 05
05 - 05	Jan 19, 05	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 22, 05	Apr 19, 05
05 - 06	Feb 2, 05	Feb 16, 05	Mar 2, 05	Mar 16, 05	Apr 5, 05	May 3, 05
05 - 07	Feb 23, 05	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 26, 05	May 24, 05
05 - 08	Mar 9, 05	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 10, 05	Jun 7, 05
05 - 09	Mar 23, 05	Apr 6, 05	Apr 20, 05	May 4, 05	May 24, 05	Jun 21, 05
05 - 10	Apr 6, 05	Apr 20, 05	May 4, 05	May 18, 05	Jun 7, 05	Jul 6, 05
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05 - 14	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 9, 05	Sep 7, 05
05 - 15	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 23, 05	Sep 20, 05
05 - 16	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 17, 05	Sep 6, 05	Oct 4, 05
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05 - 18	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 11, 05	Nov 8, 05
05 - 19	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 25, 05	Nov 22, 05
05 - 20	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 8, 05	Dec 6, 05
05 - 21	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 22, 05	Dec 20, 05
05 - 22	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 16, 05	Dec 6, 05	Jan 3, 06
05 - 23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05 - 24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06

¹ 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.

² 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.

³ 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.

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited rule making 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;

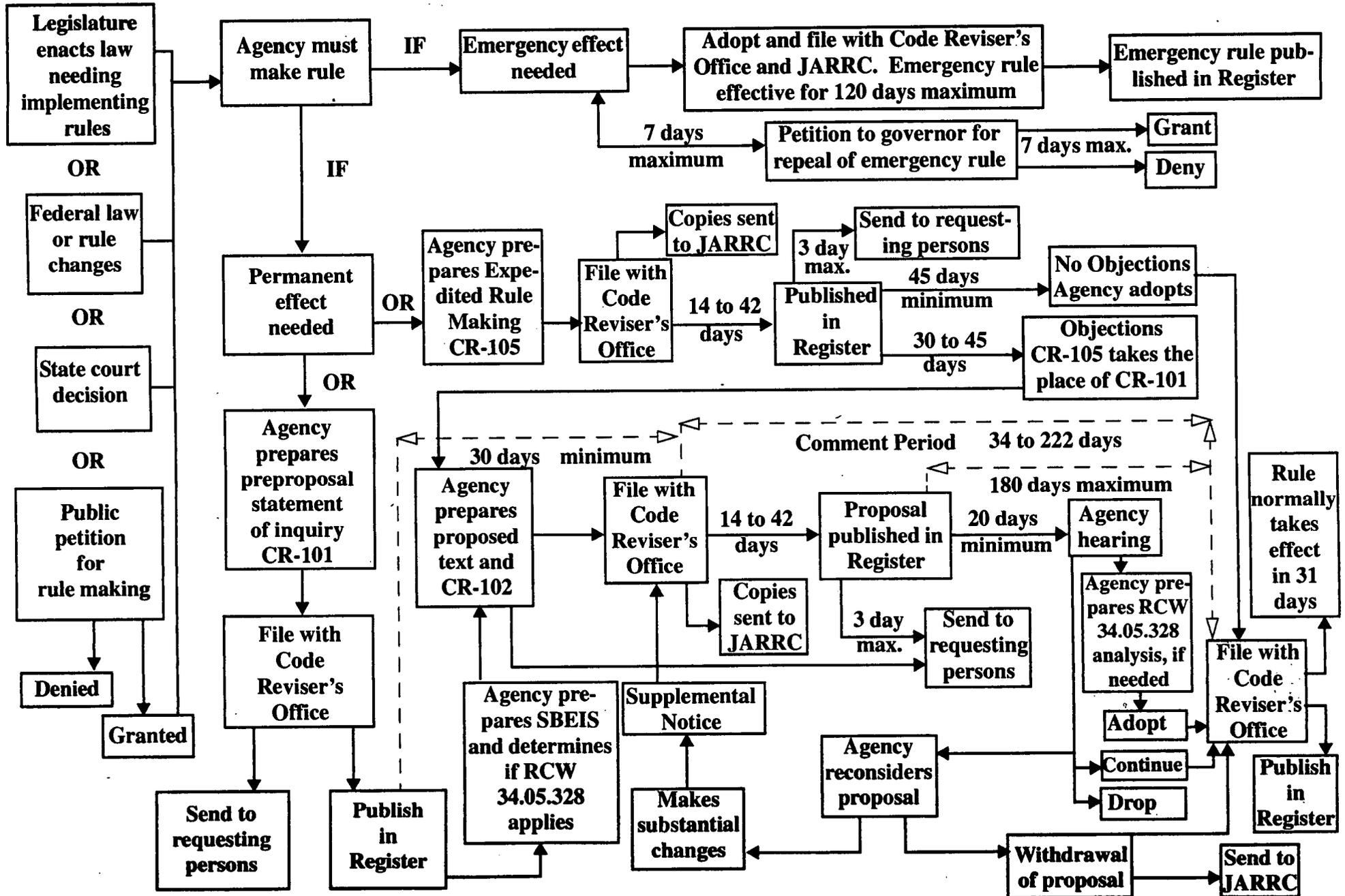
There is less than minor economic impact on business;

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.

RULE-MAKING PROCESS



WSR 05-12-006
PREPROPOSAL STATEMENT OF INQUIRY
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed May 19, 2005, 8:56 a.m.]

Subject of Possible Rule Making: Chapter 139-05 WAC, Law enforcement.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 and 43.101.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To improve effectiveness, clarity, and intent in order to better serve clients, stakeholders, and communities.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency web site.

May 16, 2005

Michael D. Parsons
Executive Director

WSR 05-12-015
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed May 20, 2005, 11:15 a.m.]

Subject of Possible Rule Making: WAC 246-976-830 through 246-976-860 and 246-976-881, standards for designated trauma rehabilitation services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.168 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 70.168 RCW requires the department to establish minimum standards for facility, equipment, and personnel for Levels I, I-Pediatric, II and III trauma-related rehabilitation services. These standards must be adopted into rule to be enforceable. The current rules have not undergone review and amendment since 1998. These rules need to be reviewed to ensure that they are clear, concise, and up to date.

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

Process for Developing New Rule: The EMS and Trauma Steering Committee approved an ad hoc workgroup to participate in the review and the drafting of any necessary proposed language. Statutory and other EMS and trauma committees, as well as other constituents and the public, will also be able to participate in the review and any necessary drafting of proposed language through open public meetings, mailings, e-mail, and/or posts to the DOH rules comment

web site. A formal public hearing will be held before new and/or revised language is adopted.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Open public meetings will be available and the final draft of the proposed amended WAC language will be sent out to all affected and interested parties before the formal public hearing is held. Any questions or concerns regarding the trauma rehabilitation designation standards for trauma rehabilitation services (WAC 246-976-830 through 246-976-860 and 246-976-881) should contact Tami Thompson, Rehab Coordinator, Office of Emergency Medical Services and Trauma System, P.O. Box 47853, Olympia, WA 98504-7853, e-mail tami.thompson@doh.wa.gov, phone (360) 236-2859 or fax (360) 236-2829.

May 20, 2005

M. C. Selecky
Secretary

WSR 05-12-018
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 20, 2005, 3:18 p.m.]

Subject of Possible Rule Making: Interruptive military service credit.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To explain current policy and implement 2005 legislation. HB 1325 broadens the circumstances in which a member (or surviving spouse or eligible child of a member) may establish service credit for interruptive military service.

Process for Developing New Rule: The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. 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. DRS encourages your active participation in the rule-making process. 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. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

May 18, 2005

Leslie Saeger
Rules Coordinator

PREPROPOSAL

WSR 05-12-019
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 20, 2005, 3:19 p.m.]

Subject of Possible Rule Making: Public safety employee's retirement system (PSERS).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.37.015, 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department will adopt a new WAC chapter to implement chapter 41.37 RCW, Washington Public Safety Employees' Retirement System. The Washington Public Safety Employees' Retirement System (PSERS) is a separate retirement system for public employees whose jobs contain a high degree of physical risk to their own personal safety. Chapter 41.37 RCW takes effect July 1, 2006.

Process for Developing New Rule: The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. 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. DRS encourages your active participation in the rule-making process. 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. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

May 18, 2005
 Leslie Saeger
 Rules Coordinator

WSR 05-12-020
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 20, 2005, 3:20 p.m.]

Subject of Possible Rule Making: One-time purchase of additional service credit.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will implement 2004 and 2005 legislation allowing Plan 2 and 3 members of PERS, SERS and TRS, and Plan 2 members of LEOFF an opportunity to purchase up to five years of additional service credit at the time of retirement. Purchase price is actuarial value.

Process for Developing New Rule: The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. 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. DRS encourages your active participation in the rule-making process. 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. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

May 18, 2005
 Leslie Saeger
 Rules Coordinator

WSR 05-12-029
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 24, 2005, 9:14 a.m.]

Subject of Possible Rule Making: Chapter 296-62 WAC, Part Q, Hazardous Chemicals in Laboratories.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite the requirements related to using hazardous chemicals in laboratories. Our intent is to identify unnecessary requirements and outdated terminology, integrate necessary policies and requirements, and rewrite and reorganize the rule for clarity.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kimberly Johnson, Project Manager, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5008, fax (360) 902-5529.

May 24, 2005
 Judy Schurke
 for Gary K. Weeks
 Director

WSR 05-12-034

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed May 24, 2005, 4:10 p.m.]

Subject of Possible Rule Making: WAC 415-02-500
Property division in dissolution orders.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To correct WAC and RCW citations and clarify language as required.

Process for Developing New Rule: The Department of Retirement Systems (DRS) will develop the draft rule(s) with the assistance of the Attorney General's Office. 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. DRS encourages your active participation in the rule-making process. 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. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

May 23, 2005

Leslie Saeger
Rules Coordinator

WSR 05-12-046

**PREPROPOSAL STATEMENT OF INQUIRY
EXECUTIVE ETHICS BOARD**

[Filed May 25, 2005, 4:40 p.m.]

Subject of Possible Rule Making: Clarifying the term "lobby" as it applies to RCW 42.52.380 and clarifying the board's meeting schedule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.52.360 (2)(b).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarifies that written communication qualifies as an appearance by a board member when communicating to members of the legislature and state officials on matters pertaining to chapter 42.52 RCW.

Amending WAC 292-130-030 to indicate that the board meets on the 2nd Friday of each month except the months of August and December.

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 board will seek input from stakeholders and others who may be interested in this subject matter.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Susan Harris, Executive Director, 2425 Bristol Court, 1st Floor, Olympia, WA 98504-0149, (360) 664-0871. Written comments must be delivered no later than July 5, 2005. Comments will be reviewed by the board at its July regular meeting. The board will then proceed with rule making.

May 23, 2005

Susan Harris
Executive Director

WSR 05-12-062

**PREPROPOSAL STATEMENT OF INQUIRY
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed May 27, 2005, 10:18 a.m.]

Subject of Possible Rule Making: WAC 139-10-550
Basic arrest, search, and seizure academy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 and 43.101.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, the arrest, search, and seizure week is part of the Community Corrections Officer Academy. Each iteration multiple students attend just this portion of the academy. These students are usually transferring from corrections counselor or classification counselor positions within the institutions and have already completed a majority of the academy. These additional students cannot be tracked with the present system and, therefore, do not show up in the commission's records as having attended and completed training in this area. This change would allow the commission to document the students' attendance and successful completion of this important aspect of community corrections officers basic training.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency web site.

May 27, 2005

Michael D. Parsons
Executive Director

PREPROPOSAL

WSR 05-12-063
PREPROPOSAL STATEMENT OF INQUIRY
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed May 27, 2005, 10:20 a.m.]

Subject of Possible Rule Making: WAC 139-10-212
 Physical requirements for admission to basic corrections academies.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 and 43.101.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This language change is being made, because the Juvenile Security Workers Academy's name was changed to the Juvenile Corrections Officers Academy in September 2004.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency web site.

May 27, 2005
 Michael D. Parsons
 Executive Director

WSR 05-12-064
PREPROPOSAL STATEMENT OF INQUIRY
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed May 27, 2005, 10:21 a.m.]

Subject of Possible Rule Making: WAC 139-10-210
 Requirement of basic corrections training.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 and 43.101.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, the arrest, search, and seizure week is part of the Community Corrections Officer Academy. Each iteration multiple students attend just this portion of the academy. These students are usually transferring from corrections counselor or classification counselor positions within the institutions and have already completed a majority of the academy. These additional students cannot be tracked with the present system and, therefore, do not show up in the commission's records as having attended and completed training in this area. This change would allow the commission to document the students' attendance and successful completion of this important aspect of community corrections officers training. Adding this block into the definition will clarify that both of these academies are required for certification as a community corrections officer.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sonja Hirsch, Confidential Secretary, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone (206) 835-7372, fax (206) 439-3860. Stakeholders were contacted by e-mail to advise them of the intended rule amendments. Proposal also listed on the agency web site.

May 27, 2005
 Michael D. Parsons
 Executive Director

WSR 05-12-100
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed May 27, 2005, 11:37 a.m.]

Subject of Possible Rule Making: Chapter 458-61 WAC, Real estate excise tax.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300, 82.01.060(2), and 82.45.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 458-61 WAC provides tax reporting information to persons who sell real estate in Washington, or who transfer a controlling interest in an entity that owns real estate in this state. The rules explain who is liable for the tax, how and when the tax imposed by chapter 82.45 RCW is paid, and the record-keeping requirements.

The department anticipates revising chapter 458-61 WAC to update existing information, more clearly and completely explain department practices in administering the tax, and incorporate legislative amendments to chapter 82.45 RCW. The department anticipates consolidating several of the existing rules, and organizing the chapter in a more "user friendly" format.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

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 rules will be available via the department's web site at www.dor.wa.gov after June 23, 2005. Written comments on and/or requests for copies of the rule may be directed to Margaret J. Partlow, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, e-mail margaretpa@dor.wa.gov, phone (360) 570-6123, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor Large Executive Conference Room, 1025 Union Avenue S.E., Olympia, WA, on July 13, 2005, at 10:00 a.m.

May 27, 2005
 Alan R. Lynn
 Rules Coordinator

WSR 05-12-112
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 31, 2005, 10:39 a.m.]

Subject of Possible Rule Making: Chapter 296-811 WAC, Fire brigades and chapter 296-24 WAC, Safety standards for general safety and health.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to rewrite and clarify requirements relating to fire brigades. The department is repealing rules located in chapter 296-24 WAC and proposing fire brigades as new chapter 296-811 WAC. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies, other than Occupational Safety and Health Administration (OSHA), and possibly the State Fire Marshal are known that regulate this subject.

Process for Developing New Rule: The department must adopt rules identical to or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Ireland, Project Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, (360) 902-5522, fax (360) 902-5529, e-mail mooc235@lni.wa.gov.

May 31, 2005
 Gary Weeks
 Director

WSR 05-12-113
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 31, 2005, 10:40 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, 51.36.020(7), and chapter 411, Laws of 2005 (EHB 2185).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To implement the provisions of EHB 2185, the proposed rules would establish guidelines and processes for providing residence modification assistance to workers who have sustained catastrophic injury.

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 share the proposal with stakeholders and other interested parties, including the Workers' Compensation Advisory Committee members. Parties interested in receiving a copy of the proposal may contact the person listed below. The public may also participate by providing written comments during the comment period or giving oral testimony at public hearings.

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, P.O. Box 44208, Olympia, WA 98504-4208, phone (360) 902-4583, fax (360) 902-4960, colb235@lni.wa.gov.

May 31, 2005
 Gary Weeks
 Director

WSR 05-12-115
PREPROPOSAL STATEMENT OF INQUIRY
PROFESSIONAL EDUCATOR
STANDARDS BOARD
 [Filed May 31, 2005, 10:54 a.m.]

Subject of Possible Rule Making: Chapter 181-01 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.210, 28A.410.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW provides that the Professional Educator Standards Board may establish exemptions to the subject knowledge (WEST-E/Praxis li) assessment requirement.

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 contacting Esther Baker at (360) 725-6277, or send written comments to the Professional Educator Standards Board, Old Capitol Building, 600 Washington Street South, Room 249, P.O. Box 47236, Olympia, WA 98504-7236 or PESB web site www.pesb.wa.gov.

May 31, 2005
 Esther Baker
 Program Director
 Teacher Assessments

WSR 05-12-124
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed June 1, 2005, 9:30 a.m.]

The Department of Licensing hereby withdraws WSR 04-09-031 filed with your office on April 13, 2004.

Steve Boruchowitz
 Vehicle Services
 Policy and Project Office

WSR 05-12-129
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 05-10—Filed June 1, 2005, 10:31 a.m.]

Subject of Possible Rule Making: This will be a new rule, chapter 173-423 WAC, to implement ESHB 1397 which directs ecology to adopt rules implementing California motor vehicle emissions standards. The rule will require that new vehicles registered, leased, rented, or sold for use in the state after 2009 meet the applicable California standards and requirements from Title 13 of the California Code of Regulations. The rule will specify any exemptions allowed and the reporting and compliance procedures for sales and registration of California certified vehicles in Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: ESHB 1397, signed into law on May 6, 2005, directs ecology to adopt rules to implement the statute.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The standards and procedures for implementing the statute need to be in rule. Sections of the rule needed to establish the applicability of the California standards in Washington must be completed by December 31, 2005, in order to give manufacturers required notice for application to the 2009 model years. Rules to accomplish notification of manufacturers will likely be filed before other rule provisions. The other sections of the rule will include compliance procedures for auto dealers and provisions regarding vehicle registration by dealers and individuals. Department of Licensing may also develop a rule regarding vehicle registration procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The U.S. Environmental Protection Agency regulates vehicle emissions under the U.S. Clean Air Act. Section 177 of the Clean Air Act allows states to adopt and enforce the more stringent California vehicle emission standards instead of having EPA standards apply. Ecology will consult as needed with EPA, California and other states using the section 177 option. Washington State Department of Licensing is a major stakeholder and will be on rule advisory committee.

Process for Developing New Rule: ESHB 1397 requires ecology to convene an advisory committee with industry and consumer representatives and provide for review and comment by that committee. Ecology will convene such a committee of interested parties and meet with them periodically

to develop and finalize a new rule, to implement ESHB 1397. Ecology will seek a broad consensus of the committee on this rule although ecology will make the final decision on content of the rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. For more information about this rule-making process, the advisory committee, or how to be kept informed; contact Bob Saunders, Air Quality Program, P.O. Box 47600, Department of Ecology, (360) 407-6888, rsau461@ecy.wa.gov.

May 31, 2005
 Stuart A. Clark
 Program Manager
 Air Quality Program

WSR 05-12-131
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 1, 2005, 10:48 a.m.]

Subject of Possible Rule Making: The department will amend all necessary sections in Title 388 WAC to implement annual adjustments to standards for WASHCAP (Washington combined application project) and the Washington Basic Food program. Changes include updates to the following standards for federal fiscal year 2006: Income standard, maximum allotment, maximum shelter deduction standard, standard deduction, standard utility allowances, WASHCAP shelter cost standard, and WASHCAP opt-out standard. These changes include amendments to the following WAC sections and any related rules: WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, 388-450-0195 Utility allowances for Basic Food programs, 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?, 388-492-0040 Can I choose whether I get WASHCAP food benefits or Basic Food benefits?, and 388-492-0070 How are my WASHCAP benefits calculated?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.500, 74.04.510, 74.08.090, 7 C.F.R. 273.9 (d)(6).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These standards are required by federal regulations and approved department waivers. These standards must be adjusted annually in order to determine a client's eligibility and benefit level for WASHCAP or the Washington Basic Food program.

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 Service (FNS) annually adjust income and payment standards, the standard deduction, and maximum shelter deductions for the upcoming federal fiscal year. FNS also

requires that the department adjust the food stamp utility allowance and WASHCAP standards on an annual basis. DSHS adopts the new FNS standards into administrative rule. The department adjusts WASHCAP standards as required under the department's approved waiver based on changes to the consumer price index. The department determines the Basic Food standard utility allowance by applying the consumer price index to a utility market basket survey and adopting the new amounts under administrative rule.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. A copy of the draft will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Policy Analyst, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4616, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

May 31, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-12-137

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed June 1, 2005, 10:53 a.m.]

Subject of Possible Rule Making: WAC 458-20-229 Refunds.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-20-229 describes tax refund procedures. The department is considering revisions to WAC 458-20-229 to: (1) Clarify the application of statutory time limits on the granting of refunds, including requiring refund applications to be complete when the time limits expire, or reasonably soon thereafter; (2) explaining the effects of *Paccar, Inc. v. Dept. of Revenue*, 135 Wash. 2d 301, 957 P.2d 669 (Wash. 1998); (3) incorporating legislation affecting how interest for refunds is computed (e.g., chapter 73, Laws of 2003); (4) adding specific factual examples to demonstrate the rule's operation; and (5) generally rewriting and reorganizing the rule to make it more complete and easier to use.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agency regulates the Department of Revenue's internal procedures for granting tax refunds.

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments

throughout this rule making or giving oral testimony at the public meeting or public hearing.

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 Gilbert Brewer, Interpretations and Technical Advice Unit, P. O. Box 47453, Olympia, WA 98504-7453, e-mail gilb@dor.wa.gov, phone (360) 570-6133, fax (360)586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, Large L&P Conference Room, 1025 Union Avenue S.E., Olympia, WA, on July 11, 2005, at 9:30 a.m.

June 1, 2005

Alan R. Lynn
Rules Coordinator

WSR 05-12-138

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed June 1, 2005, 10:53 a.m.]

Subject of Possible Rule Making: WAC 458-20-173 Services on tangible personal property.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule explains the business and occupation (B&O), retail sales, and use tax reporting responsibilities of persons installing, cleaning, decorating, beautifying, repairing, imprinting, or otherwise altering or improving tangible personal property (collectively referred to as "services on tangible personal property" in this rule). This rule also explains the use tax responsibilities of consumers when the seller fails to collect retail sales tax on these services.

The department is considering a revision to this rule to recognize a statutory change imposing use tax on services on tangible personal property (chapter 367, Laws of 2002). The department is also planning to incorporate additional information (e.g., explaining that the exemption provided for sales of tangible personal property in RCW 82.08.0273 does not apply to any portion of the charge for repair services), add examples to clarify the tax application in certain circumstances, and reformat the rule to provide the information in a clearer and more useful manner.

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

Process for Developing New Rule: Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

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

lication. 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 Allan C. Lau, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-47453 [98504-7453], phone (360) 570-6134, fax (360) 664-0693.

Public Meeting Location: Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on July 11, 2005, at 1:30 p.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) 725-7499.

June 1, 2005

Alan R. Lynn
Rules Coordinator

WSR 05-12-140

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Environmental Health)
(Office of Radiation Protection)**

[Filed June 1, 2005, 10:55 a.m.]

Subject of Possible Rule Making: Clarification of chapter 246-247 WAC, Radiation protection—Air emission, one possible outcome could be development of a second chapter to separately address facilities subject to United States Nuclear Regulatory Commission rules versus Environmental Protection Agency rules for regulation of radioactive air emission sources.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.98.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarification of the rules have been requested by licensees and federal agencies (Department of Energy (DOE) and Environmental Protection Agency (EPA)). It may be necessary to provide a new chapter to address NRC regulations separately for those of EPA regulations.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The agency will coordinate with the Department of Ecology and the United States Nuclear Regulatory Commission and Environmental Protection Agency in developing consistent regulations.

Process for Developing New Rule: A workgroup is being formed to gather input about the formation of these rules. People interested in attending meetings should contact Allen W. Conklin (see below). Other input will be solicited through mailings and the department's web site.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Allen W. Conklin, Washington Department of Health, Office of Radiation Protection, P.O. Box

47827, Olympia, WA 98504-7827, phone (360) 236-3261, e-mail al.conklin@doh.wa.gov, fax (360) 236-2256.

May 27, 2005

M. C. Selecky
Secretary

WSR 05-12-145

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed June 1, 2005, 11:39 a.m.]

Subject of Possible Rule Making: Chapter 180-08 WAC, Practice, procedure and access to public records and chapter 180-10 WAC, Access to public records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220, 28A.305.102, 28A.04.120 recodified as RCW 28A.305.130, 42.17.010, 42.17.020 and 42.17-250 through [42.17.]340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005

Larry Davis
Executive Director

WSR 05-12-146

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed June 1, 2005, 11:40 a.m.]

Subject of Possible Rule Making: Chapter 180-16 WAC, State support of public schools and chapter 180-18 WAC, Waivers for restructuring purposes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.220(4), 28A.304.140, and 28A.655.180(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the fol-

lowing, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005

Larry Davis
Executive Director

WSR 05-12-147

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:40 a.m.]

Subject of Possible Rule Making: Chapter 180-20 WAC, School bus driver qualifications.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.160.210.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005

Larry Davis
Executive Director

WSR 05-12-148

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:41 a.m.]

Subject of Possible Rule Making: Chapter 180-22 WAC, Educational service districts and chapter 180-24 WAC, School district organization.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.310.020, 28A.310.080, 28A.305.130 (10), 28A.315.015 (2)(e), 28A.315.175, and 28A.315.195(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005

Larry Davis
Executive Director

WSR 05-12-149

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:42 a.m.]

Subject of Possible Rule Making: Chapter 180-85 WAC, Professional certification—Continuing education requirement; chapter 180-86 WAC, Professional certification—Policies and procedures for administration of certification proceedings; chapter 180-87 WAC, Professional certification—Acts of unprofessional conduct; and chapter 180-88 WAC, Definitions of sexual misconduct, verbal abuse and physical abuse—Mandatory disclosure—Prohibited agreements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010, 28A.195.010 (3)(a), 28A.410.090, 28A.400.301.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or

provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005
Larry Davis
Executive Director

WSR 05-12-150

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed June 1, 2005, 11:42 a.m.]

Subject of Possible Rule Making: Chapter 180-90 WAC, Private schools.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.195.040 and 28A.225.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005
Larry Davis
Executive Director

WSR 05-12-151

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed June 1, 2005, 11:43 a.m.]

Subject of Possible Rule Making: Chapter 180-95 WAC, Education centers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.205.010, 28A.205.020, 28A.205.030, 28A.205.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

Process for Developing New Rule: Negotiated rule making; and 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 contacting Larry Davis, Executive Director, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005
Larry Davis
Executive Director

WSR 05-12-152

**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed June 1, 2005, 11:43 a.m.]

Subject of Possible Rule Making: Chapter 180-96 WAC, General education development (GED) test.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.205.190.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005
Larry Davis
Executive Director

WSR 05-12-153
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:44 a.m.]

Subject of Possible Rule Making: Chapter 180-97 WAC, Excellence in teacher preparation award.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.625.380.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-154
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:45 a.m.]

Subject of Possible Rule Making: Chapter 180-25 WAC, State assistance in providing school plant facilities—Preliminary provisions; chapter 180-26 WAC, State assistance in providing school plant facilities—Educational specifications and site selection; chapter 180-27 WAC, State assistance in providing school plant facilities—Basic state support; chapter 180-29 WAC, State assistance in providing

school plant facilities—Procedural regulations; chapter 180-31 WAC, State assistance in providing school plant facilities—Interdistrict cooperation in financing school plant construction; chapter 180-32 WAC, State assistance in providing school plant facilities—Interdistrict transportation cooperatives; chapter 180-33 WAC, State assistance in providing school plant facilities—Modernization; chapter 180-34 WAC, Real property sales contracts; and chapter 180-36 WAC, Central purchasing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.310.020, 28A.310.080, 28A.305.130 (10), 28A.315.015 (2)(e), 28A.315.175, and 28A.315.195(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-155
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:45 a.m.]

Subject of Possible Rule Making: Chapter 180-37 WAC, Pupils—Nonpublic agencies; chapter 180-38 WAC, Pupils—Immunization requirement and life-threatening health conditions; chapter 180-39 WAC, Pupils—Uniform entry qualifications; chapter 180-40 WAC, Pupils; and chapter 180-41 WAC, Pupil safety.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.155.060, [28A.]210.160, [28A.]225.160, 28A.305.160, 28A.600.200, 28A.305.130(11).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-156

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:46 a.m.]

Subject of Possible Rule Making: Chapter 180-43 WAC, Interscholastic activities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.600.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-157

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:47 a.m.]

Subject of Possible Rule Making: Chapter 180-44 WAC, Teachers' responsibilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130 and 28A.600.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-158

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:47 a.m.]

Subject of Possible Rule Making: Chapter 180-46 WAC, Library media centers..

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.320.240.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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7206, (360) 725-6025, fax (360) 586-2357, e-mail ldavis@ospi.wednet.edu or sbe@ospi.wednet.edu. Rule changes are conducted at regular meetings of the State Board of Education. Written correspondence should be addressed to "Rules Coordinator" at the address above.

May 31, 2005

Larry Davis
Executive Director

WSR 05-12-159

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:48 a.m.]

Subject of Possible Rule Making: Chapter 180-50 WAC, Courses of study and equivalencies; chapter 180-51 WAC, High school graduation requirements; chapter 180-52 WAC, Parents' rights regarding pupil testing and record keeping; chapter 180-55 WAC, School accreditation; chapter 180-56 WAC, Secondary education; and chapter 180-87 WAC, Secondary education—Standardized high school transcript.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.3-5.130 [28A.305.130] (8) and (9), 28A.305.130, 28A.305.130 (6) and (5), 28A.305.220.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005

Larry Davis
Executive Director

WSR 05-12-160

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:49 a.m.]

Subject of Possible Rule Making: Chapter 180-72 WAC, Adult education.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.090 and 28B.50.535.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005

Larry Davis
Executive Director

WSR 05-12-161

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:49 a.m.]

Subject of Possible Rule Making: Chapter 180-77 WAC, Standards for career and technical education certification and chapter 180-77A WAC, Approval standards for career and technical education teacher preparation programs based on business and industry work experience.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-162
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:50 a.m.]

Subject of Possible Rule Making: Chapter 180-78A WAC, Approval standards for performance-based preparation programs for teachers, administrators, and educational staff associates; chapter 180-79A WAC, Standards for teacher, administrator, and educational staff associate certification; chapter 180-81 WAC, Professional certification—Masters in teaching degree; chapter 180-82 WAC, Certificate endorsements and assignment of certificated personnel; and chapter 180-82A WAC, Performance-based teacher certificate endorsements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.301.130 (1) through (4), 28A.410.010, 28A.305.130(5), 28A.194.010 (3)(a), 28A.150.220(4), 28A.150.250, 28A.150.260, 28A.150.220, and chapter 28A.410 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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May 31, 2005
Larry Davis
Executive Director

WSR 05-12-163

PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed June 1, 2005, 11:51 a.m.]

Subject of Possible Rule Making: Chapter 180-83 WAC, Internships.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.415.020 and 28A.415.025.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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May 31, 2005
Larry Davis
Executive Director

WSR 05-10-098
PROPOSED RULES
NORTHWEST
CLEAN AIR AGENCY
 [Filed May 4, 2005, 9:40 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Northwest Clean Air Agency Regulation.

Hearing Location(s): Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, on July 14, 2005, at 1:30 p.m.

Date of Intended Adoption: July 14, 2005.

Submit Written Comments to: James B. Randles, Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, jamie@nwcleanair.org, fax (360) 428-1620, by July 14, 2005.

Assistance for Persons with Disabilities: Contact Scott Allison by June 30, 2005, (360) 428-1617, ext. 200.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The regulation amendments will allow the NWCAA to clarify various sections of our rules.

Amendatory Sections:

SECTION 100 NAME OF AGENCY. Revise to facilitate agency name change.

SECTION 102 POLICY. Delete subsection 102.7 regarding alternative compliance methods so as to eliminate Control Officer discretion.

SECTION 104 ADOPTION OF STATE AND FEDERAL LAWS AND RULES. Update to accommodate new or revised rules.

SECTION 131 VIOLATION - NOTICES. Clarify enforcement procedures and authority.

SECTION 133 CIVIL PENALTY. Clarify enforcement procedures and increase maximum civil penalty to account for inflation.

SECTION 200 DEFINITIONS. Amend to provide regulatory clarification.

SECTION 300 NEW SOURCE REVIEW. Minor revisions to be more consistent with the state new source review (NSR) program found in WAC 173-400-110 and add a subsection requiring a source to comply with issued approval orders.

SECTION 301 TEMPORARY SOURCES. Limit nonroad regulation to those that operate in a stationary manner.

SECTION 320 REGISTRATION PROGRAM. Minor clarifications.

SECTION 324 FEES. Clarify fee categories and update fee schedules through calendar year 2007.

SECTION 325 TRANSFER OR PERMANENT SHUTDOWN. Rename section and add notification and lockout requirements for sources that are permanently shutdown.

SECTION 340 REPORT OF UPSET AND BREAKDOWN. Revise reporting requirements for breakdown and upsets events that exceed emissions limits.

SECTION 341 REPORT OF SHUTDOWN OR STARTUP. Minor clarifications, reduce the time required for the advanced notification, and add reporting requirement for shutdowns or startups that exceed emission limits.

SECTION 342 OPERATION AND MAINTENANCE. Clarification and simplification of the section.

SECTION 424 OZONE STANDARD. Revise to reflect the new federal 0.08 ppm, 8-hour ambient ozone standard.

SECTION 460 WEIGHT/HEAT RATE STANDARD - EMISSION OF SULFUR COMPOUNDS. Clarifications and eliminate the exemption.

SECTION 550 PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE. Minor clarifications and revise the control standard from Best Available Control Technology (BACT) to Reasonable Available Control Technology (RACT) because RACT is applicable only to existing sources per the Washington State Clean Air Act.

SECTION 570 ASBESTOS CONTROL STANDARDS. Revise criteria for asbestos removal notification, remove optional notification amendments and adjust notification fee schedule.

SECTION 590 PERCHLOROETHYLENE DRY CLEANERS. Add requirement to keep records on-site and available for inspection.

Repealers:

SECTION 130 CITATIONS - NOTICES. Section is not necessary for enforcement.

SECTION 312 ENVIRONMENTAL POLICY GUIDELINES. Rules pertaining to Environmental Policy Guidelines (SEPA) are now being addressed by incorporating chapter 197-11 WAC by reference in Section 104.

SECTION 360 TESTING AND SAMPLING. These requirements are now contained in new Section 367 and Appendix A.

SECTION 365 MONITORING. These requirements are now contained in new Section 367 and Appendix A.

SECTION 366 INSTRUMENT CALIBRATION. These requirements are now contained in new Section 367 and Appendix A.

SECTION 480 SOLID FUEL BURNING DEVICE STANDARDS. This section is being replaced by Section 506.

New Sections:

SECTION 305 PUBLIC INVOLVEMENT. Details the process for public involvement when handling Notice of Construction (NOC) application, Orders of Approval to Construct (OAC) revisions and other actions. This section is being added as a replacement for following WAC 173-400-171.

SECTION 367 GENERAL REQUIREMENTS FOR MONITORING AND TESTING. Rewrite requirements for operating ambient and continuous emission monitors and requirements for stack source testing. Section 367 and Appendix A replaces Sections 360, 365, 366 and the NWCAA "Guidelines for Industrial Monitoring Equipment and Data Handling" that previously applied to these activities.

SECTION 403 PARTICULATE STANDARDS (PM-2.5). Add new federal ambient standard for fine particulate.

SECTION 502 OUTDOOR BURNING. Add definitions and add provision to deny fire permit issuance to a party if there is an outstanding penalty.

SECTION 506 SOLID BURNING DEVICE STANDARDS. Repeal existing Section 480 and rewrite under Section 506. Revisions include minor clarifications, new requirements for the installation of solid fuel heating devices, and clarify under which conditions a resident can get an exemption during burn bans.

PROPOSED

APPENDIX A - AMBIENT MONITORING, EMISSION TESTING, AND CONTINUOUS EMISSION AND OPACITY MONITORING. Rewrite requirements for operating ambient and continuous emission monitors. Section 367 and Appendix A replace Sections 360, 365, 366 and the NWCAA "Guidelines for Industrial Monitoring Equipment and Data Handling."

NWCAA Regulation Revision Timeline

Table with 2 columns: Event and Date. Rows include State Register submittal (5/4/05), Public Notice (30 days) (6/14/05 => 7/14/05), SEPA (14 days) (6/30/05 => 7/14/05), NWCAA Board hearing and adoption (7/14/05), and Effective Date (30 days after CR-103 stamped).

Statutory Authority for Adoption: Chapter 70.94 RCW.

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

Name of Proponent: Northwest Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Dan Mahar, 1600 South Second Street, Mount Vernon, (360) 428-1617, ext. 203; Implementation and Enforcement: James B. Randles, 1600 South Second Street, Mount Vernon, WA, (360) 428-1617, ext. 208.

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

A cost-benefit analysis is not required under RCW 34.05.328.

May 3, 2005
James B. Randles
Control Officer

AMENDATORY SECTION

SECTION 100 - NAME OF AGENCY ((AUTHORITY))

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70.94, shall be known and cited as the "Northwest ((Air Pollution Authority)) Clean Air Agency", and hereinafter may be cited as ((NWAPA)) the "NWCAA" or the "Authority".

100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

Amended: July 14, 2005

AMENDATORY SECTION

SECTION 102 - POLICY

.....
((102.7 Where the safety of individuals may be compromised by carrying out the requirements of the Authority, alternative methods of meeting emission standards or other requirements of this Regulation may be approved by the Control Officer.))

Passed: January 8, 1969 Amended: February 14, 1973, August 9, 1978, February 10, 1993, May 11, 1995, July 14, 2005

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation of the NWCAA ((Authority)), is hereby adopted by reference and made part of the Regulation of the NWCAA ((Authority)). Specifically, there is adopted by reference the Washington State Clean Air Act (RCW 70.94), the Administrative Procedure Act (RCW 34.05) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, (except - 035, - 070(8), -099, -100, -101, -102, -104, -110, -114, -116, -171), WAC 173-401, WAC 173-407, WAC 173-420, WAC 173-421, WAC 173-422, WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC 173-435, WAC 173-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, WAC 173-480, WAC 173-481, WAC 173-490, WAC 173-491, WAC 173-492, WAC 173-495, ((and)) WAC 173-802, and WAC 197-11.

104.2 All provisions of the following federal rules that are in effect as of July 1, ((2003)) 2005 are hereby adopted by reference and made part of the Regulation of the NWCAA ((Authority)): 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAA((a)), BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, BBBB, CCCC, DDDD; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, J, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, III, JJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, GGGGG, HHHHH, IIII, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP

PROPOSED

QQQQ, RRRR, SSSS, TTTT; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

REPEALER

SECTION 130 - CITATIONS - NOTICES

AMENDATORY SECTION

SECTION 131 - VIOLATION - NOTICES

131.1 If the Board or Control Officer has reason to believe that a violation of this Regulation has occurred or is occurring, the Board, ~~((or))~~ Control Officer, or duly authorized representative may ~~((with or without notice as specified in Section 130,))~~ cause written notice of violation to be served upon the alleged violator and the facts alleged to constitute a violation thereof. Written notice shall be served at least thirty days prior to the commencement of the imposition of a penalty ~~((any formal enforcement action))~~ under RCW 70.94.430 and 70.94.431.

131.2 The Board, ~~((or))~~ Control Officer, or duly authorized representative upon issuance of notice of violation may do any or all of the following:

131.21 Require that the alleged violator respond in writing or in person within thirty (30) ~~((ten-(10)-business))~~ days of the notice and specify the corrective action being taken.

131.22 Issue an order pursuant to Section 121 of this Regulation.

131.23 Initiate action pursuant to Sections 132, 133, 134 and 135 of this Regulation.

131.24 Hold a hearing pursuant to Section 120 of this Regulation.

131.25 Require the alleged violator or violators appear before the Board.

131.26 Avail itself of any other remedy provided by law.

131.3 Failure to respond as required in Section 131.21 shall constitute a prima facie violation of this Regulation and the Board or Control Officer may initiate action pursuant to Section 132, 133, 134, 135 of this Regulation.

131.4 Any suspended civil penalty, issued under Section 133 of this Regulation, which is issued as part of a violation shall be applicable in future penalties against the same person for not more than five years from the date of the same suspension. After five years the suspended portion of the Penalty shall be considered void and of no force or effect, appeals notwithstanding.

Amended: April 14, 1993, March 13, 1997, July 14, 2005

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, Chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Clean Air Agency shall be liable for a civil penalty in an amount of not more than fourteen thousand five hundred dollars ~~(((\$14,000)))~~ (\$14,500) per day per violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than fourteen thousand five hundred dollars ~~(((\$14,000)))~~ (\$14,500) for each day of continued noncompliance.

133.2 Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this Section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the NWCAA ~~((Authority))~~ describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board (PCHB). Within ~~((fifteen days))~~ thirty days after the notice is received, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty. If the amount of such penalty is not paid to the NWCAA ~~((Authority))~~ within thirty (30) days after receipt of notice imposing the same and request for a hearing has not been made, the attorney for the NWCAA ~~((Authority))~~, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of Skagit County or of the County in which the violation occurred. All penalties recovered under this Section by the Board shall be paid unto the treasury of the NWCAA ~~((Authority))~~ and credited to its funds.

To secure the penalty incurred under this Section, the NWCAA ~~((Authority))~~ shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60.36.050.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in this Section may be increased annually to account for inflation as determined by the state office of the Economic and Revenue Forecast Council.

In addition to other penalties provided, persons knowingly under reporting emissions or other information used to

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set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.

AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

REPEALER

SECTION 180 - SAMPLING AND ANALYTICAL METHODS - REFERENCES

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

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~~((AUTHORITY - Northwest Clean Air Agency (NWCAA). With regard to new source review, Authority shall include any other designated permitting agency.))~~

HEAT INPUT ((HEAT)) CAPACITY - Is the maximum actual or design heat capacity, whichever is greater, stated in British thermal units per hour (BTU/hr) generated by the stationary source and shall be expressed using the higher heating value of the fuel unless otherwise specified.

NEW SOURCE - means one or more of the following:

a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emission of any air contaminant not previously emitted, ~~((; and))~~

b) the restart of a stationary source after permanent shutdown

~~((b))~~ c) any other project that constitutes a new stationary source under the Federal Clean Air Act.

PERMANENT SHUTDOWN - Permanently stopping or terminating all processes at a "stationary source" or "emissions unit." Except as provided in subsections a) and b), whether a shutdown is permanent depends on the intention of the owner or operator at the time of the shutdown as determined from all facts and circumstances, including the cause of the shutdown.

a) A shutdown is permanent if the owner or operator files a report of shutdown, as provided in NWCAA Regulation Sections 325. Failure to file such a report does not mean that a shutdown was not permanent.

b) Any shutdown lasting two (2) or more years is considered to be permanent.

~~((SIGNIFICANT - a) "Significant," as it applies to stationary sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112. b) "Significant" as it applies to stationary sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.))~~

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the ~~((Authority))~~ NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) ~~((and))~~ or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this Section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

.....

300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA ((Authority)) shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 ((WAC 173-400-171)) on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-141, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA ((Authority)).

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and

2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the pollution control hearings board as

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provided in chapter 43.21B RCW. The NWCAA ((Authority)) shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA ((Authority)) may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA ((Authority)) may approve the request provided the NWCAA ((Authority)) finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA ((Authority)) to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and

5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-141, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA ((Authority)). Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA ((Authority)) may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA ((Authority)) shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA ((Authority)) shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA ((Authority)) issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA ((Authority)) takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA ((Authority)) may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 Incorporation of State NSR Regulations

In order to facilitate complete implementation of this Section, WAC 173-400(~~112~~)-112, -113, -117, ~~-700, -710, -720, -730, -740, and -750~~ ((and ~~171~~)) are hereby incorporated by reference.

300.15 Order of Approval - Requirements to Comply

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

PASSED: November 12, 1998 Amended: November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 301 - TEMPORARY SOURCES

301.1 This section applies to temporary sources not exempt under NWCAA 300.4 or 300.5, which locate temporarily at sites within the jurisdiction of the NWCAA ((Authority)). Nonroad engines regulated by this section are limited to those listed in a)3) of the definition of "nonroad engine" found in Section 200 of this Regulation (i.e., those

that are portable or transportable, but operate in a stationary manner). The regulation of nonroad engines under this section is subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 - State Regulation of Nonroad Internal Combustion Engines.

301.2 The owner or operator of a temporary source shall be allowed to operate at a temporary location without filing a Notice of Construction application or, for nonroad engines, obtaining a regulatory order from the NWCAA ((Authority)) providing that:

a) The owner or operator notifies the NWCAA ((Authority)) each calendar year of the intent to operate within the jurisdiction of the NWCAA ((Authority)) at least fifteen (15) days prior to starting operation and pays the appropriate fees identified in NWCAA Section 324.1;

b) The owner or operator notifies the NWCAA ((Authority)) of the intent to relocate within the jurisdiction of the NWCAA ((Authority)) at least fifteen (15) days prior to relocation;

c) The owner or operator supplies sufficient information to enable the NWCAA ((Authority)) to determine that the operation will comply with all applicable air pollution rules and regulations;

d) The operation does not cause a violation of ambient air quality standards;

e) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards;

f) The temporary source operates in compliance with all applicable air pollution rules and regulations;

g) A temporary source that is considered a major stationary source within the meaning of WAC 173-400-113 shall also comply with the requirements in WAC 173-400-141;

h) Except for nonroad engines, all temporary sources shall have a valid Order of Approval to Construct from an air quality permitting organization in the State of Washington. The temporary source shall operate in compliance with the conditions set forth in the Order of Approval to Construct. Any reports required by the Order of Approval to Construct shall be submitted to the NWCAA ((Authority));

i) Permission to operate shall not exceed ninety (90) operating days in any calendar year anywhere within the jurisdiction of the NWCAA. The NWCAA ((Authority)) may set specific conditions for operating during that time period. No source shall continue to operate beyond the allowable 90-day period unless an Order of Approval to Construct, or for nonroad engines, a regulatory order, has been issued by the NWCAA ((Authority)). For the purpose of this section, an operating day shall be considered any time equipment operates within a calendar day; and

j) Except for nonroad engines, based on the source type and emission quantity, temporary sources may be subject to new source review at the discretion of the Control Officer.

PASSED: November 12, 1998 Amended: March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005

NEW SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA, and for each proposed revision to an Order of Approval to Construct (OAC) for which there is no associated NOC application. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and

(3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period shall be received by the NWCAA via letter, facsimile, or electronic mail within 15 days of the initial date of the internet posting. A public notice and comment period shall be provided in accordance with this Section, for any NOC application or proposed OAC revision that receives such a request. Any NOC application or proposed OAC revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period.

305.2 Actions Requiring Public Notice and Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with 305.3 through 305.8 of this Section, before approving or denying any of the following types of applications or other actions:

(1) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2005) as part of review under Section 300 of this Regulation;

(2) Any order to determine Reasonably Available Control Technology (RACT);

(3) Any order to establish a compliance schedule or a variance;

(4) Any order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;

(5) Any order to authorize an emissions bubble pursuant to WAC 173-400-131;

(6) Any regulatory order to establish or debit of emission reduction credits (ERC);

(7) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit;

(8) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area;

(9) The original issuance and any revisions to a general Order of Approval issued under WAC 173-400-560;

(10) Any Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest;

(11) Any Notice of Construction application or proposed Order of Approval to Construct revision that receives a request for a public comment period in accordance with 305.1 of this Section.

(12) Any Notice of Construction application or proposed Order of Approval to Construct revision that would result in a significant emissions increase defined as follows.

Air Pollutant	Potential to Emit in Tons per Year
Carbon Monoxide (CO)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide (SO ₂)	40.0
Nitrogen Oxides (NO _x)	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM-10)	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist (H ₂ SO ₄)	7.0
Hydrogen Sulfide (H ₂ S)	10.0
Total Reduced Sulfur (including H ₂ S)	10.0

(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in WAC 173-401.

305.3 Public Comment Period

If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. The cost of providing legal notice shall be borne by the applicant. Public notice of any NOC application requiring a public comment period shall include the following:

(A) The NOC application and any written preliminary determination by the NWCAA shall be available on the NWCAA's internet website, excluding any confidential information as provided in Section 114 of this Regulation. In addition, the NOC application and any written determination shall be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(B) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides each of the following:

- (1) Name, location and a brief description of the project;
- (2) Location of documents made available for public inspection;
- (3) The deadline for submitting written comments;

(4) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing;

(5) A statement that a public hearing may be held if the NWCAA determines within a 30-day period that significant public interest exists;

(6) The date of the close of the public comment period in the event of a public hearing;

(C) Notice to the US Environmental Protection Agency Region 10 Regional Administrator.

305.4 Extent of Public Comment Period

The public comment period shall be the 30-day period following the date the public notice is first published, unless a public hearing is held. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, as specified in the notice of public hearing.

305.5 Public Hearings

Any person, interested governmental entity, group or the applicant, may request a public hearing within the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable. The NWCAA shall provide at least 30 days prior notice of any hearing.

305.6 Consideration of Public Comments

No final decision on any NOC application or OAC revision shall be made until all public comment periods have ended and any comments received have been considered.

305.7 Other Requirements of Law

Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section (e.g., SEPA). This subsection does not apply to an application for a "major modification" or an application from a "major stationary source".

305.8 Public Information.

All information provided to the public in accordance with this Section, except information protected from disclosure under any applicable law, including, but not limited to, NWCAA Section 114 and RCW 70.94.205, shall be available for public inspection at the NWCAA. This includes copies of Notices of Construction applications, orders, and modifications.

Passed: July 14, 2005

REPEALER

SECTION 312 - ENVIRONMENTAL POLICY GUIDELINES

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.3 Annual Registration Fees. An annual registration fee shall be paid by all registered sources. The Board

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((requires that a fee accompany registration and)) has determined the ((amount of this)) fee for each class of air contaminant source to be as shown in Section 324.1. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:

- a) initial registration and annual or other periodic reports from the source owner or operator providing the information directly related to air pollution registration;
- b) on-site inspections necessary to verify compliance with registration requirements;
- c) data storage and retrieval systems necessary for support of the registration program;
- d) emission inventory reports and emission reduction credits computed from information provided by sources pursuant to the requirements of the registration program;
- e) staff review, including engineering analysis for accuracy and completeness ((currentness)), of information provided by sources pursuant to the requirements of the registration program;
- f) clerical and other office support provided in direct furtherance of the registration program; and
- g) administrative support provided in directly carrying out the registration program.

320.4 Any registered source which does not pay the annual registration fee by the end of the registration period

shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the NWCAA ((Authority)).

Passed: November 12, 1998 Amended: November 12, 1999, July 14, 2005

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

a) The NWCAA ((Authority)) shall levy annual registration program fees as set forth in Section 324.1(c) to cover the costs of administering the registration program.

b) Upon assessment by the NWCAA ((Authority)), registration fees are due and payable. A source shall be assessed a late penalty in the amount of twenty-five percent (25%) of the registration fee for failure to pay the registration fee within thirty (30) days after the due date. The late penalty shall be in addition to the registration fee.

c) All registered air pollution sources shall pay the appropriate registration fee(s) listed in Section 324.1.

REGISTERED SOURCES	Fee Code	((3003))	((3004))	2005	2006	2007
Wastewater treatment plants w/sludge incinerators	RS01	((575))	((595))	\$615	<u>\$635</u>	<u>\$655</u>
<u>Temporary asphalt plants</u>	RS02			<u>\$360</u>	<u>\$375</u>	<u>\$390</u>
<u>Permanent asphalt plants</u>	RS03			<u>\$725</u>	<u>\$745</u>	<u>\$770</u>
<u>Temporary thermal soil desorption units</u>	RS04			<u>\$360</u>	<u>\$375</u>	<u>\$390</u>
<u>Permanent ((T))thermal soil desorption units</u>	RS05	((680))	((700))	<u>\$725</u>	<u>\$745</u>	<u>\$770</u>
Odor source	RS06	((680))	((700))	<u>\$725</u>	<u>\$745</u>	<u>\$770</u>
Petroleum coke handling facility	RS07	((1,360))	((1,400))	\$1,445	<u>\$1490</u>	<u>\$1535</u>
Perchloroethylene dry cleaners	RS08	((170))	((175))	\$180	<u>\$190</u>	<u>\$200</u>
Gasoline stations ((and Bulk plants))	RS09	((170))	((175))	\$180	<u>\$190</u>	<u>\$200</u>
<u>Bulk plants</u>	RS10			<u>\$180</u>	<u>\$190</u>	<u>\$200</u>
Chrome plating	RS11	((170))	((175))	\$180	<u>\$190</u>	<u>\$200</u>
Other sources as determined by the Control Officer	RS12	((170))	((175))	\$180	<u>\$190</u>	<u>\$200</u>
<u>Other temporary sources</u>	RS13			<u>\$180</u>	<u>\$190</u>	<u>\$200</u>
((Volatile organic compound storage tanks))						
((> or = 6000 gallons, < 40,000 gallons))		((240))	((250))	((260))		
((> or = 40,000 gallons))		((575))	((595))	((615))		
FOR SOURCES NOT LISTED ABOVE:						
ACTUAL EMISSIONS OF TOTAL CRITERIA AND TOXIC AIR POLLUTANTS						
<10 tons per year	EM01	((170))	((175))	\$180	<u>\$190</u>	<u>\$200</u>
((> or =)) 10 tons per year, < 25 tons per year	EM02	((850))	((875))	\$905	<u>\$930</u>	<u>\$960</u>
((> or =)) 25 tons per year, < 50 tons per year	EM03	((1,695))	((1,745))	\$1,800	<u>\$1855</u>	<u>\$1910</u>
((> or =)) 50 tons per year	EM04	((2,820))	((2,905))	\$2,995	<u>\$3085</u>	<u>\$3180</u>
ADDITIONAL FEES						
Each source test <u>per pollutant, per unit as required in the Approval Order (expect initial source test)</u>	STR	((340))	\$350	\$360	<u>\$375</u>	<u>\$390</u>
Operation of a Continuous Emission or Opacity Monitor (per CEM or COM)	CEM	((340))	\$350	\$360	<u>\$375</u>	<u>\$390</u>
Each stationary source subject to NSPS, <u>per applicable subpart. Excluding 40 CFR 60 subpart Dc (small boilers) and 40 CFR 60 subpart AAA (woodheaters) ((or NESHAP (per subpart) except dry cleaners and chrome platers))</u>	NSPS	((575))	\$595	\$615	<u>\$635</u>	<u>\$655</u>

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<u>Each stationary source subject to NESHAP, per applicable subpart. Excluding 40 CFR 63 subpart M (dry cleaners) and 40 CFR 60 subpart N (chrome platers)</u>	NESHAP			\$615	\$635	\$655
Synthetic minor designation	SM	(((\$575))	\$595	\$615	\$635	\$655
Odor source	ODOR	(((\$680))	\$700	\$725	\$745	\$770

324.2 New Source Review Fees

a) New source fees listed in Section 324.2 shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

	((2003))	((2004))	2005	2006	2007
Filing fee	(((\$120))	(((\$125))	\$130	\$135	\$140
NSR FEES IN ADDITION TO THE FILING FEE: for each piece of equipment or control equipment					
General (not classified below)	(((\$575))	(((\$595))	\$615	\$635	\$655
Fuel Burning Equipment (as an aggregate)					
((=> or =>)) 0.5 MM Btu/hr, but <10 MM Btu/hr	(((\$290))	(((\$300))	\$310	\$320	\$330
((=> or =>)) 10 MM Btu/hr, but <100 MM Btu/hr	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
((=> or =>)) 100 MM Btu/hr, but <250 MM Btu/hr	(((\$11,250))	(((\$11,590))	\$11,940	\$12,300	\$12,670
((=> or =>)) 250 MM Btu/hr, but <500 MM Btu/hr	(((\$16,900))	(((\$17,410))	\$17,935	\$18,475	\$19,030
((=> or =>)) 500 MM Btu/hr, but <1000 MM Btu/hr	(((\$28,200))	(((\$29,050))	\$29,925	\$30,825	\$31,750
((=> or =>)) 1000 MM Btu/hr	(((\$45,100))	(((\$46,455))	\$47,850	\$49,285	\$50,765
Minor Order of Approval to Construct change	(((\$290))	(((\$300))	\$310	\$320	\$330
Asphalt plant	(((\$850))	(((\$875))	\$905	\$930	\$960
Coffee roaster	(((\$290))	(((\$300))	\$310	\$320	\$330
Dry cleaner ((and Chrome plater))	(((\$170))	(((\$175))	\$180	\$185	\$190
Chrome plater			\$180	\$185	\$190
Gasoline stations ((and Bulk plants))	(((\$340))	(((\$350))	\$360	\$370	\$380
Bulk plants			\$360	\$370	\$380
Refuse burning equipment					
< 6 tons per day	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
((=> or =>)) 6 tons per day, but < 12 tons per day	(((\$3,385))	(((\$3,490))	\$3,595	\$3,705	\$3,815
((=> or =>)) 12 tons per day, but < 250 tons per day	(((\$22,520))	(((\$23,195))	\$23,890	\$24,605	\$25,345
((=> or =>)) 250 tons per day	(((\$45,030))	(((\$46,380))	\$47,775	\$49,210	\$50,685
Paint spray booth	(((\$170))	(((\$175))	\$180	\$185	\$190
((Volatile Organic Compounds storage tanks))					
((< 40,000 gallons)))	(((\$340))	(((\$350))	(((\$360))		
((=> or => 40,000 gallons)))	(((\$1,135))	(((\$1,170))	(((\$1,205))		
((Soil thermal desorption unit))	(((\$850))	(((\$875))	(((\$905))		
Other sources as determined by the Control Officer	(((\$170))	(((\$175))	\$180	\$185	\$190
ADDITIONAL FEES					
Synthetic minor determination (((WAC 173 400 091)))	(((\$850))	(((\$875))	\$905	\$930	\$960
SEPA threshold determination (NWCAA lead agency, 14-day comment period)	(((\$290))	(((\$300))	\$310	\$320	\$330
Air toxics review	(((\$460))	(((\$475))	\$490	\$505	\$520
Major stationary source, major modification, PSD thresholds	(((\$2,260))	(((\$2,330))	\$2,400	\$2,470	\$2,545
PSD applicability analysis	(((\$3,400))	(((\$3,505))	\$3,610	\$3,720	\$3,830
<u>Each stationary source subject to NSPS, per subpart, excluding 40 CFR 60 subpart(s) Dc (small boilers) and 40 CFR 60 subpart AAA (wood-heaters) ((or NESHAP per subpart except (dry cleaners) & (chrome platers))</u>	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
<u>Each stationary source subject to NESHAP, per subpart, excluding 40 CFR 63 subpart M (dry cleaners) and 40 CFR 60 subpart N (chrome platers)</u>			\$1,205	\$1,240	\$1,275
Public notice (plus publication fee)	(((\$240))	(((\$250))	\$260	\$270	\$280
Public hearing (plus publication fee)	(((\$575))	(((\$595))	\$615	\$635	\$655
NOC applicability determination	(((\$240))	(((\$250))	\$260	\$270	\$280

PROPOSED

Each CEM, COM, or alternate monitoring device ((installed)) required	(((\$575))	(((\$595))	\$615	\$635	\$655
Each source test ((6)) per pollutant, per unit ((3)) as required in Approval Order ((NOC))	(((\$575))	(((\$595))	\$615	\$635	\$655
Bubble application	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
Netting analysis	(((\$575))	(((\$595))	\$615	\$635	\$655
Non-exempt units under Title IV acid rain program	(((\$2,700))	(((\$2,785))	\$2,870	\$2,955	\$3,045

324.3 Variance Fee. \$3,000.00

324.4 Issuance of Emission Reduction Credits. \$850.00

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

Passed: November 12, 1998

Amended: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 325 - TRANSFER OR PERMANENT SHUT-DOWN

325.1 A registration, regulatory order, approval to construct, operate or use any article, machine, equipment, or other contrivance, shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another provided that, registered sources which are designed to be portable and are moved from one location to another may retain the same registration so long as they abide by the requirements of NWCAA Sections 300 and 301.

325.2 The registered owner or operator shall report the transfer of ownership or permanent shutdown of a registered "source" to the NWCAA within ninety (90) days of shutdown or transfer. The report shall contain the following information:

- a) Legal name of the registered owner or operator;
- b) Effective date of the shutdown or transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the registered owner's or operator's authorized representative.

325.3 Any party that assumes ownership and/or operational control of a registered "source" shall file a written report with the NWCAA within ninety (90) days of completing transfer of ownership and/or assuming operational control. The report shall contain the following information:

- a) Legal name of the company or individual involved in the transfer;
- b) Effective date of the transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the owner's or operator's authorized representative.

325.4 In the case of a permanent shutdown, process and pollution control equipment may remain in place and on site, but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g., disconnection of power to equipment, mechanical position-

ing that inhibits processing; placing of padlocks on equipment to prevent operation).

Passed: February 4, 1970 Amended: February 14, 1973, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 340 - REPORT OF BREAKDOWN AND UPSET

340.1 If a breakdown or upset condition occurs which results in or may have resulted in an exceedance of an emission and/or ambient air quality standard established by this ((the)) Regulation ((of this Authority)) or an emission release to the air that requires agency notification as specified in 40 CFR 302 (CERCLA) or 40 CFR 355 (SARA), the owner or operator of the source shall take the following actions:

a) ((340.11)) The upset or breakdown shall be reported as promptly as possible and in no event later than twelve (12) hours to the NWCAA ((Authority)).

b) ((340.12)) For Title V Air Operating Permit sources, the responsible official shall ((The person responsible shall, ((upon the request of the Control Officer, submit a full report within ten (10) days including the known causes, corrective measures taken, and preventive measures to be taken to minimize or eliminate a recurrence.)) submit a full report no later than 30 days after the end of the calendar month in which the breakdown or upset occurred that resulted in an exceedance of an ambient or emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at a minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

340.2 Compliance with the requirements of this Section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this Regulation nor from the resulting liabilities for failure to comply.

340.3 It shall be prima facie evidence of violation of this Regulation if:

a) any control equipment is turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1, or

b) any other equipment creates new or increased emissions to the atmosphere as the result of being turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1.

PROPOSED

340.4 Excess emissions due to breakdowns and upsets shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that:

- a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;
- b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and
- c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice.
- d) The emissions did not result in a violation of an ambient air quality standard.

Amended: November 14, 1984, October 14, 1987, April 14, 1993, October 13, 1994, February 8, 1996, July 14, 2005

AMENDATORY SECTION

SECTION 341 - REPORT OF SHUTDOWN OR STARTUP

341.1 If the operator of any air contaminant source registered in the NWCAA jurisdiction or operating under a Title V air operating permit issued by the NWCAA ((Authority)) schedules a total or partial shutdown or startup of control or process equipment ((which may)) that the source reasonably believes would result in emissions ((or any additional emissions to the atmosphere)) which may temporarily exceed ((the)) an emission standard((s)) of this Regulation; the operator or owner of the source shall notify the NWCAA in advance of ((Authority prior to)) the shutdown or startup.

341.2 The advanced notification shall include ((be made within the ten (10) day period prior to a scheduled shutdown or startup. The operator or owner of the source shall submit)) a general schedule of steps to be taken to minimize the release of air contaminants to the atmosphere including the reasons for and duration of the proposed shutdown or startup, the nature of the action to be taken, the date and time for the action and an estimate of the anticipated rate and concentration of emission.

341.3 Compliance with the requirements of this Section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with the requirements of this Regulation nor from the resulting liabilities for failure to comply.

341.4 Excess emissions due to shutdown or startup shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that the excess emissions could not have been prevented through careful planning and design, the emissions did not result in a violation of an ambient air quality standard and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

341.5 For Title V Air Operating Permit sources, the responsible official shall submit a full report no later than 30 days after the end of the calendar month in which the shutdown or startup occurred that resulted in an exceedance of an ambient or an emission standard of this Regulation. The

report shall be submitted on forms provided by the NWCAA and must include, at minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

Amended: November 14, 1984, April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, July 14, 2005

AMENDATORY SECTION

SECTION 342 - OPERATION AND MAINTENANCE

342.1 All air contaminant stationary sources are required to keep any process and/or air pollution control equipment in good operating condition and repair. ~~((If a breakdown or upset condition occurs and it is determined by the Control Officer to be due to poor operating and maintenance procedures, the Control Officer may take any legal steps necessary to prevent a recurrence of the breakdown or upset condition.))~~

342.2 Operating instructions and maintenance schedules for process and/or control equipment must be available ~~((and may be required to be posted))~~ on the site. ~~((This section is specifically applicable to the operation of equipment where untrained personnel may operate or otherwise have access to or use the equipment.))~~

~~((342.3 If a breakdown or violation occurs and is due to the improper operation or maintenance of equipment, the owner or operator of the source will, in addition to filing a report of breakdown under Section 340, submit a report if requested by the Control Officer on what measures will be taken in training or re-orienting personnel to prevent a recurrence of the breakdown.))~~

~~((342.4 Excess emissions due to scheduled maintenance shall be considered unavoidable provided the source adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance, better operation and maintenance practices, and emissions did not result in a violation of an ambient air quality standard.))~~

Amended: April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, March 13, 1997, July 14, 2005

REPEALER

SECTION 360 - TESTING AND SAMPLING

REPEALER

SECTION 365 - MONITORING

REPEALER

SECTION 366 - INSTRUMENT CALIBRATION

PROPOSED

NEW SECTION

SECTION 367 - GENERAL REQUIREMENTS FOR MONITORING AND TESTING

367.1 Any person operating a registered air contaminant source or an air operating permit source may, at any time, be required to monitor the ambient air, or process emissions, or conduct emission tests as deemed necessary by the Control Officer.

367.2 Before an approval to construct or a registration certificate is granted, the Control Officer may require the owner or applicant to provide and maintain such facilities as are necessary for sampling and testing purposes, including but not limited to safe access to sample locations, sample platforms, proper sample ports, and adequate shelter where appropriate.

367.3 All ambient monitoring, compliance testing, continuous emission monitoring systems, and continuous opacity monitoring systems required by a regulation, order of approval or permit issued by the NWCAA shall comply with the applicable requirements of this Section and Appendix A of this Regulation. The applicable requirements of this Section and Appendix A are in addition to any monitoring, testing, calibration, or quality assurance/quality control requirements that otherwise apply.

367.4 The Control Officer may take such samples and may perform any tests and investigations as are deemed necessary to determine the accuracy of the monitoring reports and data submitted to the NWCAA. The owner or operator may also be required by the Control Officer to collect a sample using an approved procedure and submit the results of the analysis thereof within a reasonable period of time.

367.5 Any NWCAA mandated testing or monitoring which is not part of a federally-approved State Implementation Plan or other federally enforceable regulation must be approved by the NWCAA. Such testing or monitoring may include the use of alternative methods, modified standard methods, and requirements or procedures not described in Appendix A of this Regulation.

367.6 The Control Officer may approve site-specific minor and intermediate changes to testing, monitoring, recordkeeping, and reporting requirements under the following conditions:

(A) In determining whether a change is minor or intermediate, NWCAA will use as a guide the definitions in 40 CFR 63.90 (July 1, 2004);

(B) Where the testing, monitoring, recordkeeping, or reporting requirement is included in a permit, the approval is made through the applicable permit revision procedures;

(C) NWCAA maintains a record of all approved changes to all testing, monitoring, recordkeeping, and reporting and provides a list of such changes to EPA Region 10 at least semi-annually.

367.7 The Control Officer may approve major changes to testing, monitoring, recordkeeping, and reporting requirements if such requirements are not part of the federally-approved State Implementation Plan or otherwise federally enforceable. Major changes to testing, monitoring, recordkeeping, and reporting requirements that are part of the feder-

ally-approved State Implementation Plan or otherwise federally enforceable require EPA approval.

367.8 Significant Figures and Rounding:

(A) All parameters used in stack test measurements and calculations shall meet or exceed the precision implied by an applicable standard, that is, contain at least as many significant figures as the standard. Additional numbers may be retained until the final rounding to calculate the emission rate or concentration. Unless specified by using scientific notation, all digits displayed in a standard, including zeros, are considered significant

(B) Rounding shall use the following convention:

First digit to be discarded	Last valid digit
>5, or a 5 followed by a non zero	round up
<5	retain as is
5, or 5 followed by only zero	round up if odd, retain if even

Passed: July 14, 2005

NEW SECTION

SECTION 403 - PARTICULATE STANDARDS (PM-2.5)

403.1 The concentration in the ambient air of particulate matter with an aerodynamic diameter of less than two point five (2.5) microns (PM-2.5) shall not exceed:

(A) Sixty five (65) micrograms per cubic meter of air as a 24 hour average based on the 3-year average of the 98th percentile of 24-hour PM-2.5 concentrations.

(B) Fifteen (15) micrograms per cubic meter of air as an annual arithmetic mean based on the 3-year average of the annual arithmetic mean PM-2.5 concentrations.

403.2 Sampling and analysis for particulates shall be conducted in accordance with Appendix A of this Regulation.

Passed: July 14, 2005

AMENDATORY SECTION

SECTION 424 - OZONE STANDARD

424.1 The average eight hour concentration of ozone measured at an ambient air monitoring station shall not exceed ((0.120) 0.080 ppm (157 micrograms ((235 milligrams)) per cubic meter) ((hourly concentration on more than one (1) day per calendar year)) as determined under the following conditions:

424.11 ((Three (3) calendar years of data shall be used in determining compliance with this standard. If three (3) calendar years of data are not available, a minimum of one (1) calendar year must be used and;)) The 3-year average of the annual fourth highest daily maximum 8-hour average concentrations shall be used to determine compliance with this standard;

424.12 All hourly measurements must start on the clock hour.

Amended: October 13, 1982, April 14, 1993, July 14, 2005

AMENDATORY SECTION**SECTION 460 - WEIGHT/HEAT RATE STANDARD - EMISSION OF SULFUR COMPOUNDS**

All sources with an aggregate heat input capacity greater than five hundred million Btu per hour (500 MMBtu/hr) are subject to the following:

460.1 Emission of sulfur compounds, calculated as a calendar month average of sulfur dioxide, (~~monthly average, from a source as defined in 460.4~~) shall not exceed one and one-half pounds per million Btu of heat input per hour (1.5 lbs SO₂/MMBtu, calendar month average of hourly values).

~~((460.11 One and one-half (1.5) pounds of sulfur dioxide per million BTU of input heat per hour.))~~

~~((460.12 Sources may be exempt from subsection 460.11 of this Regulation under the following conditions:))~~

~~((460.121 That such exemption is not in excess of thirty (30) days in the aggregate in any calendar year.))~~

~~((460.122 That the owner or operator notify the Control Officer immediately when such exemption is contemplated, or as soon as possible after an emergency has occurred, indicating the expected length of time of such exemption and when normal operations have been resumed.))~~

~~((460.123 That the Control Officer or Board may require from the owner or operator any additional information deemed necessary to determine conditions of the proposed exemption and any impose additional restrictions or conditions on the exemption if it is determined that Section 410 and/or 462 may be violated and/or other applicable ambient air standards exceeded.))~~

~~((460.2 Sources subject to Section 460 shall submit a proposed schedule of compliance with this Section not less than one hundred and eighty (180) days after start-up providing the following:))~~

~~((460.21 The heat capacity of the source, the average heat output and the capacity and normal operating conditions of each emission unit which shall be submitted, reviewed and determined annually at a time and using a method determined by the Control Officer.))~~

460.2((3)) Sources subject to Section 460 shall submit an ambient monitoring proposal and monitoring schedule for sulfur dioxide within one hundred and eighty (180) days of start-up. Each proposal shall include:

460.21((31)) At least one recording meteorological station equipped to record wind speed and direction and located and operated as in accordance with Appendix A of this Regulation. (~~approved by the Control Officer. The data shall be capable of being recorded and interpreted as hourly averages.))~~

460.22((32)) The sulfur content and quantity of all materials, gaseous or liquid, fed to any boilers, furnaces, heaters, flares or any other facility capable of generating heat, resulting in emissions to the atmosphere. The sulfur content shall be expressed in (~~pounds/hour of sulfur dioxide~~) percent by weight of sulfur in each fuel type and shall contain an explanation of how (~~this quantity was actually~~) each was determined. (~~The sulfur content of the fuel shall be averaged over a period of time as determined and specified by the Control Officer.~~)

460.23((33)) The method for monitoring the sulfur content and quantity of fuel burned at (~~any other~~) each emission unit capable of emitting sulfur to the atmosphere in quantities in excess of one hundred (100) pounds/day of sulfur compounds calculated as sulfur dioxide. (~~Provided that a~~) All emission units capable of emitting less than one hundred (100) pounds/day of sulfur compounds, calculated as sulfur dioxide may be monitored (~~estimated~~) collectively as a single emission.

460.24((34)) The monitoring proposal shall comply (~~complies~~) with provisions of Section (~~365~~) 367 and Appendix A of this Regulation.

~~((460.4 Except as noted in 460.12 all sources with an input heat capacity greater than five hundred million BTU/hour are subject to Section 460.))~~

460.3((5)) The total emissions of all sources located in that portion of Sections 2, 3, 4, 5, 9, Township 34 North and Sections 21, 27, 28, 29, 32, 33, 34, 35, in Township 35 North, Range 2 East, Willamette Meridian, all in Skagit County Washington, and commonly known as March Point heavy industrial area; shall not exceed seven thousand (7,000) pounds/hour of sulfur compounds, calculated as sulfur dioxide.

When the Control Officer reasonably believes that there exists a substantial likelihood that this total is likely to be exceeded, he or she shall establish additional temporary restrictions on any or all sources of sulfur compounds in said area to maintain a total emission of less than seven thousand (7,000) pounds/hour. (~~Said~~) The restrictions shall (~~to~~) remain in force only so long as the total emission will exceed 7,000 pounds/hour.

~~((460.6 Emissions from flares, torches and waste gas burners used by any source subject to this Section shall be governed by the provisions set forth in this Section. Provided that emissions from said sources that exceed the limits established by the Regulation of this Authority, shall also be subject to Section 340 "Report of Breakdown" when conditions set forth therein are applicable.))~~

Passed: November 11, 1971

Amended: February 14, 1973, January 9, 1974, August 9, 1978, February 8, 1996, July 14, 2005

REPEALER**SECTION 480 - SOLID FUEL BURNING DEVICE STANDARDS****AMENDATORY SECTION****SECTION 502 - OUTDOOR BURNING**

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502.3 DEFINITIONS. Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meanings:

RARE AND ENDANGERED PLANT REGENERATION FIRES - means fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chapter 79.70 RCW.

PROPOSED

PROPOSED

TUMBLEWEED BURNING - means outdoor burning to dispose of dry plants (typically Russian Thistle and Tumbleweed Mustard plants) that have been broken off, and rolled about, by the wind.

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502.4 PROHIBITIONS AND RESTRICTIONS APPLYING TO ALL OUTDOOR BURNING. The following general requirements apply to all outdoor burning regulated by this section, including any outdoor burning allowed without a permit, unless a specific exception is stated in this section.

.....

E. CURTAILMENTS. During episodes or periods of impaired air quality, the person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.

1. No outdoor fire shall be ignited in a geographical area:

a. Where Ecology has declared an air pollution episode; (RCW 70.94.775(2) and 70.94.780) or

b. Where Ecology or the **NWCAA** (~~Authority~~) has declared impaired air quality for the county where the air quality has been identified.

~~((e- Defined as Island County if impaired air quality is declared in both Skagit and Whatcom counties.))~~

c. ~~((d-))~~ Where the appropriate fire protection authority has declared a fire danger burn ban, unless the Authority grants an exception.

502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

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C. FEES.

1. Permitting agencies may charge a fee for any permit issued, provided that a fee must be charged for all permits issued for weed abatement fires and fire fighting instruction fires.

2. All fees must be set by rule and must not exceed the level necessary to recover the costs of administering and enforcing a permit program.

TYPE OF PERMIT	FEE
Annual training (single location)	\$250.00/year
Extinguisher Training	\$25.00/training exercise
Structure training	\$50.00/training exercise
Weed abatement	\$2.00/acre; \$25.00 minimum per location ((\$25.00 minimum/up to ten acres per location. \$2.00/acre thereafter.))

D. PERMIT DECISIONS.

1. Permitting agencies must approve with conditions, or deny outdoor burning permits as needed to achieve compliance with this section.

2. All permits must include conditions to satisfy general prohibitions and requirements that apply to all outdoor burning.

3. All permits may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combus-

tion practice, and restricting burning to specified weather conditions.

4. Permitting agencies may also include conditions to comply with other laws pertaining to outdoor burning.

5. Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is discharged.

F. FIELD RESPONSE AND ENFORCEMENT

1. Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.

2. Except for enforcing Section 502.4 ~~((D)(1)(e))~~ ~~(E)(1)(d)~~, the **NWCAA** (~~Authority~~) will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from permits in areas of its jurisdiction, unless another agency agrees to be responsible.

3. Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed under their authority if they discover noncompliance.

4. A fire protection authority called to respond to, control, or extinguish an illegal or out-of-control fire may charge, and recover from the person responsible for the fire, the costs of its response and control action. The NWCAA may assist a fire protection authority, in fire suppression cost recovery, when assessing a penalty associated with a Notice of Violation.

Passed: June 14, 2001. Amended: July 10, 2003, July 14, 2005

NEW SECTION

SECTION 506 - SOLID FUEL BURNING DEVICE STANDARDS

506.1 PURPOSE.

This Section establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to maintain compliance with the National Ambient Air Quality Standards (NAAQS) for fine particulates and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS.

Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning as defined in Chapter 173-433-030 WAC:

ADEQUATE SOURCE OF HEAT - means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.

ANTIQUÉ WOOD STOVE - is a stove manufactured before 1940 which has a current market value substantially greater

than a common wood stove manufactured during the same time period.

CERTIFIED - means a solid fuel-burning device that meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in the Code of Federal Regulation - Title 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters as amended through July 1, 1990; or a solid fuel-burning device that has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457.

COOKSTOVE - means a wood-fired appliance designed primarily for cooking food and containing an integrally built in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate, ash pan and an ash clean-out below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.

ECOLOGY - means the Washington State Department of Ecology.

EPA - means the United States Environmental Protection Agency.

SEASONED WOOD - means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

SOLID FUEL BURNING DEVICE - means a device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes wood stoves or any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input of less than one million British thermal units per hour.

SUBSTANTIALLY REMODELED - means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

TREATED WOOD - means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering or deterioration.

WOOD STOVE - means a wood-fueled appliance, other than a cookstove, capable of and intended for residential space heating and domestic water heating that meets the criteria contained in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990. Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a wood stove, is considered a wood stove.

506.3 EMISSION PERFORMANCE STANDARDS.

(A) Solid Fuel Burning Devices - A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990, complies with WAC 173-

433-100, and meets the following particulate air contaminant emission standards:

(1) Two and one-half grams per hour for catalytic wood stoves; and

(2) Four and one-half grams per hour for all other solid fuel burning devices.

(B) Fireplaces. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory built fireplace unless it has been tested in accordance with procedures and criteria specified in WAC 51-50-31200. Particulate emission factors for factory-built fireplaces shall not exceed 7.3 g/kg.

506.4 INSTALLATION OF SOLID FUEL HEATING DEVICES.

(A) No new solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality phase II or EPA certified to meet current Washington State standards in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.455)

(B) No used solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality phase II or EPA certified or a pellet stove either certified or exempt from certification by the EPA in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.455)

(C) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to

(1) Areas designated by a county to be an urban growth area under RCW 36.70A; and

(2) Areas designated by the EPA as being in non-attainment for particulate matter. (RCW 70.94.455 and WAC 51-40-0510)

(D) After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 EPA standards for wood stoves or equivalent standard established by the state building code council by rule in accordance with 70.94.457 RCW.

506.5 OPACITY STANDARDS.

(A) Opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. This restriction does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

(B) Test methods and procedures. EPA reference method 9 - Visual Determination of Opacity of Emissions from Stationary Sources shall be used to determine compliance with this Section.

(C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This Regulation will be enforced on a complaint basis and through observations of inspectors certified to read opacity. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 PROHIBITED FUEL TYPES

(A) A person shall not burn any substance, other than properly seasoned fuel-wood, in a solid fuel burning device (RCW 70.94.477).

(B) A person shall not burn paper in a solid fuel burning device other than the amount of colorless paper necessary to start a fire.

506.7 CURTAILMENT

(A) Except as provided in Section 506.9, any person in a residence or commercial establishment that has an adequate source of heat without using a solid fuel burning device shall not use any solid fuel burning device under the following circumstances:

(1) Whenever Ecology has declared curtailment under an air pollution episode for the geographical area.

(2) Whenever Ecology or the NWCAA has declared curtailment under the first stage of impaired air quality for the geographical area unless the device is either Oregon Department of Environmental Quality Phase II or EPA certified or certified by Ecology or a pellet stove either certified or exempt from certification in accordance with Title 40 Part 60 of the Code of Federal Regulations. A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of sixty micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average.

(3) Whenever Ecology or the NWCAA has declared curtailment under a second stage of impaired air quality. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(B) Any person responsible for a solid fuel burning device already in operation at the time curtailment is declared under a stage of impaired air quality or an episode shall extinguish that device by withholding new solid fuel for the duration of the episode.

(C) Compliance with the above solid fuel burning device curtailment rules may be enforced after a time period of 3 hours has elapsed from the time the curtailment is declared. Smoke visible from a chimney, flue or exhaust duct three hours from the time of declaration of the curtailment shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.

506.8 GENERAL EMISSION STANDARDS.

(A) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, in sufficient amounts and of such characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interfere with enjoyment of life and property.

(B) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoy-

ment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

506.9 EXEMPTIONS.

(A) The provisions of Section 506.7 shall not apply to any person who possesses a valid written exemption approved by the NWCAA. The NWCAA may allow written exemptions to any person who demonstrates any of the following to the satisfaction of the NWCAA:

(B) An economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance under the low income energy assistance program.

(C) That his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions.

(1) That there is no adequate source of heat and the structure was constructed or substantially remodeled prior to July 1, 1992.

(2) That there is no adequate source of heat and the structure was constructed or substantially remodeled after July 1, 1992 and is outside an urban growth area, as defined in RCW 36.70A.

(D) Written exemptions shall be valid for a period determined by the NWCAA and shall not exceed one year from the date of approval.

Amended: April 14, 1993, November 12, 1991, July 14, 2005

AMENDATORY SECTION**SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE**

550.1 It shall be unlawful for any person or operation to cause or permit material to be handled, transported or stored without using Reasonably (~~Best~~) Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.2 It shall be unlawful for any person to cause or permit a building or its appurtenances to be constructed, altered, repaired or demolished, or conduct abrasive blasting (~~sand-blasting~~), without using Reasonably (~~Best~~) Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.3 It shall be unlawful for any person to cause or permit the release of fugitive particulate matter to the ambient air from public or private lots, roadways, or open areas without using Reasonably (~~Best~~) Available Control Technology.

550.4 It shall be unlawful for any person to cause or permit the emission of particulate matter which becomes deposited upon the property of others in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

PASSED: January 8, 1969 Amended: February 14, 1973, August 9, 1978, October 14, 1987, April 14, 1993, November 12, 1999, July 14, 2005

AMENDATORY SECTION**SECTION 570 - ASBESTOS CONTROL STANDARDS****570.4 NOTIFICATION REQUIREMENTS****a) General Requirements**

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the NWCAA on approved forms, in accordance with the advance notification period requirements contained in 570.4(d) of this Regulation.

1. The duration of an asbestos project shall be commensurate with the amount of work involved.

2. Notification is not required for asbestos projects involving less than 10 linear feet or 48 square feet (per structure, per calendar year) of any asbestos-containing material.

3. Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by Section 570.

4. Notification is required for all demolitions (~~involving public or commercial structures or multi-family residences with 5 or more units;~~) of structures with a greater than 120 square feet footprint even if no asbestos-containing material is present. All other demolition requirements remain in effect.

5. The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the NWCAA.

6. A copy of the notification, all amendments to the notification, the asbestos survey, and any Order of Approval for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.

7. Notification for multiple asbestos projects or demolitions may be filed by a property owner on one form if all the following criteria are met:

A) The work will be performed continuously by the same contractor; and

B) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the NWCAA's work schedule fax program and will continue to participate in the program throughout the duration of the project.

C) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the NWCAA's work schedule fax program and will con-

tinue to participate in the program throughout the duration of the project.

8. Annual Notification

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

A) The annual notification shall be filed with the NWCAA before commencing work on any asbestos project included in an annual notification;

B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this Section is less than 260 linear feet on pipes or less than 160 square feet on other components; and

C) The property owner submits quarterly written reports to the Control Officer on NWCAA-approved forms within 15 days after the end of each calendar quarter.

b) Amendments**1. Mandatory Amendments**

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

A) Increases in the project type or job size category that increase the fee or change the advance notification period;

B) Changes in the type of asbestos-containing material that will be removed; or

C) Changes in the start date, completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the NWCAA work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.

~~**(2) Optional Amendments**~~

~~A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority.~~

~~B) Contractors and property owners participating in the Authority work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to the Control Officer for the removal of additional asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of 570.4(a), including notification periods and fees, shall apply.)~~

c) Emergencies

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

1. There was a sudden, unexpected event that resulted in a public health or safety hazard;

2. The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

3. Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

4. The project must proceed to avoid imposing an unreasonable burden.

d) Notification Period and Fees

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

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

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

PASSED: November 12, 1998 Amended: July 14, 2005

AMENDATORY SECTION

SECTION 590 - PERCHLOROETHYLENE DRY CLEANERS

590.6 Recordkeeping. Each dry cleaning facility shall have an Operation and Maintenance Plan and the following records which shall be kept on-site and available for inspection upon request by the NWCAA ((that includes the following records)):

590.61 A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system.

590.62 If a refrigerated condenser is used on a dry-to-dry machine, dryer, or reclaimer, a weekly record of the air temperature measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with Subsection 590.41.

590.63 If a refrigerated condenser is used on a washer, a weekly record of the difference between the air temperatures measured at the inlet and outlet of the refrigerated condenser to verify compliance with Subsection 590.42.

590.64 If a carbon adsorber is used on a dry cleaning system, a weekly record of outlet perchloroethylene concentration to verify compliance with 590.51.

590.65 A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous 12 months.

590.7 Prohibitions. It shall be unlawful to operate a multi-machine dry cleaning operation in which washing and drying are performed in different machines (transfer system) after December 31, 1999.

590.8 Major Source Requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

590.9 Exemptions. Dry cleaning systems that commenced construction or reconstruction prior to December 8, 1991 are exempt from 590.4 and 590.5 if the amount of perchloroethylene purchased over the previous 12 months is less than 140 gallons.

PASSED: February 8, 1996 Amended: July 14, 2005

NEW SECTION

APPENDIX A - AMBIENT MONITORING, EMISSION TESTING, AND CONTINUOUS EMISSION AND OPACITY MONITORING

(Applicability date: Facilities will have one year from the date of adoption of this Appendix to achieve full compliance with its requirements.)

**I. AMBIENT MONITORING
CRITERIA POLLUTANTS**

(A) METHODS AND EQUIPMENT

(1) Sulfur dioxide stations shall employ EPA's automated equivalent method. All other monitors shall be operated and maintained as described in the appropriate Sections of 40 CFR Part 50 and 40 CFR Part 58.

PROPOSED

(2) Sample collection lines and instrument manifolds shall be constructed of Teflon or glass. Residence time in the sampling line shall not exceed 20 seconds.

(3) Analyzers shall be designated EPA reference or EPA designated equivalent method. Sulfur dioxide monitors shall be operated in the 0 to 1 ppm range.

(4) A Quality Assurance (QA) manual and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation. Upon approval by the NWCAA, electronic log books may be utilized.

(5) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute measurement averages. Paperless strip charts are acceptable if configured to store one-minute measurement averages. For sulfur dioxide stations using data acquisition based storage, one-minute data shall be reviewed for possible 5-minute violations.

(6) All stations shall be operated on Pacific Standard Time (PST).

(B) CALIBRATION

(1) Instruments shall be calibrated with National Institute of Standards and Technology (NIST) reference materials or NIST-traceable secondary standards, using standard reference methods and EPA-approved procedures.

(2) Each instrument shall be calibrated at least once every six (6) months and whenever span or precision checks deviate by more than 10% of the true value or the absolute value of the zero response is equal to or greater than five times the resolution of the monitor (for sulfur dioxide monitors, 0.005 ppm)

(3) Data precision shall be determined using single point precision checks performed at least once every two (2) weeks. Precision tests are performed by challenging the analyzer with a test gas of known concentration (between 0.080 and 0.100 ppm for sulfur dioxide). Precision data must be within $\pm 10\%$ of the true value.

(4) Data accuracy shall be assessed by performance audits and weekly span checks. All continuous analyzers are to be zeroed and spanned at least weekly at 70% to 90% of scale using a test gas of known concentration. Make appropriate calibration adjustments if the analyzer response deviates by more than 10% from the true value.

(5) All standard materials used for calibrations, precision and span checks shall be recertified every 6 months, or new standard materials shall be used.

(6) If precision and span checks are conducted at the same time, the precision test shall be conducted prior to any zero and span adjustments.

(7) Gaseous monitors shall not be zeroed or span checked manually when pollutant levels are detected at more than 50% of any applicable 5-minute or hourly short-term standard. Monitors shall not be zeroed or spanned more than twice a day.

(8) Written calibration and precision/span check procedures shall be included in the QA manual required under paragraph I(A)(4).

(C) MAINTENANCE

(1) Preventive maintenance for the ambient analyzers and calibration systems shall be performed in accordance

with procedures described in the QA manual required under paragraph I(A)(4) and the methods referenced in I(A)(1).

(2) All scheduled and unscheduled maintenance shall be recorded in the station log book.

(3) Written preventive maintenance procedures shall be included in the QA manual required under paragraph I(A)(4).

(D) AUDITING

(1) A station audit shall be conducted by the NWCAA at least once per year. The NWCAA audit does not fulfill any requirements specified under I(B).

(2) The NWCAA audit shall include an assessment of precision/accuracy of the instrument, a review of QA manual and other QA materials, siting parameters and operating procedures, as well as an inspection of the station log for maintenance and calibration documentation.

(3) When a monitor does not fall within defined limits or tolerances, ambient data shall be invalidated back to the most recent point in time at which measurements are known to be accurate or an event which can be identified as the probable cause of the failure.

(E) DATA RECORDING, VALIDATION AND REPORTING

(1) For each station visit, the following information shall be recorded in the station log book:

(a) Date, time, and personnel identification

(b) Room temperature minimum/maximum and current value

(c) Reason for visit

(d) Actions taken

(e) Time period for which the analyzer was offline

(2) All quality assurance procedures shall be described in detail in the QA manual, including but not limited to:

(a) General description of the monitor installation, including model and serial numbers

(b) General operating procedures

(c) Calibration, precision, span check procedures, and associated control limits

(d) Preventive maintenance procedures

(e) Corrective maintenance procedures

(f) Data recording, processing, and validation procedures

(g) Spare parts list

(h) Training of operators

(i) Vendor contact information

(j) Personnel information

(3) For reporting purposes, ambient air quality data are to be averaged for each clock hour. Strip chart recorder time shall not differ from the time of the data acquisition system by more than 10 minutes.

(4) Data shall be collected on strip chart recorders (except as noted under I(A)(5)), as well as a digital data acquisition system. Strip charts shall be reviewed, and checked against the appropriate data logger values. The strip charts shall be initialed by the station operator during each station visit.

(5) All questionable data such as significant sudden spikes, excessively noisy signals, or other unusual data patterns should be investigated, and, if appropriate, voided. For an hour/day to be considered valid, a minimum of 45 minutes/18 hours of valid data shall be collected, respectively. Data collected during span/precision checks, calibrations or maintenance shall be considered invalid. Data collected dur-

ing periods of exceedance of the acceptable temperature range are invalid and shall be flagged; validation shall be subject to review by the Director.

(6) Monthly diskettes containing the validated pollutant concentration data in SAROAD format shall be submitted to the NWCAA no later than twenty (20) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Director.

(7) Whenever the ambient SO₂ concentration is measured to be 0.800 ppm for five (5) or more consecutive minutes, a supplemental written report shall be submitted with the monthly monitoring data, indicating the time, actual concentrations, and possible reason(s) (if known) for each period of excess SO₂.

(8) Whenever monitoring equipment required by an Order of Approval to Construct, an air operating permit, or enforcement action, for any reason, fails to provide data for a continuous period of twenty-four (24) hours or longer, or if more than two (2) consecutive days with less than eighteen (18) hours of valid data occur, the NWCAA shall be notified. Notification shall be made within seventy-two (72) hours after the first invalid day occurs.

(9) For each monitoring station, the operator shall provide a supplemental report when daily data capture (defined as the percentage of valid hours for a midnight to midnight monitoring period) falls below 90%. This report shall list the reasons for the low data capture.

(10) All data strip charts and site logs shall be kept for at least five years.

NON - CRITERIA POLLUTANTS

(F) METHODS AND EQUIPMENT

(1) Ambient measurements of pollutants not listed as criteria pollutants in the FCAA may be required by the NWCAA. Guidelines for methods, equipment, associated operations, data recording and reporting shall be approved by the NWCAA on a case by case basis.

METEOROLOGICAL DATA

(G) METHODS AND EQUIPMENT

(1) The meteorological system shall accurately measure wind speed and wind direction and be approved by the Director. The data accuracy shall fall within the following control limits:

- (a) wind speed: ± 2 mph
- (b) wind direction: ± 10 degrees
- (c) temperature: ± 2 degrees F

(2) Instruments measuring wind direction shall be oriented to true north.

(3) A log book shall be kept for each meteorological system. Dates and description of initial installation, results of calibrations, preventive maintenance and operational checks, and operator initials shall be recorded in the log book. Upon approval by the NWCAA electronic log books may be utilized.

(4) All station installations shall meet EPA siting criteria (*Quality Assurance Handbook for Air Pollution Measurement Systems - Volume IV - Meteorological Measurements*) (EPA-600/4-82-060, revised 1989).

(H) AUDITING

(1) A performance audit shall be conducted once every two years (22-24 months from the last performance audit) by

an independent auditor. A performance audit shall also be performed if the siting parameters or location changes or new equipment is installed. The audit shall be conducted within 90 days, if new equipment is installed or a change in siting parameters occurs, and shall evaluate the following:

- (a) As-found orientation
 - (b) Wind speed threshold check
 - (c) Wind direction threshold check
 - (d) Wind speed accuracy check
 - (e) Wind direction accuracy check
- (2) A system audit may be conducted periodically by the NWCAA. This audit shall include an examination of all site logs, instrument siting and installation, daily operating procedures, preventive maintenance, and calibration data and methods.

(I) DATA RECORDING AND REPORTING

(1) All meteorological data shall be reported as hourly averages. When wind speed is less than two (2) miles per hour and there is no predominant wind direction, the direction may be reported as 000 degrees. If there is a predominant wind direction, an average shall be reported.

(2) Meteorological data calibration reports and results from independent performance audits shall be submitted to the NWCAA no later than thirty (30) days after the end of the month in which they were conducted.

(3) Monthly diskettes containing the validated meteorological data in SAROAD format shall be submitted no later than twenty (20) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Director.

II. EMISSION TESTING

(A) GENERAL

(1) Unless specified in an applicable subpart, the test length for an emission test shall, whenever possible, equal or exceed the time period of the standard with which the test is to demonstrate compliance.

(2) Emission tests shall, whenever possible, employ methods with established detection limits (DL) lower than the applicable standard. Minor modifications to the test methods, designed to increase method precision, may be approved by the Director, provided that such modifications do not represent a major modification to the test method, or a less stringent interpretation of applicable regulations.

(3) Where measured concentrations or emissions of pollutants are below the method detection limit, the value of the detection limit shall be used to calculate average emissions, and the results shall be reported as "less than DL" if all runs were below the DL, and "less than" the average of the runs if one or more runs were above the DL. The detection limit shall be in units of the standard and actual DLs, whether standard or calculated, must be reported. Reagent blanks below the DL shall use a value of zero. In Method 23, DLs shall be treated as written in the method. DLs for similar pollutants cannot be added or averaged.

(4) Gas dilution systems used for instrument calibration shall comply with EPA Method 205.

(B) TEST PLANS AND TEST DATES

(1) A source test plan shall be submitted for approval by the NWCAA for all compliance source tests at least thirty (30) days prior to the scheduled date, unless otherwise speci-

fied in an applicable subpart. A summary of the test shall accompany the test plan and be submitted on a template provided by the NWCAA. CGA and RATAs are not considered source tests.

(2) Once a test plan has been approved by the NWCAA, any changes in test dates or methodology shall require NWCAA approval, provided such changes do not conflict with other requirements or extend the test date beyond the date specified in a subpart.

(C) OPERATING CONDITIONS

(1) Unless otherwise specified in an applicable subpart or a permit condition, the facility shall operate at normal conditions resulting in the highest emissions. Normal operation shall exclude periods of startup, shutdown, or unit malfunction. Soot blowing is considered part of normal operations.

(2) If maximum capacity does not represent the condition which results in the highest emissions, the facility may be required to repeat the test at different load conditions and/or during use of a different fuel.

(3) All operating parameters, listed and approved under II(B) shall be recorded during the test.

(D) TEST STOPPAGES

(1) Once initiated, a compliance test shall be completed, except as noted in II(D)(2). Failure to complete a test shall be a violation of the requirement to test, and, in cases where the initial data indicate non-compliance with the applicable emission standard, a violation of that standard.

(2) A stack test may be stopped due to severe weather, tester equipment failure, unit failure, safety considerations, or other conditions beyond the control of the facility. The NWCAA observer may void a test or individual run on-site if procedures are determined to be employed incorrectly.

(3) Data generated during aborted tests shall be appended to the report of the valid repeat test. Documentation of the reasons for test stoppage shall be included in the test report. Test stoppages under II(D)(2) do not provide an extension of any test deadline.

(E) POSTPONEMENT

(1) Compliance tests shall be completed prior to the required test deadline as listed in the applicable subpart or a permit condition. Failure to conduct a timely compliance test constitutes a violation of the requirement to test.

(F) TEST REPORT

(1) A test report shall be submitted to the NWCAA no later than 60 (sixty) days after the completion of the test, unless otherwise specified by an applicable subpart.

(2) A summary of the test shall accompany the test report and submitted on a template provided by the NWCAA.

(3) All field data, operational data listed in the test plan, quality assurance information, sample calculations, and other supporting information, such as certificates for gas standards, or meter box and calibrations, shall be included in the test report.

(G) REQUIREMENTS FOR RE-TESTING

(1) A facility shall be required to repeat a test, and may be required to conduct source tests more frequently, if one or more of the following conditions are encountered:

(a) The facility exceeded the applicable standard.

(b) If the test was stopped for any reason.

(c) If operating conditions or testing methodology deviated significantly from those described in the original test plan.

(d) If the test was voided by the NWCAA.

III. CONTINUOUS EMISSION AND OPACITY MONITORING

(A) GENERAL

(1) Unless subject to acid rain regulations (40 CFR Part 75), all continuous emission monitoring (CEM) systems shall be capable of meeting the appropriate EPA performance specification using procedures outlined in 40 CFR 60, Appendix B. CEMs subject to acid rain regulations shall be capable of meeting the specifications outlined in the appropriate Section of 40 CFR Part 75.

(2) All CEMs shall be operated in accordance with the appropriate Section of 40 CFR 60, Appendix F.

(3) A Quality Assurance (QA) and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation.

(4) The operator shall assess the operation of each CEM daily. The date, time, operator and location shall be written on the strip chart and log book each time the monitor is checked manually. Recorder charts shall be documented with explanations for unusual traces, maintenance, invalid data, calibrations, etc. On a case-by-case basis the NWCAA may approve the use of electronic log books.

(5) For gaseous CEMs, "continuous" shall be defined as a minimum of one measurement every 15 minutes, i.e., four equally spaced data points comprising an hourly average.

(6) For continuous opacity monitors (COMs), "continuous" shall be defined as a minimum of one measurement every 15 seconds.

(7) Continuous emission rate monitors shall comply with 40 CFR Part 60, Appendix B, Specification 6. The flow portion of the system shall be checked periodically against EPA Method 2.

(B) CALIBRATION

(1) CEM calibration drift (precision) checks shall be conducted daily in accordance with 40 CFR Part 60, Appendix F and the written operational procedures.

(2) The instrument shall be adjusted in accordance with the requirements of the applicable performance specification of 40 CFR Part 60, Appendix B.

(3) Temperature monitors shall be accurate to within 5 degrees F, unless otherwise specified in a subpart.

(4) A section on calibration check and adjustment procedures shall be included in the CEM QA document.

(5) Continuous opacity monitors shall be calibrated as outlined in 40 CFR Part 60, Appendix B, Specification 1 and the manufacturer's procedures.

(C) MAINTENANCE

(1) Continuous opacity monitors shall be maintained according to "Recommended Quality Assurance Procedures for Opacity Continuous Emission Monitoring Systems" (EPA 340/1-86-10) and the manufacturer's procedures.

(2) All gaseous CEMs shall be maintained using QA criteria of 40 CFR Part 60, Appendix F and the manufacturer's procedures.

(3) Temperature monitors shall be maintained according to manufacturer's recommendations.

(4) A section on preventive maintenance procedures shall be included in the CEM QA document.

(D) AUDITING - CONTINUOUS OPACITY MONITORS (COMS)

(1) Accuracy checks shall be performed according to EPA "Recommended Quality Assurance Procedures for Opacity Continuous Emission Monitoring Systems" (EPA 340/1-86-10). Testing in addition to otherwise applicable requirements shall be implemented as follows:

(a) On-stack performance audit: A calibration error check shall be conducted if accuracy or linearity of data does not comply with applicable specifications.

(b) An off-stack (clear path) zero alignment shall be conducted if the percentage difference between the simulated zero check response and the true value is greater than suggested manufacturer's limits or standards.

(2) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the opacity monitor and a review of operating procedures, site log, documentation of data collection activity, and location criteria.

(3) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the opacity monitor meets the applicable performance specification.

(E) AUDITING - GASEOUS MONITORS

(1) Data accuracy assessments shall be performed at least once every calendar quarter and at periodic intervals determined by monitor performance and data accuracy.

Data accuracy assessments shall be conducted in accordance with procedures outlined in 40 CFR Part 60, Appendix F. The following testing methods shall be used as described in Part 60:

(a) Relative Accuracy Test Audit (RATA)

(b) Relative Accuracy Audit (RAA)

(c) Cylinder Gas Audit (CGA)

The Relative Accuracy Test Audit shall be conducted at least once every four (4) calendar quarters as described in the applicable performance specification outlined in 40 CFR Part 60, Appendix B.

(2) All audits shall assess accuracy in units of the applicable standard with which compliance is being determined and shall test the entire system. Accuracy calculations shall be based on the output of the CEM's data acquisition system.

(3) Data accuracy assessments which require the CEM to be off-line shall not be performed during periods in which the CEM is measuring greater than 75% of the applicable standard without prior approval by the NWCAA.

(4) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the CEM and a review of operating procedures, site log, documentation of data collection activity, and location criteria.

(5) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the CEM meets the applicable performance specification.

(F) DATA RECORDING, VALIDATION AND REPORTING

(1) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute averages. Paperless strip charts are acceptable if configured to store one-minute averages (15-second or better averages for opacity monitors). Strip chart times shall

not deviate from the time of the data acquisition system by more than 10 minutes.

(2) All gaseous CEMs shall be able to digitally capture and store data in at least 5-minute averages, unless the data acquisition system is used to replace strip charts in which case one-minute storage shall be required. Opacity monitoring systems shall be capable of storing 15-second averages.

(3) All data shall be retained for a period of at least five (5) years and be available to the NWCAA upon request.

(4) Each CEM shall have a log book or file on site. Any work performed on any portion of CEM system shall be recorded, including the following information:

(a) Date, time, and personnel identification

(b) Reason for station visit

(c) Action(s) taken

(d) Time period for which the analyzer was offline

(5) Each CEM shall have a QA manual on site which address all quality control requirements outlined in 40 CFR Part 60, Appendix F, Section 3. All QA procedures should be described in sufficient detail to assure that all operators carry out procedures in the same manner. At a minimum, the following shall be included:

(a) Instrument installation description including model and serial numbers

(b) Operating procedures including daily check procedures and pertinent instrument settings

(c) Procedures for calibration and calibration drift assessment

(d) Quality control limits and instrument adjustments procedures

(e) Preventive maintenance procedures

(f) Data recording, validation, backup, and reporting procedures

(g) Accuracy assessment procedures for CGAs and RATAs

(h) Corrective action plan for malfunctioning CEM, including reporting requirements

(i) List of personnel responsible for the CEM

(j) Vendor names and addresses

(k) Spare parts inventory

(l) Training procedures

(6) Data from strip chart recorders or recording devices approved under III(F)(1), shall be reviewed and, if applicable, compared to corresponding data logger values, and then signed by the station operator. At a minimum, the following information shall be checked and appropriately labeled:

(a) Zero and span/precision checks

(b) Preventive maintenance operations

(c) QA activities

(d) Unusual chart traces

(e) Time, date, and personnel identification

(7) Pre-adjustment values for automatically adjusting monitors shall be documented (40 CFR Part 60, Appendix F, Section 4.2).

(8) All unusual or questionable data shall be investigated and, if appropriate, be voided. For gaseous monitors, a minimum of 45 minutes of valid data in a 1-hour period is required for the hour to be considered valid. A minimum of 18 hours of valid data in a 24 hour period is required for the day to be considered valid.

(9) CEM data shall be considered invalid, and flagged for reporting purposes, if:

(a) The monitor is not operated and maintained in accordance with the applicable performance specifications of 40 CFR Part 60, Appendix B.

(b) Quality assurance procedures are not in accordance with 40 CFR Part 60, Appendix F.

(c) The CEM or is not operative or off line.

(d) The monitor is being zeroed or spanned.

(e) The CEM is "out-of-control" as defined in 40 CFR Part 60, Appendix F.

(10) Data generated during QA audits (e.g., CGAs), calibration, and calibration drift checks shall be excluded for purposes of compliance determination.

(11) For reporting purposes, averaging periods for CEMs are one (1) clock hour for gaseous monitors, six (6) minutes for opacity monitors, and fifteen (15) minutes for temperature monitors, unless otherwise specified by applicable limits.

(12) Missing data substitution: Missing or invalid data shall be substituted using the following procedures:

(a) Missing data from CEMs that are turned off during periods of excess emissions shall be reported as exceedances of all applicable emission standards.

(b) Parametric, engineering, or source test data may be utilized for data substitution during periods of normal operation as demonstrated by operating data.

(c) If neither (a) nor (b) above apply, the following substitution scheme is to be used:

Previous 30 day data availability	Up to 24 hours of missing data:	Greater than 24 hours of missing data
95%	Average of last and first valid hour bracketing the missing data period.	The average of first and last valid hour or the 90th percentile value during the last 720 hours, whichever is greater
Previous 30 day data availability	Up to 8 hours of missing data:	Greater than 8 hours of missing data
90% and < 95%	Average of last and first valid hour bracketing the missing data period	The average of first and last valid hour or the 95th percentile value during the last 720 hours, whichever is greater
< 90%	Maximum hourly average over the last 30 days	Maximum hourly average over the last 30 days

(13) Data availability (in percent) shall be defined as the [(number of valid (excluding substituted) hours of CEM data in a reporting month) minus (hours of calibration/CD/QA checks)] divided by [total hours of operation of the corresponding unit in that month] times 100.

(14) CEMs are required to maintain greater than 90% data availability on a monthly basis. A supplemental report shall be submitted if during any calendar month a CEM system fails to produce 90% data availability, stating the reason(s) for the low data availability.

(15) The following data shall be submitted to the NWCAA on a monthly basis or according to the applicable standard:

(a) Time, date, magnitude, and cause of all emissions or temperatures which exceed the applicable standard(s).

(b) The cause and time periods of any bypass of the air pollution control equipment.

(c) The cause and time periods of CEM downtime not associated with routine QA or maintenance operations.

(d) Data availability for each CEM, listed by unit and parameter.

(e) Supplemental report for system with 90% monthly data availability.

(f) Other data or information as required by the Director.

(16) Monthly reports shall be postmarked no later than thirty (30) days after the end of the reporting month.

(17) A Data Assessment Report as defined in 40 CFR Part 60 Appendix F, Section 7 shall be submitted to the NWCAA on a quarterly basis and other time interval as specified by the NWCAA.

PASSED: July 14, 2005

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

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

WSR 05-12-009

PROPOSED RULES

WASHINGTON STATE LOTTERY

[Filed May 20, 2005, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [05-08-066 filed on] March 31, 2005.

Title of Rule and Other Identifying Information: WAC 315-06-125 Debts owed the state, changes to the rule will clarify the debt verification process.

Hearing Location(s): London Conference Room, Mezzanine Level Airport Office Building, Seattle-Tacoma International Airport, Seattle, Washington, on July 21, 2005, at 10:00 a.m.

Date of Intended Adoption: July 21, 2005.

Submit Written Comments to: Ceil Buddeke, P.O. Box 43025, Olympia, WA 98504-3025, e-mail Cbuddeke@walottery.com, fax (360) 664-4833, by July 19, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by July 19, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington's lottery intends to recommend permanent amendment of this rule to clarify the verification requirements for debts owing to state agencies or political subdivisions.

Reasons Supporting Proposal: Lottery prizes are subject to off-set debts owed to the state. This rule will expedite collections of obligations through improved interagency cooperation.

Statutory Authority for Adoption: Chapter 67.70 RCW.

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

Name of Proponent: Washington's Lottery, public.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98507, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have a disproportionate impact on the state's small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Debt offset is mandated by statute. The rule is needed to achieve the general goals and specific objectives of RCW 67.70.255 to offset debts owing to state agencies or political subdivisions.

May 20, 2005
Ceil Buddeke
Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-23-012, filed 11/5/93, effective 12/6/93)

WAC 315-06-125 Debts owed the state. (1) The terms used in RCW 67.70.255 and these regulations are defined as follows:

(a) Creditor - Any state agency or political subdivision of this state that maintains records of debts owed to the state or political subdivision, or that the state is authorized to enforce or collect.

(b) Debt - A judgment rendered by a court of competent jurisdiction or obligations established pursuant to RCW 50.20.190, 51.32.240, 51.48.140, 74.04.300, 74.20A.040, 74.20A.055 and 82.32.210 or administrative orders as defined in RCW 50.24.110, 51.32.240, 51.48.150, and 74.20A.020(6).

(c) State - The state of Washington.

(d) Two working days - Two days not to include Saturdays, Sundays, and holidays as defined in RCW 1.16.050 commencing the day following the date the claim was validated by the lottery.

(e) Verification - A facsimile or photocopy (~~of a judgment or final order~~) documenting debt, which is received by the lottery during the requisite two working day period.

(f) Individual - A natural person.

(2) Any creditor may submit, to the lottery, in a format specified by the director, data processing tapes/files containing debt information specified by the director. Tapes/files which do not contain the required information or are not in the proper format will be returned to the creditor. The creditor submitting debt information tapes/files shall provide replacement tapes/files on a regular basis at intervals not to exceed one month or less than one week. The creditor shall be solely responsible for the accuracy of the information contained therein.

(3) Creditors submitting data processing tapes/files to the lottery shall also submit the name or names of designated contact persons.

(4) The lottery shall include the debt information submitted by the creditor in its validation and prize payment process. The lottery shall delay payment of a prize, exceeding six hundred dollars, for a period not to exceed two working days, to any individual prize winner or to any other prize winner which has an individual holding a direct or indirect interest in the prize winner, and who owes a debt to a creditor pursuant

to the information submitted in subsection (2) of this section. The lottery shall make a reasonable attempt to contact the creditor's designated contact person(s) by phone, followed by written correspondence, to verify the debt. Three phone calls, excluding busy signals, shall constitute a reasonable attempt. The prize shall be paid to the prize winner if the debt is not verified by the submitting creditor within two working days. If the debt is verified, the prize shall be disbursed pursuant to subsection (9) of this section.

(5) It shall be the obligation of the prize winner to provide the lottery with the names, Social Security numbers, and percentage interests of the individuals who collectively hold one hundred percent of the interest in the prize.

(6) Where an individual holds an interest in a prize claimed by another individual, the lottery must be informed of that interest, its percentage and the Social Security number (SSN) of the nonclaimant individual who holds the interest, prior to the validation and prize payment process described herein; otherwise, the Social Security number of the claimant individual and the full net amount of the prize will be used in completing the processing required under this section.

(7) Where the right to payment to an individual who holds an interest in a prize winner is discretionary with a third party or is contingent, the tax ID number of the prize winner shall be used in completing the processing required under this section, rather than the Social Security number of said individual.

(8) A creditor shall verify the debt by submitting to the lottery at lottery headquarters in Olympia, Washington within the requisite two working day period, a facsimile or photocopy of (~~a judgment or final order which~~) the documentation that is the basis for the debt.

(9) Prior to disbursement, any verified debts owed to a creditor by the individual winner of any lottery prize exceeding six hundred dollars or by an individual holding more than a six hundred dollar interest in a prize winner shall be set off against the prize owing to the individual or against the proportionate interest of the individual in the prize winner. In the event a prize winner or an individual holding more than a six hundred dollar interest in a prize winner owes debts to more than one creditor, and the total prize to that winner or individual is insufficient to pay all debts, the set off shall be paid to the creditors on a pro rata basis based on the amount of debt owed to each creditor unless priority is established by statute.

WSR 05-12-023

**WITHDRAWAL OF PROPOSED RULES
WASHINGTON STATE UNIVERSITY**

[Filed May 23, 2005, 2:38 p.m.]

Washington State University has decided to withdraw the current proposal to revise various sections in chapter 504-25 WAC, the standards of conduct for students. The university administration has decided to wait until 2006 to revise these rules.

For your reference, the CR-102 for this proposed rule revision was filed with the Code Reviser's Office on January 18, 2005.

Ralph Jenks, Director
Office of Procedures,
Records, and Forms and
University Rules Coordinator

WSR 05-12-030
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 24, 2005, 9:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-113.

Title of Rule and Other Identifying Information: Portable ladders, the department is proposing to rewrite and clarify requirements relating to portable ladders. The department is repealing the rule in chapters 296-24, 296-155 and 296-800 WAC and proposing portable ladders as a new chapter. This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity.

Hearing Location(s): Department of Labor and Industries Building, Room S117, 7273 Linderson Way S.W., Tumwater, WA, on August 1, 2005, at 1:30 p.m.

Date of Intended Adoption: September 7, 2005.

Submit Written Comments to: Cindy Ireland, Project Manager, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98507-4620, e-mail mooc235@lni.wa.gov, fax (360) 902-5529, by August 8, 2005.

Assistance for Persons with Disabilities: Contact Kim Johnson by July 18, 2005, TTY (360) 902-5008 or rhok235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to make this rule easy to read, understand and more usable for employers. This proposal will place all portable ladder requirements (chapters 296-24, 296-155 and 296-800 WAC) into one chapter 296-876 WAC, Portable ladders. There are no anticipated effects.

AMENDED PARTS:

Chapter 296-24 WAC, Part J-1.

- Add the word "fixed" into the title of this part.

Chapter 296-155 WAC, Part J.

- Add the word "fixed" into the title of this part.

AMENDED SECTIONS:

WAC 296-155-475 Scope and application.

- Add references to the new portable ladder and scaffold chapters.
- Add the word "fixed" to the scope of this part.

WAC 296-155-47501 Definitions applicable to this part.

- Delete the following definitions:
 - extension trestle ladder, job-made ladder, ladder types, portable ladder, single rail ladder, special purpose ladder, step stool and trestle ladder.

WAC 296-155-480 Ladders.

- Add the word "fixed" to the title of this section.
- Delete the requirements relating to portable ladders from this section. Add language referencing the new portable ladder rule, chapter 296-876 WAC.

WAC 296-155-48080 Appendix A.

- Delete the portable ladder ANSI references.

NEW CHAPTER:

Chapter 296-876 WAC, Portable ladders.

- Move requirements relating to portable ladders from chapters 296-800, 296-24 and 296-155 WAC to this chapter. This rule making is part of our four-year plan to rewrite for clarity all of our general occupational safety and health rules.

NEW SECTIONS:

WAC 296-876-100 Scope.

- Requirements relating to portable ladders, including job-made wooden ladders are being moved to this chapter.

WAC 296-876-200 Design and construction, section contents.

- Create this section contents/summary page relating to design and construction of portable ladders.

WAC 296-876-20005 Design and construction.

- Create this section to consolidate all of the design and construction requirements relating to portable ladders located in chapters 296-24, 296-155, and 296-800 WAC.

WAC 296-876-300 Ladder care, section contents.

- Create this section contents/summary page relating to ladder care (condition, inspection, repair storage, and transport).

WAC 296-876-30005 Condition and inspection.

- Requirements relating to the condition and inspection of portable ladders were moved from WAC 296-800-29005, 296-800-29010, 296-800-29020, 296-800-29025, and 296-155-480 to this section.

WAC 296-876-30010 Repair.

- Requirements relating to the repair of portable ladders were moved from WAC 296-800-29025 and 296-155-480 to this section.

WAC 296-876-30015 Storage.

- Requirements relating to the storage of portable ladders were moved from WAC 296-800-29010 and 296-800-29025 to this section.

WAC 296-876-30020 Transport.

- Requirements relating to the transport of portable ladders were moved from WAC 296-800-29010 to this section.

WAC 296-876-400 Use—Section contents.

- Create this section contents/summary page relating to use of portable ladders.

WAC 296-876-40005 Designed use.

- Requirements relating to the designed use of portable ladders were moved from WAC 296-800-29015, 296-800-29030, and 296-155-480 to this section.

WAC 296-876-40010 Workplace activities or traffic.

- Requirements relating to the workplace activities or traffic around portable ladders were moved from WAC 296-800-29030 and 296-155-480 to this section.

WAC 296-876-40015 Support.

- Requirements relating to the support of portable ladders were moved from WAC 296-800-29015, 296-800-29030, and 296-155-480 to this section.

WAC 296-876-40020 Set-up.

- Requirements relating to the set-up of portable ladders were moved from WAC 296-800-29015, 296-800-29030, and 296-155-480 to this section.

WAC 296-876-40025 Climbing and descending.

- Requirements relating to the climbing and descending on portable ladders were moved from WAC 296-800-29005, 296-800-29015, 296-800-29030, and 296-155-480 to this section.

WAC 296-876-40030 Getting on and off ladders at upper levels.

- Requirements relating to getting on and off ladders at upper levels were moved from WAC 296-800-29030 and 296-155-480 to this section.

WAC 296-876-40035 Exposed electrical hazards.

- Requirements relating to exposed electrical hazards were moved from WAC 296-800-29030 and 296-155-480 to this section.

WAC 296-876-40040 Persons on ladders.

- Requirements relating to persons on portable ladders were moved from WAC 296-800-29035 and 296-155-480 to this section.

WAC 296-876-40045 Multi-section ladders.

- Requirements relating to multi-section ladders were moved from WAC 296-24-78007, 296-24-79503, 296-800-29015, 296-800-29030, and 296-155-480 to this section.

WAC 296-876-40050 Self-supporting ladders.

- Requirements relating to self-supporting ladders were moved from WAC 296-800-29040 and 296-155-480 to this section.

WAC 296-876-500 Training—Section contents.

- Create this section contents/summary page relating to training.

WAC 296-876-50005 Training.

- Requirements relating to training were moved from WAC 296-155-480 to this section.

WAC 296-876-600 Definitions.

- The following definitions were consolidated from chapters 296-24, 296-155, and 296-800 WAC that relate to portable ladders:
 - cleat, double-cleat ladder, equivalent, extension ladder, extension trestle ladder, failure, job-made ladder, ladder, ladder type, maximum intended load, portable ladder, reinforced plastic, reinforced plastic ladder, rung, sectional ladder, single-cleat ladder, single ladder, single-rail ladder, special-purpose ladder, step, stepladder, stress-grade lumber, trestle ladder, and working length.

REPEALED SECTIONS:**WAC 296-24-780 Portable wood ladders, 296-24-78003 Application of requirements, 296-24-78005 Materials, and 296-24-78009 Ladder tests.**

- Requirements relating to portable wood ladders have been moved to chapter 296-876 WAC.

WAC 296-24-78007 Construction requirements.

- Requirements relating to portable ladders have been moved to chapter 296-876 WAC.
- Requirements relating to the design and construction of portable ladders have been moved to chapter 296-876 WAC.

WAC 296-24-795 Portable metal ladders, 296-24-79501 Terms, 296-24-79503 Requirements, and 296-24-79505 Testing.

- Requirements relating to portable metal ladders have been moved to chapter 296-876 WAC.

WAC 296-800-290 Summary, 296-800-29005 Inspect your portable metal ladders periodically, 296-800-29010 Make sure your portable metal ladders are kept in good condition, 296-800-29015 Use your portable metal ladders safely, 296-800-29020 Inspect your portable wooden ladders frequently, 296-800-29025 Make sure your portable wooden ladders are kept in good condition, 296-800-29030 Use your portable wooden ladders safely and for their intended purpose, 296-800-29035 Safely use a portable wooden ladder when working more than twenty-five feet above ground, and 296-800-29040 Use wooden step-ladders safely.

- Requirements relating to portable ladders have been moved to chapter 296-876 WAC.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Wood, Tumwater, (360) 902-5495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to RCW 19.85.030 (1)(a), a small business economic impact statement (SBEIS) is required only when a rule will "impose more than a minor cost on businesses in an industry." An analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will make WISHA rules easier for employers and employees to understand and use, and thus save them time and resources. Therefore, no SBEIS is required.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs to assess within these rule amendments.

May 24, 2005

Judy Schurke
for Gary K. Weeks
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-800-290	Summary.
WAC 296-800-29005	Inspect your portable metal ladders periodically.
WAC 296-800-29010	Make sure your portable metal ladders are kept in good condition.
WAC 296-800-29015	Use your portable metal ladders safely.
WAC 296-800-29020	Inspect your portable wooden ladders frequently.
WAC 296-800-29025	Make sure your portable wooden ladders are kept in a good condition.
WAC 296-800-29030	Use your portable wooden ladders safely and for their intended purpose.
WAC 296-800-29035	Safely use a portable wooden ladder when working more than 25 feet above ground.
WAC 296-800-29040	Use wooden stepladders safely.

PART J-1**WORKING SURFACES, GUARDING FLOORS AND WALL OPENINGS, FIXED LADDERS**

~~((Working Surfaces, Ladders, Scaffolds))~~

Note: Requirements relating to portable ladders have been moved to chapter 296-876 WAC, Portable ladders.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-780	Portable wood ladders.
WAC 296-24-78003	Application of requirements.
WAC 296-24-78005	Materials.
WAC 296-24-78007	Construction requirements.
WAC 296-24-78009	Ladder tests.
WAC 296-24-795	Portable metal ladders.
WAC 296-24-79501	Terms.
WAC 296-24-79503	Requirements.
WAC 296-24-79505	Testing.

**PART J
STAIRWAYS AND FIXED LADDERS**

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-155-475 Scope and application. This part applies to all stairways and fixed ladders used in construction, alteration, repair (including painting and decorating), and demolition workplaces covered under chapter 296-155 WAC, and also sets forth, in specified circumstances, when ladders and stairways are required to be provided. ~~((Additional requirements for ladders used on or with scaffolds are contained in chapter 296-155 WAC, Part J-1.))~~

Reference: • Requirements for ladders used on or with scaffolds are located in chapter 296-874 WAC, Scaffolds.
• Requirements for portable ladders are located in chapter 296-876 WAC, Portable ladders.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-155-47501 Definitions applicable to this part. (1) Cleat means a ladder crosspiece of rectangular cross section placed on edge upon which a person may step while ascending or descending a ladder.

(2) Double-cleat ladder means a ladder similar in construction to a single-cleat ladder, but with a center rail to allow simultaneous two-way traffic for employees ascending or descending.

(3) Equivalent means alternative designs, materials, or methods that the employer can demonstrate will provide an equal or greater degree of safety for employees than the method or item specified in the standard.

~~((4) ((Extension trestle ladder means a self-supporting portable ladder, adjustable in length, consisting of a trestle ladder base and a vertically adjustable extension section, with a suitable means for locking the ladders together (also see trestle ladder).~~

~~((5)))~~ Failure means load refusal, breakage, or separation of component parts. Load refusal is the point where the structural members lose their ability to carry the loads.

~~((6)))~~ ~~((5))~~ Fixed ladder means a ladder that cannot be readily moved or carried because it is an integral part of a building or structure. A side-step fixed ladder is a fixed ladder that requires a person getting off at the top to step to the side of the ladder side rails to reach the landing. A through fixed ladder is a fixed ladder that requires a person getting off at the top to step between the side rails of the ladder to reach the landing. For the purpose of this standard, slip forms and scaffolds with built in ladders permanently attached, are considered to be fixed ladders.

~~((7)))~~ ~~((6))~~ Handrail means a rail used to provide employees with a handhold for support.

~~((8)))~~ ~~((7))~~ Individual-rung/step ladders means ladders without a side rail or center rail support. Such ladders are made by mounting individual steps or rungs directly to the side or wall of the structure.

~~((9))~~ ~~Job made ladder means a ladder that is fabricated, not commercially manufactured. This definition does not apply to any individual rung/step ladders.~~

PROPOSED

~~(10) Ladder types. For the purpose of this standard ladder types are defined by the following types:~~

~~Type IA—Extra heavy duty industrial use.~~

~~Type I—Heavy duty industrial use such as utilities and contractors.~~

~~Type II—Medium duty industrial use such as painters, offices, and light industrial use.~~

~~Type III—Light duty household use.~~

~~((11)) (8) Landing means any area such as the ground, roof, or platform that provides access/egress for a ladder.~~

~~((12)) (9) Lower levels means those areas to which an employee can fall from a stairway or ladder. Such areas include ground levels, floors, roofs, ramps, runways, excavations, pits, tanks, material, water, equipment, and similar surfaces. It does not include the surface from which the employee falls.~~

~~((13)) (10) Maximum intended load means the total load of all employees, equipment, tools, materials, transmitted loads, and other loads anticipated to be applied to a ladder component at any one time.~~

~~((14)) (11) Nosing means that portion of a tread projecting beyond the face of the riser immediately below.~~

~~((15)) (12) Platform means a walking/working surface for persons, elevated above the surrounding floor or ground.~~

~~((16)) (13) Point of access means all areas used by employees for work-related passage from one area or level to another. Such open areas include doorways, passageways, stairway openings, studded walls, and various other permanent or temporary openings used for such travel.~~

~~((17) Portable ladder means a ladder that can be readily moved or carried.~~

~~((18)) (14) Riser height means the vertical distance from the top of a tread to the top of the next higher tread or platform/landing or the distance from the top of a platform/landing to the top of the next higher tread or platform/landing.~~

~~((19)) (15) Side-step fixed ladder. See "fixed ladder."~~

~~((20)) (16) Single-cleat ladder means a ladder consisting of a pair of side rails, connected together by cleats, rungs, or steps.~~

~~((21) Single rail ladder means a portable ladder with rungs, cleats, or steps mounted on a single rail instead of the normal two rails used on most other ladders. Single rail ladders are prohibited from use.~~

~~((22) Special purpose ladder means a portable ladder that represents either a modification or a combination of design or construction features in one of the general purpose types of ladders previously defined, in order to adapt the ladder to special or specific uses.~~

~~((23)) (17) Spiral stairway means a series of steps attached to a vertical pole and progressing upward in a winding fashion within a cylindrical space.~~

~~((24)) (18) Stairrail system means a vertical barrier erected along the unprotected sides and edges of a stairway to prevent employees from falling to lower levels. The top surface of a stairrail system may also be a "handrail."~~

~~((25) Step stool (ladder type) means a self-supporting, foldable, portable ladder, nonadjustable in length, 32 inches or less in overall size, with flat steps and without a pail shelf,~~

~~designed to be climbed on the ladder top cap as well as all steps. The side rails may continue above the top cap.~~

~~(26)) (19) Through fixed ladder. See "fixed ladder."~~

~~((27)) (20) Tread depth means the horizontal distance from front to back of a tread (excluding nosing, if any).~~

~~((28) Trestle ladder means a self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.~~

~~((29)) (21) Unprotected sides and edges means any side or edge (except at entrances to points of access) of a stairway where there is no stairrail system or wall 36 inches (.9 m) or more in height, and any side or edge (except at entrances to points of access) of a stairway landing, or ladder platform where there is no wall or guardrail system 39 inches (1 m) or more in height.~~

AMENDATORY SECTION (Amending WSR 96-24-051, filed 11/27/96, effective 2/1/97)

WAC 296-155-480 Fixed ladders. Requirements relating to portable ladders were removed from this section and are now located in chapter 296-876 WAC, Portable ladders.

(1) General. The following requirements apply to all fixed ladders as indicated ~~(, including job-made ladders)~~.

(a) Ladders shall be capable of supporting ~~((the following loads))~~, without failure ~~(:~~

~~(i) Each self-supporting portable ladder: At least four times the maximum intended load, except that each extra-heavy duty type 1A metal or plastic ladder shall sustain at least 3.3 times the maximum intended load. The ability of a ladder to sustain the loads indicated in this section shall be determined by applying or transmitting the requisite load to the ladder in a downward vertical direction. Ladders built and tested in conformance with the applicable provisions of appendix A of this part will be deemed to meet this requirement.~~

~~(ii) Each portable ladder that is not self-supporting: At least four times the maximum intended load, except that each extra-heavy duty type 1A metal or plastic ladders shall sustain at least 3.3 times the maximum intended load. The ability of a ladder to sustain the loads indicated in this section shall be determined by applying or transmitting the requisite load to the ladder in a downward vertical direction when the ladder is placed at an angle of 75 1/2 degrees from the horizontal. Ladders built and tested in conformance with the applicable provisions of appendix A will be deemed to meet this requirement.~~

~~(iii) Each fixed ladder:), at least two loads of 250 pounds (114 kg) each, concentrated between any two consecutive attachments (the number and position of additional concentrated loads of 250 pounds (114 kg) each, determined from anticipated usage of the ladder, shall also be included), plus anticipated loads caused by ice buildup, winds, rigging, and impact loads resulting from the use of ladder safety devices. Each step or rung shall be capable of supporting a single concentrated load of at least 250 pounds (114 kg) applied in the middle of the step or rung. Ladders built in con-~~

formance with the applicable provisions of appendix A will be deemed to meet this requirement.

(b) Ladder rungs, cleats, and steps shall be parallel, level, and uniformly spaced when the ladder is in position for use.

~~((c))~~ Rungs, cleats, and steps of ~~((portable ladders (except as provided below) and))~~ fixed ladders (including individual-rung/step ladders) shall be spaced not less than 10 inches (25 cm) apart, nor more than 14 inches (36 cm) apart, as measured between centerlines of the rungs, cleats, and steps.

~~((ii))~~ Rungs, cleats, and steps of step stools shall be not less than 8 inches (20 cm) apart, nor more than 12 inches (31 cm) apart, as measured between centerlines of the rungs, cleats, and steps.

~~((iii))~~ Rungs, cleats, and steps of the base section of extension trestle ladders shall be not less than 8 inches (20 cm) nor more than 18 inches (46 cm) apart, as measured between centerlines of the rungs, cleats, and steps. The rung spacing on the extension section of the extension trestle ladder shall be not less than 6 inches (15 cm) nor more than 12 inches (31 cm), as measured between centerlines of the rungs, cleats, and steps.

~~((iv))~~ Cleats on job-made ladders shall be inset into the edges of the side rails one half inch, or filler blocks shall be used on the side rails between the cleats.

~~((v))~~ Cleats on job-made ladders shall be secured to each rail with three 10d common wire nails or other fasteners of equivalent strength.)

~~((d))~~ The minimum clear distance between the sides of individual-rung/step ladders and the minimum clear distance between the side rails of other fixed ladders shall be 16 inches (41 cm).

~~((ii))~~ The minimum clear distance between side rails for all portable ladders shall be 11 1/2 inches (29 cm.)

(e) The rungs of individual-rung/step ladders shall be shaped such that employees' feet cannot slide off the end of the rungs.

~~((f))~~ The rungs and steps of fixed metal ladders manufactured after the effective date of this standard, shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

~~((ii))~~ The rungs and steps of portable metal ladders shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

(g) Ladders shall not be tied or fastened together to provide longer sections unless they are specifically designed for such use.

~~((h))~~ A metal spreader or locking device shall be provided on each stepladder to hold the front and back sections in an open position when the ladder is being used.

~~((i))~~ When splicing is required to obtain a given length of side rail, the resulting side rail must be at least equivalent in strength to a one piece side rail made of the same material.

~~((j))~~ (g) Except when portable ladders are used to gain access to fixed ladders (such as those on utility towers, billboards, and other structures where the bottom of the fixed ladder is elevated to limit access), when two or more separate ladders are used to reach an elevated work area, the ladders shall be offset with a platform or landing between the ladders. (The requirements to have guardrail systems with toeboards

for falling object and overhead protection on platforms and landings are set forth in chapter 296-155 WAC, Part K.)

~~((k))~~ (h) Ladder components shall be surfaced so as to prevent injury to an employee from punctures or lacerations, and to prevent snagging of clothing.

~~((l))~~ (i) Wood ladders shall not be coated with any opaque covering, except for identification or warning labels which may be placed on one face only of a side rail.

~~((m))~~ (j) The minimum perpendicular clearance between fixed ladder rungs, cleats, and steps, and any obstruction behind the ladder shall be 7 inches (18 cm), except in the case of an elevator pit ladder, for which a minimum perpendicular clearance of 4 1/2 inches (11 cm) is required.

~~((n))~~ (k) The minimum perpendicular clearance between the center line of fixed ladder rungs, cleats, and steps, and any obstruction on the climbing side of the ladder shall be 30 inches (76 cm), except as provided in ~~((o))~~ (l) of this subsection.

~~((o))~~ (l) When unavoidable obstructions are encountered, the minimum perpendicular clearance between the centerline of fixed ladder rungs, cleats, and steps, and the obstruction on the climbing side of the ladder may be reduced to 24 inches (61 cm), provided that a deflection device is installed to guide employees around the obstruction.

~~((p))~~ (m) Through fixed ladders at their point of access/egress shall have a step-across distance of not less than 7 inches (18 cm) nor more than 12 inches (30 cm) as measured from the centerline of the steps or rungs to the nearest edge of the landing area. If the normal step-across distance exceeds 12 inches (30 cm), a landing platform shall be provided to reduce the distance to the specified limit.

~~((q))~~ (n) Fixed ladders without cages or wells shall have a clear width to the nearest permanent object of at least 15 inches (38 cm) on each side of the centerline of the ladder.

~~((r))~~ (o) Fixed ladders shall be provided with cages, wells, ladder safety devices, or self-retracting lifelines where the length of climb is less than 24 feet (7.3 m) but the top of the ladder is at a distance greater than 24 feet (7.3 m) above lower levels.

~~((s))~~ (p) Where the total length of a climb equals or exceeds 24 feet (7.3 m), fixed ladders shall be equipped with one of the following:

(i) Ladder safety devices; or

(ii) Self-retracting lifelines, and rest platforms at intervals not to exceed 150 feet (45.7 m); or

(iii) A cage or well, and multiple ladder sections, each ladder section not to exceed 50 feet (15.2 m) in length. Ladder sections shall be offset from adjacent sections, and landing platforms shall be provided at maximum intervals of 50 feet (15.2 m).

~~((t))~~ (q) Cages for fixed ladders shall conform to all of the following:

(i) Horizontal bands shall be fastened to the side rails of rail ladders, or directly to the structure, building, or equipment for individual-rung ladders;

(ii) Vertical bars shall be on the inside of the horizontal bands and shall be fastened to them;

(iii) Cages shall extend not less than 27 inches (68 cm), or more than 30 inches (76 cm) from the centerline of the step

or rung (excluding the flare at the bottom of the cage), and shall not be less than 27 inches (68 cm) in width;

(iv) The inside of the cage shall be clear of projections;

(v) Horizontal bands shall be spaced not more than 4 feet (1.2 m) on center vertically;

(vi) Vertical bars shall be spaced at intervals not more than 9 1/2 inches (24 cm) on center horizontally;

(vii) The bottom of the cage shall be at a level not less than 7 feet (2.1 m) nor more than 8 feet (2.4 m) above the point of access to the bottom of the ladder. The bottom of the cage shall be flared not less than 4 inches (10 cm) all around within the distance between the bottom horizontal band and the next higher band;

(viii) The top of the cage shall be a minimum of 42 inches (1.1 m) above the top of the platform, or the point of access at the top of the ladder, with provision for access to the platform or other point of access.

((+)) (r) Wells for fixed ladders shall conform to all of the following:

(i) They shall completely encircle the ladder;

(ii) They shall be free of projections;

(iii) Their inside face on the climbing side of the ladder shall extend not less than 27 inches (68 cm) nor more than 30 inches (76 cm) from the centerline of the step or rung;

(iv) The inside clear width shall be at least 30 inches (76 cm);

(v) The bottom of the wall on the access side shall start at a level not less than 7 feet (2.1 m) nor more than 8 feet (2.4 m) above the point of access to the bottom of the ladder.

((+)) (s) Ladder safety devices, and related support systems, for fixed ladders shall conform to all of the following:

(i) They shall be capable of withstanding without failure a drop test consisting of an 18-inch (41 cm) drop of a 500-pound (226 kg) weight;

(ii) They shall permit the employee using the device to ascend or descend without continually having to hold, push or pull any part of the device, leaving both hands free for climbing;

(iii) They shall be activated within 2 feet (.61 m) after a fall occurs, and limit the descending velocity of an employee to 7 feet/sec. (2.1 m/sec.) or less;

(iv) The connection between the carrier or lifeline and the point of attachment to the body belt or harness shall not exceed 9 inches (23 cm) in length.

((w)) (t) The mounting of ladder safety devices for fixed ladders shall conform to the following:

(i) Mountings for rigid carriers shall be attached at each end of the carrier, with intermediate mountings, as necessary, spaced along the entire length of the carrier, to provide the strength necessary to stop employees' falls.

(ii) Mountings for flexible carriers shall be attached at each end of the carrier. When the system is exposed to wind, cable guides for flexible carriers shall be installed at a minimum spacing of 25 feet (7.6 m) and maximum spacing of 40 feet (12.2 m) along the entire length of the carrier, to prevent wind damage to the system.

(iii) The design and installation of mountings and cable guides shall not reduce the design strength of the ladder.

((*) (u) The side rails of through or side-step fixed ladders shall extend 42 inches (1.1 m) above the top of the

access level or landing platform served by the ladder. For a parapet ladder, the access level shall be the roof if the parapet is cut to permit passage through the parapet; if the parapet is continuous, the access level shall be the top of the parapet.

((+)) (v) For through-fixed-ladder extensions, the steps or rungs shall be omitted from the extension and the extension of the side rails shall be flared to provide not less than 24 inches (61 cm) nor more than 30 inches (76 cm) clearance between side rails. Where ladder safety devices are provided, the maximum clearance between side rails of the extensions shall not exceed 36 inches (91 cm).

((*) (w) For side-step fixed ladders, the side rails and the steps or rungs shall be continuous in the extension.

((*) (x) Individual-rung/step ladders, except those used where their access openings are covered with manhole covers or hatches, shall extend at least 42 inches (1.1 m) above an access level or landing platform either by the continuation of the rung spacings as horizontal grab bars or by providing vertical grab bars that shall have the same lateral spacing as the vertical legs of the rungs.

(2) Use. The following requirements apply to the use of all fixed ladders, ~~((including job-made ladders,))~~ except as otherwise indicated:

(a) ~~((When portable ladders are used for access to an upper landing surface, the ladder side rails shall extend at least 3 feet (.9 m) above the upper landing surface to which the ladder is used to gain access; or, when such an extension is not possible because of the ladder's length, then the ladder shall be secured at its top to a rigid support that will not deflect, and a grasping device, such as a grabrail, shall be provided to assist employees in mounting and dismounting the ladder. In no case shall the extension be such that ladder deflection under a load would, by itself, cause the ladder to slip off its support.~~

(b)) Ladders shall be maintained free of oil, grease, and other slipping hazards.

((*) (b) Ladders shall not be loaded beyond the maximum intended load for which they were built, nor beyond their manufacturer's rated capacity.

((*) (c) Ladders shall be used only for the purpose for which they were designed.

((*) (i) ~~Nonself supporting ladders shall be used at an angle such that the horizontal distance from the top support to the foot of the ladder is approximately one quarter of the working length of the ladder (the distance along the ladder between the foot and the top support).~~

(ii) ~~Wood job-made ladders with spliced side rails shall be used at an angle such that the horizontal distance is one-eighth the working length of the ladder.~~

((*) (d) Fixed ladders shall be used at a pitch no greater than 90 degrees from the horizontal, as measured to the back side of the ladder.

((*) Ladders shall be used only on stable and level surfaces unless secured to prevent accidental displacement.

(g) Ladders shall not be used on slippery surfaces unless secured or provided with slip resistant feet to prevent accidental displacement. Slip resistant feet shall not be used as a substitute for care in placing, lashing, or holding a ladder that is used upon slippery surfaces including, but not limited to,

flat metal or concrete surfaces that are constructed so they cannot be prevented from becoming slippery.

~~(h) Ladders placed in any location where they can be displaced by workplace activities or traffic, such as in passageways, doorways, or driveways, shall be secured to prevent accidental displacement, or a barricade shall be used to keep the activities or traffic away from the ladder.~~

~~(i)) (e) The area around the top and bottom of ladders shall be kept clear.~~

~~((j) The top of a nonself-supporting ladder shall be placed with the two rails supported equally unless it is equipped with a single support attachment.~~

~~(k) Ladders shall not be moved, shifted, or extended while occupied.~~

~~(l) Ladders shall have nonconductive side rails if they are used where the employee or the ladder could contact exposed energized electrical equipment, except as provided in the following:~~

~~(i) Portable metal or other portable conductive ladders shall not be used on or near energized line or equipment except where nonconductive ladders present a greater electrical hazard than conductive ladders. A greater electrical hazard would be static electricity such as might be found in extra high voltage substations.~~

~~(ii) All conductive or metal ladders shall be prominently marked and identified as being conductive.~~

~~(iii) All conductive or metal ladders shall be grounded when used near energized lines or equipment.~~

~~(m) The top or top step of a stepladder shall not be used as a step.~~

~~(n) Cross bracing on the rear section of stepladders shall not be used for climbing unless the ladders are designed and provided with steps for climbing on both front and rear sections.~~

~~(o)) (f) Ladders shall be inspected by a competent person for visible defects on a periodic basis and after any occurrence that could affect their safe use.~~

~~((p) Portable ladders with structural defects, such as, but not limited to, broken or missing rungs, cleats, or steps, broken or split rails, corroded components, or other faulty or defective components, shall either be immediately marked in a manner that readily identifies them as defective, or be tagged with "do not use" or similar language, and shall be withdrawn from service until repaired.~~

~~(q)) (g) Fixed ladders with structural defects, such as, but not limited to, broken or missing rungs, cleats, or steps, broken or split rails, or corroded components, shall be withdrawn from service until repaired. The requirement to withdraw a defective ladder from service is satisfied if the ladder is either:~~

~~(i) Immediately tagged with "do not use" or similar language;~~

~~(ii) Marked in a manner that readily identifies it as defective;~~

~~(iii) Or blocked (such as with a plywood attachment that spans several rungs).~~

~~((+)) (h) Ladder repairs shall restore the ladder to a condition meeting its original design criteria, before the ladder is returned to use.~~

~~((+)) (i) Single-rail ladders shall not be used.~~

~~((+)) (j) When ascending or descending a ladder, the user shall face the ladder.~~

~~((+)) (k) Employees shall not ascend or descend ladders while carrying tools or materials that might interfere with the free use of both hands.~~

~~((+)) When working from a ladder, the ladder shall be secured at both top and bottom.~~

~~(w)) (l) No type of work shall be performed on a ladder over twenty-five feet from the ground or floor that requires the use of both hands to perform the work, unless a safety belt is worn and the safety lanyard is secured to the ladder.~~

~~((+)) (m) Any work that requires wearing eye protection, respirators, or handling of pressure equipment shall not be performed from a ladder more than twenty-five feet above the surrounding surface.~~

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-155-48080 Appendix A. This appendix serves as a nonmandatory guideline to assist employers in complying with the ladder loading and strength requirements of WAC 296-155-480 (1)(a). A ladder designed and built in accordance with ~~((the applicable national consensus standards, as set forth below,))~~ ANSI A14.3.1984 - American National Standard for Ladders-Fixed-Safety Requirements will be considered to meet the requirements of WAC 296-155-480 (1)(a)(:).

~~((** Manufactured portable wood ladders: American National Standards Institute (ANSI) A14.1 1982 - American National Standard for Ladders Portable Wood Safety Requirements:~~

~~** Manufactured portable metal ladders: ANSI A14.2-1982 - American National Standard for Ladders - Portable Metal Safety Requirements:~~

~~** Manufactured fixed ladders: ANSI A14.3 1984 - American National Standard for Ladders Fixed Safety Requirements:~~

~~** Job-made ladders: ANSI A14.4 1979 - Safety Requirements for Job-Made Ladders:~~

~~** Plastic ladders: ANSI A14.5 1982 - American National Standard for Ladders Portable Reinforced Plastic Safety Requirements:))~~

Chapter 296-876 WAC

PORTABLE LADDERS

NEW SECTION

WAC 296-876-100 Scope. This chapter applies to portable ladders, including job-made wooden ladders.

Exemption: This chapter does not apply to portable ladders used:

- By the fire services for fire combat that are covered by Safety standards for fire fighters, chapter 296-305 WAC;

OR

- For agriculture activities covered by Safety standards for agriculture, chapter 296-307 WAC.

PROPOSED

PROPOSED

NEW SECTION

WAC 296-876-200 Design and construction—Section contents. Your responsibility:

To make sure portable ladders meet design and construction requirements.

Design and construction
WAC 296-876-20005.

NEW SECTION

WAC 296-876-20005 Design and construction.

IMPORTANT:

Design and construction requirements of this section do not apply to special purpose ladders.

Definition:

A *special purpose ladder* is a portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

You must:

- Make sure portable ladders and job-made wooden ladders manufactured **on or after January 1, 2006**, meet the design and construction requirements and specifications of the appropriate American National Standards Institute (ANSI) standard:

- ANSI A14.1-2000, American National Standard for Ladders-Portable Wood-Safety Requirements.
- ANSI A14.2-2000, American National Standard for Ladders-Portable Metal-Safety Requirements.
- ANSI A14.5-2000, American National Standard for Ladders-Portable Reinforced Plastic-Safety Requirements.
- ANSI A14.4-2002, American National Standard Safety Requirements for Job-Made Wooden Ladders.

- Make sure portable ladders manufactured **before January 1, 2006**, meet the design and construction requirements and specifications of the appropriate ANSI standard in effect on the date of manufacture:

- ANSI A14.1, American National Standard for Ladders-Portable Wood-Safety Requirements.
- ANSI A14.2, American National Standard for Ladders-Portable Metal-Safety Requirements.
- ANSI A14.5, American National Standard for Ladders-Portable Reinforced Plastic-Safety Requirements.

Note: A commercially manufactured portable ladder should have a label indicating it meets the requirements of the ANSI standard. If in doubt, check with the manufacturer.

NEW SECTION

WAC 296-876-300 Ladder care—Section contents.

Your responsibility:

To make sure portable ladders are inspected, maintained, stored and transported properly.

Condition and inspection
WAC 296-876-30005.

Repair
WAC 296-876-30010.

Storage
WAC 296-876-30015.

Transport
WAC 296-876-30020.

NEW SECTION

WAC 296-876-30005 Condition and inspection.

You must:

- Keep portable ladders in good, usable condition. Good, usable condition includes, but is not limited to:

- Joints between the steps or rungs and the side rails are tight.
- Rungs, cleats, or steps are not bent, broken, or missing.
- Side rails are not bent, broken, or split.
- All bolts and rivets are in place and secure.
- Hardware, fittings and accessories are securely attached and working properly.
- Ropes are not frayed or badly worn.
- Moveable parts operate freely without binding or excessive play.
- Safety feet and other auxiliary equipment are not excessively worn.
- Metal components are not corroded.
- There are no other faulty or defective components.

- Make sure wood ladders are not coated with an opaque covering except for the minimum amount necessary for identification and warning information which may be placed on one face only of a side rail.

- Have a competent person inspect a ladder:

- When required by Table 1, Ladder Inspection Criteria;

AND

- After any other occurrence that could affect safe use.

- Make sure any ladder with structural damage or other hazardous defect is:

- Marked to identify it as defective or tagged with "do not use" or similar language;

AND

- Removed from service.

Note: Ladders subjected to certain acids or alkali materials may experience chemical corrosion and a reduction in strength. Consult the manufacturer or a qualified person prior to use.

Ladder Inspection Criteria

Table 1

When the ladder is:	Do the following:
First placed into service and periodically while in service	<ul style="list-style-type: none"> • Inspect the ladder for visible defects, including, but not limited to: <ul style="list-style-type: none"> – Working parts; AND – Rung or step connections to the side rails.
Damaged by impact or tips over	<ul style="list-style-type: none"> • Visually inspect the ladder: <ul style="list-style-type: none"> – Metal and reinforced plastic ladders for dents or bends in the side rails and excessively dented rungs or steps. – Wood ladders for cracks or splits in the side rails and rungs or steps. • Check:

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When the ladder is:	Do the following:
	<ul style="list-style-type: none"> - Rung or step connections to the side rails. - Hardware connections. - Rivets for shear damage. - All other components.
Exposed to excessive heat such as a fire	<ul style="list-style-type: none"> • Visually inspect the ladder for damage. • Test for deflection and strength characteristics using the "in-service use tests" contained in the appropriate ANSI. <p>Exemption: Job-made wooden ladders are not to be subjected to load or impact tests. Those tests may weaken lumber components or fasteners, causing hidden damage that could result in sudden failure during use.</p>

NEW SECTION

WAC 296-876-400 Use—Section contents.

Your responsibility:

To use portable ladders safely.

Designed use

WAC 296-876-40005.

Workplace activities or traffic

WAC 296-876-40010.

Support

WAC 296-876-40015.

Set-up

WAC 296-876-40020.

Climbing and descending

WAC 296-876-40025.

Getting on and off ladders at upper levels

WAC 296-876-40030.

Exposed electrical hazards

WAC 296-876-40035.

Persons on ladders

WAC 296-876-40040.

Multisection ladders

WAC 296-876-40045.

Self-supporting ladders

WAC 296-876-40050.

NEW SECTION

WAC 296-876-30010 Repair.

You must:

- Make sure repairs restore the ladder to a condition meeting its original design criteria.
- Prohibit repairs to a defective side rail.

Note: A commercially manufactured ladder with a defective side rail cannot be repaired by the user. Side rail repair can only be done by the manufacturer.

NEW SECTION

WAC 296-876-30015 Storage.

You must:

- Make sure material is not put on ladders in storage.

Note:

- Store portable ladders on racks designed to protect them when not in use. The racks should have enough supporting points to prevent the ladder from sagging.
- Do not store wood ladders near sources of heat, moisture, or dampness.

NEW SECTION

WAC 296-876-30020 Transport.

You must:

- Properly support ladders while transporting them on vehicles.
- Make sure ladders transported in a truck rack are positively secured in a fixed position that prevents chafing or abrasion.

Note: Securing the ladder to each support point will greatly reduce damage due to road shock.

NEW SECTION

WAC 296-876-40005 Designed use.

You must:

- Use ladders only for their intended purpose.

Note: Unless specifically recommended by the manufacturer, do not use a ladder as a:

- Brace.
- Skid.
- Lever.
- Guy or gin pole.
- Gangway.
- Platform.
- Scaffold plank.
- Material hoist.

You must:

- Make sure not to overload ladders. Do not exceed either the:

– Maximum intended load;

OR

– Manufacturer's rated capacity.

Definition:

The *maximum intended load* is the total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time.

Note: Ladders are designated by type according to their maximum intended load and use as shown in the following table:

Duty Rating	Ladder Type	Use	Maximum Intended Load (Pounds)
Extra Heavy-Duty	IA	Industry, utilities, contractors	300

PROPOSED

Duty Rating	Ladder Type	Use	Maximum Intended Load (Pounds)
Heavy-Duty	I	Industry, utilities, contractors	250
Medium-Duty	II	Painters, offices, light maintenance	225
Light-Duty	III	General household use	200

NEW SECTION

WAC 296-876-40010 Workplace activities or traffic.

You must:

- Protect ladders that are set-up in a location where they could be displaced by workplace activities or traffic by either:
 - Securing the ladder to prevent accidental displacement;
- OR**
- Using a barricade to keep the activities or traffic away from the ladder.
- Protect ladders that are set-up in front of doors that open towards the ladder by doing at least one of the following:
 - Block the door open.
 - Lock the door.
 - Guard the door to keep it from opening into the ladder.

NEW SECTION

WAC 296-876-40015 Support.

You must:

- Place the ladder either:
 - With a secure footing on a firm, level support surface;
- OR**
- Secure the ladder to prevent accidental displacement.
- Make sure a ladder is not placed on ice, snow, or other slippery surface unless the ladder is prevented from accidental displacement by either:
 - Securing it;
- OR**
- Providing the ladder with slip-resistant feet.

Note: Slip-resistant feet are not a substitute for care in placing, lashing, or holding a ladder that is used on a slippery surface.

You must:

- Make sure ladders are not placed on boxes, barrels, or other unstable bases to obtain additional height.
- Place a straight ladder so the side rails are equally supported by the top support, unless the ladder is equipped with a single support attachment.
- Make sure the top support of the ladder is reasonably rigid and able to support the load.

NEW SECTION

WAC 296-876-40020 Set-up.

You must:

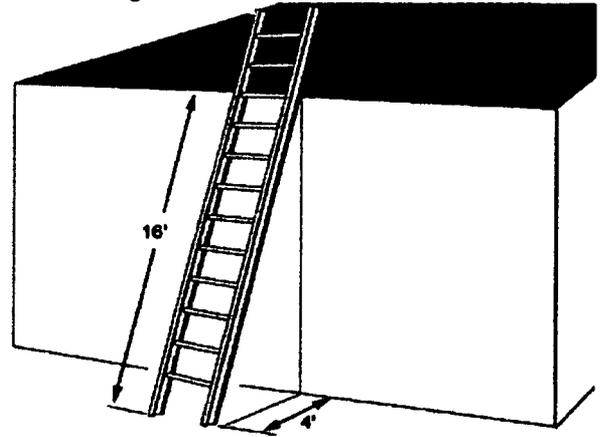
- Set-up nonself-supporting ladders at a safe angle. The ladder is set at the proper angle when the horizontal distance from the top support to the foot of the ladder is approximately one-quarter the working length of the ladder.
- Set-up job-made ladders with spliced side rails so that the horizontal distance from the top support to the foot of the ladder is not greater than one-eighth the working length of the ladder.

Definition:

The *working length* of a nonself-supporting ladder is the length, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

Note:

Safe ladder angle.



NEW SECTION

WAC 296-876-40025 Climbing and descending.

You must:

- Have both hands free to hold on to the ladder.
- Face the ladder when climbing or descending.
- Keep ladders free of oil, grease, or other slippery materials.
- Keep the area around the top and bottom of ladders clear.
- Make sure single-rail ladders are not used.

Definition:

A *single-rail ladder* is a portable ladder with crosspieces mounted on a single rail.

NEW SECTION

WAC 296-876-40030 Getting on and off ladders at upper levels.

You must:

- Make sure a ladder used to access an upper level has the side rails extend at least three feet (.9 m) above the landing surface if the ladder length permits.
- Do the following if a ladder used to access an upper level is not long enough to obtain a three-foot side rail extension above the landing surface:

- Secure the ladder at the top to a rigid support that will not deflect.
- Provide a grasping device, such as a grabrail, to assist in mounting and dismounting the ladder.
- Make sure the ladder deflection under a load would not, by itself, cause it to slip off its support.
- Make sure, if two or more separate ladders are used to reach an elevated work area, that the ladders are offset with a platform or landing between them.

Exemption: A platform or landing is not required when a portable ladder is used to reach a fixed ladder on structures such as utility towers and billboards where the bottom of the fixed ladder is elevated to limit access.

NEW SECTION

WAC 296-876-40035 Exposed electrical hazards.

You must:

- Use ladders with nonconductive side rails where the ladder could contact uninsulated, energized electric lines or equipment.
- Metal ladders or other ladders specifically designed to permit grounding or dissipation of static electricity may be used around high static electrical fields if all of the following are met:
 - Using nonconductive ladders would present a greater hazard than using conductive ladders.
 - Ladders are prominently marked and identified as being conductive.
 - Ladders are grounded when used near energized lines or equipment.

Note: Examples of ladders with conductive side rails are metal ladders, and wood or reinforced plastic ladders with metal side rail reinforcement.

NEW SECTION

WAC 296-876-40040 Persons on ladders.

You must:

- Make sure a ladder is not moved, shifted, or adjusted while anyone is on it.
 - Secure the ladder at the top and bottom when working from it.
 - Use a safety belt with a lanyard that is secured to the ladder when doing any work that:
 - Requires the use of both hands;
- AND**
- Is done from a ladder more than twenty-five feet above the ground or floor.
 - Prohibit work being done from a ladder more than twenty-five feet above the ground or floor if the work requires either:
 - Wearing eye protection or a respirator;
- OR**
- Handling pressure equipment.

NEW SECTION

WAC 296-876-40045 Multisection ladders.

You must:

- Make sure not to tie or fasten ladder sections together to make longer ladders unless:
 - The ladder manufacturer endorses this type of use;
- AND**
- You have hardware fittings specifically designed for this purpose.
 - Make sure each section of a multisection ladder, when fully extended and locked in position to be used, overlaps the adjacent section as indicated in Table 2, Minimum Required Overlap for Extension Ladders.

**Table 2
Minimum Required Overlap for Extension Ladders**

If the ladder size (feet) is:	Minimum required overlap for a two-section ladder is (feet):
Up to and including 36	3
Over 36 up to and including 48	4
Over 48 up to and including 60	5

NEW SECTION

WAC 296-876-40050 Self-supporting ladders.

You must:

- Make sure self-supporting ladders are not used as single ladders or in the partially closed position.
- Make sure stepladders are fully opened with the spreaders locked.
- Make sure not to climb on the rear braces of a self-supporting ladder unless they are designed and recommended for that purpose by the manufacturer.
- Prohibit standing or stepping on the:
 - Top cap and top step of a step or trestle ladder.
 - Bucket or pail shelf of a self-supporting ladder.

Exemption: The restriction against using the top step is not applicable if it is eighteen inches or more below the top cap.

NEW SECTION

WAC 296-876-500 Training—Section contents.

Your responsibility:

To train employees who use portable ladders.

Training

WAC 296-876-50005.

NEW SECTION

WAC 296-876-50005 Training.

You must:

- Train employees to recognize ladder hazards and the procedures to minimize these hazards.

PROPOSED

- Have a competent person train employees that use portable ladders in at least the following topics:
 - The proper construction, use, placement, and care in handling ladders.
 - The maximum intended load capacities of ladders that are used.
 - The requirements of this chapter.
- Retrain employees as necessary to make sure they know and understand the content of the original training.

NEW SECTION

WAC 296-876-600 Definitions.

Cleat

A ladder crosspiece used in climbing or descending. Also called a step or rung.

Double-cleat ladder

A job-made ladder with two side rails and a center rail connected with continuous cleats. It allows personnel to climb and descend at the same time.

Equivalent

An alternative design, material or method to protect against a hazard. You have to demonstrate it provides an equal or greater degree of safety for employees than the method, material or design specified in the rule.

Extension ladder

A nonself-supporting portable ladder consisting of two or more sections. The sections travel in guides or brackets that allow the length of the ladder to be changed. The size is designated by the sum of the lengths of each section, measured along the side rails.

Extension trestle ladder

A self-supporting portable ladder that is adjustable in length. It consists of a trestle ladder base and a vertically adjustable single ladder, with suitable means for locking the ladders together. The size is designated by the length of the trestle ladder base.

Failure

The ladder or ladder component loses the ability to carry the load, breaks, or separates into component parts.

Job-made ladder

A ladder that is made, not commercially manufactured, to fit a specific job situation. They are for temporary use until a particular phase of construction is completed or until permanent stairways or fixed ladders are ready to use.

Ladder

A device having steps, rungs, or cleats that can be used to climb or descend.

Ladder type

The designation that identifies the maximum intended load (working load) of the ladder. Ladder types are as follows:

Type IA - Extra heavy duty industrial use - three hundred lbs.

Type I - Heavy duty industrial use such as utilities and contractors - two hundred fifty lbs.

Type II - Medium duty industrial use such as painters, offices, and light industrial use - two hundred twenty-five lbs.

Type III - Light duty household use - two hundred lbs.

Maximum intended load

The total load of all persons, equipment, tools, materials, transmitted loads, and other loads reasonably anticipated to be applied to a ladder or ladder component at any one time. Sometimes referred to as working load.

Portable ladder

A ladder that can be readily moved or carried.

Reinforced plastic

A plastic that has high-strength fillers embedded in the base resin to increase strength.

Reinforced plastic ladder

A ladder whose side rails are reinforced plastic. The crosspieces, hardware, and fasteners may be made of metal or other suitable material.

Rung

A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Sectional ladder

A nonself-supporting portable ladder, nonadjustable in length, that has two or more sections that can be combined to function as a single ladder. The size is designated by the overall length of the assembled sections.

Single-cleat ladder

A ladder consisting of a pair of side rails connected by cleats, rungs, or steps.

Single ladder

A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Single-rail ladder

A portable ladder with crosspieces mounted on a single rail. Single-rail ladders are prohibited from use.

Special-purpose ladder

A portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

Step

A ladder crosspiece used in climbing or descending. Also called a cleat or rung.

Stepladder

A self-supporting portable ladder, nonadjustable in length, with flat steps and hinged at the top. The size is designated by the overall length of the ladder measured along the front edge of the side rails.

Stress-grade lumber

Lumber that has been assigned allowable stress (allowable stress design) or reference strengths (load resistance factor design) values. It is identified by the grademark or certificate of inspection issued by a lumber inspection bureau or agency accredited by the Board of Review of the American Lumber Standard Committee. The grademark specifies the grade, species, and dryness of the lumber.

Trestle ladder

A self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

Working length

The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

WSR 05-12-035**PROPOSED RULES****SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed May 25, 2005, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-028.

Title of Rule and Other Identifying Information: WAC 392-123-175 Proceeds from the lease rental or occasional use of surplus property.

Hearing Location(s): Old Capitol Building, 600 South Washington, Olympia, WA 98504-7200, on July 13, 2005, at 9:00 a.m.

Date of Intended Adoption: August 15, 2005.

Submit Written Comments to: Administrative Resource Services, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, by July 11, 2005.

Assistance for Persons with Disabilities: Contact Sheila Emery by July 1, 2005, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended due to the changes in legislation regarding RCW 28A.335.060.

This law allows for the proceeds from the lease or rental of real property be deposited in the districts general fund at the option of the board, after evaluating the sufficiency of the school district's capital projects fund for purposes of meeting demands for new construction and improvements. The proceeds are to be used exclusively for nonrecurring costs related to operating school facilities, including but not limited to expenses for maintenance.

Statutory Authority for Adoption: Chapter 28A.150 RCW.

Statute Being Implemented: RCW 28A.335.060.

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

Name of Proponent: [Superintendent of Public Instruction], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ron Stead, Olympia, Washington.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is not applicable to nongovernmental agencies.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not applicable to nongovernmental agencies.

May 20, 2005

Marty Daybell

for Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-123-175 Proceeds from the lease, rental or occasional use of surplus property. Pursuant to RCW 28A.335.060 each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property as follows:

(1) Moneys derived from real property shall be deposited into the district's debt service fund and/or capital projects fund except for:

(a) Moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which money shall be deposited in the district's general fund; or

(b) At the option of the board, after evaluating the sufficiency of the school district's capital projects fund for purposes of meeting demands for new construction and improvements, moneys derived from the lease or rental of real property may be deposited into the district's general fund to be used exclusively for nonrecurring costs related to operating school facilities, including, but not limited to, expenses for maintenance;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund.

WSR 05-12-048**PROPOSED RULES****WASHINGTON STATE PATROL**

[Filed May 26, 2005, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-115.

Title of Rule and Other Identifying Information: Chapter 240-41 WAC, Seat belt exemptions.

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th Avenue S.W., Olympia, WA 98504, on Wednesday, July 13, 2005, at 9:00 a.m.

Date of Intended Adoption: August 2, 2005.

Submit Written Comments to: Ms. Christine Fox, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, e-mail Christine.Fox@wsp.wa.gov, fax (360) 586-8233, by July 5, 2005.

Assistance for Persons with Disabilities: Contact Ms. Christine Fox by July 5, 2005, (360) 753-3697.

PROPOSED

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington State Patrol Office of Government and Media Relations was contacted by a senator requesting a seat belt exemption for individuals driving delivery vehicles. The constituent who contacted the senator requested an exemption similar to what is currently granted to rural mail carriers, rural newspaper delivery carriers, utility meter readers, and refuse/recycling collectors. The proposed language outlines specifically when a commercially-recognized delivery vehicle operator may be exempt from wearing a seat belt system.

Statutory Authority for Adoption: RCW 46.64.688(2).

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Christine Fox, General Administration Building, P.O. Box 42614, Olympia, WA 98504-2614, (360) 753-3697.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed addition was initiated by a senator who was contacted by a constituent requesting a seat belt exemption for delivery truck drivers.

A cost-benefit analysis is not required under RCW 34.05.328. There will be no costs to the industry if the proposed addition is adopted as it will not require any retrofitting of or additional equipment. The WAC is not mandatory it is optional for drivers of commercially recognized delivery vehicles, fitting all specifications outlined, and having employers who support the WAC.

May 25, 2005
John R. Batiste
Chief

NEW SECTION

WAC 204-41-080 Commercially recognized delivery vehicles. Operators of commercially recognized delivery vehicles making frequent stops when traveling wholly within the limits of a town of less than ten thousand population, traveling less than one mile between stops on roads with a posted speed limit not greater than thirty-five miles per hour, while actually on a designated delivery route are not required to wear a seat belt system. Seat belt use is required when traveling to and from the designated route.

WSR 05-12-049

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed May 26, 2005, 8:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-116.

Title of Rule and Other Identifying Information: Chapter 240-50 WAC, Ignition interlock breath alcohol devices.

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th

Avenue S.W., Olympia, WA 98504, on Wednesday, July 13, 2005, at 10:00 a.m.

Date of Intended Adoption: August 2, 2005.

Submit Written Comments to: Ms. Christine Fox, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, e-mail Christine.Fox@wsp.wa.gov, fax (360) 586-8233, by July 5, 2005.

Assistance for Persons with Disabilities: Contact Ms. Christine Fox by July 5, 2005, (360) 753-3697.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This WAC has not been updated since the original language was adopted in December 1998, and it is necessary to make changes to stay current with technological advances.

Statutory Authority for Adoption: RCW 46.04.215.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Christine Fox, General Administration Building, P.O. Box 42614, Olympia, WA 98504-2614, (360) 753-3697.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed additions and amendments will align the device specifications with federal recommendations and with current industry standards, which manufacturers are already meeting.

A cost-benefit analysis is not required under RCW 34.05.328. There will be not cost to the industry within Washington state. However, if they choose to replace current devices with newer technology, they may incur costs associated with the laboratory conducting the device certification tests.

May 25, 2005
John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-030 Definitions (~~for words or terms used in this chapter~~). The following definitions shall apply throughout this chapter:

Alcohol - The generic class of organic compounds known as alcohols and, specifically the chemical compound ethyl alcohol. For the purpose of ignition interlock devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol.

~~((Approved))~~ Authorized service provider (ASP) - The person or company ((who is approved by ESR)) meeting all qualifications outlined throughout this chapter and approved and trained by the manufacturer to service, install, monitor, calibrate, and provide information on ((a)) manufacturer's devices ((based on certification to ESR by the manufacturer that the person or company is qualified and is properly trained to provide these services)) currently certified for use in Washington state.

Bogus sample - Any air sample that is altered, diluted, stored, or filtered human breath, or which is obtained from an air compressor, hot air dryer, balloon, manual air pump, or other mechanical device, and is provided by an individual

attempting to start or continue to operate a vehicle equipped with a device.

Ignition interlock device (IID) - An electronic device that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine. If the unit detects a BAC test result above the alcohol setpoint, the vehicle will be prohibited from starting.

Breath or blood alcohol concentration (BAC) - ~~((In this chapter means))~~ Is the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) 100 milliliters of blood; or
- (b) 210 liters of breath.

Circumvention - Means the attempted or successful bypass of the proper functioning of an ignition interlock device including, but not limited to, the operation of a vehicle without a properly functioning device, the push start of a vehicle with the device, disconnection or alteration of the device, the introduction of a bogus sample other than a deep-lung sample from the driver of the vehicle, introduction of an intentionally contaminated or altered breath sample, continued operation of the interlock vehicle after the device detects excess breath alcohol.

Court (or originating court) - The particular Washington state court that has required the use of an ignition interlock ~~((breath alcohol))~~ device by a particular individual or has responsibility for the preconviction or postconviction supervision of an individual required to use or using the device.

Certification - The testing and approval process required by RCW 46.04.215.

Chief - The chief of the Washington state patrol.

Device - An ignition interlock breath alcohol device (IID).

DOL - The department of licensing of the state of Washington.

ESR - The equipment and standards review ~~((section))~~ unit of the Washington state patrol.

~~((Interlock - The state in which a motor vehicle is prevented from starting by a device.))~~ Fail level - The BAC of .025 or a level set by the originating court, at which the device will prevent the operator from starting the vehicle, and/or once the vehicle is started, the level at which the operator must record a test below, or must shut off the vehicle, to avoid registering a violation reset.

Lessee - A person who has entered into an agreement with a manufacturer or ~~((approved))~~ authorized service provider to lease a device.

Manufacturer - The person, company, or corporation who produces the device, and ~~((who))~~ certifies to ESR that a service provider is qualified to ~~((become approved by ESR to))~~ service, install, monitor, calibrate, and provide information on devices.

OAC - Office of the administrator of the court.

Restricted operator - A person whose ~~((operating))~~ driving privileges ~~((is))~~ are restricted to operating only motor vehicles equipped with an approved, functioning ~~((ignition~~

~~interlock device or other approved, functioning biological or technical device))~~ IID.

Tampering - Any act or attempt to disable or circumvent the legal operation of an IID.

Violation reset - The condition caused by the failure of the operator of ~~((the))~~ a vehicle(s) to perform a test or retest as required, or by the operator's inability to achieve such test or retest results at ~~((a level lower than))~~ the lower of the maximum allowable alcohol concentration as set by the originating court or .025 BAC, the device and the vehicle in which it is installed must be returned to the manufacturer or ~~((approved))~~ authorized service provider to be reset.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-040 Testing ~~((and))~~ certification ~~((process)), revocation or surrender of certification and recertification. Testing and certification.~~

To be certified, a device must meet or exceed the minimum test standards in sections one and two of the model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register, Volume 57, Number 67, Tuesday, April 7, 1992, on pages 11774 - 11787. Only a notarized statement, from a laboratory capable of performing the tests specified, will be accepted as proof of meeting or exceeding the standards. The notarized statement shall include the name and signature of the person in charge of the tests under the following sentence:

Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory). They do meet or exceed all specifications listed in the Federal Register, Volume 57, Number 67, pages 11774 - 11787.

Signed

~~((A list of laboratories performing the required tests shall be maintained by the ESR.))~~

Upon receipt of a statement from a testing laboratory that two samples of a device have successfully passed the test procedures listed in this chapter, and confirmation that all other requirements of this chapter have been met, the chief ~~((shall))~~ may issue a letter of certification for the device.

Revocation or surrender of certification.

The letter of certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the chief for cause. Reasons for revocation include but are not limited to:

(1) Evidence of repeated device failures due to gross defects in design, materials, and/or workmanship during manufacture, installation, monitoring, or calibration of the device such that the standards for accuracy and reliability of the devices for which the devices were tested are not being met (as determined by ESR);

(2) Evidence that the features and functionality of a manufacturer's devices are not being programmed properly by ~~((approved service provider))~~ ASP(s) or are being circumvented by lessees such that the standards for anticircumvention for which the devices were tested are not being met;

(3) Any violation on the part of the manufacturer(s) or ~~((approved service provider))~~ ASP(s) of any of the laws or

regulations related to the installation, servicing, monitoring, and calibration of devices, including, but not limited to, "other provisions" listed in WAC 204-50-120;

(4) Notice of cancellation of manufacturer's and/or ~~((approved service provider's))~~ ASP's required liability insurance is received;

(5) Notification that the manufacturer is no longer in business.

(6) Notification that material modification or alteration in the components and/or the design of the certified device is not provided or the recertification process is not completed as outlined in WAC 204-50-050.

(7) Unless necessary for the immediate good and welfare of the public, revocation shall be effective ~~((ten))~~ thirty days ~~((after manufacturer's receipt of notice, which shall be sent))~~ from the date of the letter sent to the manufacturer via certified mail, return receipt requested. A copy of each notice of revocation shall be provided to the ~~((originating court))~~ the director of the DOL and to the OAC for the state of Washington. The manufacturer's device(s) will be removed from the list of certified devices on the WSP website.

~~((6))~~ (8) Upon voluntary surrender, or revocation of a letter of certification for a manufacturer's device, all like devices shall be removed and replaced by a certified device, ~~((not later than the end of the current calibration period))~~ within sixty-five days of the effective date of such surrender or revocation.

~~((7))~~ A manufacturer whose letter of certification has been revoked may request a review of revocation by submitting the request in writing to the chief within twenty days of receipt of notice of revocation.

~~((8))~~ The ESR shall maintain a file of all current, revoked, and voluntarily surrendered letters of certification. (9) The ESR shall maintain a file of all current, revoked, and voluntarily surrendered letters of certification for the period of time as outlined in the WSP records retention schedule.

Review for recertification.

A manufacturer whose letter of certification has been revoked may request a review of revocation by submitting the request in writing to the chief within thirty days from the date on the revocation letter. The request must be made in writing and mailed to WSP ESR Unit, P.O. Box 42614, Olympia, WA 98504-2614.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-050 Modifications to a certified device. The manufacturer shall notify ESR, in writing, of any material modification or alteration in the components and/or the design of the certified device. ~~((Such modifications shall warrant retesting of the device to ensure the modifications or alterations do not adversely affect the ability of the device to meet the specifications adopted))~~ Within ninety days of notifying the ESR of the material modification or alteration to a certified device, the manufacturer must resubmit to ESR the evidence of compliance as required in WAC 204-50-040.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-070 Variable calibration. To be certified, a device must be capable of being preset, by the manufacturer or by an ~~((approved service provider, to interlock when the breath sample provided is))~~ ASP, at any fail level from .02 through .09% BAC (plus or minus ~~((-.003%))~~ .005% BAC). The actual setting of each device ~~((shall be determined)), unless otherwise mandated~~ by the originating court, shall be .025 BAC. The capability to change this setting shall be made secure, by the manufacturer, or by an ~~((approved service provider. As guidance for the courts, the federal specifications referred to in WAC 204-50-040 recommends an interlock level of .025 BAC for the initial test and a fail level of up to .02% higher for subsequent random retests))~~ ASP.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-080 Device maintenance and reports. (1) Each lessee shall have the device examined by the manufacturer or by an ~~((approved service provider))~~ ASP for correct calibration and evidence of tampering at intervals not to exceed sixty-five days, or more often as may be ordered by the originating court.

(2) ~~((Examination shall include a physical inspection of the device, and its wiring, and the vehicle and its wiring for evidence of tampering or circumvention. Notation shall also be made of the vehicle's odometer reading.~~

(3) The device must be calibrated for accuracy according to the manufacturer's procedures. All data contained in the device's memory must be downloaded ~~((into a format from which the required reports can be generated.~~

(4) ~~and~~ the manufacturer and/or ~~((approved service provider))~~ the ASP shall make a hard copy or electronic equivalent of the client data and the results of each examination. Any evidence of noncompliance, violations, or signs of tampering or circumvention shall be reported ~~((to the originating court))~~ as requested by and in a format acceptable to the originating court and/or DOL. All information obtained as a result of each inspection shall be retained by the manufacturer or approved service provider for two years from the date the device is removed from the vehicle.

~~((5))~~ (3) Any ASP offering a mail-in program to their customers must have approval from ESR. To obtain approval the ASP must submit procedures outlining how the mail-in program will work. ASP must also provide the customer with written instructions on how to utilize the mail-in program. A mail-in program does not eliminate or take the place of any requirements outlined in WAC 204-50-120.

(4) The manufacturer and/or ~~((approved service provider))~~ ASP must provide ~~((;))~~ upon request ~~((of)), additional reports in a format acceptable to and at no cost to DOL and/or the originating court~~ ~~((-additional reports which may include, but are not limited to, the following: Proof of installation, removal, transfer of vehicle, vehicle information, compliance reporting, statements of charges and payments, service calls, lessee error of operation, device failure, faulty automotive equipment, and lessee demographic information. Such~~

reports must be supplied in a format acceptable to the originating court, and at no cost to the originating court)).

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-090 Device security. The manufacturer and its approved service provider(s) shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. These steps shall include:

(1) Special locks, seals, and installation procedures that prevent or record evidence of tampering and/or circumvention attempts.

(2) In addition, the approved service provider will affix to the device a label containing the following notation: "Warning - This device has been installed under ~~((court order))~~ the laws of the state of Washington. Attempts to disconnect, tamper with, or circumvent this device may subject you to criminal prosecution. For more information, call (insert manufacturer's or approved service provider's toll free number)."

(3) No owner or employee of a manufacturer of ASP may authorize or assist with the disconnection of a device, or enable the use of any "emergency bypass" mechanism or any other "bypass" procedure that allows a person restricted to use the vehicle equipped with a functioning ignition interlock, to start or operate a vehicle without providing all required breath samples. Doing so may subject the person to criminal prosecution under RCW 46.20.750 and may cause the revocation of a manufacturer's certification under WAC 204-50-040.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-110 Mandatory operational features. Notwithstanding other provisions of this chapter, a certified device must comply with the following:

(1) The device shall be designed to permit a "restart" within two minutes of a stall or when the ignition has been turned off.

(2) The device shall automatically and completely purge residual alcohol before allowing subsequent tests.

(3) The device shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after it has been started.

(4) Each device shall be provided with an ample supply of disposable mouth pieces designed to minimize the introduction of saliva into the device.

(5) Each device shall be uniquely serial numbered. Along with any other information ~~((requested))~~ required by DOL or by an originating court, all reports to DOL or to an originating court concerning a particular device shall include the name, address, and driver's license number of the lessee, ~~((the name of the originating court,))~~ and the unique number of the device. The name, address, telephone number (toll free ~~((, if not a local call from the originating court)))~~, and contact person of the manufacturer or approved service provider furnishing such report shall also be included as part of the report.

(6) Each device shall record each time the vehicle is started, the results of the test, how long the vehicle was operated, and any ~~((indication))~~ indication of bypassing or ~~((tampering))~~ tampering with the device.

(7) Each device shall require the operator of the vehicle to submit to a retest within ten minutes of starting the vehicle. Retesting shall continue at intervals not to exceed sixty minutes after the first retest. The device shall be equipped with a method of immediately notifying peace officers if the required retest(s) above is not performed, or if the result of the retest exceeds the lower of .025 BAC or the alcohol concentration as prescribed by the originating court. Examples of acceptable forms of notification are repeated honking of the vehicle's horn, repeated flashing of the vehicle's headlights, or the wailing of a small siren. Such notification may be disabled only by switching the ~~((vehicles'))~~ engine off, or by the achievement of a retest at a level the lower ((than)) of .025 BAC or the maximum allowable alcohol concentration as set by the originating court.

(8) In addition, if a retest is not performed when called for by the device, or if the operator is unable to achieve a retest at a level the lower ((than)) of .025 BAC or the ~~((a))~~ maximum allowable alcohol concentration as set by the originating court, the device shall automatically enter a violation reset condition. A device which enters a violation reset condition and the vehicle in which it is installed, must be returned to the manufacturer or ~~((approved service provider))~~ ASP to be serviced within five days or the device shall render the vehicle inoperable. The manufacturer or approved service provider shall notify the originating court (if any) of such violation reset conditions in a format acceptable to the originating court within five days of servicing the device. The manufacturer or ASP shall provide notification to DOL in a format acceptable should DOL promulgate rules requiring such notification.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-120 Other provisions. Notwithstanding other provisions of this chapter, each manufacturer of a certified device, either on its own or through its approved service provider(s):

(1) Shall guarantee repair or replacement of a defective device within the state of Washington within a maximum of forty-eight hours of receipt of a complaint.

(2) Shall demonstrate to the satisfaction of ESR, a service delivery plan under which any restricted operator may obtain installation and routine service of that manufacturer's device within a seventy-five mile radius of his or her place of residence. Further, shall provide ESR, a map of the state of Washington showing the area covered by each approved service provider, and the name, address, and telephone number of each approved service provider. The manufacturer shall ~~((notify))~~ provide ESR ((ef)) a revised map showing any changes to its authorized service provider network within ten days of such change. Also within thirty days of any additions to the approved service provider network, provide evidence to ESR that any added ASPs have the insurance coverage as required by subsection (7) of this section.

(3) Shall maintain a twenty-four hour, three hundred sixty-five days a year toll-free telephone number for lessees to call if they have problems with the device they have leased from the manufacturer or approved service provider. Calls must either be answered by a technician qualified to service the manufacturer's devices, or the call must be returned by a qualified technician within thirty minutes of the original call.

(4) Shall provide the ~~((originating court and the))~~ lessee a statement of charges clearly specifying warranty details, monthly lease amount, any additional charges anticipated for routine calibration and service checks and what items, if any, are provided without charge. To ensure equal accessibility of the benefits of this technology to all citizens of the state of Washington, such pricing shall be uniform statewide ~~((whether in urban or rural portions of the state))~~.

(5) Shall provide the lessee written notice of any changes in the statement of charges regardless of what person or agency requested the change, prior to the implementation of such changes.

(6) Shall provide to ESR proof that the manufacturer has products liability insurance coverage with minimum liability limits of one million dollars per occurrence, and three million dollar aggregate. Liability covered shall include, but not limited to: Defects in product design ~~((and)), materials, ((as well as)) and~~ workmanship during manufacture, calibration, installation, removal, and all completed operations. Such insurance must be provided by a company ~~((licensed))~~ authorized to offer such coverage in the state, and such company shall include the state of Washington as an additional insured, and shall agree to notify ESR not less than thirty days before the expiration or termination of such coverage. Insurance coverage required in this subsection must be in addition to, and not considered a replacement for coverage required in subsection (7) of this section.

(7) Shall provide ESR proof that each and every ~~((approved service provider))~~ ASP has garage keepers liability insurance coverage with minimum liability limits of fifty thousand dollars. Liability covered shall include, but not be limited to, damage to lessee's vehicle and personal property while in the care and/or custody of the ~~((approved service provider))~~ ASP. Further shall provide ESR proof that each and every ~~((approved service provider))~~ ASP has completed operations insurance coverage with minimum liability limits of one million dollars per occurrence, and two million dollars aggregate. Liability covered shall include, but not be limited to, defects in materials and workmanship during installation, removal, service, calibration, and monitoring. All such insurance must be provided by a company ~~((licensed))~~ authorized to offer such coverage in the state, and such company shall include the state of Washington as an additional insured, and shall agree to notify ESR not less than thirty days before expiration or termination of such coverage. Insurance coverage required in this subsection must be in addition to and not considered a replacement for coverage required in subsection (6) of this section.

(8) Shall ~~((advise)),~~ if so requested by the originating court, notify the originating court prior to removing the device under circumstances other than:

(a) Completion of sentence or other terms of a court order.

(b) Immediate device repair needs. ~~((note: Whenever a device is removed for repair, and cannot be immediately reinstalled, a substitute device shall be utilized. Under no circumstances shall a restricted operator's vehicle be permitted to be driven without a required device.))~~

(c) Removal of the device in order to switch it to a replacement vehicle to be operated by the restricted operator. Report of such a vehicle switch must be transmitted to the originating court within two business days of such a switch, if so requested by the originating court at the time of initial installation of the device. Report of such a vehicle switch must be transmitted to the DOL within two business days of such a switch, if so requested by the DOL. NOTE: Whenever a device is removed for repair, and cannot be immediately reinstalled, a substitute device shall be utilized. Under no circumstances shall a manufacturer or ASP knowingly permit a restricted operator to drive a vehicle not equipped with a functioning device.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-130 Removal procedures. ~~((When so notified in writing by the originating court,))~~ The manufacturer or its approved service provider shall remove the device and return the vehicle in normal operating condition. The manufacturer or its ~~((approved service provider))~~ ASP shall provide any final report requested by the originating court and/or requested by DOL.

WSR 05-12-050

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees' Benefits Board)

[Order 05-01—Filed May 26, 2005, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-07-158.

Title of Rule and Other Identifying Information: Chapters 182-08, 182-12, and 182-16 WAC, rules affecting administration of an eligibility for Public Employees' Benefits Board (PEBB)-sponsored insurance coverage.

Hearing Location(s): Health Care Authority, Meeting Room E101 A&B, 676 Woodland Square Loop S.E., Olympia, WA, on July 12, 2005, at 1:30 p.m.

Date of Intended Adoption: July 12, 2005.

Submit Written Comments to: Barbara Scott, PEBB Benefit Services, P.O. Box 42684, Olympia, WA 98504-2684, e-mail bsc0107@hca.wa.gov, fax (360) 923-2608, by July 11, 2005.

Assistance for Persons with Disabilities: Contact Nikki Johnson by July 5, 2005, TTY (888) 923-5622 or (360) 923-2805.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Following a review of chapters 182-08, 182-12, and 182-16 WAC, the Health Care Authority (HCA) is proposing amendments and new sections in order to clarify administrative and eligibility

rules affecting PEBB-sponsored insurance coverage; clarify the PEBB appeal process; and effectuate changes enacted by the 2005 legislature in chapters 143 and 195, Laws of 2005.

HCA is proposing changes to WAC 182-08-196 to effectuate collection of federal employer subsidies for continuing to provide a pharmacy benefit to retirees as enacted by the 2005 legislature. HCA is also proposing new sections WAC 182-08-197 and 182-08-198, codifying contractual language which requires newly eligible employees to select a medical and dental plan no later than thirty-one days after they become eligible and outlining the administrative policy for allowing medical and dental plan changes.

HCA is proposing a new section, WAC 182-12-116 to effectuate the PEBB medical flexible savings account as enacted by the 2005 legislature. This new rule will establish eligibility for participation in the PEBB medical flexible savings account. New section, WAC 182-12-175 is being proposed to allow local government employers applying for participation in PEBB benefits the ability to apply for inclusion of retirees they are covering under an employer sponsored retiree plan. HCA is proposing an amendment to WAC 182-12-260 that clarifies when student coverage begins and ends and an amendment that would clarify that dependent children with disabilities who become self-supporting do not regain eligibility for PEBB benefits if they later become incapable of self-support.

HCA is proposing amendments to WAC 182-16-040 and 182-16-050 in order to clarify the PEBB program's appeal process.

Statutory Authority for Adoption: RCW 41.05.160, 41.05.165, and 41.05.350.

Statute Being Implemented: RCW 41.05.021, 41.05.-065, 41.05.080, 41.05.085, 41.05.100, 41.05.195, 41.05.300, 41.05.320, and 48.43.400.

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

Name of Proponent: Steve Hill, Administrator, Health Care Authority, governmental.

Name of Agency Personnel Responsible for Drafting: Barbara Scott, 676 Woodland Square Loop, Lacey, WA, (360) 923-2642; Implementation: Katie Rogers, 676 Woodland Square Loop, Lacey, WA, (360) 923-2735; and Enforcement: Mary Fliss, 676 Woodland Square Loop, Lacey, WA, (360) 923-2640.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required. The Joint Administrative Rules Review Committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

May 26, 2005

Cyndi L. Presnell
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-08-196 What happens if my health carrier becomes unavailable? ~~((Active))~~ Employees and retirees for whom the chosen health carrier becomes unavailable due to a change in service area, the health carrier no longer contracting, or the retiree's entitlement to Medicare must select a new health ~~((carrier))~~ plan within ~~((thirty-one))~~ sixty days after notification by ~~((HCA))~~ the PEBB program.

~~((Any person))~~ (1) Employees that fail((s)) to select a new health plan within the prescribed time period will be enrolled in the health carrier's successor plan if one is available or will be enrolled in the Uniform Medical Plan and the Uniform Dental Plan with existing dependent enrollment by default.

(2) Retirees and surviving dependents eligible under WAC 182-12-250 or 182-12-265 that fail to select a new health plan within the prescribed time period will be enrolled in the health carrier's successor plan if one is available or will be enrolled in the Uniform Medical Plan and the Uniform Dental Plan, except that retirees enrolled in Medicare Part A and B and who enroll in Medicare Part D may be defaulted to a PEBB-sponsored Medicare plan that does not include a pharmacy benefit.

Any ~~((person))~~ employee or retiree defaulted to a carrier's successor plan, the Uniform Medical Plan or the Uniform Dental Plan may not change ~~((the))~~ health ~~((carrier))~~ plans until the next open enrollment except as set forth in WAC 182-08-198.

(3) Enrollees continuing PEBB health plan coverage as provided in WAC 182-12-133, 182-12-148 or 182-12-270 (2) or (3) must select a new health plan no later than sixty days after notification by the PEBB program or their health plan coverage will terminate as of the last day of the month in which the plan is no longer available.

NEW SECTION

WAC 182-08-197 Newly eligible employees must select insurance coverages within thirty-one days of the date they become eligible to apply for coverage. Newly eligible employees must select a medical and dental plan (if dental is available based on employer participation in PEBB insurance coverages) no later than thirty-one days after they become eligible to apply for coverage. Employees who do not select a medical and dental plan will be defaulted to Uniform Medical Plan and Uniform Dental Plan with existing dependent enrollment.

NEW SECTION

WAC 182-08-198 When may an enrollee change health plans? (1) Enrollees may change health plans during the annual open enrollment.

(2) Enrollees may change health plans outside of the annual open enrollment period if one of the following events occur, provided the request to change health plans is made no later than sixty days after the event occurs.

(a) The enrollee moves and the health plan they are enrolled in is not available in their new location. If the

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enrollee fails to select a new health plan they will be automatically defaulted to the Uniform Medical Plan or Uniform Dental Plan.

(b) The enrollee moves and a health plan that was not available to them before is available to them in the new location. The enrollee may choose to enroll in the newly available health plan.

(c) A court order requires the enrollee to provide coverage for an eligible spouse, same-sex domestic partner, or child and the enrollee adds the dependent to the coverage.

(d) The enrollee is a seasonal employee who is off during the annual open enrollment period. In this case the enrollee may select a new health plan upon their return to work.

(e) The employee retires. Employees may change health plans at the time that they apply for PEBB-sponsored retiree coverage.

(f) The enrollee's physician stops participation with the enrollee's health plan and it is determined by the PEBB appeals manager that a continuity of care issue exists. The PEBB appeals manager shall use the following criteria in determining if continuity of care issues exist:

(i) Active cancer treatment, (i.e., chemotherapy and/or radiation);

(ii) Recent transplant (within the last twelve months);

(iii) Scheduled surgery within the next sixty days; or

(iv) Major surgery within the previous sixty days; or

(v) Third trimester of pregnancy.

(g) It is determined by the PEBB appeals manager that there is a language barrier issue (e.g., a Vietnamese speaking provider discontinues participation in a plan and no other Vietnamese speaking provider is available within the subscriber's area that is contracting with that plan and/or within the travel range of the subscriber).

(h) The enrollee reaches their medical plan maximum.

(3) For enrollees making a health plan change during the annual open enrollment, the plan change must be made no later than the last day of the open enrollment period and the plan change is effective the first day of January following the open enrollment.

(4) For enrollees making a health plan change outside of open enrollment, the health plan change must be made no later than sixty days after the triggering event and the plan change is effective the first day of the month following the date the change request is received by the PEBB program.

NEW SECTION

WAC 182-12-116 Who is eligible to participate in the PEBB flexible spending account program? State agency employees, including those employed by all state higher education institutions, the higher education coordinating board, and the state board for community and technical colleges, as defined in WAC 182-12-115 are eligible to participate in the PEBB flexible spending account program.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-148 May an employee continue PEBB insurance coverage during their appeal of dismissal? (1) Employees awaiting hearing of a dismissal action before any

of the following may continue their insurance coverage by self-payment of premium on the same terms as an employee who is granted leave without pay.

(a) For an appeal filed on or before June 30, 2005, the personnel appeals board (~~(higher education personnel board or any court may continue their insurance coverage by self-payment of premium on the same terms as an employee who is granted leave without pay)~~) or any court.

(b) For an appeal filed on or after July 1, 2005, the personnel resources board, an arbitrator, a grievance or appeals committee established under a collective bargaining agreement for union represented employees.

(2) If the (~~hearing board or court upholds the~~) dismissal is upheld, all insurance coverage shall terminate at the end of the month in which the (~~board or court's~~) decision is entered, or the date to which premiums have been paid, whichever is earlier.

(3)(a) If the (~~hearing~~) board, arbitrator, committee, or court sustains the employee in the appeal and directs reinstatement of employer paid insurance coverage retroactively, the employer must forward to HCA the full employer contribution for the period directed by the (~~hearing~~) board, arbitrator, committee, or court and collect from the employee the employee's share of premiums due, if any.

(b) HCA will refund to the employee any premiums the employee paid that may be provided for as a result of the reinstatement of the employer contribution only if the employee makes retroactive payment of any employee contribution amounts associated with the insurance coverage. In the alternative, at the request of the employee, HCA may deduct the employee's contribution from the refund of any premiums self-paid by the employee during the appeal period.

(c) All optional life and long term disability insurance which was in force at the time of dismissal shall be reinstated retroactively only if the employee makes retroactive payment of premium for any such optional coverage which was not continued by self-payment during the appeal process. If the employee chooses not to pay the retroactive premium, evidence of insurability will be required to restore such optional coverage.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-171 Eligible retirees. (1) Eligible employees who terminate public employment after becoming vested in a Washington state sponsored retirement system are eligible to continue PEBB sponsored insurance coverage as a retiree provided the following requirements in (a) and (b) of this subsection as well as one of (c) through (g) of this subsection are met:

(a) If the retiree or enrolled dependent(s) is entitled to Medicare and the retiree retired after July 1, 1991, the Medicare-entitled retiree or Medicare-entitled dependent must enroll in both Medicare Parts A and B; and

(b) The (~~person~~) retiring employee must submit an (~~application~~) election form to enroll or defer health plan coverage within sixty days after (~~active~~) their employer paid or continuous Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage ends and is eligible for retiree

benefits under one or more of the programs described in (c), (d), (e), (f), or (g) of this subsection;

(c) Except as provided in (c)(vii) of this subsection, the person immediately upon termination begins receiving a monthly retirement income benefit from one or more of the following retirement systems:

(i) Law enforcement officers' and fire fighters' retirement system Plan 1 or 2;

(ii) Public employees' retirement system Plan 1 or 2;

(iii) School employees' retirement system Plan 2;

(iv) State judges/judicial retirement system;

(v) Teachers' retirement system Plan 1 or 2; or

(vi) Washington state patrol retirement system.

(vii) Provided, however, that a lump-sum payment may be received in lieu of a monthly retiree income benefit payment under RCW 41.26.425(1), 41.32.762(1), 41.32.870(1), 41.35.410(1), 41.35.670(1), 41.40.625(1) or 41.40.815(1).

(d) The person is at least fifty-five years of age with at least ten years of state of Washington service credit and a member of one of the following retirement systems:

(i) Public employees' retirement system Plan 3;

(ii) School employees' retirement system Plan 3; or

(iii) Teachers' retirement system Plan 3.

(e) The person is a member of a state of Washington higher education retirement plan, and is:

(i) At least fifty-five years of age with at least ten years service; or

(ii) At least sixty-two years of age; or

(iii) Immediately begins receiving a monthly retirement income benefit.

(f) If not retiring under the public employees' retirement system, the person would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of public employees' retirement system Plan 1 or Plan 2 for the same period of employment.

(g) The person is an elected official as defined under WAC 182-12-115(6) who has voluntarily or involuntarily left a public office, whether or not the person receives a benefit from a state retirement system.

(2) Eligible employees who participate in PEBB sponsored life insurance as an active employee and meet qualifications for retiree insurance coverage as provided in subsection (1) of this section are eligible for PEBB sponsored retiree life insurance if they (~~(apply to the HCA within)~~) submit an election form no later than sixty days after the date their (~~(active)~~) PEBB employee life insurance terminates (~~(and)~~), providing their employee life insurance premium is not being waived (~~(for any PEBB)~~) by the life insurance (~~(coverage)~~) carrier at the time (~~(of application for)~~) they elect retiree life insurance.

(3) The following retired and disabled school district and educational service district employees are eligible to participate in health plan coverage only, provided they meet all of the enrollment criteria stated below and, if they are entitled to Medicare, are also enrolled in both Medicare Parts A and B:

(a) Persons receiving a retirement allowance under chapter 41.32, 41.35 or 41.40 RCW as of September 30, 1993, and who enroll in PEBB health plan coverage not later than the

end of the open enrollment period established by the authority for the plan year beginning January 1, 1995;

(b) Persons who separate from employment with a school district or educational service district due to a total and permanent disability and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35 or 41.40 RCW. Such persons must enroll in PEBB health plan coverage not later than the end of the open enrollment period established by the HCA for the plan year beginning January 1, 1995, or sixty days following retirement, whichever is later.

(4) With the exception of the Washington state patrol, retirees and disabled employees are not eligible for an employer premium contribution.

(5) The two federal retirement systems, Civil Service Retirement System and Federal ((Civil Service)) Employees Retirement System, shall be considered a Washington state sponsored retirement system for Washington State University (~~(cooperative)~~) Extension ((service)) employees who (~~(hold a federal civil service appointment and who)~~) are covered under the PEBB insurance coverage at the time of retirement or disability.

(6) Employees who do not elect enrollment in PEBB retiree insurance coverage (~~(within)~~) no later than sixty days immediately after termination of employment for retirement, or immediately after continuous Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage ends, or who terminate PEBB retiree coverage (~~(within)~~) no later than sixty days after retirement, or who terminate PEBB retiree coverage after retirement, are not eligible to reenroll in PEBB retiree insurance coverage unless they retired and deferred PEBB retiree coverage pursuant to WAC 182-12-205 or retired and deferred PEBB retiree coverage pursuant to WAC 182-12-200.

(7)(a) If a retiree's insurance coverage terminates for any reason, coverage will not be reinstated at a later date. Examples of termination include, but are not limited to, any one or more of the following:

(i) Failure to continue to meet eligibility requirements;

(ii) Fraud, intentional misrepresentation or withholding of information the enrollee knew or should have known was material or necessary to accurately determine eligibility or the correct premium;

(iii) Failure to provide information requested by the due date or knowingly providing false information;

(iv) Abusive or offensive conduct repeatedly directed to an HCA employee, a health plan or other HCA contractor providing coverage on behalf of the PEBB program, its employees, or other persons; or

(v) Intentional misconduct.

(b) If a retiree fails to pay the premium when due or an underpayment of premium is made, PEBB sponsored insurance coverage will terminate on the last day of the month for which the last full premium was received.

(c) Notwithstanding (a) of this subsection, the PEBB assistant administrator or designee may approve reinstatement of insurance coverage if the retiree or their dependent or beneficiary submits a written appeal and provides proof that extraordinary circumstances made it virtually impossible to make the payment and the retiree agrees to make payment in

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accordance with the terms of an agreement with the HCA. No insurance coverage will be reinstated more than three times.

(8) Enrollees may not enroll in retiree dental coverage unless they also enroll in retiree medical coverage.

(9) In order to continue retiree term life insurance, an election must be made within sixty days after retirement and premiums must be paid whether or not the retiree is otherwise employed. Election of retiree term life insurance may not be waived or deferred during periods of other coverage or otherwise.

NEW SECTION

WAC 182-12-175 May a local government entity applying for participation in PEBB insurance coverage include their retirees in the transfer unit? Local government entities applying for participation in PEBB insurance coverage under WAC 182-12-111(4), may request inclusion of retired employees who are covered under their retiree health plan at the time of application. The PEBB program will use the following criteria for approval of these requests for inclusion of retirees.

(1) The local government retiree health plan must have existed for a minimum of three years prior to the date of application for participation in PEBB health plans.

(2) Eligibility for coverage under the local government's retiree health plan must have required immediate enrollment in retiree health plan coverage upon termination of employee coverage.

(3) The retiree must have maintained continuous enrollment in their local government retiree health plan.

(4) To protect the integrity of the risk pool, if total local government retiree enrollment exceeds ten percent of the total PEBB retiree population, the PEBB program may:

(a) Stop approving inclusion of retirees with local government unit transfers; or

(b) May adopt a new rating methodology reflective of the cost of covering local government retirees.

(5) Retirees and dependents included in the transfer unit are subject to the enrollment and eligibility rules outlined in chapters 182-08, 182-12 and 182-16 WAC.

(6) Employees eligible for retirement subsequent to the local government transferring to PEBB health plan coverage must meet retiree eligibility as outlined in chapter 182-12 WAC.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-205 Retirees may defer enrollment in PEBB health plan coverage at or following retirement. (1) Beginning January 1, 2001, retirees may defer enrollment in health plan coverage at or following retirement if they are continuously covered under:

(a) Comprehensive employer sponsored medical coverage as an ~~((active))~~ employee or as the spouse or same sex domestic partner of an active employee; or

(b) As a retiree or as the spouse or as the same sex domestic partner of ~~((an employee's))~~ a retiree's retirement insurance from a federal retiree plan.

(2) If a retiree defers enrollment in PEBB health plan coverage, coverage is automatically waived for all eligible dependents.

(3) Election of retiree term life insurance coverage may not be deferred during periods of other coverage or otherwise.

(4) In order to defer health plan coverage, a retiree must submit the appropriate ~~((enrollment))~~ form~~((s))~~ to the ~~((HCA))~~ PEBB program requesting deferment of coverage. The notice of deferral must be received by ~~((the HCA))~~ PEBB benefit services prior to the date coverage is deferred or within sixty days after the date the retiree is eligible to apply for PEBB sponsored retiree benefits.

(5) Retirees may reenroll in PEBB coverage following the end of a deferral period under conditions listed below.

(a) Retirees who defer PEBB health plan coverage while enrolled in employer sponsored medical coverage, may reenroll in PEBB health plan coverage by submitting the appropriate ~~((enrollment))~~ form(s) and satisfactory evidence of continuous enrollment in comprehensive employer sponsored coverage to the ~~((HCA))~~ PEBB program:

(i) During an annual open enrollment period; or

(ii) No later than sixty days after the last day of the employer sponsored coverage.

(b) Retirees who defer PEBB health plan coverage while enrolled as a retiree or dependent of a retiree in a federal retiree plan will have a one-time opportunity to reenroll in PEBB health plan coverage by submitting the appropriate ~~((enrollment))~~ form(s) and satisfactory evidence of continuous enrollment in a federal retiree medical plan to the ~~((HCA))~~ PEBB program:

(i) During an annual open enrollment period; or

(ii) No later than sixty days after the date their federal retiree coverage ends.

(c) PEBB health plan enrollment will be effective the first day of the month following the date employer sponsored coverage or coverage under a federal retiree plan ended, except that reenrollment in PEBB insurance coverage during the annual open enrollment will become effective the first day of January following the open enrollment period.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-260 Eligible dependents defined. The following are eligible as dependents under the PEBB eligibility rules:

(1) Lawful spouse.

(2) A same sex domestic partner qualified through the declaration certificate issued by PEBB.

(3) Dependent children through age nineteen. The term "children" includes the subscriber's biological children, step-children, legally adopted children, children for whom the subscriber has assumed a legal obligation for total or partial support of a child in anticipation of adoption of the child, children of the subscriber's qualified same sex domestic partner, or children specified in a court order or divorce decree. Married children who qualify as dependents of the subscriber under the Internal Revenue Code, and extended dependents approved by PEBB are included. To qualify for PEBB

approval, the subscriber must demonstrate legal custody for the child with a court order, and the child:

(a) Must be living with the subscriber in a parent-child relationship; and

(b) Must not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(4) Dependent children age twenty through age twenty-three and who are registered students at an accredited secondary school, college, university, vocational school, or school of nursing.

(a) Dependent student coverage begins the first day of the month in which the quarter/semester for which the dependent is registered begins and ends the last day of the month in which the dependent stops attending or in which the quarter/semester ends, whichever is first, except that dependent student eligibility continues year-round for those who attend three of the four school quarters or two semesters ((and)).

(b) Dependent student coverage continues during the three month period following graduation provided the subscriber is covered, at the same time, the dependent has not reached age twenty-four, and the dependent meets all other eligibility requirements.

(5) Dependent children of any age with disabilities, developmental disabilities, mental illness or mental retardation who are incapable of self-support, provided such condition occurs prior to age twenty or during the time the dependent was ((covered)) eligible as a student under ((PEBB health plan coverage as a registered student)) subsection (4) of this section. The subscriber must provide proof ((of)) that such disability ((must be furnished)) occurred prior to the dependent's attainment of age twenty or ((less of)) during the time the dependent satisfies eligibility for student coverage under subsection (4) of this section, and as periodically requested thereafter by the PEBB program.

(a) The subscriber must notify the PEBB program, in writing, no later than sixty days after the date that a dependent child age twenty or older no longer qualifies under this subsection.

(i) For example, children who become self-supporting are not eligible under this rule as of the last day of the month in which they become capable of self-support. The dependent may be eligible to continue PEBB coverage under provisions of WAC 182-12-270.

(ii) Children age twenty and older that become capable of self-support do not regain eligibility under subsection (5) of this section if they later become incapable of self-support.

(6) Dependent parents.

(a) Dependent parents covered under a PEBB medical plan before July 1, 1990, may continue enrollment on a self-pay basis as long as:

(i) The parent maintains continuous coverage in PEBB sponsored medical coverage;

(ii) The parent qualifies under the Internal Revenue Code as a dependent of an eligible subscriber;

(iii) The subscriber who claimed the parent as a dependent continues enrollment in PEBB insurance coverage; and

(iv) The parent is not covered by any other group medical coverage.

(b) Dependent parents that are eligible under (a) of this subsection may be enrolled with a different health carrier than that selected by the eligible subscriber; however, dependent parents may not add additional dependents to their coverage.

(7) The enrollee must notify the PEBB program, in writing, no later than sixty days after the date that a dependent no longer qualifies under subsection (1), (2), (3), (4) or (6) of this section. The subscriber must notify the PEBB program in writing no later than sixty days after the date a dependent no longer qualifies under subsection (5) of this section. A PEBB continuation of coverage election notice will only be available if the PEBB program is notified in writing.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-265 What options for continuing ((insurance)) health plan coverage are available to widows, widowers and dependent children if the employee or retiree dies? (1) Dependents that lose eligibility due to the death of an eligible employee may continue health plan coverage under a retiree plan provided they immediately begin receiving a monthly retirement benefit from any state of Washington sponsored retirement system.

(a) The employee's spouse or qualified same sex domestic partner may continue coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(c) If a surviving dependent of an eligible employee is not eligible for a monthly retirement benefit or a lump-sum payment because the monthly pension payment would be less than the minimum amount established by the department of retirement systems, the dependent may continue health plan coverage under provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) or WAC 182-12-270.

(d) The ((Federal)) two federal retirement systems, Civil Service Retirement System and Federal Employees Retirement System, shall be considered a Washington sponsored retirement system for Washington State University ((cooperative)) extension service employees ((who held a federal civil service appointment and)) who were covered under PEBB insurance coverage at the time of death.

(2) Dependents that lose eligibility due to the death of a PEBB eligible retiree may continue health plan coverage under a retiree plan.

(a) The retiree's spouse or qualified same sex domestic partner may continue coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(c) Dependents that are waiving PEBB ((insurance)) health plan coverage at the time of the retiree's death are eligible to enroll or defer PEBB retiree coverage ((if they submit evidence of continuous enrollment in other comprehensive medical coverage within)). A form to enroll or defer PEBB health plan coverage must be hand-delivered or mailed to PEBB benefit services no later than sixty days after the retiree's death. To enroll in PEBB health plan coverage, the dependent must provide satisfactory evidence that enrollment

in other health plan coverage was continuous from the most recent open enrollment period for which PEBB coverage was waived.

(3) Surviving spouses or eligible dependent children of a deceased school district or educational service district employee who were not enrolled in PEBB insurance coverage at the time of the subscriber's death may enroll in PEBB sponsored health plan coverage provided the employee died on or after October 1, 1993, and the dependent(s) immediately began receiving a retirement benefit allowance under chapter 41.32, 41.35 or 41.40 RCW.

(a) The employee's spouse or qualified same-sex domestic partner may continue health plan coverage until death.

(b) Other dependents may continue coverage until they lose eligibility under PEBB rules.

(4) Application for surviving dependent coverage must be made in writing on an ~~((enrollment))~~ election form approved by PEBB ~~((within))~~ no later than sixty days after the date of death of the employee or retiree. Coverage is retroactive to the date the employee or retiree insurance coverage terminated subject to the payment of premium. In order to avoid duplication of group medical coverage, surviving dependents may defer enrollment in PEBB health plan coverage for each full calendar month in which they maintain coverage under other employer sponsored comprehensive medical coverage. Notice of intent to defer PEBB coverage must be sent in writing to ~~((the HCA within))~~ PEBB benefit services no later than sixty days after the date of death of the subscriber.

(5) Surviving dependents that defer coverage while enrolled in an employer sponsored comprehensive medical plan must submit an application to reenroll in PEBB coverage ~~((within))~~ no later than sixty days after the last day of coverage under the employer sponsored medical plan. Satisfactory evidence of continuous enrollment in an employer sponsored comprehensive medical coverage will be required by the ~~((HCA))~~ PEBB program prior to reenrollment in a PEBB health plan.

AMENDATORY SECTION (Amending WSR 04-18-039, filed 8/26/04, effective 1/1/05)

WAC 182-12-270 What options are available to dependents that cease to meet the definition of dependent in WAC 182-12-260? If eligible, dependents may continue enrollment in PEBB health plan coverage under one of the continuation options in subsection (1), (2), or (3) of this section by self-paying premiums following their loss of eligibility. PEBB must receive a timely election form as outlined in the PEBB Initial Notice of COBRA and Continuation Coverage Rights. Options for continuing coverage are based on the reason that eligibility was lost.

(1) Dependents that lose eligibility due to the death of an employee or retiree may be eligible to continue coverage under provisions of WAC 182-12-265.

(2) Dependents of a lawful marriage that lose eligibility because they no longer meet the definition of dependent as defined in WAC 182-12-260 are eligible to continue coverage under provisions of the federal Consolidated Omnibus Budget Reconciliation Act (COBRA); or

(3) Dependents of a qualified same sex domestic partnership that lose eligibility because they no longer meet the definition of dependent as defined ~~((under COBRA))~~ in WAC 182-12-260 may continue under an extension of PEBB coverage for a maximum of thirty-six months.

No extension of PEBB coverage will be offered unless PEBB benefit services is notified through hand-delivery or United States Postal Service mail of a completed notice of qualifying event as outlined in the PEBB Initial Notice of COBRA and Continuation Coverage Rights.

AMENDATORY SECTION (Amending WSR 97-21-128, filed 10/21/97, effective 11/21/97)

WAC 182-16-040 Appeals—Notice of appeal contents. Except as provided by RCW 48.43.530 and 48.43.535, any person aggrieved by a decision of the health care authority's PEBB program may appeal that decision by filing a notice of appeal with the ((health care authority's)) PEBB program's appeals ((committee)) manager. The notice of appeal must contain:

- (1) The name and mailing address of the enrollee;
- (2) The name and mailing address of the appealing party;
- (3) The name and mailing address of the appealing party's representative, if any;
- (4) A statement identifying the specific portion of the decision being appealed making it clear what it is that is believed to be unlawful or unjust;
- (5) A clear and concise statement of facts in support of appealing party's position;
- (6) Any and all information or documentation that the aggrieved person would like considered and feels substantiates why the ~~((claim or request for coverage))~~ decision should be ~~((covered))~~ reversed (information or documentation submitted at a later date, unless specifically requested by the appeals ~~((committee))~~ manager, may not be considered in the appeal decision);
- (7) A copy of the ~~((plan's))~~ PEBB program's or health carrier's response to the issue the appellant has raised;
- (8) The type of relief sought;
- (9) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his~~((f))~~ or her signature and the signature of his~~((f))~~ or her representative, if any;
- (10) The appealing party shall file~~((, personally))~~ the original notice of appeal with PEBB benefit services using hand delivery, electronic mail or ((by)) United States Postal Service mail((, with the health care authority the original notice of appeal)). The notice of appeal must be received by ~~((the health care authority))~~ PEBB benefit services within sixty days after the decision of the ~~((agency))~~ PEBB staff was mailed to the appealing party. The ~~((agency))~~ PEBB appeals manager shall acknowledge receipt of the copies filed with ~~((the agency))~~ PEBB benefit services;
- (11) ~~((Within thirty days after receipt of notice of appeal, the agency shall notify the appellant of any obvious errors or omissions, and request any additional information.~~
- ~~((12))~~ The appeals ((committee)) officer will render a written decision within ((sixty)) thirty working days ((of)) after receipt of the complete notice of appeal.

AMENDATORY SECTION (Amending WSR 97-21-128, filed 10/21/97, effective 11/21/97)

WAC 182-16-050 Appeals—Hearings. (1) If the health care authority's appeals ((committee)) officer upholds the original denial, the enrollee may request ((a)) an administrative hearing ((by)) in writing to the ((health care authority's)) PEBB program's appeals manager. ((The health care authority)) PEBB benefit services must receive the written request for a hearing within fifteen days of the date the appeals ((committee's)) decision was mailed to the appellant.

(2) The agency shall set the time and place of the hearing and give not less than seven days notice to all parties and persons who have filed written petitions to intervene.

(3) The administrator or his((f)) or her designee shall preside at all hearings resulting from the filings of appeals.

(4) All hearings shall be conducted in compliance with these rules, chapter 34.05 RCW and chapter 10-08 WAC as applicable.

(5) Within ninety days of the hearing, the administrator or his((f)) or her designee shall render a decision which shall be the final decision of the agency. A copy of that decision accompanied by a written statement of the reasons for the decision shall be served on all parties and persons who have intervened.

WSR 05-12-065

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:09 a.m.]

The Department of Personnel hereby withdraws the proposed new sections, WAC 357-58-280 and 357-58-380. These sections were proposed under WSR 05-04-089 filed on February 2, 2005.

Eva N. Santos
Director

WSR 05-12-098

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:34 a.m.]

The Department of Personnel hereby withdraws the proposed new section, WAC 357-58-495. The section was proposed under WSR 05-04-091 filed on February 2, 2005.

Eva N. Santos
Director

WSR 05-12-099

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:35 a.m.]

The Department of Personnel hereby withdraws the proposed new section, WAC 357-58-535. The section was proposed under WSR 05-04-090 filed on February 2, 2005.

Eva N. Santos
Director

WSR 05-12-101

PROPOSED RULES DEPARTMENT OF REVENUE

[Filed May 27, 2005, 11:39 a.m.]

Supplemental Notice to WSR 05-05-063.

Preproposal statement of inquiry was filed as WSR 04-16-055.

Title of Rule and Other Identifying Information: WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights.

Hearing Location(s): Capital Plaza Building, 4th Floor Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on July 12, 2005, at 10:00 a.m.

Date of Intended Adoption: August 3, 2005.

Submit Written Comments to: Nathan Schreiner or Kim Qually, P.O. Box 47453, Olympia, WA 98504-7453, e-mail NathanS@dor.wa.gov, KimQ@dor.wa.gov, fax (360) 586-5543, by July 11, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule describes the property tax exemption that may be claimed by a federally recognized Indian tribe for property exclusively used for essential government services in accordance with the 2004 changes to RCW 84.36.010 (chapter 236, Laws of 2004). The rule explains when property is used for "essential government services," how the exemption may be obtained, the Department of Revenue's role in granting or denying an exemption declaration, and how a tribe or an assessor may appeal an exemption determination by the Department of Revenue.

An emergency rule with the same topic is currently in effect. As compared to the emergency rule, the proposed rule adds additional examples and additional explanation of when property is "used" for essential government services.

Reasons Supporting Proposal: To provide guidance and examples for Indian tribes, local government officials, and Department of Revenue personnel to clarify the application and administration of the new property tax exemption.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.010.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Nathan Schreiner, (360) 570-6136, and Kim Qually, (360) 570-6113, 1025 Union Avenue S.E., Suite #544, Olympia, WA; Implementation and Enforcement: Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impose any burden upon a small business.

A cost-benefit analysis is not required under RCW 34.05.328. This is not a significant legislative rule as defined in RCW 34.05.328.

May 27, 2005
Janis P. Bianchi
Policy Counsel

NEW SECTION

WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights. (1) **Introduction.** This section implements the amendments to RCW 84.36.010 made by the 2004 legislature and published in the 2004 regular session laws as chapter 236. RCW 84.36.010 exempts "all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services." This section explains the exemption, how the exemption may be obtained, how essential government services is defined, and how a tribe or an assessor may appeal an exemption determination.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

(c) "Declaration" means the exemption declaration filed by an Indian tribe with the department to claim the property tax exemption authorized in RCW 84.36.010.

(d) "Department" means the department of revenue, property tax division.

(e) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. See subsections (4) and (5) below that outline more complete and detailed examples of "essential government services" for the purposes of this section.

(f) "Federally recognized Indian tribe," "Indian tribe," or "tribe" means any Indian nation, tribe, band, community, or other entity that is recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federally recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe." See WAC 458-20-192 for more explicit information regarding these defined terms.

(g) "State" means the state of Washington.

(3) **Exemption.** To qualify for the exemption authorized by chapter 236, Laws of 2004, real and personal property located in the state must:

(a) Belong exclusively to a federally recognized Indian tribe; and

(b) Be used exclusively for essential government services.

Property owned by the United States government and held in trust for a federally recognized Indian tribe is exempt from property tax by virtue of federal law.

(i) **What is the effective date of exemption?** The effective date of the exemption is June 10, 2004. The exemption first applies to taxes due in 2005.

(ii) **How may a tribe claim this exemption? - Exemption declaration required.**

(A) **Declaration form - how it may be obtained.** An Indian tribe claiming the exemption described in this section must submit an exemption declaration and supporting documentation regarding the ownership and use of the property to the department. The declaration must be on a form prescribed by the department and signed by an authorized agent of the tribe. This information will be used to determine whether the property qualifies for exemption. An exemption declaration may be obtained from the department or downloaded from the department's internet site under the "forms" heading for property tax at <http://dor.wa.gov/>.

(B) **Exemption declaration.** Declarations must be filed with the department to exempt property for taxes due the following year. A tribe may submit one exemption declaration for all real and personal property that it owns exclusively if the property is used exclusively for essential government services. If real property is owned in part and/or used in part by another individual or entity, a separate exemption declaration must be submitted for each parcel.

(C) **Other documentation a tribe may be required to submit with exemption declaration to determine eligibility.** In addition to the exemption declaration, a tribe may be asked to submit the following information regarding the real or personal property for which exemption is sought to determine the amount of and eligibility for the exemption:

(I) An accurate description of the real and personal property including the county tax parcel number(s), and a copy of the current deed(s);

(II) An accurate map identifying by dimension the use of all real property that shows buildings, building sites, parking areas, landscaping, floor plans of the buildings, and vacant areas. The map or floor plan will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the area;

(III) If the property is rented or loaned to another party, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

- What property is rented or loaned;
- The name of the party to whom the property is rented or loaned; and
- How the property is being used.

(D) **Department's review of exemption declaration and notice of exemption determination.** Upon receipt of the exemption declaration the department will review the

declaration and all supporting documentation. The department may physically inspect the property in order to verify exempt use. Additional information may be requested about the ownership and use of the property, if the department needs this information to determine whether the property qualifies for exemption. An exemption declaration is not considered complete until the department receives all required information. The department shall then determine the taxable status of the property. The burden is upon the tribe to demonstrate exempt use and ownership. The department may deny the exemption declaration, in whole or in part, if it believes the property does not qualify for exemption. If the exemption declaration is denied for any portion of the property, the department must clearly state the reason(s) for denial in a written determination. A denial may be appealed, as explained in subsection (13) of this section.

(E) When will the property be exempt from payment of taxes? If an exemption declaration is approved, the property is exempt from property taxes due the year immediately following the year in which the declaration is submitted and for all subsequent years unless the property is sold or transferred or the tribe ceases to use the property exclusively for essential government services (see subsections (11) and (12) of this section).

(4) Essential government services as defined in RCW 84.36.010. For the purposes of this section, "essential government services" mean services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Property used for essential government services includes property:

- (a) Used to provide access to water or land for the exercise by a tribe or its tribal members of their treaty rights;
- (b) Used for the protection and stewardship of forest land, shoreline, watershed, or other environmentally sensitive areas;
- (c) Used for the preservation of historically or culturally significant sites; and
- (d) Used by a utility company providing services to residents of Indian country, as defined in WAC 458-20-192. The property of a utility company that provides services to an area extending outside of Indian country does not qualify for exemption.

(5) Examples regarding essential government services. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide and are not to be used to determine eligibility for exemption. All examples assume exclusive ownership of property located in the state by a federally recognized tribe.

(a) A tribe uses property for a courthouse, police station, fire station, hospital, library, and public schoolhouse. Each of these uses is a use for essential government services.

(b) A tribe acquires off-reservation land along the headwaters of a stream flowing into the reservation. The land is maintained as a conservation zone, limiting pollution and protecting water quality. The property is used for essential government services.

(c) A tribe operates a fish hatchery as part of its fisheries program. The property is used for essential government services.

(d) A tribe operates a fish cannery and processing center. The property is used for a commercial activity and is not used for essential government services.

(e) A tribe maintains and operates a parking lot or garage that is adjacent to its tribal administration building and courthouse. The parking lot or garage is integrally related to the essential government services provided in close proximity to its location. The property is used for essential government services. However, if the parking lot or garage is also used for ineligible purposes (such as parking for business patrons), it is taxable.

(f) A tribe operates a sawmill and log yard used to process and store timber or logs removed from its forest lands. Both the sawmill and log yard are commercial activities. The property is not used for essential government services.

(g) A tribe's members are unable to reach an off-reservation portion of a river in order to exercise fishing rights without crossing private property. The tribe purchases a parcel in order to allow access and establishes a footpath to the river. The property is used for essential government services.

(6) Property jointly owned by an Indian tribe and another individual or entity used exclusively for essential government services - eligibility for exemption. The percentage of the property owned exclusively by a tribe and used exclusively for essential government services is eligible for exemption.

(7) Property used for qualifying and nonqualifying purposes - mixed use of property - eligibility for exemption. If property belongs exclusively to an Indian tribe and is used for qualifying and nonqualifying purposes and if the two uses are physically separate on the real property, the department shall administratively segregate the portion of the property that is used exclusively for essential government services and exempt that portion of the property from property tax. The portion of the property that is used for nonqualifying uses is subject to taxation.

(a) An administrative segregation occurs when the department separates the exempt value from the taxable value. The assessor may create a new tax parcel number that exists solely for property tax purposes.

(b) Example: A tribal administrative office may be located in the same building as a convenience store run as a commercial enterprise. The portion of the building used for tribal administration offices is exempt and the portion of the building used as a convenience store is taxable.

(c) If the property is used at times for exempt or qualifying services and at other times for nonexempt purposes, the "exclusively used" standard is not met and the property is taxable.

(8) Property owned by an Indian tribe that is leased - eligibility for exemption. If property belonging exclusively to an Indian tribe is leased to an individual, a for-profit or nonprofit entity, a tribal member, or another governmental entity, the tenant's or lessee's activities will determine whether the property qualifies for exemption.

(9) Undeveloped property within or contiguous to a reservation - eligibility for exemption. Consolidation and

reacquisition of undeveloped real property within or contiguous to a tribe's reservation resolves questions of jurisdiction and is an essential government service for a tribal government.

(10) **Property used for commercial or enterprise activities - ineligible for exemption.** Property used for commercial or enterprise activities does not qualify for exemption. For purposes of this section, a "commercial or enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The burden is upon the tribe to prove that the property is not used for commercial or enterprise activities. The collection of a fee, such as a fee for the use of the picnic area in a park, does not make an activity a commercial or enterprise activity. Property used for a commercial or enterprise activity will not qualify for the exemption when funds received from the activity are used to provide essential government services. For example, if a tribe owns exclusively property on which it operates a gas station and the profits from the gas station are used to pay for essential government services, the property does not qualify for the exemption.

(11) **Sale, transfer, or cessation of use of exempt property.** If a tribe sells or transfers property or ceases to use real property for an essential government service as required under RCW 84.36.010, the exemption will be canceled as of the date the property was sold or transferred or the exempt use of the property ceased. Real property that no longer retains its exempt status will be assessed a pro rata portion of the taxes allocable to the property for the remaining portion of the tax year after the date the property lost its exempt status. If only a portion of the property has lost its exempt status, only that portion of the property is subject to tax. See RCW 84.40.350 through 84.40.390 for a more complete explanation of what occurs when the status of real property changes from exempt to taxable.

(a) **Duty to notify department.** A tribe must notify the department of any change in the ownership or use of the property that might affect its exempt status within a reasonable amount of time. If any portion of the exempt property is loaned or rented, the tribe is also required to report this change to the department because the loan or rental may affect the taxable status of the property. Any other person who knows or has information regarding a change in ownership or use of exempt property may notify the department of any such change. Upon receipt of change notice, the department will determine whether the property retains its exempt status.

(b) **Notice to tribe.** The department must notify the tribal owner of the exempt property if the exemption is being removed, in whole or in part. The tribe may appeal the removal of the exemption to the BTA. At the same time, the tribe may provide additional information to the department for reconsideration of the determination.

(12) **Can the exemption be claimed for prior years - refunds?** A tribe may submit an exemption declaration for previous years, up to a maximum of three years from the date taxes were paid on the property, if the taxpayer provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years. If the exemption is granted, the tribe must submit a refund claim to

the county treasurer. RCW 84.69.020(2) and 84.69.030. However, no exemption can be claimed for any time period prior to 2004, the first assessment year affected by RCW 84.36.010 as amended by chapter 236.

(13) **Administrative appeal rights - board of tax appeals.** The tribe or assessor may appeal an exemption determination made by the department to the BTA under RCW 82.03.130 (1)(c). A notice of appeal can be obtained from the department or the BTA, or downloaded from the BTA internet site, <http://bta.state.wa.us/>.

WSR 05-12-117

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed May 31, 2005, 1:42 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Application for driver's license or identocard—Applicants under eighteen years of age.

Hearing Location(s): Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA, on July 8, 2005, at 3:00 p.m.

Date of Intended Adoption: July 11, 2005.

Submit Written Comments to: Clark J. Holloway, P.O. Box 9030, Olympia, WA 98507-9030, e-mail cholloway@dol.wa.gov, fax (360) 586-8351, by July 7, 2005.

Assistance for Persons with Disabilities: Contact Clark J. Holloway by July 7, 2005, TTY (360) 664-0116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends WAC 308-104-014 to require that an application for a driver's license submitted by a person under the age of eighteen must include declarations by the person and the person's parent, guardian, or employer that they have read and understand the intermediate license restrictions.

Reasons Supporting Proposal: The intermediate license restrictions specified under RCW 46.20.075 are relatively new and somewhat complex. The department is authorized to require additional information on the application for a driver's license under the provisions of RCW 46.20.091 (1)(g). Requiring information from applicants under the age of eighteen and their parent, guardian, or employer indicating that they have read and understand the intermediate license restrictions will ensure that they are properly informed prior to the issuance of the license, and will increase traffic safety.

Statutory Authority for Adoption: RCW 46.20.091 (1)(g) and 46.01.110.

Statute Being Implemented: RCW 46.20.091 and 46.20.075.

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

Name of Proponent: Department of Licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Clark Holloway, Highways-Licenses Building, Olympia, Washington, (360) 902-3846; Implementation and Enforce-

ment: Denise Movius, Highways-Licenses Building, Olympia, Washington, (360) 902-3850.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). Proposed rule has no fiscal impact.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

May 31, 2005
Denise Movius
Assistant Director
by Clark J. Holloway

AMENDATORY SECTION (Amending WSR 00-18-070, filed 9/1/00)

WAC 308-104-014 Application for driver's license or identification card. A person applying for an original driver's license, instruction permit, or identification card must provide the following information:

- (1) The person's full name, current mailing and residential address, and telephone number;
- (2) The person's physical description, including sex, height, weight, and eye color;
- (3) The person's date and place of birth;
- (4) The person's social security number, if the social security number is required by state or federal law. If the person's social security number is not required by state or federal law, the person may voluntarily provide his or her social security number in order to assist the department in verifying identity;
- (5) The person's mother's maiden name and whether the person is one of multiple siblings born at the same time;
- (6) If the application is for a driver's license or instruction permit, whether the person has been previously licensed, where such license was issued, and under what name;
- (7) If the application is for a driver's license or instruction permit, whether the person has ever had his or her driver's license or driving privilege suspended, revoked, cancelled, disqualified, withheld, or denied, and if so, where and when such driving sanction was imposed and the reason for such action;
- (8) If the application is for a driver's license or instruction permit, whether the person has had a loss of consciousness or control within the last six months that could impair his or her ability to operate a motor vehicle;
- (9) If the application is for a driver's license and the person is under the age of eighteen, a declaration by the person's parent, guardian, or employer that he or she has read and understands the intermediate license restrictions, and a declaration by the person that he or she has read and understands the intermediate license restrictions;
- (10) The person's signature and, if the application is for a driver's license or instruction permit and the person is under the age of eighteen, the signature of the person's custodial parent or legal guardian; and
- ~~((10))~~ (11) Any supplementary documentation as may be necessary to verify any of the information required by this section.

WSR 05-12-125

PROPOSED RULES

DEPARTMENT OF PERSONNEL

[Filed June 1, 2005, 10:05 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-28-035 What must be addressed in the employer's salary determination policy?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on July 14, 2005, at 10:00 a.m.

Date of Intended Adoption: July 14, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by July 8, 2005. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact Department of Personnel by July 8, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification adds language that requires employers to address in their salary determination policy setting the base salary when an employee accepts a demotion in lieu of layoff.

Statutory Authority for Adoption: Chapter 41.06 RCW.
Statute Being Implemented: RCW 41.06.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding compensation for state employees. The proposed modification implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

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

A cost-benefit analysis is not required under RCW 34.05.328.

May 31, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-035 What must be addressed in the employer's salary determination policy? The employer's salary determination policy must minimally address the following:

- (1) Setting base salary for new employees;

(2) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a position in a new class;

(3) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a permanent position while in a nonpermanent appointment;

(4) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;

(5) Setting base salary when an employee accepts a lay-off option, accepts a demotion in lieu of layoff, is appointed from an internal or statewide layoff list, or is reallocated to a position with a lower range and the employee's previous base salary is not within the salary range of the new position;

(6) Setting base salary when an employee demotes for reasons other than accepting a demotion in lieu of layoff or accepting a demotion when a position is reallocated;

(7) Setting base salary when an employee is reverted following a voluntary demotion; and

(8) Authorizing premiums for recruitment and retention as provided in WAC 357-28-095 and 357-28-100.

WSR 05-12-126

PROPOSED RULES

DEPARTMENT OF PERSONNEL

[Filed June 1, 2005, 10:06 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-46-145 To whom and by when must an individual request a review of the removal from an internal or statewide layoff list.

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on July 14, 2005, at 10:00 a.m.

Date of Intended Adoption: July 14, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by July 8, 2005. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact Department of Personnel by July 8, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification allows an individual who is not in agreement with the results of a review by an employer (regarding removal from a layoff list) to request a director's review.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding lay off for state employees. The proposed modifi-

cation implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

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

A cost-benefit analysis is not required under RCW 34.05.328.

May 31, 2005

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/04 [7/1/05])

WAC 357-46-145 To whom and by when must an individual request a review of the removal from an internal or statewide layoff list? If the employer is responsible for maintaining the layoff list, requests for review of removal from a layoff list must be made to the employer. If the individual is not in agreement with the results of the employer's review, he/she may request a director's review of the removal. If the department is responsible for maintaining the layoff list, requests for review of removal from a layoff list must be made to the director.

The request for a review must be received at the employer's office or the director's office within twenty (20) calendar days following notice of the action for which a review is requested.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 05-12-127

PROPOSED RULES

DEPARTMENT OF PERSONNEL

[Filed June 1, 2005, 10:07 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-16-135 When may an employer certify candidates for affirmative action purposes?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on July 14, 2005, at 10:00 a.m.

Date of Intended Adoption: July 14, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by July 8, 2005. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact Department of Personnel by July 8, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed change removes the reference to the "statewide layoff list" from subsection (3) of this rule.

Statutory Authority for Adoption: Chapter 41.06 RCW.
Statute Being Implemented: RCW 41.06.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding certification of names to fill state vacancies. The proposed modification implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

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

A cost-benefit analysis is not required under RCW 34.05.328.

May 31, 2005
Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-200, filed 12/21/04, effective 7/1/05)

WAC 357-16-135 When may an employer certify candidates for affirmative action purposes? An employer may use supplemental certification to add to the certified pool when:

(1) Per the employer's certification procedure, the number of eligible candidates being certified is fewer than the total number of candidates eligible for certification;

(2) The employer's approved affirmative action plan shows that a goal exists in the job category for the particular affected group; and

(3) There are no individuals on the internal layoff list (~~(or statewide layoff)~~) list for the class who satisfy the competencies and other position requirements for the position.

WSR 05-12-128
PROPOSED RULES
DEPARTMENT OF PERSONNEL
[Filed June 1, 2005, 10:08 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours?

Hearing Location(s): Department of Personnel, Classroom #4, 600 South Franklin, Olympia, WA, on July 14, 2005, at 10:00 a.m.

Date of Intended Adoption: July 14, 2005.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by July 8, 2005, FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact Department of Personnel by July 8, 2005, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed modification removes the term "fiscal year" from this section.

Statutory Authority for Adoption: Chapter 41.06 RCW.
Statute Being Implemented: RCW 41.06.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding leave for state employees. The proposed modification implements this provision of the Personnel System Reform Act.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

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

A cost-benefit analysis is not required under RCW 34.05.328.

May 31, 2005
Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours? An employee who has donated his/her personal holiday for purposes of shared leave and then has a portion of the personal holiday returned to him/her during the same calendar (~~(or fiscal year)~~) may use the remaining hours. If the hours are returned during a different calendar (~~(or fiscal year)~~), the employee cannot use the remaining hours.

WSR 05-12-133
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 1, 2005, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-077.

Title of Rule and Other Identifying Information: WAC 388-273-0035 What we reimburse the local telephone company.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on July 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 6, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., July 5, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by June 30, 2005, TTY (360) 664-6178 or phone (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amended rule is to clarify the payment limits for reimbursable services under the Washington telephone assistance program.

Reasons Supporting Proposal: This change will clarify WAC for workers, telephone companies, the public, and clients, and keep the WTAP fund operating within budget.

Statutory Authority for Adoption: RCW 80.36.440.

Statute Being Implemented: RCW 80.36.410 through 80.36.470.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Amber Gillum, 1009 College S.E., Lacey, WA 98504, (360) 725-4612.

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. The department's limitation of reimbursement to the first connection at a given address is consistent with the current WTAP benefit structure.

A cost-benefit analysis is not required under RCW 34.05.328. 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 clarify language of a rule without changing its effect."

May 25, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-13-136, filed 6/22/04, effective 7/23/04)

WAC 388-273-0035 What we reimburse the local telephone company. (1) Within available funding limits, we reimburse local telephone companies for fully documented administrative and program expenses associated with WTAP. The reimbursable expenses are limited to:

(a) Program services provided to eligible households June 1, 2003 and beyond, and after eligibility for WTAP is verified;

(i) Monthly flat rate service.

We reimburse the local telephone company an amount equal to the monthly flat rate of the incumbent local exchange carrier providing service in the customer's exchange area, minus the WTAP assistance rate set by the commission, and minus the amount of federal lifeline program reimbursement available to an eligible telecommunications carrier. An "incumbent local exchange carrier" is a telephone company in the U.S. that was providing local service when the Telecommunications Act of 1996 was enacted, and is required to file tariffs with the commission. For all exchange areas, the WTAP reimbursement shall be limited to not more than nineteen dollars for each eligible household.

(ii) Connection fee.

We reimburse the local telephone company an amount equal to one-half the connection fee rate or twenty-two dollars, whichever is less, for your first connection at a given address. If you move, we will reimburse the local telephone company for your first connection at the new address.

(iii) Waiver of local deposit.

We reimburse the local telephone company an amount up to two times the WTAP assistance rate.

(b) Correct, verifiable billing items;

(c) One monthly invoice and supporting documentation submitted and received by WTAP by the fifteenth day following the month the expense occurred;

(d) Items charged in error that have been corrected within thirty days from the date we return the report of invoicing error to the local phone company;

(e) Salaries and benefits for time required to implement and maintain WTAP, with the exception that time required for the correction of billing, case number and client identification errors is not an allowable expense;

(f) Travel expenses for attending hearings, meetings, or training pertaining to WTAP;

(g) Expenses for supplies and materials for implementing and maintaining WTAP;

(h) Postage and handling for delivery of WTAP material;

(i) Administrative charge for change of service orders specified by tariffs; and

(j) Preapproved documented indirect costs associated with implementing and maintaining WTAP.

WSR 05-12-134
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 1, 2005, 10:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-007.

Title of Rule and Other Identifying Information: WAC 388-424-0006 Citizenship and alien status—Date of entry.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on July 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 6, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., July 5, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by June 30, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule change is to bring WAC 388-424-0006 into conformity with federal law, which does not allow Social Security work quarters to exempt aliens from the five year bar on TANF (temporary assistance for needy families), nonemergency Medicaid, and SCHIP (state children's health insurance program).

Reasons Supporting Proposal: See above.

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.

Rule is necessary because of federal law, 8 U.S.C. 1613.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tom Berry, 1009 College S.E., Lacey, WA 98504, (360) 725-4617.

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 by outlining the rules clients must meet in order to be eligible for the department's cash or medical assistance programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under 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."

May 25, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-004, filed 7/7/04, effective 8/7/04)

WAC 388-424-0006 Citizenship and alien status—Date of entry. (1) A person who physically entered the U.S. prior to August 22, 1996 and who continuously resided in the U.S. prior to becoming a "qualified alien" (as defined in WAC 388-424-0001) is not subject to the five-year bar on TANF, nonemergency Medicaid, and SCHIP.

(2) A person who entered the U.S. prior to August 22, 1996 but became "qualified" on or after August 22, 1996, or who physically entered the U.S. on or after August 22, 1996 and who requires five years of residency to be eligible for federal Basic Food, can only count years of residence during which they were a "qualified alien."

(3) A person who physically entered the U.S. on or after August 22, 1996 is subject to the five-year bar on TANF, nonemergency Medicaid, and SCHIP unless exempt. The five-year bar starts on the date that "qualified" status is obtained.

(4) The following "qualified aliens," as defined in WAC 388-424-0001, are exempt from the five-year bar:

- (a) Amerasian lawful permanent residents;
- (b) Asylees;
- (c) Conditional entrants;
- (d) Cuban/Haitian entrants;
- (e) Persons granted withholding of deportation or removal;
- (f) Refugees;
- (g) Victims of trafficking who have been certified or had their eligibility approved by the office of refugee resettlement (ORR);
- (h) Lawful permanent residents, parolees, or battered aliens, as defined in WAC 388-424-0001, who are also an armed services member or veteran as described in WAC 388-424-0007 (~~(or who meet the work quarters requirement described in WAC 388-424-0008)~~).

WSR 05-12-139
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed June 1, 2005, 10:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-03-054.

Title of Rule and Other Identifying Information: WAC 246-100-166 Immunizations of childcare and school children against certain vaccine preventable diseases.

Hearing Location(s): Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, WA 98502, on July 13, 2005, at 10:30 a.m.

Date of Intended Adoption: July 13, 2005.

Submit Written Comments to: Ruth McDougall, P.O. Box 47830, Olympia, WA 98504 or electronically on the internet at <http://www3.doh.wa.gov/policyreview>, fax (360) 236-3590, by July 6, 2005.

Assistance for Persons with Disabilities: Contact Desiree Robinson by July 5, 2005, TTY (800) 833-6388 or (360) 236-4107.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 246-100-166 is to be revised to require immunization against varicella (chickenpox) or documentation of disease as a condition for children nineteen months through age twelve in licensed child care centers or schools.

The Advisory Council on Immunization Practices, the American Academy of Pediatrics, and the American Academy of Family Medicine recommend vaccination of children against varicella. The Washington State Vaccine Advisory Committee recommends a requirement of immunity for children ages nineteen months through twelve years of age.

The effectiveness and efficacy of this vaccine has been demonstrated. Children who do not contract the disease or receive a varicella vaccination during childhood are at risk of serious complications as adults if they contract the disease later in life. Shingles is a local manifestation of reactivation of latent varicella infections. As of February 2005, thirty-eight states have a child care/school requirement; nineteen of those states have middle school requirement in addition to school entry; two states have a child care only requirement and five states have a school entry only requirement.

There may be significant economic losses associated with parents having to stay home to tend to children with chickenpox.

Reasons Supporting Proposal: This rule change will reduce the likelihood of children contracting chickenpox, and will help reduce the number of individuals who contract the disease later in life.

Statutory Authority for Adoption: RCW 28A.210.140.

Statute Being Implemented: RCW 28A.310.140.

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

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

Name of Agency Personnel Responsible for Drafting: Ruth Mcdougall, Department of Health, New Market Campus, Building 1, Tumwater, Washington, (360) 236-3760; Implementation and Enforcement: Janna Bardi, Department of Health, New Market Campus, Building 1, Tumwater, Washington, (360) 236-3568.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not prepare a small business economic impact statement because the proposed rule does not impose more than minor costs on the small businesses that must comply with it.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ala Mofidi, P.O. Box 47890, Olympia, WA 98504-7890, phone (360) 236-4055, fax (360) 586-7424, e-mail Ala.Mofidi@doh.wa.gov.

April 31, 2005
Craig McLaughlin
Executive Director

AMENDATORY SECTION (Amending WSR 05-08-094, filed 4/1/05, effective 5/2/05)

WAC 246-100-166 Immunization of child care and school children against certain vaccine-preventable diseases. (1) Purpose. Under the authority of RCW 43.20.050 and 28A.210.140, the state board of health is empowered to adopt rules to establish immunization requirements upon entry into school and child care. The following rule improves the public health of Washington by preventing vaccine-preventable disease outbreaks.

(2) Definitions. The words and phrases in this section have the following meanings:

(a) Certificate of immunization status (CIS) means:

(i) A certificate of immunization status form approved by the department; or

(ii) A CHILD profile immunization record; or

(iii) Any other immunization form approved by the department.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for supervising the immediate operation of a school or child care; or

(ii) A person designated in writing by the statutory or corporate board of directors of the school district or school; or

(iii) In the absence of the above, a person or persons with the authority and responsibility for supervising the general operation of the school district.

(c) "Child" means any person regardless of age admitted to:

(i) Any public school district; or

(ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060; or

(iii) Any child care center.

(d) "Child care center" means any licensed facility or center that regularly provides care of children for periods of less than twenty-four hours per day subject to licensure by the department of social and health services as described in chapter 74.15 RCW.

(e) "Conditional status" is a type of immunization status where a child is not fully immunized under (g) of this subsection and is in the process of completing the required immunizations for his/her age.

(f) "Exemption" is a type of immunization status where a child is not fully immunized under (g) of this subsection and meets school and child care documentation requirements under subsection (4)(b)(i) of this section.

(g) "Full immunization" or "fully immunized" is an immunization status where a child has been vaccinated at ages and intervals consistent with the national immunization guidelines, with immunizing agents against:

(A) Diphtheria;

(B) Tetanus;

(C) Pertussis (whooping cough);

(D) Poliomyelitis;

(E) Measles (rubeola);

(F) Mumps;

(G) Rubella;

(H) Hepatitis B; ((and))

(I) Haemophilus influenzae type B disease; and
 (J) Varicella for children under thirteen years of age, admitted to school or child care after July 1, 2006.

(h) "Immunizing agent" means any vaccine or other immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against vaccine-preventable diseases.

(i) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

(j) "National immunization guidelines" means the schedule for the immunization described in the "Recommended Childhood and Adolescent Immunization Schedule: United States—2005" approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

(k) "Parent" means, for the purposes of signature requirements in this rule:

(i) The mother, father, legal guardian, or any adult in loco parentis of a child seventeen years of age or younger; or

(ii) A person eighteen years of age or older; or

(iii) An emancipated minor.

(l) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

(3) Documentation of immunization status required by schools and child care center.

(a) Schools and child care centers shall require documented proof of immunization status in the form of a CIS.

(b) The CIS form must include:

(i) Name of child or student;

(ii) Birth date;

(iii) Type of vaccine(s) administered;

(iv) Month, day, and year of each dose of vaccine received;

(v) Documentation of immunization status to indicate:

(A) Full immunization under subsection (2)(g) of this section; or

(B) Conditional status under subsection (2)(e) of this section; or

(C) Exemption under subsection (2)(f) of this section;

(vi) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be excluded from school or child care for the duration of the outbreak;

(vii) Parent signature.

(c) As proof of a child's immunization status against varicella, schools and child care centers may accept one of the following:

(i) Documentation on the CIS form that the child received age appropriate varicella vaccine; or

(ii) Documentation by the parent that a child has a history of varicella; or

(iii) Serologic proof of immunity against varicella.

(4) Duty of schools and child care centers.

(a) Schools and child care centers shall require a CIS form, signed by parents, for new enrollees registering for admission into kindergarten through grade twelve or child care as a requirement of admission.

(b) Full immunization is required upon admission unless:

(i) Parent(s) sign and submit a CIS form indicating a medical exemption.

(A) A permanent medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy (O.D.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization under subsection (2)(g) of this section.

(B) If immunizations are deferred on a temporary basis, the student must receive the required immunizations upon expiration of the exemption.

(ii) Parent(s) sign and submit a CIS form indicating a religious or philosophical, or personal exemption.

(iii) Parent(s) sign and submit a CIS form indicating conditional status if there is evidence of satisfactory progress toward full immunization, including:

(A) Documentation of start or continuance towards full immunization status;

(B) Documentation that immunizations received are consistent with the National Immunization Guidelines defined in subsection (2)(j) of this section; and

(C) Documentation of when the next immunization is due.

(c) Schools and child care centers maintenance of child immunization records:

(i) Schools and child care centers shall keep a department approved CIS for each enrolled child.

(ii) Schools and child care centers shall keep a list of children with medical, religious, philosophical, or personal exemptions.

(iii) The chief administrator shall retain records for at least three years on a child who is excluded from school under this section. The record must include the child's name, address, and date of exclusion.

(d) Schools and child care centers shall transmit the list of children with medical, religious, philosophical, or personal exemptions to the local health department upon request.

(e) A school or child care center shall return the department approved CIS or a legible copy to the parent if the child is withdrawn from school or child care or transferred from the school.

(f) A school or child care center may not withhold a child's department approved CIS for any reasons, including nonpayment of school child care fees.

(g) A school or child care center shall provide access to immunization records to agents of the state or local health department of each child enrolled.

(h) The chief administrator of a school or child care center shall submit a school immunization status report under chapter 28A.210 RCW either electronically on the internet or on the school immunization status report provided by the department. The report must be:

(i) Submitted to the department by November 1 of each year;

(ii) If a school opens after October 1, the report is due thirty days from the first day of school.

(5) Persons or organizations administering immunizations, either public or private shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 246-100 WAC.

(6) A school or child care center shall exclude a child if one or more of the following applies:

(a) Parent(s) fail to provide a completed CIS form on or before the child's first day of attendance. Schools must use procedures consistent with Title 180 WAC.

(b) A child admitted under conditional status has not received the required immunization(s) within one month from the date due for completion of the next dose.

(c) A child has been admitted under a medical exemption and the particular vaccine for which the exemption was granted is no longer contraindicated and the child has not received the immunization within one month from the due date for completion of the next dose.

(7) A local health officer may exclude a child from school or child care under chapter 246-110 WAC during an outbreak of a vaccine-preventable disease if the child has not been fully immunized against that disease due to:

(a) Medical exemption;

(b) Conditional status;

(c) Religious exemption;

(d) Philosophical exemption; or

(e) Personal exemption.

(8) Implementation.

(a) The department shall develop and distribute implementation guidelines for schools and child care centers that:

(i) Interpret immunization requirements by grade level consistent with the ages specified in the national immunization guidelines and this section; and

(ii) Reflect national immunization guidelines for children who did not receive required immunizations prior to entry into kindergarten or first grade, and for whom a full series of immunizations is not recommended.

(b) The department may develop school implementation guidelines that waive or modify immunization requirements when a phasing-in period is warranted for a new immunization mandate, when there is limited availability of a required immunizing agent, or when new information about the safety or efficacy of an immunizing agent prompts a reevaluation of an existing vaccination requirement. Any waiver or modification must:

(i) Reflect the best available medical research as indicated by the ACIP or the state health officer recommendation;

(ii) Identify a specific vaccine-preventable disease or immunizing agent;

(iii) Identify a specific cohort of children by age or grade level;

(iv) Be limited in duration; and

(v) Be approved by the board.

WSR 05-12-141

PROPOSED RULES

LIQUOR CONTROL BOARD

[Filed June 1, 2005, 11:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-108.

Title of Rule and Other Identifying Information: WAC 314-02-010 Definitions, 314-02-014 What is a food counter, a liquor bar, and a service bar and are minors allowed in these areas?, 314-02-015 What is a spirits, beer, and wine restaurant license?, 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license?, 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license?, 314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises?, 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicated dining area(s)?, 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license?, 314-02-045 What is a beer and/or wine restaurant license?, and 314-02-055 Can a beer and/or wine restaurant exclude minors from the dining area?

Corrects cross-references in other WACs and repeals WAC 314-16-190 Spirits, beer, and wine restaurant—Qualifications, 314-16-196 Spirits, beer, and wine restaurant—Floor space requirements—Conditions for service bar only premises, and 314-02-050 What are the floor space requirements to obtain and maintain a beer and/or wine restaurant license?

Hearing Location(s): Liquor Control Board Headquarters Board Room, 3000 Pacific Avenue S.E., Olympia, WA, on July 13, 2005, at 10:00 a.m.

Date of Intended Adoption: No earlier than August 10, 2005.

Submit Written Comments to: Pam Madson, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 704-4921, by July 25, 2005.

Assistance for Persons with Disabilities: Contact Pam Madson by July 12, 2005, TTY (800) 855-2880 or (360) 664-1648.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule changes and additions are intended to clarify those areas of a spirits, beer, and wine restaurant and beer and/or wine restaurant where minors are or are not allowed and to clarify when minors may be present if alcohol is being served. They also clarify requirements involving barriers required to separate a restaurant's dining area from the area where liquor is served and requirements for food service in a spirits, beer, and wine restaurant.

Reasons Supporting Proposal: This proposal places current agency policy into rule and clarifies rules that are the subject of confusion for licensees and law enforcement.

Statutory Authority for Adoption: RCW 66.08.030, 66.44.310, 66.24.410, 66.44.420, 66.04.010.

Statute Being Implemented: RCW 66.44.420, 66.44.-310, 66.24.410, 66.04.010.

PROPOSED

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

Name of Proponent: Liquor Control Board, governmental.

Name of Agency Personnel Responsible for Drafting: Pam Madson, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1648; Implementation: Lorraine Lee, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1600; and Enforcement: Rex Prout, 3000 Pacific Avenue S.E., Olympia, WA, (360) 664-1600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Liquor Control Board is not a listed agency under RCW 34.05.328.

June 1, 2005
Merritt D. Long
Chairman

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-010 Definitions. The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(2) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(3) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(4) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service. A food counter is allowed in areas where minors are permitted.

(5) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

(6) "Liquor" means beer, wine, or spirits (per RCW 66.04.010(19) - Definitions).

~~((5))~~ (7) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

(8) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. ~~((Persons under twenty-one years of age))~~ Minors are not allowed in a lounge (see RCW 66.44.316 for information on employees and professional musicians under twenty-one years of age).

(9) "Minor" means a person under twenty-one years of age.

(10) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar. A service bar is allowed in areas where minors are permitted.

NEW SECTION

WAC 314-02-014 What is a food counter, a liquor bar, and a service bar and are minors allowed in these areas?

	Allowed in areas where minors are permitted?
A food counter is a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.	yes
A liquor bar is a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.	no
A service bar is a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.	yes

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-015 What is a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.400, this license allows a restaurant to:

(a) Serve spirits by the individual serving for on-premises consumption;

(b) Serve beer by the bottle or can or by tap for on-premises consumption; and

(c) Serve wine for on-premises consumption (see RCW 66.24.400 regarding patrons removing recorked wine from the premises).

(2) Per RCW 66.24.400, this license prohibits licensees from selling alcohol for off-premises consumption except for

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a licensee having an endorsement that allows the licensee to sell, for off-premises consumption, wine vinted and bottled in the state of Washington that has a label exclusive to the licensee's restaurant.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant. The term "bona fide restaurant" is defined in RCW 66.24.410(2).

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license? (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	\$1,000
50 - 99%	\$1,600
Less than 50%	\$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. Dedicated dining areas may not contain:

(a) Liquor bars (see definition under WAC 314-02-010(2));

(b) Areas dedicated to live music or entertainment, such as dance floors or stages; or

(c) Areas dedicated to games or gaming devices.

(3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	\$10
Privately owned facility open to the public	\$20

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license? (1) The liquor control board has the responsibility to classify what licensed premises or what portions of the licensed pre-

mises are off-limits to minors. (RCW 66.44.310(2)) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. (RCW 66.44.290 and 66.44.310) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering restricted areas.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the premises after 10:00 p.m., the licensee must either:

(a) Request board approval to reclassify the dining area to a lounge, thus restricting minors; or

(b) Notify the board's licensing and regulation division in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dining room after 10:00 p.m.

(3) Barriers - Licensees must place ((identifiable)) barriers around game rooms and areas that are ((restricted from persons under twenty-one years of age)) classified as off-limits to minors.

(a) The barriers must be substantial, must clearly separate restricted areas, and must be at least forty-two inches high.

(b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their movable barriers until the next time the licensee remodels the premises or the premises change ownership.

(c) Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(7)).

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC ((314-16-025)) 314-11-060(1), must be posted at each entrance to ((such)) restricted areas.

((2)) (4) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

(5) Floor plans - When applying for a license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

(a) Be drawn one foot to one-quarter-inch scale;

(b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and

(c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-030 Can a spirits, beer, and wine restaurant exclude persons under twenty-one years of age from the premises? A spirits, beer, and wine restaurant licensee may exclude ~~((persons under twenty-one years of age))~~ minors from the entire premises at all times or at certain times as approved by the board.

(1) To exclude ~~((persons under twenty-one years of age))~~ minors from the entire licensed premises at all times or at certain times, the applicant or licensee must:

(a) Indicate during the liquor license application process that he/she does not wish to have ~~((persons under twenty-one years of age))~~ minors on the entire premises at ~~((any time))~~ all times or at certain times indicated by the applicant or licensee; or

(b) If already licensed as a spirits, beer, and wine restaurant that allows ~~((person under twenty-one years of age))~~ minors, the applicant may request permission from the board's licensing and regulation division to exclude ~~((persons under twenty-one years of age, per))~~ minors at all times or at certain times indicated by the applicant or licensee. See WAC 314-02-130 for instructions on requesting this approval.

(c) Spirits, beer, and wine restaurant licensees who exclude ~~((persons twenty-one years of age))~~ minors from the entire premises at all times or at certain times must ~~((:~~

~~((i))~~ Place the required barriers around dedicated dining areas (see WAC 314-02-025(1)); and

~~((ii))~~ meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035.

~~((d))~~ During the times that a spirits, beer, and wine restaurant licensee excludes minors from the entire premises, the licensee may not employ persons under twenty-one years of age. (See WAC 314-11-040 for more information on employing minors.)

(2) Restaurants that have less than fifteen percent of their total customer service area dedicated to dining must exclude ~~((persons under twenty-one years of age))~~ minors from the entire premises. The licensee must:

(a) Pay the two thousand dollars annual license fee; and

(b) Meet all other requirements of this license, including the food service requirements outlined in WAC 314-02-035.

(3) ~~((To exclude persons under twenty-one years of age from the entire licensed premises during a portion of the day or week or on a one-time only basis, the applicant or licensee must:~~

~~((a))~~ Request permission from the board, see WAC 314-02-130(1); and

~~((b))~~ Meet all other requirements of the license, including the food service requirements outlined in WAC 314-02-035.

~~((4))~~ See WAC ((314-16-025)) 314-11-060(1) regarding requirements for "minors prohibited" signage.

NEW SECTION

WAC 314-02-033 Do spirits, beer, and wine restaurants that exclude minors from the premises have to put barriers around their dedicated dining area(s)? Spirits,

beer, and wine restaurant licensees who exclude minors from the entire premises at all times are only required to place the barriers described in WAC 314-02-025(2) around dedicated dining areas for the purpose of paying the one thousand six hundred dollar annual fee. Restaurants that do not allow minors at any time and do not wish to have barriers around their dining area(s) must pay the two thousand dollar annual license fee. (See WAC 314-02-020 for an explanation of fees.)

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license? (1) A spirits, beer, and wine restaurant licensee must serve at least four complete meals. Per RCW 66.24.410(2), a complete meal does not include hamburgers, sandwiches, salads, or fry orders. For purposes of this title:

(a) "Complete meal" means an entree and at least one additional course.

(b) "Entree" means the main course of a meal. To qualify as one of the four required complete meals, the entree must require the use of a dining implement to eat, and cannot consist of a hamburger, sandwich, salad, or fry order.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required ~~((by))~~ under this section and RCW 66.24.410(2) ((and WAC 314-16-190)).

~~((2))~~ (3) The complete meals must be prepared on the restaurant premises.

~~((3))~~ (4) A chef or cook must be on duty while complete meals are offered.

~~((4))~~ (5) A menu must be available to customers that lists, at a minimum, the required complete meals.

~~((5))~~ (6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

~~((6))~~ (7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

~~((7))~~ (8) Restaurants with less than one hundred percent dedicated dining area (restaurants in the one thousand six hundred dollar or two thousand dollar fee category) must maintain complete meal service for a minimum of five hours a day on any day liquor is served. The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interests of the public.

(a) Minimum food service, such as sandwiches, hamburgers, or fry orders, must be available outside of these hours.

(b) Snacks such as peanuts, popcorn, and chips do not qualify as minimum food service.

~~((8))~~ (9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. If applicable, a statement that minimum food service is available outside of those hours must also be posted or listed on the menu.

PROPOSED

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-045 What is a beer and/or wine restaurant license? (1) Per RCW 66.24.320 and 66.24.354, this license allows a restaurant to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, and brought to the premises by the purchaser.	In conjunction with off-premises privilege outlined in subsection (c).
(e) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-115 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in subsection (c).

(2) All applicants for a beer and/or wine restaurant license must establish, to the satisfaction of the board, that the premises will operate as a bona fide restaurant, as defined in RCW 66.04.010((29))(30).

(3) If a beer and/or wine restaurant's dedicated dining area comprises less than fifteen percent of the total customer service area, the premises must maintain a tavern license (see WAC 314-02-070 regarding the tavern license).

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-055 Can a beer and/or wine restaurant exclude ~~((persons under twenty-one years of age))~~ minors from the dining area? (1) To exclude ~~((persons under twenty-one years of age))~~ minors from the dining area during a portion of the day or week or on a one-time-only basis, the applicant or licensee must request permission from the board (see WAC 314-02-130(1)).

(2) See WAC ~~((314-16-025))~~ 314-11-060(1) regarding requirements for "minors prohibited" signage.

AMENDATORY SECTION (Amending WSR 00-07-091, filed 3/15/00, effective 4/15/00)

WAC 314-02-095 What is a public house license? (1) Per RCW 66.24.580, a public house licensee is allowed to:

(a) Manufacture between two hundred fifty gallons and two thousand four hundred barrels of beer on the premises per year;

(b) Serve beer by the bottle or can or by tap for on-premises consumption; and

(c) Serve wine for on-premises consumption (see RCW 66.24.320 regarding patrons removing recorked wine from the premises).

(2) The annual fee for this license is one thousand dollars.

(3) If a public house licensee wishes to allow persons under twenty-one years of age on the premises, the licensee must meet the requirements of a beer and/or wine restaurant license, per WAC 314-02-045 and ~~((314-02-050))~~ 314-02-025.

(4) Public house licensees may apply for a spirits, beer, and wine restaurant license, in order to sell spirits by the individual serving for on-premises consumption (see WAC 314-02-015).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-02-050

What are the floor space requirements to obtain and maintain a beer and/or wine restaurant license?

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-16-195 Spirits, beer and wine restaurant restricted—Qualifications. (1) Spirits, beer and wine restaurant restricted licensees shall govern their operations in selling liquor in accordance with the regulations set forth in Titles I and II. Such licensees may sell liquor in accordance with these regulations, only to members, invited guests, and holders of cards as authorized by subsection (3) of this section. Spirits, beer and wine restaurant restricted licensees shall not be prohibited from renting, leasing, or donating all or a portion of their facilities for, or making services available to, an activity where the public is invited or admitted under the conditions specified in subsection (4) of this section.

(2)(a) Applications for new spirits, beer and wine restaurant restricted licenses shall be on forms prescribed by the board and shall be accompanied by proof that:

(i) The business has been in operation for at least one year immediately prior to the date of its application. Such proof should include records of membership as well as an indication as to numbers and types of membership.

(ii) Membership or admission will not be denied to any person because of race, creed, color, national origin, sex or the presence of any sensory, mental or physical handicap.

(b) Applications for renewal shall be made on forms prescribed by the board and shall be accompanied by such information as the board may request.

(c) Spirits, beer and wine restaurant restricted applicants and licensees must meet the provisions of WAC ~~((314-16-190 (1), (2), (3), (4), (5) and (7)))~~ 314-02-035.

(3)(a) Guest privilege cards may be issued only as follows:

(i) For spirits, beer and wine restaurant restricted licensees within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town.

(ii) For spirits, beer and wine restaurant restricted licensees outside of any city or town only to those persons residing outside an area fifteen miles from the location of such licensee: Provided, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area.

(iii) Such guest privilege cards shall be issued for a reasonable period and must be numbered serially, with a record of the issuance of each such card to be filed on the licensed premises in such a manner as to be readily accessible for inspection.

(iv) The mileage restrictions in (i) and (ii) of this subsection may be waived for special events upon written approval of the board.

(b) Guests may be introduced when accompanied at all times by a member and may remain as long as such member is present: Provided, That any such guest may only enjoy the privileges of the organization a reasonable number of times in any one calendar year.

(c) Persons who are members in good standing of a licensed spirits, beer and wine restaurant restricted organization may enjoy the privileges of any other licensed spirits, beer and wine restaurant restricted organization: Provided, That the operating rules of such organization authorize reciprocal privileges: Provided further, That (a) and (b) of this subsection shall not apply to members of such organizations while exercising reciprocal privileges.

(4) If the licensee at any time rents any portion of the premises for any purpose other than to their membership or at any time holds any function within the premises to which the public is generally invited or admitted, then such portion devoted to liquor service must be closed to the public generally and no one admitted therein except for bona fide members and guests. If the premises does not have an area which can be so closed, then no liquor service whatever may be permitted during the entire time when such activity is taking place or when the public is generally admitted in the premises.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 314-16-190 Spirits, beer and wine restaurant—Qualifications.
- WAC 314-16-196 Spirits, beer and wine restaurant—Floor space requirements—Conditions for service bar only premises.

WSR 05-12-142
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 1, 2005, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-22-091.

Title of Rule and Other Identifying Information: Commercial fishing rules.

Hearing Location(s): Natural Resources Building, 1111 Washington Street, Olympia, on July 7, 2005, at 9:00 a.m. The hearing will be held via conference call, and persons who wish to comment will be accommodated in the commission office or the director's conference room, depending on the attendance.

Date of Intended Adoption: July 7, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by July 6, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by June 23, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule will establish the license that is statutorily required to sell wild shellfish harvested from nonpublic tidelands. A recent increase in wild geoduck harvest from sites other than the Department of Natural Resources (DNR) tidelands, and harvest of wild shellfish from tidelands that never have been commercially harvested is consistent with using the emerging commercial fishery license for this purpose. Allowing use of water pumps to harvest geoduck clams conforms to the industry standard method of harvest.

Reasons Supporting Proposal: Allows for commercialization of wild embedded shellfish taken from nonpublic tidelands. Utilization of the emerging commercial fishery license and reporting on shellfish receiving tickets will provide for resource management, accurate catch reporting, and enforcement.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

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

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, WA, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, WA, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, WA, (360) 902-2373.

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: No reporting requirement of sale for harvesters. The catch is to

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be reported by wholesale dealers on fish receiving tickets. Harvesters who wish to harvest cultured shellfish within the presumptive wild shellfish reporting period will need to contact the department on a case-by-case basis. Harvesters who are intending to culture aquatic products will need to register the site as an aquatic farm and file quarterly reports of production, but this is a current requirement and not an effect of the proposed rule.

2. **Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** None required.

3. **Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** Purchase of an emerging commercial fisheries license (\$185 for residents; \$295 for nonresidents), and payment of the excise tax on enhanced food fish. The tax is 2.1% for shellfish other than oysters, and .08% for oysters.

4. **Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** No loss of sales or revenue is anticipated.

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.

A harvester who is a single entity will pay \$185 for a resident license or \$295 for nonresident license. The tax is proportional to production. Using geoduck as an example, DNR has estimated that geoduck at a wholesale value of \$5/pound. Thus, if an acre of geoduck produces \$65,000 in revenue, the cost is the license (\$185) and the enhanced fish tax (\$1,365) total \$1,550 or \$2.38 per \$100 in sales. Oysters are approximately \$.10 each at wholesale, and a medium beach (Triton Cove) produces 105,000 per acre, or roughly \$10,500 per acre, with the license (\$185) and excise tax (\$80) totaling \$2.52 per \$100 in sales. This presumes the harvest tract is one acre in size. Costs are proportionally higher for smaller tracts and lower for larger tracts.

6. **Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So:** Licensing for harvest of wild shellfish and the excise taxes are required by statute. The department has proposed a presumptive wild shellfish reporting period, after which the product will be reported as private sector cultured aquatic product. If a harvester waits out the reporting period, there is no license cost or tax, as private sector cultured aquatic products are not subject to licensing or enhanced fish excise taxes.

7. **A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** The department has held multiple meetings with shellfish growers and tribes affected by the proposed rule. There have been four public meetings before the Fish and Wildlife Commission. The department has mailed drafts of the proposals to all registered growers.

8. **A List of Industries That Will Be Required to Comply with the Rule:** Wild shellfish harvesters taking clams, mussels and oysters from private tidelands.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. Not hydraulics rules.

June 1, 2005

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

WAC 220-52-018 Clams—Gear. It shall be unlawful to take, dig for or possess clams, geoducks, or mussels taken for commercial purposes from any of the tidelands in the state of Washington except with a pick, mattock, fork or shovel operated by hand, except ~~((that))~~:

~~((1))~~ **(1)** Permits for the use of mechanical clam digging devices to take clams other than geoducks may be obtained from the director of fisheries subject to the following conditions:

~~((1))~~ **(a)** Any or all types of mechanical devices used in the taking or harvesting of shellfish must be approved by the director of fisheries.

~~((2))~~ **(b)** A separate permit shall be required for each and every device and the permit shall be attached to the specific unit at all times.

~~((3))~~ **(c)** All types of clams to be taken for commercial use must be of legal size and in season during the proposed operations unless otherwise provided in specially authorized permits for the transplanting of seed to growing areas or for research purposes.

~~((4))~~ **(d)** The holder of a permit to take shellfish from tidelands by mechanical means shall limit operations to privately owned or leased land.

~~((5))~~ **(e)** The taking of clams from bottoms under navigable water below the level of mean lower low water by any mechanical device shall be prohibited except as authorized by the director of fisheries. Within the enclosed bays and channels of Puget Sound, Strait of Juan de Fuca, Grays Harbor and Willapa Harbor, the operators of all mechanical devices shall confine their operations to bottoms leased from the Washington department of natural resources, subject to the approval of the director of fisheries. The harvesting of shellfish from bottoms of the Pacific Ocean westward from the western shores of the state shall not be carried out in waters less than two fathoms deep at mean lower low water. In said waters more than two fathoms deep the director of fisheries may reserve all or certain areas thereof and prevent the taking of shellfish in any quantity from such reserves established on the ocean bottoms.

~~((6))~~ **(f)** Noncompliance with any part of these regulations or with special requirements of individual permits will result in immediate cancellation of and/or subsequent nonrenewal of all permits held by the operator.

~~((7))~~ **(g)** Applications must be made on the forms provided by the department of fisheries and permits must be in the possession of the operator before digging commences.

~~((8))~~ (h) All permits to take or harvest shellfish by mechanical means shall expire on December 31 of the year of issue.

~~((9))~~ (i) All mechanical clam harvesting machines must have approved instrumentation that will provide deck readout of water pressure.

~~((10))~~ (j) All clam harvest machines operating on intertidal grounds where less than ten percent of the substrate material is above 500 microns in size must be equipped with a propeller guard suitable for reducing the average propeller wash velocity at the end of the guard to approximately twenty-five percent of the average propeller wash velocity at the propeller. The propeller guard must also be positioned to provide an upward deflection to propeller wash.

~~((11))~~ (k) Clam harvest machines operating in fine substrate material where less than ten percent of the substrate material is above 500 microns in size, shall have a maximum harvest head width of 3 feet (overall) and the maximum pump volume as specified by the department of fisheries commensurate with the basic hydraulic relationship of 828 gpm at 30 pounds per square inch, pressure to be measured at the pump discharge.

~~((12))~~ (l) Clam harvest machines operating in coarser substrate material where more than ten percent of the substrate material is above 500 microns in size, shall have a maximum harvest head width of 4 feet (overall) and a maximum pump volume as specified by the department of fisheries commensurate with a basic hydraulic relationship of 1,252 gpm at 45 pounds per square inch, pressure to be measured at the pump discharge.

~~((13))~~ (m) All clam harvest machine operators must submit accurate performance data showing revolutions per minute, gallons per minute, and output pressure for the water pump on their machine. In addition, they shall furnish the number and sizes of the hydraulic jets on the machines. If needed, the operator shall thereafter modify the machine (install a sealed pressure relief valve) as specified by the department of fisheries to conform with values set forth in either WAC 220-52-018 (11) or (12) of this section. Thereafter, it shall be illegal to make unauthorized changes to the clam harvester water pump or the hydraulic jets. Exact description of the pump volume, maximum pressure and number and size of the hydraulic jet for each harvester machine shall be included in the department of fisheries' clam harvest permit.

~~((14))~~ (n) All clam harvest machines shall be equipped with a 3/4-inch pipe thread tap and valve that will allow rapid coupling of a pressure gauge for periodic testing by enforcement personnel.

~~((15))~~ (o) Each mechanical clam harvester must have controls so arranged and situated near the operator which will allow the operator to immediately cut off the flow of water to the jet manifold without affecting the capability of the vessel to maneuver.

~~((16))~~ (p) Licensing: A hardshell clam mechanical harvester fishery license is the license required to operate the mechanical harvester gear provided for in this section.

(2) Aquatic farmers may harvest geoducks that are private sector cultured aquatic product by means of water pumps and nozzles.

(3) Persons may harvest nonstate tideland wild geoducks under a nonstate lands commercial wild clam, mussel and oyster trial fishery permit by means of water pumps and nozzles.

AMENDATORY SECTION (Amending Order 00-264 [03-176], filed 12/29/00 [8/6/03], effective 1/29/01 [9/6/03])

WAC 220-52-020 Clams—Commercial harvest. It shall be unlawful to take, dig for or possess clams except razor clams, cockles, borers or mussels taken for commercial purposes from the tidelands of the state of Washington except from registered aquaculture farms or from nonstate tidelands under a nonstate lands commercial wild clam, mussel and oyster trial fishery permit.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

NEW SECTION

WAC 220-88D-010 Emerging commercial fishery—Commercial wild clams, mussels, and oyster shellfish fishery on nonstate tidelands and bedlands. The purpose of this chapter is to establish the commercial harvest of wild clams, mussels, and oysters on nonstate lands as an emerging commercial fishery. For purposes of this chapter, "wild" or "wild stocks of" clams, mussels, and oysters means shellfish that are not "private sector cultured aquatic product," as defined in chapter 15.85 RCW. These terms, and all provisions of this chapter pertaining to "wild" or "wild stocks of" clams, mussels, and oysters, or to "private sector cultured aquatic product," are for state resource management, catch reporting, and enforcement purposes only. They are neither intended to be, nor should be characterized as, any determination or evidence of whether "wild" or "wild stocks of" clams, mussels, and oysters (or any portion thereof) are naturally occurring, are subject to treaty sharing, or are part of natural or artificial shellfish beds as those concepts and terms are used and defined in *United States v. Washington*, 157 F.3d 630 (9th Cir. 1998), the Shellfish Implementation Plan of *United States v. Washington*, C70-9213, Subproceeding 89-3 (W.D. Wash, rev. April 8, 2002), and other applicable court orders relating to shellfish.

NEW SECTION

WAC 220-88D-020 Designation of the commercial wild clams, mussels, and oyster harvest on nonstate lands as an emerging commercial fishery. The director designates the commercial harvest of wild clams, mussels, and oysters from nonstate tidelands and bedlands as an emerging commercial fishery for which use of a vessel is not required.

NEW SECTION

WAC 220-88D-030 Eligibility to participate in the nonstate lands commercial wild clams, mussels, and oyster shellfish fishery. (1) Persons having an ownership inter-

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est or contractual right to take shellfish from nonstate owned tidelands or bedlands and who intend to commercially harvest wild stocks of clams, mussels, or oysters are eligible to obtain a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit and to purchase an emerging commercial fishery license.

(2) "Commercial harvest" of wild clams, mussels, and oysters includes both harvest for sale or barter and harvest of the presumptive commercial quantities defined in RCW 69.30.010.

NEW SECTION

WAC 220-88D-040 Nonstate lands commercial wild clams, mussels, and oysters—Application requirements—Survey and notification requirements—Incidental take prohibited. (1) A person making application for a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit must provide the following:

(a) Documentation of ownership interest in or contractual right to harvest from the lands from which the wild clams, mussels, or oysters are to be harvested.

(b) A shellfish growing area certificate of approval issued by the state department of health for the lands from which the wild clams, mussels, or oysters are to be harvested.

(c) A copy of the application for a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit will be provided to the affected tribes.

(2) Prior to conducting harvest activities under a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit, the permit holder must complete the following:

(a) Provide a copy of the notice required to be given to affected tribes under the Stipulation and Order Amending Shellfish Implementation Plan, *United States v. Washington*, Case No. C70-9214, W.D.Wa., if such notice is required.

(b) Clearly and visibly mark with stakes and/or buoys the property boundaries of the nonstate lands to be harvested, using standard marking methods.

(c) Failure to comply with the requirements of this subsection invalidates the emerging commercial fishery license issued for the harvest of wild clams, mussels, and oysters.

(3) A nonstate lands commercial wild clam, mussel, and oyster trial fishery permit allows harvest only of clams, mussels, and oysters, and it is unlawful to harvest any other shellfish or any fin fish.

(4) It is unlawful to commercially harvest wild clams, mussels, or oysters without a valid emerging commercial fishery license and a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit valid for the lands from which harvest is occurring.

NEW SECTION

WAC 220-88D-050 Reporting requirements for nonstate lands commercial wild clams, mussels, and oyster harvest—Conversion to private sector cultured aquatic products. (1) All set of clams, mussels, and oysters on tidelands and bedlands that are not, at the time of setting, registered as an aquatic farm and under the active supervision and management of a private sector aquatic farmer are wild stocks of clams, mussels, and oysters.

(2) It is unlawful to fail to report the sale of wild stocks of clams, mussels, and oysters on shellfish receiving tickets. Any person selling wild stocks of clams, mussels, and oysters must sell the harvest to a licensed Washington wholesale fish dealer, or, if selling at retail or having the harvest transported out-of-state, must be a licensed wholesale dealer and complete a fish receiving ticket for each day's sales or for each shipment. Wild stock sales may not be reported on aquatic farm quarterly production reports. Only private sector cultured aquatic products may be reported on quarterly production reports.

(3) If a person registers nonstate lands as an aquatic farm, mussels, oysters, and clams other than geoducks commercially harvested from the nonstate lands for the first twelve months after aquatic farm registration must be reported as wild stock harvest, and geoducks commercially harvested from the nonstate lands for the first thirty-six months after aquatic farm registration must be reported as wild stock harvest. A copy of the aquatic farm registration will be provided to the affected tribes. Persons who have registered an aquatic farm, and who can prove that aquaculture farming operations commenced on the aquatic farm site prior to the date of registration may include the period from the commencement of aquaculture operations within the respective twelve or thirty-six-month wild shellfish reporting period. After twelve or thirty-six months, respectively, all shellfish produced from a registered aquatic farm will be presumed to be private sector cultured aquatic products, and must be reported on quarterly reports.

(4) Notwithstanding the provisions of subsection (3) of this section, if a person can show that aquatic farm products, set on nonstate lands after the lands have been registered as an aquatic farm, are being harvested for market prior to the end of the presumptive wild shellfish reporting period, such products, with permission from the department, may be reported on aquatic farm production reports.

WSR 05-12-114
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 31, 2005, 10:41 a.m.]

Title of Rule and Other Identifying Information: WAC 296-30-090 What are the maximum, allowable fees?

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 THIS 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 August 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending WAC 296-30-090 is to clarify that the Department of Labor and Industries will establish the reimbursement rates for the crime victims compensation program.

Reasons Supporting Proposal: RCW 7.68.015 requires the Department of Labor and Industries to operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program.

RCW 7.68.090(b) [7.68.080 (2)(b)] authorizes the director to set service levels and fees at a level no lower than those established by the Department of Social and Health Services.

WAC 296-30-100 states that the Department of Labor and Industries will give providers thirty days written notice when the fee schedule is being established or amended.

Statutory Authority for Adoption: RCW 7.68.030.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Janice Deal, P.O. Box 44520, Olympia, WA 98504-4520, (360) 902-5369; **Implementation and Enforcement:** Cletus Nnanabu, P.O. Box 44520, Olympia, WA 98504-4520, (360) 902-5340.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The purpose is to clarify that the Department of Labor and Industries will establish the reimbursement rates for the crime victims' compensation program.

May 31, 2005

Gary Weeks
 Director

AMENDATORY SECTION (Amending WSR 00-03-056, filed 1/14/00, effective 2/14/00)

WAC 296-30-090 What are the maximum allowable fees? (1) Maximum allowable fees for medical and mental health services are those fees (~~published in the Medical Aid Rules and Fee Schedules~~) established by the department of labor and industries for the crime victims compensation program, less any available benefits of public or private insurance.

~~((2) Maximum allowable fees for mental health services are those fees published in the Crime Victims Compensation Program Mental Health Treatment Rules and Fees less any available benefits of public or private insurance.))~~

EXCEPTION: If any of the maximum allowable fees (~~in the publications entitled Medical Aid Rules and Fee Schedules and Crime Victims Compensation Program Mental Health Treatment Rules and Fees~~) established by the department of labor and industries for the crime victims compensation program, are lower than the maximum allowable fees for those procedures established by the department of social and health services under Title 74 RCW, the Title 74 RCW fees are the maximum allowable fees for those procedures.

~~((3))~~ (2) The percent of allowed charges authorized for hospital inpatient and outpatient services billed by revenue codes are those rates established by the department of social and health services under Title 74 RCW and WAC 388-550-4500 (1)(a) and 388-550-6000 (1)(a) less any available benefits of public or private insurance.

WSR 05-12-143
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 1, 2005, 11:18 a.m.]

Title of Rule and Other Identifying Information: Commercial fishing 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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY August 1, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules amend the 2005 Puget Sound commercial salmon rules pursuant to the North of Falcon recommendations. They provide commercial fishing opportunity.

Reasons Supporting Proposal: These rules have been agreed upon through a federal negotiated rule-making process.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

June 1, 2005

Evan Jacoby

Rules Coordinator

EXPEDITED

AMENDATORY SECTION (Amending Order 78-16, filed 4/13/78)

WAC 220-47-001 ((General provision)) Puget Sound salmon—Quick reporting. ~~((It shall be unlawful to take, fish for or possess salmon for commercial purposes in any Puget Sound Salmon Management and Catch Reporting Area unless taken lawfully by specific regulations in chapter 220-47 or 220-28 WAC.))~~ All Puget Sound salmon fisheries are designated as "quick reporting required" fisheries, and commercial purchasers and receivers must comply with the provisions of WAC 220-69-240(10).

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-302 Puget Sound—Lawful gear—Gill net. (1) ~~((Lawful))~~ It is unlawful to use drift gill net salmon gear in Puget Sound ~~((shall not))~~ that exceeds 1,800 feet in length ~~((nor))~~ or contains meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 mesh deep, or contain mesh size less than 5 inches.

(2) ~~((Lawful))~~ It is unlawful to use skiff gill net salmon nets in Puget Sound ~~((shall not))~~ that exceed 300 feet in length ~~((and))~~ or 90 meshes in depth ~~((nor))~~ , or contain meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 meshes deep, or contain mesh size less than 5 inches. It is unlawful to retrieve skiff gill nets ~~((must be retrieved))~~ by any means except hand (no hydraulics may be used). It is unlawful to fail to attend skiff gill nets ~~((must be attended by the fisher))~~ at all times.

(3) Drift gill nets and skiff gill nets shall be operated substantially in a straight line. Circle setting or setting other than substantially in a straight line shall be unlawful.

(4) It is unlawful to take or fish for salmon with gill net gear in Areas 7 or 7A sockeye or pink fisheries unless said gill net gear is constructed so that the first 20 meshes below the corkline are composed of five-inch mesh white opaque minimum 210d/30 [210/30d](#12) diameter nylon twine.

(5) It is unlawful to take or fish for salmon with gill net gear in Areas 7 or 7A between the dates of September 30 and October ~~((47))~~ 16 unless the gill net vessel has aboard and uses operable recovery boxes as described in this subsection.

(a) Dimensions and capacities of required recovery boxes:

(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box.

(ii) Each recovery box chamber must have an inside length measurement of 48 inches, an inside width measurement of 10 inches, and an inside height measurement of 16 inches.

(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber.

(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber.

(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute.

(b) Each box and chamber must be operating during any time that the net is being retrieved or picked.

(c) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber.

(d) All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.

(e) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

(f) All fish placed in the recovery boxes must be released within the same catch area as the area of capture, and the release must occur prior to landing or docking.

(6) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

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

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-311 Purse seine—Open periods. It is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

((AREA	TIME	DATE
7, 7A:	7AM—6PM with use of recovery box	10/13, 10/14
	7AM—3:15 PM without use of recovery box	
	8AM—6 PM with use of recovery box	10/20, 10/21, 10/27, 10/28

((AREA	TIME	DATE
	8AM - 3:30 PM without use of recovery box	
	7AM - 5 PM with use of recovery box	11/3, 11/4
	7AM - 2:30 PM without use of recovery box	
7B, 7C:	6AM - 8PM	8/18, 8/25, 9/1 Limited participation, 4 boats to be selected by lottery
7B:	7AM 9/7	- 8PM 9/9
	7AM 9/13	- 7PM 9/15
	7AM 9/19	- 4PM 10/23
	7AM 10/25	- 4PM 10/29
	7AM 11/1	- 4PM 11/5
	7AM 11/8	- 4PM 11/12
	7AM 11/15	- 4PM 11/19
	7AM 11/22	- 4PM 11/26
	8AM 11/29	- 4PM 12/3

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.

8A:	7AM - 7PM	9/27, 10/4 Limited participation, 2 boats to be selected by lottery
	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/27
	7AM - 5PM	11/3, 11/8, 11/10, 11/17
	7AM - 4PM	11/22, 11/24
8D:	7AM - 7PM	9/23, 10/4
	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/27
	7AM - 5PM	11/3, 11/8, 11/10, 11/17
	7AM - 4PM	11/22, 11/24
10, 11:	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/26
	7AM - 5PM	11/1, 11/8, 11/15
	7AM - 4PM	11/22
12, 12B:	8AM - 6PM	10/18, 10/25, 10/26
	7AM - 5PM	11/1, 11/8, 11/15
12C:	7AM - 5PM	11/9, 11/16
	7AM - 4PM	11/23))

AREA	TIME	DATE
7, 7A:	7AM - 6PM with use of recovery box	10/12, 10/13, 10/19, 10/20, 10/26, 10/27
	7AM - 3:15PM without use of recovery box	
	7AM - 5PM with use of recovery box	11/2, 11/3
	7AM - 2:30PM without use of recovery box	
7B, 7C:	6AM - 8PM	8/17, 8/24, 8/31
	7AM - 7PM	9/7
7B:	7AM - 7PM	= 9/12, 9/13, 9/14
	7AM 9/18	= 8PM 10/29
	7AM 10/31	= 4PM 11/4

7AM 11/7	=	4PM 11/11
7AM 11/14	=	4PM 11/18
7AM 11/21	=	4PM 11/25
8AM 11/28	=	4PM 12/2

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then south-eastward along that line to Fish Point is closed 9/1-9/30.
 Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.

8A:	7AM - 7PM	Limited participation - two boats (9/26, 10/3)
	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	11/2, 11/7, 11/9, 11/16
	7AM - 4PM	11/21, 11/23
8D:	7AM - 7PM	9/22, 9/26, 10/3
	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	11/2, 11/7, 11/9, 11/16
	7AM - 4PM	11/21, 11/23
10, 11:	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
	7AM - 4PM	11/21
12, 12B:	7AM - 6PM	10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
12C:	7AM - 5PM	11/8, 11/15
	7AM - 4PM	11/22

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

Chinook salmon - at all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C and after October 30 in Area 7B

Coho salmon - at all times in Areas 7, 7A, 10, and 11, and prior to September ((8)) 11 in Area 7B

Sockeye salmon - prior to September ((8)) 24 in Areas 7B and 7C

Chum salmon - prior to October 1 in Areas 7 and 7A. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-325 Purse seine—Release of incidentally caught fish. (1) It is unlawful for any purse seine vessel operator landing salmon to land salmon directly into the hold. All salmon must be landed to the deck, or sorting tray or table, of the harvesting vessel with the hold hatch cover(s) closed until release of salmon that may not be retained is complete and additionally:

(2) In Areas 7 and 7A and prior to September 5 in Areas 7B and 7C, it is unlawful for any purse seine vessel operator to bring salmon aboard a vessel unless all salmon captured in the seine net are removed from the seine net using a brailer or dip net meeting the specifications in this section prior to the seine net being removed from the water.

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(3) The brailer shall be constructed in the following manner and with the following specifications:

(a) A bag of web hung on a rigid hoop attached to a handle;

(b) The bag shall be opened by releasing a line running through rings attached to the bottom of the bag; and

(c) The web shall be of soft knotless construction and the mesh size may not exceed 57 mm (2.25 inches) measured along two contiguous sides of a single mesh.

(4) Hand held dip nets shall be constructed of a shallow bag of soft, knotless web attached to a handle.

(5) ~~(If fishers are enrolled in the "rolling wedge" evaluation program, they may use the rolling wedge in lieu of brailing provided they comply with the following conditions:~~

~~(a) Have enrolled by contacting the department at 360-902-2717 prior to June 1, 2004;~~

~~(b) Pay the funding fee of \$100 per day of the opening;~~

~~(c) Allow WDFW observer on board for all fishing activities;~~

~~(d) No more than 125 fish may be on deck at any one time;~~

~~(e) Place all lethargic or injured fish in the operating recovery box until they appear recovered or they are dead;~~

~~(f) Dimensions and capacities of required recovery boxes:~~

~~(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box;~~

~~(ii) Each recovery box chamber must have an inside length measurement of not less than 39 1/2 inches nor more than 48 inches, an inside width measurement of not less than 8 inches nor more than 10 inches, and an inside height measurement of not less than 14 inches nor more than 16 inches;~~

~~(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber;~~

~~(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber;~~

((AREA 6D: TIME 7AM - 7PM

~~(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute;~~

~~(g) Each box and chamber must be operating during any time that the net is being retrieved or picked;~~

~~(h) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber;~~

~~(i) All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.)) Fishers using a recovery box must have and operate the box in compliance with the provisions of WAC 220-47-302 (5)(a) through (f), and it is unlawful to fail to do so.~~

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-401 Reef net open periods. (1) It is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for hereinafter in each respective area:

AREA	TIME	DATE(S)
7, 7A	7AM - 7PM Daily	((9/12-11/13)) 9/25 - 11/12

(2) It is unlawful to retain chinook salmon taken with reef net gear at all times, and it is unlawful to retain chum or wild coho salmon taken with reef net gear prior to October 1.

(3) All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-411 Gill net—Open periods. It is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

((AREA 6D:	TIME		DATE(S)	MINIMUM MESH
	7AM	-	7PM	5"
			9/21, 9/22, 9/23, 9/24, 9/27, 9/28, 9/29, 9/30, 10/1, 10/4, 10/5, 10/6, 10/7, 10/8	
			10/11, 10/12, 10/13, 10/14, 10/15	
			10/18, 10/19, 10/20, 10/21, 10/22, 10/25, 10/26, 10/27, 10/28, 10/29	

Note: In Area 6D it is unlawful to use other than 5 inch minimum and 5 1/2 inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM	-	8PM Use of recovery box required	10/13, 10/14	6-1/4"
	8AM	-	8PM Use of recovery box not required	10/20, 10/21, 10/27, 10/28	
	7AM	-	7PM	11/3, 11/4	

Note: In Areas 7 and 7A after September 30 but prior to October 20, it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water.

7B/7C:	7PM	-	7AM	NIGHTLY 8/16, 8/22, 8/24, 8/26, 8/29, 8/31, 9/2	7"
7B:	7PM	-	8AM	NIGHTLY 9/6, 9/7, 9/9	5"

(AREA	TIME	-	DATE(S)	MINIMUM MESH
	6PM	-	8AM	NIGHTLY 9/12, 9/14, 9/16
	7AM 9/19	-	8PM 10/23	
	8AM 10/25	-	4PM 10/29	6-1/4"
	7AM 11/1	-	4PM 11/5	
	7AM 11/8	-	4PM 11/12	
	7AM 11/15	-	4PM 11/19	
	7AM 11/22	-	4PM 11/26	
	8AM 11/29	-	4PM 12/3	

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6-1/4-inch minimum mesh beginning 12:01AM on the last day in October and is open until 4:00 PM on the first Friday in December.

8A:	6PM	-	8AM	NIGHTLY 10/5	5"
	5PM	-	8AM	NIGHTLY 10/12, 10/14, 10/15	
	8AM	-	8PM	10/19, 10/21, 10/22, 10/25, 10/26, 10/27, 10/28	6-1/4"
	7AM	-	7PM	11/2, 11/4, 11/5, 11/9, 11/11, 11/12, 11/16, 11/18, 11/19	
	7AM	-	6PM	11/23, 11/25, 11/26	
8D:	6PM	-	8AM	NIGHTLY 9/19, 9/21, 9/23, 9/26, 9/28, 9/30, 10/3, 10/5, 10/7	5"
	5PM	-	8AM	NIGHTLY 10/10, 10/12, 10/14	
	5PM	-	9AM	NIGHTLY 10/17, 10/19, 10/21	
	5PM	-	9AM	NIGHTLY 10/25, 10/26, 10/27, 10/28	6-1/4"
	4PM	-	8AM	NIGHTLY 10/31, 11/2, 11/4, 11/8, 11/9, 11/10, 11/11, 11/14, 11/16, 11/18	6-1/4"
	3PM	-	8AM	NIGHTLY 11/22, 11/23, 11/24, 11/25	
9A:	7PM	-	7AM	NIGHTLY 8/24, 8/26	5"
	6AM 8/29	-	8PM 10/30		

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

10, 11:	5PM	-	8AM	NIGHTLY 10/10, 10/12, 10/14	6-1/4"
	5PM	-	9AM	NIGHTLY 10/17, 10/19, 10/21, 10/24, 10/26, 10/28	
	4PM	-	8AM	NIGHTLY 10/31, 11/2, 11/4, 11/7, 11/9, 11/11	
12, 12B:	8AM	-	8PM	10/19, 10/20, 10/21, 10/26, 10/28, 10/29	6-1/4"
	7AM	-	7PM	11/1, 11/2, 11/4, 11/9, 11/10, 11/11, 11/16, 11/17, 11/18	
12C:	7AM	-	7PM	11/9, 11/10, 11/11, 11/16, 11/17, 11/18	6-1/4"
	7AM	-	6PM	11/23, 11/24, 11/25	

All other saltwater and freshwater areas—closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.)

AREA	TIME	:	DATE(S)	MINIMUM MESH
6D: Skiff gill net only.	7 AM	:	7 PM	5"
			9/21, 9/22, 9/23, 9/26, 9/27, 9/28, 9/29, 9/30, 10/3, 10/4, 10/5, 10/6, 10/7, 10/10, 10/11, 10/12, 10/13, 10/14, 10/17, 10/18, 10/19, 10/20, 10/21, 10/24, 10/25, 10/26, 10/27, 10/28	

Note: In Area 6D it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM	:	8PM Use of recovery box required	10/12, 10/13	6 1/4"
	8AM	:	8PM	10/19, 10/20, 10/26, 10/27	6 1/4"
	7AM	:	7PM	11/2, 11/3	6 1/4"

Note: In Areas 7 and 7A after September 30 but prior to October 16, coho and chinook salmon must be released and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f).

7B/7C:	7PM	:	7AM	NIGHTLY 8/15, 8/21, 8/23, 8/25, 8/28, 8/30, 9/1	7"
	6PM	:	8AM	NIGHTLY 9/5, 9/6, 9/8	7"
7B:	6PM	:	8AM	NIGHTLY 9/11, 9/13, 9/15	5"
	7AM 9/18	:	8PM 10/29		5"

EXPEDITED

AREA	TIME	DATE(S)	MINIMUM MESH
	7AM 10/31	= 4PM 11/4	6 1/4"
	7AM 11/7	= 4PM 11/11	6 1/4"
	7AM 11/14	= 4PM 11/18	6 1/4"
	7AM 11/21	= 4PM 11/25	6 1/4"
	8AM 11/28	= 4PM 12/2	6 1/4"

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37" N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then southeastward along that line to Fish Point is closed 9/1-9/30.

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and is open until 6:00 PM on the first Friday in December.

8A:	6PM	= 8AM	NIGHTLY 10/4	5"
	5PM	= 8AM	NIGHTLY 10/11, 10/13, 10/14	5"
	8AM	= 8PM	10/18, 10/20, 10/21	5"
	8AM	= 8PM	10/24, 10/25, 10/26, 10/27	6 1/4"
	7AM	= 7PM	11/1, 11/3, 11/4, 11/8, 11/10, 11/11, 11/15, 11/17, 11/18	6 1/4"
	7AM	= 6PM	11/22, 11/24, 11/25	6 1/4"
8D:	6PM	= 8AM	NIGHTLY 9/18, 9/20, 9/22, 9/25, 9/27, 9/29, 10/2, 10/4, 10/6	5"
	5PM	= 8AM	NIGHTLY 10/9, 10/11, 10/13, 10/16, 10/18, 10/20	5"
	8AM	= 8PM	10/27, 10/28	5"
	7AM	= 7PM	11/3, 11/4	5"
	7AM	= 7PM	11/10, 11/11, 11/17, 11/18	6 1/4"
	7AM	= 6PM	11/24, 11/25	6 1/4"
9A:	7PM	= 7AM	NIGHTLY 8/23, 8/25	5"
	7AM 8/28	= 8PM 10/29		5"

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

10, 11:	4PM	= 7AM	NIGHTLY 10/9	6 1/4"	
	5PM	= 8AM	NIGHTLY 10/11, 10/12	6 1/4"	
	4PM	= 7AM	NIGHTLY 10/16	6 1/4"	
	5PM	= 8AM	NIGHTLY 10/18, 10/19, 10/23, 10/25, 10/26	6 1/4"	
	4PM	= 7AM	NIGHTLY 10/30	6 1/4"	
	4PM	= 8AM	NIGHTLY 11/1, 11/2	6 1/4"	
	4PM	= 7AM	NIGHTLY 11/6	6 1/4"	
	4PM	= 8AM	NIGHTLY 11/8, 11/9	6 1/4"	
	4PM	= 7AM	NIGHTLY 11/13	6 1/4"	
	4PM	= 8AM	NIGHTLY 11/15, 11/16	6 1/4"	
	4PM	= 7AM	NIGHTLY 11/20	6 1/4"	
	3PM	= 8AM	NIGHTLY 11/22, 11/23	6 1/4"	
	12A: Skiff gill net only.	7AM	= 7PM	8/22, 8/31, 9/7, 9/14, 9/21, 9/28	5"

Note: In Area 12A it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 12A at any time, any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

12, 12B:	8AM	= 8PM	10/18, 10/19, 10/20, 10/25, 10/27, 10/28	6 1/4"
	7AM	= 7PM	11/1, 11/2, 11/3, 11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
12C:	7AM	= 7PM	11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
	7AM	= 6PM	11/22, 11/23, 11/24	6 1/4"

All other saltwater and freshwater areas - closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

EXPEDITED

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-428 Beach seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

(AREA	TIME	DATE(S)
7B	7AM—7PM Daily	10/11, 10/12, 10/13, 10/14, 10/15, 10/18, 10/19, 10/20, 10/21, 10/22, 10/25, 10/26, 10/27, 10/28, 10/29, 11/1, 11/2, 11/3, 11/4, 11/5, 11/8, 11/9, 11/10, 11/11, 11/12
12A	7AM—7PM Daily	8/23, 8/24, 8/25, 8/26, 8/27, 8/30, 8/31, 9/1, 9/2, 9/3, 9/6, 9/7, 9/8, 9/9, 9/10, 9/13, 9/14, 9/15, 9/16, 9/17, 9/20, 9/21, 9/22, 9/23, 9/24, 9/27, 9/28, 9/29, 9/30, 10/1

~~Note: By condition of the salmon experimental beach seine permit, only the following waters of Area 7B and Area 12A are open to beach seine fishing for salmon during the open dates designated in WAC 220-47-428.~~

~~Area 7B—Those waters of Area 7B lying northerly and easterly of a line extending from Governors Point to the Red #2 bell buoy to the point where the pipeline from Tilbury Cement Pier contacts the shore.~~

~~Area 12A—Those waters of Area 12A lying northerly of a line extending from Whitney Point to the flashing light off Fishermans Point then to Fishermans Point on the Bolton Peninsula.))~~

All areas: Closed.

It is unlawful to retain chinook taken with beach seine gear in all areas, and unlawful to retain chum from Area 12A.

EXPEDITED



WSR 05-12-001

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed May 18, 2005, 2:19 p.m., effective June 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This proposal amends the WAC 468-38-270, previously titled "Construction equipment," by expanding the rule to cover all specialized equipment as defined by the Federal Highway Administration and the Washington State Department of Transportation. The new rule adopts federal rule for specialized equipment used on the interstate. The rule also addresses those vehicles that, due to their unique design and use, exceed legal weight and/or dimension and must have an oversize/overweight permit for intrastate operation.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-270.

Statutory Authority for Adoption: RCW 46.44.090.

Other Authority: HB 1180 passed by the 2005 legislature.

Adopted under notice filed as WSR 05-08-016 on March 28, 2005.

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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 13, 2005.

John F. Conrad
Assistant Secretary
Engineering and Regional Operations

vehicle to operate legally. The department has adopted these specialized classifications and accepted or further defined the legal parameters for operation on state highways. In addition to federal rule, the department has also recognized certain specially designed vehicles that, by necessity, exceed one or more of the vehicle size and weight parameters. The department has also classified these over-legal vehicles as specialized mobile equipment in order to address their needs, via special permit, and provide a consistent administrative and enforcement treatment. This rule is not intended to encourage the development of vehicles that exceed the legal requirements of chapter 46.44 RCW. All vehicles exceeding legal requirements are subject to restricted access to the state highway network.

(2) What specialized equipment, including size parameters, can operate legally without a special permit? Listed in alphabetical order:

Automobile transporter: To be considered an automobile transporter, the power unit and the trailing unit must be modified to carry assembled automobiles. If the combination consists of a truck and stinger-steered trailing unit, the overall dimension for length can be up to seventy-five feet, plus a front overhang of three feet and rear overhang of four feet. A combination of tractor semi-trailer (traditional high mount) may have an overall dimension for length of sixty-five feet, plus three-foot front overhang and four-foot rear overhang.

Boat transporter: See automobile transporter.

Munitions carriers with dromedary equipment: A truck tractor equipped with a dromedary unit operating in combination with a semi-trailer transporting Class 1 explosives and/or any munitions related security material, as specified by the U.S. Department of Defense in compliance with 49 CFR 177.835, may have an overall dimension for length up to seventy-five feet.

(3) What specialized equipment, including size and weight parameters, can operate with special permit? Listed in alphabetical order:

Concrete pumper trucks: As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. Included with the fixed load are pumper hose extensions and a necessary volume of water to flush the system at the job site when the pumping process is complete.

Construction equipment: Equipment used primarily for off-road heavy construction activity may be permitted for use on designated highway segments up to the maximums established in RCW 46.44.091 when properly equipped for highway operation per chapter 46.37 RCW. Equipment delivered to a construction site may operate without permit on highway segments designated as part of the construction zone.

Cranes: As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. Cranes may be

PERMANENT

AMENDATORY SECTION (Amending Order 31, Resolution No. 156, filed 8/20/82)

WAC 468-38-270 ((Construction)) Specialized mobile equipment. ((Pursuant to RCW 46.44.091(3), permits may be issued to move equipment on approved highways whose single axle weight is not more than 45,000 pounds if operating on single pneumatic tires having a rim width of 20 inches or more and a rim diameter of 24 inches or more. If the vehicle has dual pneumatic tires, the rim width shall be at least 16 inches and the rim diameter shall be at least 24 inches.)) **(1) Why are certain vehicles designated as specialized mobile equipment? Certain vehicles are designed and built for very unique functions other than transporting persons. The federal highway administration has classified some of these vehicles as specialized mobile equipment and set minimum and/or maximum parameters for the**

permitted with standard working components that are included within the rated capacity of the crane. A boom trailer or boom dolly will be permitted only when the boom is attached to the crane upper works, for the purpose of transferring load to meet weight requirements. A crane may be permitted with counterweights, outrigger assemblies, load block, hook and cable tension ball assembly also loaded on the boom trailer or boom dolly, as long as those components are included in the rated capacity of the crane and do not cause the vehicle to exceed permitted weight limits.

Well drilling trucks: As a single unit fixed load vehicle, may exceed the legal weight limits up to the maximums established in RCW 46.44.091. Tire loading for the movement is limited to the lesser of six hundred pounds per inch width of tire or the tire manufacturer's rating with proper inflation, as determined by the nomenclature imprinted on the tire. In addition to the fixed load, the vehicle may carry drill extensions.

(4) **Can specialized mobile equipment tow a licensed vehicle used for commute purposes? A specialized self-propelled single unit vehicle registered as a fixed load, operating under a fixed load permit, and/or cranes operating under an oversize/overweight permit (exclusive of boom dollies or trailers), may be permitted to tow a vehicle with a gross vehicle weight rating not to exceed eight thousand pounds. The overall length of the combination must not exceed seventy-five feet. The towed vehicle must be used for the sole purpose of commuting to and from the job site where the specialized mobile equipment is in service.**

(5) **Does a specialized mobile vehicle operating under an overweight or fixed load permit receive any exemption from postings or restrictions placed on highway infrastructure? No. Specialized mobile equipment must not cross load-restricted infrastructure when the equipment, either as a result of gross weight, axle weight or tire loadings, exceeds the stated capacity of the posting or restriction.**

WSR 05-12-002

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed May 18, 2005, 2:21 p.m., effective June 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is a proposal of a new rule within chapter 468-38 WAC, recommended as WAC 468-38-073. The objective is to adopt federal rule, regarding measurement exclusive devices, into Washington administrative rule for ease and consistency of administration and enforcement.

Statutory Authority for Adoption: RCW 46.44.090.

Other Authority: HB 1180 passed by 2005 legislature.

Adopted under notice filed as WSR 05-07-085 on March 16, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, 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 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 0, Amended 0, Repealed 0.

Date Adopted: May 13, 2005.

John F. Conrad
Assistant Secretary
Engineering and Regional Operations

NEW SECTION

WAC 468-38-073 Measurement exclusive devices. (1) What are the criteria for being a measurement exclusive device? Generally, measurement exclusive devices are vehicle appurtenances designed and used for reasons of safety, aerodynamics, or efficient vehicle operation. A measurement exclusive device must not carry property, create a space that property could occupy outside of legal or permitted dimensions, or exceed the specific dimensional limitations stated in this section.

(2) **What devices at the front of a single unit vehicle, or power unit in a vehicle combination, are excluded from length determinations?** The following devices have been identified as measurement exclusive when determining length from the front of a single unit vehicle or power unit in a vehicle combination:

(a) Resilient bumpers that do not extend more than six inches from the vehicle;

(b) A fixed step up to three inches deep at the front of an existing automobile transporter until April 29, 2005. It will be the responsibility of the operator of the unit to prove that the step existed prior to April 29, 2002. Such proof can be in the form of a work order for equipment modification, a receipt for purchase and installation of the piece, or any similar type of documentation. After April 29, 2005, the step shall no longer be excluded from a vehicle's length.

(3) **What devices at the front of a semi-trailer or trailer are excluded from length determinations?** The following devices have been identified as measurement exclusive when determining length from the front of a semi-trailer or trailer:

(a) A device at the front of a trailer chassis to secure containers and prevent movement in transit;

(b) A front coupler device on a semi-trailer or trailer used in road and rail intermodal operations;

(c) Aerodynamic devices, air deflector;

(d) Air compressor;

(e) Certificateholder (manifest box);

(f) Door vent hardware;

(g) Electrical connector;

(h) Gladhand (air hose connectors joining tractor to trailer);

(i) Handhold;

(j) Hazardous materials placards and holders;

(k) Heater;

- (l) Ladder;
- (m) Nonload carrying tie-down devices on automobile transporters;
- (n) Pickup plate lip (plate at front of trailer to guide fifth wheel under trailer);
- (o) Pump offline on tank trailer;
- (p) Refrigeration unit;
- (q) Removable bulkhead;
- (r) Removable stake;
- (s) Stabilizing jack (antinosedive device);
- (t) Stake pocket;
- (u) Step;
- (v) Tarp basket;
- (w) Tire carrier; and
- (x) Uppercoupler.

(4) What devices at the rear of a single unit vehicle, semi-trailer or trailer are excluded from length determinations? The following devices have been identified as measurement exclusive when determining length from the rear of a semi-trailer or trailer:

(a) Aerodynamic devices that extend up to a maximum of five feet beyond the rear of the vehicle, provided such devices have neither the strength, rigidity nor mass to damage a vehicle, or injure a passenger in a vehicle, that strikes a vehicle so equipped from the rear, and provided also that they do not obscure tail lamps, turn signals, marker lamps, identification lamps, or any other required safety devices, such as hazardous materials placards or conspicuity markings (i.e., reflective tape);

- (b) Handhold;
- (c) Hazardous materials placards and holder;
- (d) Ladder;
- (e) Loading and unloading device not to exceed two feet;
- (f) Pintle hook;
- (g) Removable stake;
- (h) Splash and spray suppression device;
- (i) Stake pocket; and
- (j) Step.

(5) What devices at the side of a vehicle are excluded from width determinations? The following devices have been identified as measurement exclusive, not to exceed three inches from the side of the vehicle, when determining width of a vehicle:

- (a) Corner cap;
- (b) Handhold for cab entry/egress;
- (c) Hazardous materials placards and holder;
- (d) Lift pad for trailer on flatcar (piggyback) operation;
- (e) Load induced tire bulge;
- (f) Rain gutter;
- (g) Rear and side door hinge and protective hardware;
- (h) Rearview mirror;
- (i) Side marker lamp;
- (j) Splash and spray suppressant device, or component thereof;
- (k) Structural reinforcement for side doors or intermodal operation (limited to one inch from the side within the three-inch maximum extension);
- (l) Tarping system for open-top cargo area;
- (m) Turn signal lamp;

(n) Movable device to enclose the cargo area of a flatbed semi-trailer or trailer, usually called "tarping system," where no component part of the system extends more than three inches from the sides or back of the vehicle when the vehicle is in operation. This exclusion applies to all component parts of a tarping system, including the transverse structure at the front of the vehicle to which the sliding walls and roof of the tarp mechanism are attached, provided the structure is not also intended or designed to comply with 49 CFR 393.106, which requires a headerboard strong enough to prevent cargo from penetrating or crushing the cab; the transverse structure may be up to one hundred eight inches wide if properly centered so that neither side extends more than three inches beyond the structural edge of the vehicle. Also excluded from measurement are side rails running the length of the vehicle and rear doors, provided the only function of the latter, like that of the transverse structure at the front of the vehicle, is to seal the cargo area and anchor the sliding walls and roof. On the other hand, a headerboard designed to comply with 49 CFR 393.106 is load bearing and thus limited to one hundred two inches in width. The "wings" designed to close the gap between such a headerboard and the movable walls and roof of a tarping system are width exclusive, provided they are add-on pieces designed to bear only the load of the tarping system itself and are not integral parts of the load-bearing headerboard structure;

- (o) Tie-down assembly on platform trailer;
- (p) Wall variation from true flat; and
- (q) Weevil pins and sockets on a platform or low-bed trailer (pins and sockets located on both sides of a trailer used to guide winch cables when loading skid mounted equipment).

(6) Are there weight measurement exclusive devices? No. All devices, regardless of purpose, must be included in the combined vehicle weight and subject to the weight restrictions provided in chapter 46.44 RCW and as further defined in chapter 468-38 WAC.

(7) Can exclusion allowances be combined to create a larger allowance (i.e., adding a five-foot aerodynamic device to a two-foot loading/unloading device for a total exclusion of seven feet)? No. Each exclusion allowance is specific to a device and may not be combined with the exclusion allowance for another device.

(8) Can a device receive exclusion if it is not referenced in law or administrative rule? If the device meets the criteria in subsection (1) of this section, a request for measurement exclusion may be made to the administrator for commercial vehicle services. If approved for an exclusion allowance, the administrator will provide the requestor a written authorization.

WSR 05-12-005

PERMANENT RULES

WASHINGTON STATE LOTTERY

[Filed May 18, 2005, 4:14 p.m., effective June 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To correctly reflect the current operations of the lottery's *Lotto* game.

PERMANENT

Citation of Existing Rules Affected by this Order: Amending chapter 315-34 WAC.

Statutory Authority for Adoption: Chapter 67.70 RCW.

Adopted under notice filed as WSR 05-08-05 [05-08-095] on April 1, 2005.

Changes Other than Editing from Proposed to Adopted Version: The amendment to the Lotto drawing rule, WAC 315-34-060(1), will reflect the lottery's new drawing days, Monday, Wednesday and Saturday and that any changes to the drawing days will require a rule amendment. This is a variance of the proposed rule. However, the general subject matter remains the same. At the May 12, 2005, commission meeting, the commission decided it wanted to limit the director's exercise of discretion to authorize additional drawing days. Therefore, the narrow language to restrict this discretion.

A final cost-benefit analysis is available by contacting Ceil Buddeke, P.O. Box 43025, Olympia, WA 98504-3025, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

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 7, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 12, 2005.

Ceil Buddeke
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-15-054, filed 7/15/96, effective 8/15/96)

WAC 315-34-010 Definitions for Lotto. (1) Number: Any play integer from 1 through 49 inclusive.

(2) Game grids: A field of ~~((the))~~ 49 numbers found on the play slip.

(3) Play: One selection of six numbers.

(4) ~~((Pair))~~ Set: Two plays.

(5) Play slip: A ~~((mark-sense))~~ mark-sensitive game card used by players of Lotto to select plays.

(6) Lotto ticket: A computer-generated receipt evidencing payment for two or more plays in the Lotto game. Tickets shall be issued by ~~((an on-line terminal))~~ a licensed lottery retailer and shall list the set of six-number plays that belong to the ticket holder.

AMENDATORY SECTION (Amending WSR 96-15-054, filed 7/15/96, effective 8/15/96)

WAC 315-34-020 Price of Lotto play. The price of each Lotto play shall be \$.50 and shall be sold only in ~~((pairs))~~ sets for \$1.00.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

WAC 315-34-030 Play for Lotto. (1) Type of play: A Lotto player must select six numbers in each play. A winning play is achieved only when 3, 4, 5, or 6 of the numbers selected by the player match, in any order, the six winning numbers drawn by the lottery.

(2) Method of play: The player will use play slips to make number selections. The ~~((on-line))~~ lottery terminal will read the play slip and issue ticket(s) with corresponding plays. If a play slip is not available, the ~~((on-line))~~ lottery retailer may enter the selected numbers via the keyboard. A player may choose to have the number selections made by the lottery terminal, a random number generator operated by the computer, commonly referred to as "quick ~~((play))~~ pick."

AMENDATORY SECTION (Amending WSR 03-23-097, filed 11/17/03, effective 11/17/03)

WAC 315-34-040 ~~((Prize))~~ Prizes for Lotto. (1) The prize amounts to be paid to each Lotto player who selects a winning combination of numbers in the first, second, third~~((r))~~, and ~~((fourth))~~ fourth prize categories are as follows:

WINNING COMBINATIONS	PRIZE CATEGORIES	PRIZE AMOUNTS	ODDS OF WINNING (ONE PLAY)
All six ((winner-win-ning)) <u>winning</u> numbers in one play	First Prize	Jackpot	((+6,991,908)) <u>1:13,983,816</u>
Any five but not six winning numbers in one play	Second Prize	\$1,000	((+27,100)) <u>1:54,201</u>
Any four but not five or six winning numbers in one play	Third Prize	(((\$30)) <u>\$30</u>	((+516)) <u>1:1,033</u>
Any three but not four, five or six winning numbers in one play	Fourth Prize	\$3	((+28)) <u>1:57</u>

(2) Prize amounts.

(a) First prize (jackpot). ~~((The))~~ All first prizes will be the amount announced by the director as the Lotto jackpot. The jackpot will be divided equally among all players who selected all six winning numbers in one play (in any sequence).

(b) Second prize. The second prize will be \$1,000, which will be paid to each player who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. The third prize will be \$30, which will be paid to each player who selected four of the six winning numbers in one play (in any sequence).

(d) Fourth prize. A \$3.00 prize is to be paid to each player who selected three of the six winning numbers in one play (in any sequence).

PERMANENT

(e) The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(f) In the event any player who has selected three, four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery account for further use as prizes, pursuant to RCW 67.70.190.

AMENDATORY SECTION (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)

WAC 315-34-050 Ticket purchases. (1) Lotto tickets may be purchased (~~(or redeemed during no less than seven-teen hours each day)~~) daily in accordance with a schedule to be determined by the director (~~(, provided that on-line)~~). Licensed lottery retailers shall sell and redeem tickets only during their normal business hours. Lotto tickets may be purchased only from a licensed lottery retailer.

(2) (~~Lotto tickets may be purchased only from a lottery retailer authorized by the director to sell on-line tickets.~~)

(3) Lotto tickets shall, on the front of the ticket, contain the player's selection of numbers, amount, game grids played, drawing date (~~(and validation)~~), ticket serial number and reference numbers. The back of the ticket shall contain overall odds of winning, player instructions, player information and signature area, governing statutes and rules, and the ticket (~~(serial)~~) stock number.

AMENDATORY SECTION (Amending WSR 01-17-022, filed 8/6/01, effective 9/6/01)

WAC 315-34-057 Lotto prize claim and payment methods. The following sets forth requirements for claims and payment of Lotto prizes:

(1) Claims for prize payment shall be made in accordance with chapter 315-30 WAC (~~(315-30-030(6))~~).

(2) Prize payments shall be made as follows:

(a) **Cash option:** After a player has claimed a jackpot prize or a share of a jackpot prize, and after the claim has been validated (including a debt check pursuant to WAC 315-06-125), the player may elect to be paid a one-time single cash payment of fifty percent of his or her share of the announced jackpot, provided:

(i) The player must elect this cash option within sixty days of the validation of his or her prize, by following the procedure required by the lottery;

(ii) If the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty days of the drawing for the prize, then (a)(i) of this subsection will not apply and instead, the player must elect this cash option within sixty days of the date of the drawing for the prize;

(iii) The player's choice of payment method as designated by signing the appropriate lottery form is final and may not be changed by the player at a later date.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty-

day limit will be paid his or her prize in twenty-five annual installment payments.

AMENDATORY SECTION (Amending WSR 90-19-048, filed 9/14/90, effective 10/15/90)

WAC 315-34-060 Drawings. (1) The Lotto drawing (~~(shall)~~) may be held each week on Monday, Wednesday and Saturday (~~(evenings beginning October 24, 1990, except that the director may change the drawing schedule if Wednesday or Saturday is a holiday)~~). Any increase in the number of drawing days shall require amendment of these rules.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall (~~(determine, at random, six winning numbers with the aid of mechanical drawing equipment which)~~) randomly select six winning numbers between 1 and 49. The drawing method shall be tested before and after (~~(that)~~) each drawing. Any drawn numbers are not declared winning numbers until the drawing is certified by the lottery. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 315-34-070	Double Lotto.
WAC 315-34-080	Price of Double Lotto play.
WAC 315-34-090	Prizes for Double Lotto.
WAC 315-34-100	Double Lotto ticket purchases.

WSR 05-12-007

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 05-102—Filed May 19, 2005, 10:00 a.m., effective June 19, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend Puget Sound crab rules and shellfish gear rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-310, 220-56-315, and 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-07-042 on March 10, 2005.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 220-56-310: Amend subsection (18)(a) to read: In Area 1 except when fishing from the north jetty of the Columbia River and Areas 2, 3, and 4 west of the Bonilla-Tatoosh line - 6 male crabs.

Amend subsection (18)(b) to read: In Area 4 west of the Bonilla-Tatoosh line, and Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13 - 5 male crabs.

(2) Do not adopt amendments to WAC 220-56-312.

(3) WAC 220-56-330: Amend subsection (1)(a) to read: Marine Area 4 east of the Bonilla-Tatoosh line, and Areas 5 and 13 - Open 7:00 a.m. June 18 through the last day in February.

Add new subsection (1)(b) to read: Waters of Area 6, those waters of Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence due west to the international boundary; westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southernmost point of Sinclair Island to the ferry dock at Shannon Point, and waters of Areas 8-1, 8-2, 9, 10, 11 and 12 - Open 7:00 a.m. July 1 through September 3, open only Wednesday through Saturday of each week, and open Sunday, September 4 and Monday, September 5.

Reletter subsection (1)(b) as (1)(c) and change opening to read: Open 7:00 a.m. July 16 through September 30, and open only Wednesday through Saturday of each week except also open Sunday, September 4 and Monday, September 5.

Reletter subsection (1)(c) as (1)(d) and change opening to read: Open 7:00 a.m. August 17 through September 30, and open only Wednesday through Saturday of each week except also open Sunday, September 4 and Monday, September 5.

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.

Date Adopted: May 14, 2005.

Susan Yeager
for Ron Ozment, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-310 Shellfish—Daily limits. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, other than razor clams, geoduck clams and horse clams, 40 clams in the aggregate, or 10 pounds, whichever is achieved first except:

(a) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance - diggers may additionally retain up to 20 pounds of eastern softshell clams in the shell.

(b) Willapa Bay - diggers may additionally retain up to twenty-four cockles.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: 7 clams.

(5) Oysters: 18 oysters, shucked and the shells left on the beach. Minimum size before shucking two and one-half inches along the longest dimension of the shell.

(6) Rock scallops: 12 scallops.

(7) Weathervane scallops: 12 scallops (over 4 inches).

(8) Spiny and pink scallops: 10 pounds or 5 quarts in the shell, in the aggregate.

(9) Shrimp: In all waters - First Saturday in May through May 31, daily limit 80 shrimp. During all other open periods total weight 10 pounds, maximum 80 spot shrimp as part of the 10 pound limit. Spot shrimp: First Saturday in May through May 31 in all waters and in Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line during the remainder of the year, no minimum size; June 1 through October 15 in Area 4 east of the Bonilla-Tatoosh line and Areas 5 through 13, minimum size one and three-sixteenths inch from the base of the eyestalk to the top rear edge of the carapace.

(10) Octopus: 1 octopus.

(11) Pinto abalone: Closed statewide.

(12) Crawfish: 10 pounds in the shell. Minimum size 3 1/4 inches from tip of rostrum to tip of tail. Female crawfish with eggs or young attached to the abdomen must be released immediately.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs:

(a) In ~~((all waters))~~ Area 1 except ~~((the Columbia River and))~~ when fishing from the north jetty of the Columbia River and Areas 2, 3, and 4 west of the Bonilla-Tatoosh line - 6 male crabs.

(b) In Area 4 east of the Bonilla-Tatoosh line, and Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13 - 5 male crabs.

(c) In the Columbia River upstream of a line from the outermost end of the north jetty to the exposed end of the south jetty, or when fishing from the north jetty of the Columbia River - 12 male crabs.

(19) Red rock crabs: 6 crabs.

(20) Mussels: 10 pounds in the shell, in the aggregate.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

(23) King and box crab: Closed statewide.

(24) Tanner crabs: 6 crabs.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts. (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters it is unlawful to use at any one time more than two units of crab gear and two additional units of shrimp gear.

(b) It is unlawful for the operator of any boat from which shrimp pots are set or pulled in Catch Record Card Areas 4 through 13 to have on board or to fish more than four shrimp pots.

(c) In the Columbia River it is unlawful to use more than three units of crab gear.

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot. It is unlawful to have more than one unit of unattended gear attached to a buoy line or to fail to have a separate buoy for each unit of gear.

(9) ((Each unit of gear must be attached to its own buoy line and have a separate buoy for each unit of gear.)) In waters open only on certain days or certain hours during the day, except for the night closure set out in subsection (10) of this section, it is unlawful to fail to remove gear from the water when fishing for shellfish is not allowed, and it is unlawful to fail to remove gear from the water by one hour after sunset if fishing is not allowed on the next calendar day. In waters that are open continuously except for the night closure set out in subsection (10) of this section, gear may be left in the water during the night closure.

(10) ((No fisher may)) It is unlawful to set or pull shellfish pots, ring nets or star traps from a vessel in Catch Record Card Areas 1-13 from one hour after official sunset to one hour before official sunrise.

(11) It is unlawful to possess soft-shelled crab for any personal use purpose. Violation of this subsection shall be an infraction, punishable under RCW 77.15.160.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-330 Crab—Areas and seasons. (1) It is unlawful to fish for or possess crab taken for personal use from Puget Sound except during the following seasons:

(a) Marine Area((s)) 4 east of the Bonilla-Tatoosh line, and Areas 5((,-9, 10, 11, 12)) and 13 - Open 7:00 a.m., June ((4)) 18 through the last day in February.

(b) Waters of Area 6, those waters of Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence due west to the international boundary; westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point, and waters of Areas 8-1, 8-2, 9, 10, 11 and 12 - Open 7:00 a.m. July 1 through September 3, open only Wednesday through Saturday of each week, and open Sunday, September 4 and Monday, September 5.

(c) Those contiguous waters of Marine Area 7 north, south and east of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island, and a line that extends from the Anacortes ferry dock at Shannon Point, northward to the southeastern tip of Sinclair Island, thence from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island (southeast Hale Pass, Bellingham Bay, Samish Bay, Padilla Bay, eastern waters of Bellingham Channel, Guemes Channel and ((Fidalgo)) Fidalgo Bay) - Open 7:00 a.m. July 16 through ((March 15)) September 30, and open only Wednesday through Saturday of each week except also open Sunday, September 4 and Monday, September 5.

((e)) (d) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island and from the westernmost point of Patos Island due west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island - Open 7:00 a.m. August ((16)) 17 through ((April 15)) September 30, and open only Wednesday through Saturday of each week except also open Sunday, September 4 and Monday, September 5.

((d)) Waters of Marine Area 6 and those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island due west to the international

boundary; and westerly of a straight line from the northernmost tip of Sinclair Island through Lummi Rocks to Lummi Island; and west of a line projected from the southeast point of Sinclair Island to the ferry dock at Shannon Point—Open 7:00 a.m. June 16 through last day in February.

(e) ~~Marine Areas 8-1 and 8-2—Open 7:00 a.m., the first Friday in June through September 30.~~)

(2) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear from Marine Areas 1, 2, 3, and Area 4 west of the Bonilla-Tatoosh line except during the period December 1 through September 15. Open to gear other than shellfish pot gear year-round.

(3) The Columbia River upstream from a line projected from the outermost end of the north jetty to the exposed end of the south jetty is open to crab fishing for personal use year-round.

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**WSR 05-12-012
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed May 20, 2005, 11:12 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: The adopted rules allow the secretary to reduce license, credential, or registration fees below the renewal fee amount specified in WAC, if the secretary determines that a particular health profession revenue balance exceeds the funds needed to support that program's regulatory operations. Five WACs were repealed since they were obsolete.

Citation of Existing Rules Affected by this Order: Amending the following health profession licensing rules: WAC 246-802-990 Acupuncture, 246-808-990 Chiropractic, 246-809-990 Mental health counselors, marriage and family therapists, social workers, 246-810-990 Counselors, 246-811-990 Chemical dependency professionals, 246-812-990 Denturist, 246-815-990 Dental hygiene, 246-817-990 Dentist, 246-822-990 Dietician and nutritionists, 246-824-990 Dispensing opticians, 246-826-990 Health care assistant, 246-828-990 Hearing instrument fitter/dispenser, audiologist and speech language pathologists, 246-830-990 Massage, 246-834-990 Midwifery, 246-836-990 Naturopathic physicians, 246-840-990 Practical and registered nursing, 246-841-990 Nursing assistant, 246-843-990 Nursing home administrator, 246-845-990 Nursing pool, 246-847-990 Occupational therapy, 246-849-990 Ocularist, 246-850-990 Orthotic and prosthetic, 246-851-990 Optometry, 246-853-990 Osteopathic, 246-907-030 Pharmaceutical licensing periods, 246-915-990 Physical therapy, 246-918-990 Physician assistants, 246-919-990 Physician and surgeon, 246-922-990 Podiatry, 246-924-990 Psychology, 246-926-990 Radiological technologists, 246-927-990 Recreational therapy, 246-928-990 Respiratory care, 246-930-990 Sex offender treatment provider, 246-933-590 Humane society and animal care and control agency, 246-933-990 Veterinarians, 246-935-990 Veterinary technician, 246-937-990 Veterinary medication clerk and 246-939-990 Surgical technologists; and repealing the following health profession licensing renewal cycle rules: WAC 246-907-995 Pharmaceutical licensing periods and fees, 246-922-995 Podiatry, 246-849-

995 Ocularists, 246-812-995 Denturists, and 246-824-995 Dispensing opticians.

Statutory Authority for Adoption: RCW 43.70.250 and [43.70.]280.

Other Authority: RCW 43.70.110.

Adopted under notice filed as WSR 05-07-109 on March 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 246-930-995 Sex offender treatment provider renewal cycle, is not repealed as part of this CR-103 because it is being repealed under another CR-103 of house-keeping changes. Therefore, it is not necessary to include in this order. (2) A separate CR-103 was filed on April 7, as WSR 05-09-003 for WAC 246-915-350 Inactive credential and 246-915-990 Physical therapy fees and renewal cycle. The "inactive license" and "expired inactive license reissuance" fees are now reflected on the current physical therapy OTS (official transcript). This WAC was being amended in two separate rule-making processes.

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 39, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 39, Repealed 5.

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 39, Repealed 5.

Date Adopted: May 20, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

WAC 246-802-990 Acupuncture fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
License application	\$ 50.00
License renewal	90.00

Title of Fee	Fee
Inactive license renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Expired inactive license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00
Acupuncture training program application	500.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-808-990 Chiropractic fees and renewal cycle. (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for chiropractic license:

Title of Fee	Fee
Application/full examination or reexamination	\$300.00
Temporary permit application	150.00
Temporary practice permit	50.00
Preceptorship	100.00
License renewal	270.00
Late renewal penalty	135.00
Expired license reissuance	135.00
Inactive license renewal	150.00
Expired inactive license reissuance	75.00
Duplicate license	15.00
Certification of license	25.00

(3) The following nonrefundable fees will be charged for chiropractic X-ray technician registration:

Application	25.00
Original registration	25.00
Renewal	40.00
Late renewal penalty	40.00
Expired registration reissuance	40.00
Duplicate registration	15.00
Certification of registration	25.00

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

WAC 246-809-990 Licensed mental health counselors, marriage and family therapists, and social workers—Fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

Title	Fee
(2) The following nonrefundable fees will be charged for licensed marriage and family therapist:	
Application	\$50.00
Initial license	25.00
Renewal	83.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Duplicate license	10.00
Certification of license	10.00
(3) The following nonrefundable fees will be charged for licensed mental health counselor:	
Application	25.00
Initial license	25.00
Renewal	29.00
Late renewal penalty	29.00
Expired license reissuance	29.00
Duplicate license	10.00
Certification of license	10.00
(4) The following nonrefundable fees will be charged for licensed advanced social worker and licensed independent clinical social worker:	
Application	25.00
Initial license	25.00
Renewal	42.00
Late renewal penalty	42.00
Expired license reissuance	42.00
Duplicate license	10.00
Certification of license	10.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Certificates and registrations must be renewed

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every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

Title	Fee
(2) The following nonrefundable fees will be charged for registered counselor:	
Application and registration	\$ 40.00
Renewal	37.00
Late renewal penalty	37.00
Expired registration reissuance	37.00
Duplicate registration	15.00
Certification of registration	15.00
(3) The following nonrefundable fees will be charged for registered hypnotherapist:	
Application and registration	95.00
Renewal	130.00
Late renewal penalty	65.00
Expired registration reissuance	65.00
Duplicate registration	15.00
Certification of registration	15.00
(4) The following nonrefundable fees will be charged for certified marriage and family therapist:	
Application	50.00
Initial certification	25.00
Examination administration	25.00
Renewal	83.00
Late renewal penalty	50.00
Expired certification reissuance	50.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00
(5) The following nonrefundable fees will be charged for certified mental health counselor:	
Application	25.00
Initial certification	25.00
Renewal	29.00
Late renewal penalty	29.00
Expired certification reissuance	29.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

Title	Fee
(6) The following nonrefundable fees will be charged for certified social worker:	
Application	25.00
Initial certification	25.00
Renewal	42.00
Late renewal penalty	42.00
Expired certification reissuance	42.00
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

AMENDATORY SECTION (Amending WSR 02-07-083, filed 3/19/02, effective 4/19/02)

WAC 246-811-990 How often do I need to renew and what are the costs for certification? (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for certified chemical dependency professional:

Title of Fee	Fee
Application	\$100.00
Initial certification	125.00
Renewal	125.00
Renewal retired active	62.50
Late renewal retired active	50.00
Late renewal penalty	62.50
Expired certification reissuance	62.50
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

AMENDATORY SECTION (Amending WSR 00-07-050, filed 3/8/00, effective 4/8/00)

WAC 246-812-990 Denturist fees and renewal cycle. (1) Licenses must be renewed every other year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the

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required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$ 1,000.00
Examination	1,500.00
Reexamination, written	500.00
Reexamination, practical	500.00
License renewal	2,750.00
Late renewal penalty	300.00
Expired license reissuance	300.00
Inactive license renewal	1,500.00
Expired inactive license reissuance	300.00
Duplicate license	15.00
Certification of license	25.00
Multiple location licenses	50.00

AMENDATORY SECTION (Amending WSR 05-01-018, filed 12/2/04, effective 3/22/05)

WAC 246-815-990 Dental hygiene fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application examination and reexamination . .	\$100.00
Renewal	40.00
Late renewal penalty	40.00
Expired license reissuance	40.00
Credentialing application	100.00
Limited license application	100.00
Limited license renewal	40.00
Limited license late renewal penalty	40.00
Expired limited license reissuance	40.00
Duplicate license	15.00
Certification of license	25.00
Education program evaluation	200.00

AMENDATORY SECTION (Amending WSR 01-11-166, filed 5/23/01, effective 7/1/01)

WAC 246-817-990 Dentist fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except faculty and resident licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Faculty and resident licenses must be renewed every year on July 1 as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application by examination*	
Initial application	\$ 325.00
Original application - Without examination	
Initial application	350.00
Initial license	350.00
Faculty license application	325.00
Resident license application	60.00
License renewal:	
Renewal	205.00
Surcharge - impaired dentist	25.00
Late renewal penalty	102.50
Expired license reissuance	102.50
Duplicate license	15.00
Certification of license	25.00
Anesthesia permit	
Initial application	50.00
Renewal - (three-year renewal cycle)	50.00
Late renewal penalty	50.00
Expired permit reissuance	50.00
On-site inspection fee	To be determined by future rule adoption.

* In addition to the initial application fee above, applicants for licensure via examination will be required to submit a separate application and examination fee directly to the dental testing agency accepted by the dental quality assurance commission.

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AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-822-990 Dietitian and nutritionist fees and renewal cycle. (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title	Fee
Application	\$75.00
Renewal	45.00
Late renewal penalty	45.00
Expired certificate reissuance	45.00
Duplicate certificate	15.00
Certification of certificate	25.00

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-824-990 Dispensing optician fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Optician:	
Full examination (or reexamination)	\$200.00
Reexamination—Practical only	50.00
Reexamination—Written (basic) only	25.00
Reexamination—Written (contact lens) only	25.00
Renewal	125.00
Late renewal penalty	75.00
Expired license reissuance	62.50
Duplicate license	15.00
Certification of license	15.00
Apprentice registration	75.00

Title of Fee	Fee
Endorsement application	100.00
Inactive license	35.00

AMENDATORY SECTION (Amending WSR 03-24-071, filed 12/1/03, effective 3/1/04)

WAC 246-826-990 Health care assistant fees and renewal cycle. (1) Certificates must be renewed every two years as provided in WAC 246-826-050 and chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
First certification	\$60.00
Renewal	60.00
Expired certificate reissuance	50.00
Recertification	60.00
Late renewal penalty	50.00
Duplicate	15.00

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-990 Hearing instrument fitter/dis-penser, audiologist and speech language pathologists fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Licensees must pay the following nonrefundable fees:

Title of Fee	Fee
License application	\$125.00
Initial license	100.00
Interim permit	100.00
Renewal	200.00
Inactive license	75.00
Late renewal penalty	100.00

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Title of Fee	Fee
Expired license reissuance	100.00
Expired inactive license reissuance	50.00
License verification	15.00
Wall certificate	15.00
Duplicate license	15.00

Title of Fee	Fee
Renewal	978.75
Late renewal penalty	300.00
Duplicate license	25.00
Certification of license	25.00
Application fee—Midwife-in-training program	978.75
Expired license reissuance	300.00

AMENDATORY SECTION (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

WAC 246-830-990 Massage fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00
Initial license	50.00
Renewal	25.00
Late renewal penalty	25.00
Expired license reissuance	25.00
Certification of license	10.00
Duplicate license	10.00

AMENDATORY SECTION (Amending WSR 04-22-113, filed 11/3/04, effective 2/17/05)

WAC 246-834-990 Midwifery fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$515.00
National examination administration (initial/retake)	103.00
State examination (initial/retake)	154.50

AMENDATORY SECTION (Amending WSR 03-07-095, filed 3/19/03, effective 7/1/03)

WAC 246-836-990 Naturopathic physician licensing fees and renewal cycle.

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Amount
Application initial/retake	\$ 25.00
State examination (initial/retake)	25.00
Initial license	25.00
License renewal	200.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Duplicate license	15.00
Certification of license	15.00
Application for reciprocity	25.00

AMENDATORY SECTION (Amending WSR 04-04-054, filed 1/30/04, effective 1/30/04)

WAC 246-840-990 Fees and renewal cycle.

(1) Licenses for practical nurse and registered nurse must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Licenses for advanced registered nurse must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in

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this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) Registrations for nursing technicians must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The renewal must be accompanied by an attestation as described in chapter 258, Laws of 2003. This attestation will include the nursing technician's anticipated graduation date. If the anticipated graduation date is within one year, the registration will expire thirty days after the anticipated graduation date. The expiration date may be extended to sixty days after graduation if the nursing technician can show good cause as defined in WAC 246-840-010(15). The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(4) The following nonrefundable fees shall be charged by the health professions quality assurance division of the department of health. Persons who hold an RN and an LPN license shall be charged separate fees for each license. Persons who are licensed as an advanced registered nurse practitioner in more than one specialty will be charged a fee for each specialty:

RN/LPN fees:

Title of Fee	Fee
Application (initial or endorsement)	\$65.00
License renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Inactive renewal	20.00
Expired inactive license reissuance	20.00
Inactive late renewal penalty	10.00
Duplicate license	20.00
Verification of licensure/education (written)	25.00

Advanced registered nurse fees:

Title of Fee	Fee
ARNP application with or without prescriptive authority (per speciality)	\$65.00
ARNP renewal with or without prescriptive authority (per speciality)	50.00
ARNP late renewal penalty (per speciality)	50.00
ARNP duplicate license (per speciality)	20.00

Title of Fee	Fee
ARNP written verification of license (per speciality)	25.00

Nurse technologist fees:

Title of Fee	Fee
Application fee registration	\$130.00
Renewal of registration	90.00
Duplicate registration	15.00
Registration late renewal penalty	50.00

AMENDATORY SECTION (Amending WSR 99-24-062, filed 11/29/99, effective 12/30/99)

WAC 246-841-990 Nursing assistant—Fees and renewal cycle. (1) Certificates and registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registrations:

Title of Fee	Fee
Application - registration	\$ 15.00
Renewal of registration	25.00
Duplicate registration	10.00
Registration late penalty	25.00
Expired registration reissuance	25.00

(3) The following nonrefundable fees will be charged for certifications:

Application for certification	15.00
Certification renewal	25.00
Duplicate certification	10.00
Certification late penalty	25.00
Expired registration reissuance	25.00

AMENDATORY SECTION (Amending WSR 99-24-098, filed 11/30/99, effective 12/31/99)

WAC 246-843-990 Nursing home administrator fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a rea-

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sonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - Original license	\$200.00
Administrator-in-training	100.00
Application - Endorsement	295.00
Temporary permit	190.00
Renewal	295.00
Inactive license renewal	110.00
Late renewal penalty	145.00
Expired license reissuance	147.50
Late renewal penalty - inactive	55.00
Expired inactive license reissuance	55.00
Duplicate license	15.00
Certification of license	15.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-845-990 Nursing pool fees and renewal cycle. (1) Registrations must be renewed every year on the date of original issuance as provided in chapter 246-12 WAC, Part 3. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title	Fee
Registration application	\$100.00
Registration renewal	115.00
Late renewal penalty	57.50
Expired registration reissuance	57.50

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-847-990 Occupational therapy fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required

payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for occupational therapist:

Title of Fee	Fee
Application and initial license fee	\$125.00
License renewal	95.00
Limited permit fee	40.00
Late renewal fee	50.00
Expired license reissuance	50.00
Inactive license	5.00
Expired inactive license reissuance	5.00
Duplicate	15.00
Certification of license	25.00

(3) The following nonrefundable fees will be charged for occupational therapy assistant:

Title of Fee	Fee
Application and initial license fee	125.00
License renewal	70.00
Late renewal fee	50.00
Expired license reissuance	50.00
Inactive license	5.00
Expired inactive license reissuance	5.00
Limited permit fee	40.00
Duplicate	15.00
Certification of license	25.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-849-990 Ocularist fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application and examination	\$125.00
Renewal	225.00
Late renewal penalty	112.50
Expired license reissuance	112.50
Duplicate license	25.00

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Title of Fee	Fee
Certification of license	25.00
Apprentice registration	25.00
Apprentice renewal	25.00
Temporary practice permit	25.00
Retired active license	50.00

Title of Fee	Fee
Application	\$125.00
Out-of-state seminar	100.00
License renewal	100.00
Late renewal penalty	50.00
Expired license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00

AMENDATORY SECTION (Amending WSR 03-21-116, filed 10/20/03, effective 12/31/03)

AMENDATORY SECTION (Amending WSR 99-24-063, filed 11/29/99, effective 12/30/99)

WAC 246-850-990 Orthotic and prosthetic fees. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

WAC 246-853-990 Osteopathic fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

Title of Fee	Fee
Orthotic application	\$250.00
Prosthetic application	250.00
Orthotic renewal	150.00
Prosthetic renewal	150.00
Late renewal penalty fee	75.00
Expired credential reissuance fee	75.00
Inactive credential renewal fee	125.00
Late inactive renewal fee	62.50
Retired active credential renewal fee	125.00
Late retired active credential renewal fee	62.50
Duplicate credential or wall certificate	15.00
Certification	25.00

(3) The following nonrefundable fees will be charged for osteopath:

Title of Fee	Fee
Active renewal	\$475.00
Active late renewal penalty	237.50
Certification of license	50.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

(4) The following nonrefundable fees will be charged for osteopathic physician:

Title of Fee	Fee
Endorsement application	650.00
Active license renewal	475.00
Active late renewal penalty	237.50
Active expired license reissuance	237.50
Inactive license renewal	350.00
Expired inactive license reissuance	175.00
Inactive late renewal penalty	175.00
Endorsement/state exam application	750.00

WAC 246-851-990 Optometry fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

PERMANENT

Title of Fee	Fee
Reexam	100.00
Certification of license	50.00
Limited license application	300.00
Limited license renewal	250.00
Temporary permit application	70.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00

(5) The following nonrefundable fees will be charged for osteopathic physician assistant:

Title of Fee	Fee
Application	250.00
Renewal	200.00
Late renewal penalty	100.00
Expired license reissuance	100.00
Certification of license	30.00
Practice plan	70.00
Interim permit	167.00
License after exam	83.00
Duplicate certificate	20.00
Substance abuse monitoring surcharge	25.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-907-030 Pharmaceutical licensing periods and fees—Fees and renewal cycle. (1) Pharmacist, pharmacy technician, and pharmacy intern licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Pharmacy location, controlled substance registration (pharmacy), pharmacy technician utilization, and shopkeepers differential hours licenses will expire on June 1 of each year.

(3) All other licenses, including health care entity licenses, registrations, permits, or certifications will expire on October 1 of each year.

(4) The following nonrefundable fees will be charged for pharmacy location:

Title of fee	Fee
Original pharmacy fee	\$365.00
Original pharmacy technician utilization fee	65.00

Title of fee	Fee
Renewal pharmacy fee	265.00
Renewal pharmacy technician utilization fee	75.00
Penalty pharmacy fee	132.50

(5) The following nonrefundable fees will be charged for vendor:

Original fee	75.00
Renewal fee	75.00
Penalty fee	50.00

(6) The following nonrefundable fees will be charged for pharmacist:

Original license fee	130.00
Renewal fee, active and inactive license	135.00
Renewal fee, retired license	20.00
Penalty fee	67.50
Expired license reissuance (active and inactive)	67.50
Reciprocity fee	330.00
Certification of license status to other states	20.00
Retired license	20.00
Temporary permit	65.00

(7) The following nonrefundable fees will be charged for shopkeeper:

Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00
Shopkeeper - with differential hours:	
Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

(8) The following nonrefundable fees will be charged for drug manufacturer:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(9) The following nonrefundable fees will be charged for drug wholesaler - full line:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(10) The following nonrefundable fees will be charged for drug wholesaler - OTC only:

Original fee	330.00
Renewal fee	330.00
Penalty fee	165.00

(11) The following nonrefundable fees will be charged for drug wholesaler - export:

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Original fee	590.00
Renewal fee	590.00
Penalty	295.00

(12) The following nonrefundable fees will be charged for drug wholesaler - export nonprofit humanitarian organization.

Original fee	25.00
Renewal fee	25.00
Penalty	25.00

(13) The following nonrefundable fees will be charged for pharmacy technician:

Original fee	50.00
Renewal fee	40.00
Penalty fee	40.00
Expired license reissuance	40.00

(14) The following nonrefundable fees will be charged for pharmacy intern:

Original registration fee	20.00
Renewal registration fee	20.00

(15) The following nonrefundable fees will be charged for Controlled Substances Act (CSA):

Registrations	
Dispensing registration fee (i.e. pharmacies and health care entities)	80.00
Dispensing renewal fee (i.e. pharmacies and health care entities)	65.00
Distributors registration fee (i.e. wholesalers)	115.00
Distributors renewal fee (i.e. wholesalers)	115.00
Manufacturers registration fee	115.00
Manufacturers renewal fee	115.00
Sodium pentobarbital for animal euthanization registration fee	40.00
Sodium pentobarbital for animal euthanization renewal fee	40.00
Other CSA registrations	40.00

(16) The following nonrefundable fees will be charged for legend drug sample - distributor:

Registration fees	
Original fee	365.00
Renewal fee	265.00
Penalty fee	132.50

(17) The following nonrefundable fees will be charged for poison manufacturer/seller - license fees:

Original fee	40.00
Renewal fee	40.00

(18) The following nonrefundable fees will be charged for facility inspection fee:

200.00

(19) The following nonrefundable fees will be charged for precursor control permit:

Original fee	65.00
Renewal fee	65.00

(20) The following nonrefundable fees will be charged for license reissue:

Reissue fee	15.00
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(21) The following nonrefundable fees will be charged for health care entity:

Original fee	365.00
Renewal	265.00
Penalty	132.50

AMENDATORY SECTION (Amending WSR 99-08-101 [05-09-003], filed 4/6/99 [4/7/05], effective 7/1/99 [5/8/05])

WAC 246-915-990 Physical therapy fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$100.00
License renewal	65.00
Late renewal penalty	50.00
<u>Inactive license renewal</u>	<u>35.00</u>
<u>Expired inactive license reissuance</u>	<u>50.00</u>
Expired license reissuance	50.00
Duplicate license	15.00
Certification	25.00

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending WSR 02-05-009, filed 2/8/02, effective 3/11/02)

WAC 246-918-990 Physician assistants fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12

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WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The applicant or licensee must pay the following nonrefundable fees:

Title of Fee	Fee
Physician assistants, certified physician assistants, physician assistant-surgical assistants, acupuncture physician assistants:	
Application*	\$50.00
Two-year renewal*	70.00
Expired license reissuance	35.00
Duplicate license	15.00
Impaired physician program surcharge	25.00
*(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71.310(2))	

AMENDATORY SECTION (Amending WSR 02-05-009, filed 2/8/02, effective 3/11/02)

WAC 246-919-990 Physician and surgeon fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except postgraduate training limited licenses and retired active physician licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program date. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) Retired active physician licenses shall be renewed every year. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus

funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(4) The applicants and licensees must pay the following nonrefundable fees:

Title of Fee	Fee
Physicians and surgeons: Chapter 18.71 RCW	
Application*	\$300.00
Retired active physician license renewal*	100.00
Retired active late renewal penalty	50.00
Two-year renewal*	400.00
Late renewal penalty	100.00
Expired license reissuance	200.00
Certification of license	50.00
Duplicate license	15.00
Temporary permit	50.00
Application fee for transitioning from a postgraduate training limited license*	100.00
Postgraduate limited license fees: RCW 18.71.095	
Limited license application*	200.00
Limited license renewal*	200.00
Limited duplicate license	15.00
Impaired physician program *(assessed at \$25.00 on each application and for each year of the renewal period as required in RCW 18.71.310(2))	25.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-922-990 Podiatry fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2, except for postgraduate training limited licenses. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be pro-

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vided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application (examination and reexamination)	\$825.00
Reciprocity application	825.00
License renewal	825.00
Inactive license renewal	135.00
Inactive late renewal penalty	67.50
Active late renewal penalty	300.00
Active expired license reissuance	300.00
Expired inactive license reissuance	67.50
Duplicate license	30.00
Certification of license	50.00
Retired active status	150.00
Temporary practice permit	50.00
Limited license application	400.00
Limited license renewal	480.00
Substance abuse monitoring surcharge	25.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-924-990 Psychology fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$260.00
Renewal	285.00
Renewal retired active	100.00
Late renewal penalty	142.50
Expired license reissuance	142.50
Duplicate license	25.00
Oral examination	350.00
Certification of license	25.00
Amendment of certificate of qualification	30.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-926-990 Radiological technologists certification and registration fees and renewal cycle. (1) Certificates and registrations must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - certification	\$45.00
Exam fee - certification	30.00
Application - registration	35.00
Certification renewal	45.00
Registration renewal	35.00
Late renewal penalty - certification	45.00
Late renewal penalty - registration	35.00
Expired certificate reissuance	45.00
Expired registration reissuance	35.00
Certification of registration or certificate	15.00
Duplicate registration of certificate	15.00

AMENDATORY SECTION (Amending WSR 03-09-065, filed 4/15/03, effective 7/1/03)

WAC 246-927-990 How often do I need to renew and what are the costs for registration? (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registered recreational therapists:

Title of Fee	Fee
Application	\$110.00
Renewal	85.00
Late renewal penalty	50.00
Expired registration reissuance	50.00
Duplicate registration	15.00
Certification of certificate	25.00

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PERMANENT

AMENDATORY SECTION (Amending WSR 01-11-165, filed 5/23/01, effective 6/23/01)

WAC 246-928-990 Respiratory care fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$ 70.00
Temporary practice permit	35.00
Duplicate license	15.00
Verification of licensure	15.00
Renewal	50.00
Late renewal penalty	50.00
Expired license reissuance	50.00

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-930-990 Sex offender treatment provider fees and renewal cycle. (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for:

Title of Fee	Fee
Sex offender treatment provider:	
Application and examination	\$ 500.00
Reexamination	250.00
Initial certification	100.00
Renewal	800.00
Inactive status	300.00
Late renewal penalty	300.00
Expired certificate reissuance	300.00
Expired inactive certificate reissuance	150.00
Duplicate certificate	15.00

Title of Fee	Fee
Extension fee	1,475.00
(3) The following nonrefundable fees will be charged for affiliate treatment provider:	
Application and examination	200.00
Reexamination	100.00
Renewal	300.00
Inactive status	200.00
Late renewal penalty	150.00
Expired affiliate certificate reissuance	150.00
Expired inactive affiliate certificate reissuance	100.00
Duplicate certificate	15.00
Extension fee	850.00

AMENDATORY SECTION (Amending WSR 03-10-044, filed 5/1/03, effective 6/1/03)

WAC 246-933-590 Humane society and animal care and control agency (entity) fees and renewal cycle. (1) Registrations must be renewed every year on August 1 as provided in chapter 246-12 WAC, Part 3. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The nonrefundable fees are:

Title of Fee	Fee
Entity registration	\$100.00
Entity renewal	75.00
Late renewal penalty	50.00
Expired registration reissuance	50.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-933-990 Veterinarian fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
State examination (initial/retake)	\$125.00
Initial state license	115.00
Specialty licensure	115.00
Impaired veterinarian assessment	10.00
Temporary permit	200.00
State or specialty license renewal	120.00
Retired active license and renewal	55.00
Late renewal penalty (state and specialty license)	60.00
Expired license reissuance	60.00
Late renewal penalty (retired active license)	50.00
Duplicate license	15.00
Certification of license	15.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-935-990 Veterinary technician fees and renewal cycle. (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
State examination (initial/retake)	\$100.00
Initial registration	75.00
Renewal	65.00
Late renewal penalty	50.00
Expired registration reissuance	50.00
Duplicate registration	15.00
Certification of registration	15.00

AMENDATORY SECTION (Amending WSR 01-23-101, filed 11/21/01, effective 1/21/02)

WAC 246-937-990 Veterinary medication clerk fees and renewal cycle. (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the

required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Initial registration	\$30.00
Renewal	30.00
Late renewal penalty	30.00
Expired registration reissuance	30.00
Duplicate registration	15.00

AMENDATORY SECTION (Amending WSR 99-24-097, filed 11/30/99, effective 12/31/99)

WAC 246-939-990 Surgical technologists—Fees and renewal cycle. (1) Registration must be renewed every year on registrant's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) The following nonrefundable fees will be charged for registration:

Title of Fee	Fee
Application for registration	\$50.00
Renewal of registration	125.00
Registration late fee	62.50
Duplicate registration	10.00
Expired registration reissuance	62.50
Registration issuance	25.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-812-995 Conversion to a birthday renewal cycle.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-824-995 Conversion to a birthday renewal cycle.

PERMANENT

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-849-995 Conversion to a birthday renewal cycle.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-907-995 Conversion to a birthday renewal cycle.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-922-995 Conversion to a birthday renewal cycle.

WSR 05-12-013**PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed May 20, 2005, 11:13 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: The changes adjust the fees that medical providers are allowed to charge for searching and duplicating medical records based on the change in the consumer price index for all consumers for the Seattle/Tacoma metropolitan area for the previous biennium. The changes also address compliance with federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 246-08-400.

Statutory Authority for Adoption: RCW 70.02.010(12).

Other Authority: RCW 43.70.040.

Adopted under notice filed as WSR 05-06-121 on March 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: We changed subsection (4) to include the citation of federal HIPAA 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 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 20, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-14-036, filed 6/23/03, effective 7/24/03)

WAC 246-08-400 How much can a medical provider charge for searching and duplicating medical records? RCW 70.02.010(12) allows medical providers to charge fees for searching and duplicating medical records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than (~~eighty-eight~~) ninety-one cents per page for the first thirty pages;

(b) No more than (~~sixty-seven~~) sixty-nine cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a (~~twenty~~) twenty-one dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, (~~2003~~) 2005, through June 30, (~~2005~~) 2007.

(4) (~~This section does not restrict a health care provider, a third party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.~~) HIPAA covered entities: See HIPAA regulation Section 164.524 (c)(4) to determine applicability of this rule.

WSR 05-12-014**PERMANENT RULES****DEPARTMENT OF HEALTH**

(Sex Offender Treatment Providers)

[Filed May 20, 2005, 11:15 a.m., effective June 20, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarify existing rule text, change the term "license" to "certification." Department of Corrections legislation and court rulings from 1999 determined that rules should apply to not just the sex offender sentencing alternative and special sex offender disposition alternative client, but all clients of the sex offender treatment provider, and repeals WAC 246-930-995 Conversion to a birthday renewal. The annual license renewal date was transitioned to a birthday renewal in 1998/1999.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-930-995; and amending WAC 246-930-020, 246-930-200, 246-930-220, 246-930-301, 246-930-431, 246-930-490, and 246-930-990.

Statutory Authority for Adoption: RCW 18.155.040.

Adopted under notice filed as WSR 04-23-091 on November 17, 2004.

PERMANENT

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 7, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, 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 0.

Date Adopted: May 20, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-930-020 Underlying credential as a health professional required. (1) Under RCW 18.155.020(1), only credentialed health professionals may be certified as providers.

(2) A person who is credentialed as a health professional in a state or jurisdiction other than Washington may satisfy this requirement by submitting the following:

(a) A copy of the current nonexpired credential issued by the credentialing state;

(b) A copy of the statute, administrative regulation, or other official document of the issuing state which sets forth the minimum requirements for the credential;

(c) A statement from the issuing authority:

(i) That the credential is in good standing;

(ii) That there is no disciplinary action currently pending; and

(iii) Listing any formal discipline actions taken by the issuing authority with regard to the credential;

(d) A statement signed by the applicant, on a form provided by the department, submitting to the jurisdiction of the Washington state courts for the purpose of any litigation involving his or her practice as a sex offender treatment provider;

(e) A statement signed by the applicant on a form provided by the department, that the applicant does not intend to practice the health profession for which he or she is credentialed by another state within the state of Washington without first obtaining an appropriate credential to do so from the state of Washington, except as may be authorized by Washington state law; and

(f) Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(3) Underlying registration, certification, or licensure shall be maintained in good standing. If an underlying registration, certification, or licensure is not renewed or is revoked, certification as a sex offender treatment provider~~(s)~~ or affiliate sex offender treatment provider~~(s)~~ or

~~temporary or provisional treatment provider~~) is revoked. If an underlying registration, certificate or license is suspended, the sex offender treatment provider certification is suspended. If there is a stay of the suspension of an underlying registration, certificate or license the sex offender treatment provider program must independently evaluate the reasonableness of a stay for the sex offender treatment provider.

AMENDATORY SECTION (Amending WSR 94-13-179, filed 6/21/94, effective 7/22/94)

WAC 246-930-200 Application and examination. (1) In order to be certified to practice under this chapter as a provider or affiliate provider in the state of Washington all applicants shall pass an examination approved by the secretary.

(2) An applicant shall meet all education, experience, and training requirements and ~~((be a health care provider before being allowed))~~ hold a current health professional credential to qualify to sit for the examination.

(3) Examinations shall be given at a time and place determined by the secretary.

(4) A completed application with the appropriate fee for certification shall be received in the office of the department, no later than sixty days prior to the examination date. All supporting documentation shall be received no later than twenty days prior to the scheduled examination date.

(5) Any applicant who fails to follow written or oral instructions relative to the conduct of the examination, is observed talking or attempting to give or receive information, or attempting to remove materials from the examination or using or attempting to use unauthorized materials during any portion of the examination shall be terminated from the examination and not permitted to complete it.

(6) The department shall approve the method of grading each examination, and apply the method uniformly to all applicants taking the examination.

(7) Applicants will be notified in writing of their examination scores.

(8) Applicant's examination scores are not disclosed to anyone other than the applicant, unless requested to do so in writing by the applicant.

(9) An applicant who fails to make the required grade in the first examination ~~((is entitled to))~~ may take up to two additional examinations upon the payment of a reexamination fee for each subsequent examination. After failure of three examinations, the secretary may require remedial education before admission to future examinations.

AMENDATORY SECTION (Amending WSR 94-13-179, filed 6/21/94, effective 7/22/94)

WAC 246-930-220 Reexamination. (1) An applicant for certification who has been previously certified shall retake the examination and achieve a passing score as set forth in WAC 246-930-200(6) before recertification ~~((under any of the following circumstances))~~ if:

(a) The applicant has been uncertified voluntarily for more than twenty-four calendar months; or

(b) The applicant's certificate has been revoked or suspended by reason of a disciplinary action by the secretary.

(2) The secretary may require reexamination in any disciplinary order as a condition of reissuing a certificate or confirming certification.

(3) Whenever reexamination is required, the applicant shall pay the examination fees set forth in WAC 246-930-990.

AMENDATORY SECTION (Amending WSR 94-13-179, filed 6/21/94, effective 7/22/94)

WAC 246-930-301 Purpose—Professional standards and ethics. (1) Sex offender treatment providers are also credentialed health professionals, and are subject to the standards of practice of their primary field of practice. However, standards of practice vary from profession to profession, and sex offender evaluation and treatment represents significant differences in practice from general mental health interventions.

(2) The standards set forth in WAC 246-930-301 through 246-930-340 apply to all sex offender treatment providers (~~(evaluating or treating SSOSA or SSODA clients)~~). Failure to comply with these standards (~~(in providing evaluation and/or treatment to SSOSA/SSODA clients)~~) may constitute unprofessional conduct pursuant to RCW 18.130.180(7).

(3) Standards of practice specific to this area of specialization are necessary due to the unique characteristics of this area of practice, the degree of control that a provider exercises over the lives of clients, and the community protection issues inherent in this work.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-930-431 Expired (~~(license)~~) certification.

(1) If the (~~(license)~~) certification has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the (~~(license)~~) certification has expired for over three years, the practitioner must:

- (a) Successfully pass the examination as provided in WAC 246-930-200;
- (b) Meet the requirements of chapter 246-12 WAC, Part 2.

AMENDATORY SECTION (Amending WSR 94-13-179, filed 6/21/94, effective 7/22/94)

WAC 246-930-490 Sexual misconduct. (1) (~~(The)~~) Sex offender treatment providers shall not engage in sexual contact or sexual activity with (~~(SSOSA/SSODA)~~) their clients.

(2) Sexual contact or sexual activity is prohibited with former (~~(SSOSA/SSODA)~~) clients for ten years after cessation or termination of professional services.

(3) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any former client if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is (~~(abused)~~) abusive include, but are not limited to:

- (a) The amount of time that has passed since the last therapeutic contact;
- (b) The nature and duration of the therapy;
- (c) The circumstances of cessation or termination;
- (d) The client's personal history;
- (e) The client's current mental status;
- (f) The likelihood of adverse impact on the client and others; and
- (g) Any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.

(4) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person participating in the treatment process of a (~~(SSOSA or SSODA)~~) client while the therapy is ongoing.

(5) The sex offender treatment provider shall not engage in sexual contact or sexual activity with any person formally participating in the treatment process, if such contact or activity involves the abuse of the sex offender treatment provider and client relationship. Factors to be considered in evaluating if the sex offender treatment provider and client relationship is (~~(abused)~~) abusive include, but are not limited to:

- (a) The amount of time that has passed since the last therapeutic contact;
- (b) The amount of time that has passed since the last professional contact between the provider and the other person;
- (c) The knowledge the provider has obtained about the person because of the professional contact; and
- (d) The likelihood of adverse impact on the former client.

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-930-990 Sex offender treatment provider fees and renewal cycle. (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for:

Title of Fee	Fee
Sex offender treatment provider:	
Application and examination	\$ 500.00
Reexamination	250.00
Initial certification	100.00
Renewal	800.00
Inactive status	300.00
Late renewal penalty	300.00
Expired certificate reissuance	300.00
Expired inactive certificate reissuance	150.00
Duplicate certificate	15.00
((Extension fee)) <u>Verification of certification</u>	((1,475.00)) 15.00

(3) The following nonrefundable fees will be charged for affiliate treatment provider:

PERMANENT

Title of Fee	Fee
Application and examination	200.00
Reexamination	100.00
Renewal	300.00
Inactive status	200.00
Late renewal penalty	150.00
Expired affiliate certificate reissuance	150.00
Expired inactive affiliate certificate reissuance	100.00
Duplicate certificate	15.00
Extension fee	850.00

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.
 Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 7, 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 7, Repealed 0.
 Date Adopted: May 16, 2005.

Andy Fernando, 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 05-13 issue of the Register.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-930-995 Conversion to a birthday renewal cycle.

WSR 05-12-022
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed May 20, 2005, 4:31 p.m., effective June 20, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To establish standards for selection of surgeons and hospitals performing gastric bypass surgery for MAA clients and to establish criteria and pre- and post-operative requirements for clients that would further prevent the likelihood of complications.

Citation of Existing Rules Affected by this Order: Amending WAC 388-531-0150, 388-531-0200, 388-531-0250, 388-531-0650, 388-531-1600, 388-550-2800, and 388-550-4400.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 05-07-135 on March 22, 2005.

A final cost-benefit analysis is available by contacting Dr. Carolyn Coyne, MD, MHA, Senior Medical Consultant, Medical Assistance Administration, Division of Medical Management, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1904, fax (360) 586-8827, e-mail coynebcm@dshs.wa.gov. The preliminary cost benefit analysis was not changed and is final.

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.

WSR 05-12-028
PERMANENT RULES
BOARD OF BOILER RULES
 (Department of Labor and Industries)

[Filed May 24, 2005, 9:13 a.m., effective June 30, 2005]

Effective Date of Rule: June 30, 2005.

Purpose: General fee increase for the Board of Boiler Rules, the Board of Boiler Rules is proposing a 3.03% (rounded down to the nearest tenth of a dollar) general fee increase. The 3.03% rate is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005. The general fee increase is necessary to help offset inflation and to maintain the financial health and operational effectiveness of the program.

Citation of Existing Rules Affected by this Order: Amending WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses?

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Adopted under notice filed as WSR 05-08-109 on April 5, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 24, 2005.

Craig Hopkins
 Chair

PERMANENT

AMENDATORY SECTION (Amending WSR 04-21-069, filed 10/19/04, effective 1/1/05)

WAC 296-104-700 What are the inspection fees—Examination fees—Certificate fees—Expenses? The following fees shall be paid by, or on behalf of, the owner or user upon the completion of the inspection. The inspection fees apply to inspections made by inspectors employed by the state.

Heating boilers:	Internal	External
Cast iron—All sizes	\$(30.30) 31.20	\$(24.20) 24.90
All other boilers less than 500 sq. ft.	\$(36.50) 37.60	\$(24.20) 24.90
500 sq. ft. to 2500 sq. ft.	\$(60.80) 62.00	\$(30.30) 31.20
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$(24.20) 24.90	\$(12.00) 12.30
Power boilers:	Internal	External
Less than 100 sq. ft.	\$(30.30) 31.20	\$(24.20) 24.90
100 sq. ft. to less than 500 sq. ft.	\$(36.50) 37.60	\$(24.20) 24.90
500 sq. ft. to 2500 sq. ft.	\$(60.80) 62.00	\$(30.30) 31.20
Each additional 2500 sq. ft. of total heating surface, or any portion thereof	\$(24.20) 24.90	\$(12.00) 12.30
Pressure vessels:		
Automatic utility hot water supply heaters per RCW 70.79.090		\$(5.80) 5.90
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.	\$(24.20) 24.90	\$(18.10) 18.60
15 sq. ft. to less than 50 sq. ft.	\$(36.50) 37.00	\$(18.10) 18.60
50 sq. ft. to 100 sq. ft.	\$(42.50) 43.00	\$(24.20) 24.90
For each additional 100 sq. ft. or any portion thereof	\$(42.50) 43.00	\$(12.00) 12.30

Certificate of inspection fees: For objects inspected, the certificate of inspection fee is ~~\$(18.10)~~ 18.60 per object.

Boiler and pressure vessel installation/reinstallation permit (excludes inspection and certificate of inspection fee) \$50.00

Nonnuclear shop inspections, field construction inspections, and special inspection services:

For each hour or part of an hour up to 8 hours	\$(36.50) 37.60
For each hour or part of an hour in excess of 8 hours	\$(54.60) 56.20

Nuclear shop inspections, nuclear field construction inspections, and nuclear triennial shop survey and audit:

For each hour or part of an hour up to 8 hours	\$(54.60) 56.20
For each hour or part of an hour in excess of 8 hours	\$(85.20) 88.20

Nonnuclear triennial shop survey and audit:

When state is authorized inspection agency:

For each hour or part of an hour up to 8 hours	\$(36.50) 37.60
For each hour or part of an hour in excess of 8 hours	\$(54.60) 56.20

When insurance company is authorized inspection agency:

For each hour or part of an hour up to 8 hours	\$(54.60) 56.20
For each hour or part of an hour in excess of 8 hours	\$(85.20) 87.70

Examination fee: A fee of ~~\$(67.40)~~ 69.40 will be charged for each applicant sitting for an inspection examination(s).

Special inspector commission: An initial fee of \$25 and an annual renewal fee of \$10 along with an annual work card fee of \$15.

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.

Washington state specials: For each vessel to be considered by the board for a Washington state special certificate, a fee of ~~\$(338.00)~~ 348.20 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.

PERMANENT

WSR 05-12-031
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 24, 2005, 9:15 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule-making order will adopt changes to chapter 296-17 WAC, General reporting rules, classifications, audit and record keeping, rates and rating system for Washington workers' compensation insurance. The changes clarify definitions and debris construction reporting rules. Descriptions related to consolidate pallet dealers and pallet manufacturers have been updated. A new subclassification for computer numeric controlled machine shops was also created.

Citation of Existing Rules Affected by this Order: Amending WAC 296-17-31002, 296-17-31013, 296-17-31024, 296-17-526, 296-17-538, 296-17-568, 296-17-58201, 296-17-524, 296-17-527, 296-17-701, and 296-17-764.

Statutory Authority for Adoption: RCW 51.16.035, 51.16.100.

Adopted under notice filed as WSR 05-07-121 on March 22, 2005.

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 13, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, 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.

Date Adopted: May 24, 2005.

Judy Schurke
for Gary K. Weeks
Director

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-31002 General rule definitions. In developing the general reporting rules and classifications which govern Washington's workers' compensation classification plan, we have used certain words or phrases which could have several meanings. Many of these words or phrases are defined by law in the Revised Code of Washington (*Title 51 RCW*) and can be found in **Appendix A** of this manual. Some words, however, are not defined by law. To reduce the misunderstanding 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 and phrases mean for purposes of this chapter (*chapter 296-17 WAC*).

The following words or phrases mean:

Account: A unique numerical reference that we assign to you that identifies your business or businesses and allows us to track exposure that you report to us and losses (*claims*) which we pay on your behalf.

Account manager: An individual who works in the underwriting section of the department of labor and industries and manages an employer's workers' compensation insurance account. An account manager is also referred to as an underwriter.

Actual hours worked: A worker's composite work period beginning with the starting time of day that the employee's work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by an employee. The following example is provided to illustrate how work hours are to be reported. If you have questions on reporting please contact our underwriting section at 360-902-4817.

Example: A carpet installer arrives at the employer's place of business at 8:00 a.m. to pick up supplies, carpet, and the job assignment. The carpet installer arrives at the job site at 9:00 a.m. and works until 12 noon. The installer takes a half hour nonpaid lunch period and resumes working from 12:30 p.m. until 4:00 p.m. The installer then returns to the employer's premise to drop off supplies and carpet waste. The installer leaves the employer's premise at 5:30 p.m. The employer is to report nine hours of work time regardless of whether the employee is paid by the hour or by the number of yards of carpet installed.

All: When a classification contains a descriptive phrase beginning with "all" such as in "all employees," "all other employees," "all operations," or "all work to completion," it includes all operations and employments which are normally associated with the type of business covered by the classification. This condition applies even if the operations or employments are physically separated or conducted at a separate location. Operations or employments are to be classified separately when the classification wording requires it, or when the operations or employments are not incidental to, and not usually associated with, the business described by the classification.

And: When this word is contained in any rule it is to be considered the same as the phrase "and/or."

Basic classification: A grouping of businesses or industries having common or similar exposure to loss without regard to the separate employments, occupations or operations which are normally associated with the business or industry. Basic classifications describe a specific type of business operation or industry such as mechanical logging, sawmills, aircraft manufacturing, or restaurants. In most business operations some workers are exposed to very little hazard, while others are exposed to greater hazard. Since a basic classification reflects the liability (*exposure to hazard*) of a given business or industry, all the operations and occupations that are common to an industry are blended together and included in the classification. The rate for a basic classification represents the average of the hazards within the classification. All classifications contained in this manual are considered basic classifications with the exception of classifica-

tions 4806, 4900, 4904, 5206, 6301, 6302, 6303, 7100, 7101, and temporary help classifications 7104 through (~~7124~~) 7122. Classification descriptions contained in WAC 296-17-501 through 296-17-779, establish the intended purpose or scope of each classification. These descriptions will routinely include types of businesses, operations, processes or employments which are either included or excluded from the classification. These references are not to be considered an all inclusive listing unless the classification wording so specifies.

But not limited to: When this phrase is used in any rule in this manual it is not to be interpreted as an all inclusive list. Such a list is meant to provide examples of operations, employments, processes, equipment or types of businesses which are either included or excluded from the scope of the classification.

Excludes or excluding: When a classification contains a descriptive phrase beginning with "excludes" or "excluding" such as "excluding drivers or delivery," "excluding second hand appliance stores," or "excludes construction operations," you must report those operations in a separate classification. If a business fails to keep the records required in the auditing recordkeeping section of this manual and we discover this, we will assign all workers hours for which records were not maintained to the highest rated classification applicable to the work which was performed.

Exposure: Worker hours, worker days, licenses, material, payroll or other measurement which we use to determine the extent to which an employer's workers have been exposed to the hazards found within a particular business or industry classification.

Governing classification: Is the basic classification assigned to a business that produces the largest number of worker hours during a calendar year (*twelve months*). The governing classification rule applies only to situations where a business has been assigned two or more basic classifications and is used for the sole purpose of determining what classification applies to employees and covered owners who support two or more operations. The governing classification rule is not to be used to determine the basic classification of a business.

Includes or including: When a classification contains a descriptive phrase beginning with "includes" or "including" such as "including clerical office," "including meter readers," or "includes new construction or extension of lines," you must report these operations in that basic classification even though they may be specifically described by some other classification contained in this manual or may be conducted at a separate location.

Industrial insurance: Refer to the definition of "workers' compensation insurance."

N.O.C.: This abbreviation stands for not otherwise classified. Classifications are often worded in this way when there are many variations of the same general type of business and it would be nearly impossible to list all the variations. Before a classification designated with N.O.C. is used, all other related classifications must be reviewed to determine if the business or industry is specified in another classification.

Example: You operate a retail store that sells greeting cards. In our search to classify your business we come across a classification that covers retail stores N.O.C. Before our underwriter assigns this classification to your business, they would look at other retail store classifications to see if a more precise classification could be found. In our review we note several classifications such as grocery and department stores where greeting cards are sold. None of these classifications, however, specify that they include stores that exclusively sell greeting cards. Classification 6406 "Retail stores, N.O.C.," on the other hand, contains language in its description that states it includes stores that sell items such as greeting cards, table top appliances, tropical fish and birds, and quick print shops. We would assign classification 6406 "Retail stores, N.O.C." to your business.

Or: Refer to the definition of the word "and."

Premium: The total amount of money owed to the department of labor and industries as calculated by multiplying the assigned classification composite rate by the total units of exposure.

Rate: The amount of premium due for each unit of exposure. All rates are composite rates per worker hour except as otherwise provided for by other rules in this manual.

Risk: All insured operations of one employer within the state of Washington.

Temporary help: The term "temporary help" means the same as temporary service contractors defined in (*Title 19 RCW*) and applies to any person, firm, association or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part-time or temporary help basis to others.

Underwriter: Refer to the definition of an "account manager."

Work day: Any consecutive twenty-four hour period.

Work hour: Refer to the definition of "actual hours worked."

Workers' compensation insurance: The obligation imposed on an employer by the industrial insurance laws (*Title 51 RCW*) of the state of Washington to insure the payment of benefits prescribed by such laws.

AMENDATORY SECTION (Amending WSR 04-20-023, filed 9/28/04, effective 11/1/04)

WAC 296-17-31013 Building construction. (1) Does this same classification approach apply to building and construction contractors?

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we

assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses. The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the **multiple business classification approach**.

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

(2) Who does this rule apply to?

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, ((0506,)) 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

(3) Can I have a single classification assigned to my business to cover a specific construction project?

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

(4) How do I request the single classification for one of my construction projects?

You should send your request to the attention of your ((policy)-account)) account manager at the address below:

Department of Labor and Industries
P.O. Box 44144
Olympia, Washington 98504-4144

(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.

With this information we will estimate the premiums by classification.

Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the

total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.

(6) How will I know what classification will apply to my construction project?

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?

No, but you should call your ((policy)-account)) account manager to verify what other classifications would apply to the project. The name and phone number of your ((policy)-account)) account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at ((t))360((f))-902-4817 and we will put you in contact with your assigned ((policy)-account)) account manager.

(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors in good standing by confirming their status on the department's website or contacting your account manager.

(9) Am I required to keep any special records of subcontractors that I use?

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;
- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the subcontractor being considered a covered worker for whom you must report hours.

~~((10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."~~

~~(11) I am a construction site clean up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean up project in classification 0217 "concrete flatwork."~~

~~(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an~~

~~employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.~~

~~(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."~~

~~(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification? No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean up work for you, and that employee also performs other nonpreoccupancy clean up work for you such as construction work, shop work or construction site debris clean up work, then you must report all of their work time in the applicable construction or nonshop classification.))~~

(10) What classification should I use to report construction site cleanup by my employees? You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in? If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flat-work."

(12) What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site? We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

(13) Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site? Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."

(14) If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification? No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you

have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-31024 Classification premium rates.

(1) How do you determine what rate to charge me?

Each classification has ((a)) corresponding base rates. The base rates assigned to your business will depend on the basic classification(s) ((or classifications)) assigned to your business.

(2) What do you mean by a base rate?

The base rate is a comparison of losses (*claims*) and exposure to produce a cost per unit of exposure. The base rate is an unmodified rate that all employers with an experience factor of 1.000 will pay in a specific classification.

(3) Do all employers in the same classification pay the base rate?

In practice, only a few employers pay the *base rate*. ((If you are a new employer, you will pay the base rate until you have reported worker hours during the current experience period. After you have reported hours during an experience period, your rate will be modified as of January 1, of the next calendar year.)) Most employers pay rates that are adjusted to take into account the employer's claims and premium reporting experience. We refer to ((that)) those modified rates as ((your)) *experience rates*. Your experience rate ((is the base rate adjusted by your own company's claims losses (experience factor). It can produce a premium)) can be higher or lower than the *base rate*. This means that employers with ((few claims)) fewer than expected losses will pay less than employers in the same classification who have ((many claims)) more than expected losses. Experience rating encourages strong safety and accident prevention programs. Details of how experience rating affects your premium are ((outlined)) found in WAC 296-17-850 through ((296-17-875)) 296-17-890. Your account manager can also answer questions about your individual experience factor. The name and phone number of your account manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at 360-902-4817 and we will put you in contact with your assigned account manager.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-526 Classification 0606.

0606-01 Vending, coin-, or token-operated machines: Installation service and/or repair

Applies to establishments engaged in the installation, service and/or repair of vending, coin- or token-operated machines. Operations contemplated by this classification include, but are not limited to, delivering machines to desired location, unloading and setting up machines, servicing machines, collecting money, repairing machines, and

restocking product into machines. Coin-operated machines include pay telephone booths, weight machines, juke boxes, change makers, pull tabs, slot machines, and similar gaming devices. Vending machine products include, but are not limited to, soft drinks, candies, sandwiches, stamps, cigarettes, frozen desserts, coffee, and personal hygiene products. This classification also includes the preparation of products such as, but not limited to, salads, sandwiches, cookies, and ((deserts)) desserts, and honor snack food services when performed by employees of an employer subject to this classification.

This classification excludes honor snack services operated independently from, and not in connection with, coin-operated vending machine services which are to be reported separately in classification 1101; and the installation of parking meter units which is to be reported separately in classification 0105.

0606-02 Fire extinguisher and fire safety equipment: Sales and service

Applies to establishments engaged in the sales and servicing of fire extinguishers and related safety equipment. Operations contemplated by this classification include, but are not limited to, retail and wholesale store operations, field testing services, recharging services, and related safety training. Establishments subject to this classification routinely sell a variety of home and commercial type fire extinguishers, protective clothing, gloves, and hats, specialty shoes, smoke and fire alarms, and first-aid kits. Fire extinguisher sales and service companies may also carry other safety items such as traffic cones, construction and speed signs.

0606-03 Money collecting service of coin-operated and vending machines

Applies to establishments engaged in the removal and/or replacement of money into coin-operated machines. Operations contemplated by this classification are limited to the collection and replenishing of coins in coin-operated or vending machines. This classification also applies to replenishing currency in automated teller machines (cash machines) and removal of coins from parking meters and pay telephones.

This classification excludes the servicing of machines, placement of products into machines for sale, installation of machines, or any product preparation, which is to be reported separately in the applicable classification; installation of free standing automated teller machines which is to be reported separately in classification 0607; establishments engaged in the construction of structures which house automated teller machines, such as those found in parking lots of shopping centers, which are to be reported separately in the applicable construction classifications.

0606-12 Coin- or token-operated amusement devices in stores or shopping malls, N.O.C.: Installation, removal, service and/or repair

Applies to establishments engaged in the placement and servicing of coin- or token-operated amusement devices, not covered by another classification (N.O.C.), within stores and shopping malls for use by the general public. Operations contemplated by this classification include, but are not limited to, the installation, service, repair, or removal of the devices, such as, but not limited to, video games, pinball

machines, carousels and small amusement rides for children. Establishments subject to this classification generally are not involved in the operations of arcades or amusement rides. If an establishment subject to this classification also operates a video or amusement arcade, such operations may be reported separately in classification 6406 provided all the conditions of the general reporting rules covering the operation of a secondary business have been met.

AMENDATORY SECTION (Amending WSR 03-23-025, filed 11/12/03, effective 1/1/04)

WAC 296-17-538 Classification 1103.

1103-00 Coal and solid fuel dealers - yard operations

Applies to establishments engaged in the sale and delivery of coal, pressed wood fiber logs (fire logs), wood stove pellets, wood chips, and sawdust. Operations contemplated by this classification include all related store, yard and delivery operations when conducted by employees of employers having operations subject to this classification.

This classification excludes all manufacturing operations which are to be reported separately in the classification applicable to the material and process used, and all mining operations which are to be reported separately in the applicable classification.

1103-02 Firewood dealers - yard operations

Applies to establishments engaged in the sale of firewood. This classification is limited to establishments operating a firewood sales lot where customers either pick up firewood or the dealer will make deliveries from. Operations contemplated by this classification are limited to yard and delivery operations.

This classification excludes firewood cutting operations conducted in timber or forest lands and firewood sales lots conducted from a logging landing which are both to be reported separately in the applicable logging classification.

Special note: Establishments subject to this classification may purchase pre-cut firewood from other nonrelated businesses or may have a cutting crew. The only cutting operations allowed in classification 1103 are those conducted in the sales lot.

1103-04 Composting

Applies to establishments engaged in composting yard waste or other materials. Depending on the type of yard waste accepted, grinders may be used to reduce the size of the material for faster composting. Once the material is an acceptable size for composting, it may be placed in static curing piles, turned periodically to aerate until it is adequately decomposed, then sometimes screened. Another method of curing is to place the waste material in long rows, called "windrows" which are turned periodically. Other establishments, either operated privately or by municipalities, may use processed and dewatered sludge which is mixed with other materials such as shredded yard waste, sawdust, or other wood waste. The mixture must be designed to have the right degree of moisture and air to maintain a temperature of between 130 and 160 degrees Fahrenheit. The end product, in either instance, is a "Class A" pathogen product, meaning it can be used in soil for raising vegetables and is referred to as "man-

ufactured" soil. This classification includes delivery when performed by employees of an employer having operations subject to this classification.

~~((1103-05 Pallet recycle service—yard operations~~

~~Applies to establishments engaged in the sale and/or repair of used wood pallets to others. Operations contemplated by this classification are limited to the pick up of discarded used pallets from stores, warehouses, or other facilities, transporting of pallets to the establishment's sorting and storage yard where they are sorted by grade and size, reloading of pallets onto trucks, and delivery of pallets to customers.~~

~~This classification excludes all pallet repair activities which are to be reported separately in classification 2903.))~~

1103-06 Top soil, humus, peat and beauty bark dealers - yard operations

Applies to establishments engaged in the sale of soils, humus, peat, and beauty bark to others. Operations contemplated by this classification are limited to the receipt of soils, peat, humus, bark and compost in bulk and the subsequent load out of bark, soil and related organic matter into customer vehicles. This classification includes custom mixing soils, incidental sales of landscaping rock, sand, gravel, and crushed rock, and delivery when performed by employees of an employer subject to this classification.

This classification excludes contract delivery by non-dealer employees who are to be reported separately in classification 1102, and digging of soils/humus/peat/gravel or grinding of bark which are to be reported separately in the applicable classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-568 Classification 2903.

2903-00 Wood chip, hog fuel, bark, bark flour, fire log and lath: Manufacturing

Applies to establishments engaged in the production of products such as, but not limited to, wood chips, hog fuel, bark, bark flour, fire logs, kindling, excelsior, particleboard, and similar wood by-products.

Wood chips are small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;

Hog fuel is made by grinding waste wood in a hog machine, is larger and coarser than wood chips, and is used to fire boilers or furnaces, often at the mill or plant at which the fuel was processed;

Bark is the outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

Bark flour is finely ground bark used as a filler or extender in adhesives;

Fire logs are made by forming sawdust into a log about 15 inches long and are used for fuel;

Lath is a narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

Excelsior is the curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products;

Particleboard is a panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

The degree of manual labor required to make these products varies depending upon the size of the operation and sophistication of the equipment. Raw materials include, but are not limited to, logs, mill waste, bark, sawdust, or chips. Machinery includes, but is not limited to, rip saws, cut-off saws, loaders, debarkers, hog chippers, hammer mills, conveyors, sorting screens, and storage bunkers. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification. The operation of portable chipping or debarking mills is included in this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-06 Wood furniture stock: Manufacturing

Applies to establishments engaged in the manufacture of wood furniture stock such as, but not limited to, tabletops, table or chair legs, chair backs or seats, panels for beds, turning squares (bolts of wood which are shaped on lathes into furniture legs) and furniture squares (standard sized - usually 2" x 2" -pieces of wood used in constructing frames of upholstered furniture). Stock may be mass produced or custom. Raw material includes dimensional lumber from hardwoods such as, but not limited to, ash or alder. If the lumber is not presurfaced, it is sanded and/or planed. It is cut to desired width and thickness with a rip saw; and cut to desired length with a cut-off saw. Pieces may be beveled with a table saw, bored with a horizontal boring machine, molded or shaped, and joints formed using a mortise, tenon or jointer. Finished stock is banded and/or palletized and usually shipped unfinished and unassembled to furniture manufacturing plants. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; manufacture of wood furniture and caskets which is to be reported separately in classification 2905; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-08 Wood door, jamb, window, sash, stair, molding and miscellaneous millwork: Manufacturing, prehang-ing or assembly

Applies to establishments engaged in the manufacture, prehanging or assembly of wooden doors, door components, jambs, windows, sashes, stairs, mantels, moldings, turnings,

and miscellaneous millwork such as, but not limited to, shutters, door and window grilles, skylights, pillars, wainscot, and similar architectural ornaments. Doors manufactured in this classification may be for residential or commercial use, such as, but not limited to, garage, closet, warehouse, interior and exterior; they may be odd-size or standard, panel, solid, louver, hollow core, sliding, bifold and overhead. Component parts for stairs include, but are not limited to, risers, tread, balusters, hand rails, and newel posts. Fireplace mantels include both the shelf and the complete ornamental facing surrounding the firebox. Moldings include, but are not limited to, picture moldings, chair rails, quarter round, coves, and architectural molding and base. Raw materials include, but are not limited to, cut stock lumber, plywood, veneer, particleboard, cardboard, plastic laminates, glue, hardware, glass, and metal. Cutting and fitting of glass and metal components for doors and windows is an integral phase of the manufacturing process and is included within the scope of this classification. Machinery includes, but is not limited to, various types of saws (table, panel, rip, cut-off, radial arm, trim, circular, band, jig, and miter), molders, shapers, routers, planers, finger jointers, mortises, tenons, lathes, presses, various types of sanders, drill presses, hand drills, boring machines, pneumatic nail, screw and staple guns, spray guns, chisels, air compressors, glue spreaders, drying ovens, overhead vacuum lifts, conveyor systems, fork lifts, and pallet jacks. Some door manufacturers have "door machines" which route impressions in jambs and blanks for hinge placement, and bores holes in the blank for knobs and locks; some have computerized overhead vacuum lights, electronic gluers, hydraulic lift pits, or electronically controlled saws. Prehanging doors involves boring holes in door blanks for knobs and locks, routing impressions into the blanks and jambs for hinge replacement, mounting hinges, trimming door and jamb replacements to exact size. Finishing the products with stain, paint, oil, or lacquer is included in this classification when done by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops, and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; the manufacture of metal doors, jambs, windows, and sashes which is to be reported separately in classification 3404; and sawmill operations which are to be reported separately in classification 1002.

Special note: Lumber yards and building materials centers subject to classification 2009 are to be assigned classification 2903-08 in addition to their basic classification if they prehang door blanks.

2903-10 Wood box, shook, pallet, bin: Manufacturing, assembly, or repair

Wood pallet dealer/recycle operations: Including repairs of pallets

Applies to establishments engaged in the manufacture, assembly, or repair of wood pallets, boxes, bins, shook, shipping crates, and storage containers. A shook is a set of unassembled sawn wood components for assembling a packing box or barrel. Shooks are usually sold to box assembly plants. Pallets may be constructed out of vertical and horizontal runners of dimensional lumber to form a slatted pallet or by attaching three evenly spaced rows of wooden blocks between two sheets of solid plywood to form a lid-block pallet. Usually, the manufacturer subject to this classification picks up pallets, boxes or shipping crates from the customer, brings them to the plant for repair, reconditioning, or rebuilding, then returns them to the customer. However, the *assembly or repair* of bins is often done at the customer's location, which is still to be reported in classification 2903-10 when performed by employees of the bin manufacturer. Raw materials include, but are not limited to, dimensional lumber, plywood, nails, staples, screws, glue, and paint. Machinery includes, but is not limited to, a variety of saws (table, rip, radial arms, cut-off, band or trim), planers, molders, drills, boring machines, notchers, nailing machines, pneumatic stapler, screw and nail guns, conveyors, roll cases, sorting tables, pallet jacks, and fork lifts. Incoming lumber is cut to specified lengths, widths, and thicknesses with saws, then planed, bored, tongued, and grooved. Pieces are nailed, stapled or glued together to form finished products. Cut ends of pallets, bins, and boxes may be painted for design or for color identification purposes. Customer's name may be imprinted on the product using stencils and paint or wood burning tools. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes (~~all activities away from the shop or plant (except bin assembly at a customer's location) which are to be reported separately in the classification applicable to the work being performed; pallet dealers which are to be reported separately in classification 1103;~~) lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002. Nonwood pallet/bin dealers are to be reported in the appropriate metal, fiberglass, or plastics classification.

~~((**Special note:** Classification 1103 for pallet dealers does not include the repair or assembly of pallets. Any assembly or repair of pallets is to be reported in classification 2903-10.))~~

2903-12 Wood products, N.O.C.: Manufacturing or assembly

Applies to establishments engaged in the manufacture or assembly of miscellaneous wood products which are not covered by another classification (N.O.C.), including, but not limited to, ladders, utility pole crossarms, beams, barricades, cable spools, slugs or ends for paper rolls, attic vents, prefabricated wall panels, gazebos, saunas, solariums, lattice panels, mall and park furnishings, playground equipment, docks and floats, parade floats, boat trailer bunks, cattle feeders,

tree spreaders, tack strip, exhibit booths; weaving looms, and pottery wheels. Finishing of the product with stains or other lacquers is included in this classification when done by employees of employers subject to this classification. Raw materials include, but are not limited to, dimensional lumber, plywood, particleboard, lath, logs, glue, staples, screws, nails, stains, paints, oils, and lacquers. Operations require substantial amounts of machine work, as well as hand assembly. Machinery includes, but is not limited to, saws (table, panel, cut-off, band, jig, miter, or chain), sanders, planers, routers, shapers, molders, jointers, drill presses, boring machines, hydraulic presses, pneumatic nail, screw and staple guns. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of wood household and sporting goods which is to be reported separately in classification 2909; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; lumber remanufacturing which is to be reported separately in classification 2903-26; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

2903-13 Veneer products: Manufacturing

Applies to establishments engaged in the manufacture of veneer products by laminating rough veneer to plywood or particleboard and applying plastic or polyester overlays. Laminated veneer sheets are generally sold to other manufacturers and used in the construction of items such as, but not limited to, cabinets, countertops, furniture, wall board, flooring, and shelving. Veneer products generally require no pre-finishing with paint, stain or lacquer. Raw materials include, but are not limited to, plywood, particleboard, polyester, paper, polyethylene, fiberglass, plastic laminates and glue. To make veneer products, sheets of rough veneer are individually fed through glue spreader machines which apply glue to both sides. Veneer sheets may be laminated to other veneer or to plywood or particleboard, cut to size with saws, then plastic or polyester overlays applied. Laminated sheets are fed through either hydraulic cold or hot presses to be bonded and cured. More sophisticated presses automatically feed the sheets through, and shear the laminated panels to standard 4' x 8' or 4' x 10' dimensions, or to specified lengths and widths for custom orders. Forklifts are used to move materials. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of household and sporting goods wooden ware which is to be reported separately in classification 2909; the manufacture of wood products not covered by another classification (N.O.C.) which is to be reported separately in classifica-

tion 2903-12; the manufacture of wood furniture and caskets which is to be reported separately in classification 2905; the manufacture of wood cabinets, countertops and fixtures which is to be reported separately in classification 2907; the manufacture of rough veneer which is to be reported separately in classification 2904-00; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

2903-20 Wood sign: Manufacturing

Applies to establishments engaged in the manufacture of interior or exterior signs made of wood or wood products. Raw materials include, but are not limited to, dimensional lumber, plywood, molding, acrylic, paint, stain, lacquer and hardware. When additional sizing is required, saws, such as table, panel, cut-off, or radial arm, are used to cut material to desired dimensions. Pieces may be further sized, shaped, and smoothed with routers, saws, planers, or sanders. Stain, paint, or other finishes may be applied as background colors, borders or designs, with pneumatic spray guns, airbrushes, or by hand. Lettering or designs can be painted directly on the sign, cut from separate stock and glued or screwed on, or carved, routed or sandblasted. Computer-cut vinyl lettering may also be applied. Sign painting and lettering is included in this classification when done by employees of the sign manufacturer. Hand drills or drill presses are used to mount wood lettering or designs, bore holes and attach hardware used in the subsequent installation of the sign. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the installation or removal of signs outside of buildings which is to be reported separately in classification 0403; the installation or removal of signs inside of buildings which is to be reported separately in classification 0513; sign painting or lettering on the inside of buildings which is to be reported separately in classification 4109; establishments that paint on or apply lettering to sign "backings" that are manufactured by others which is to be reported separately in classification 4109; the manufacture of metal or plastic signs which is to be reported separately in the classification applicable to the manufacturing process; and sawmill operations which are to be reported separately in classification 1002.

Special note: The majority of sign manufacturers also install their signs. Installation and removal of signs is to be reported separately.

2903-21 Wood truss: Manufacturing

Applies to establishments engaged in the manufacture of structural roof trusses, and/or ceiling and floor joists from wood or wood products. These products usually do not require a high degree of finishing work. Raw materials include, but are not limited to, dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8", which is kiln dried, machine stressed, and presurfaced), plywood, metal gussets, and hardware. Dimensional lumber is cut with gang, table, resaw, or radial arm saws. Cut stock is placed in a hydraulic jig assembly which holds the unassembled components in the properly aligned configuration. Pneumatic nailers are used to embed

the nail clips which connect each joint of the truss. A gantry, which is an overhead crane traveling along a bridge-like frame, is used to relocate the truss along the assembly line. The assembled truss is placed in a stationary or moveable press which attaches reinforcing triangular shaped metal plates called gussets at each joint or angle. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all installation activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of door jambs, windows, sashes, stairs, molding and miscellaneous millwork which is to be reported separately in classification 2903-08; lumber remanufacturing which is to be reported separately in classification 2903-26; and sawmill operations which are to be reported separately in classification 1002.

Special note: Truss manufacturers, whose primary customers are building contractors and building supply dealers, usually deliver their product. Delivery to the construction site often entails placing trusses onto the roof top, using boom lifts mounted on the delivery truck, which is included in this classification when performed by employees of employers subject to this classification.

2903-26 Lumber: Remanufacturing

Applies to establishments engaged in lumber remanufacturing, which is the process of converting cants, plywood, or lumber into a more specialized or higher grade product. Cants are large slabs of wood, usually having one or more rounded edges, which have been cut from logs. The incoming stock is generally green, rough-cut, and may be owned by the customer or by the remanufacturer. Machinery includes, but is not limited to, a variety of saws, (chop, resaw, trim, rip, table, radial arm, and cut-off), planers, surfacers, sanders, molders, groovers, finger jointers, tenoners, gluers, kiln dryers, fork lifts, and trolley cars. Stock is kiln dried, resawed, planed, grooved, or otherwise treated, according to customer specification if the customer owns it, or to standard cuts if it is for resale. Remanufacturers sell lumber to construction contractors or manufacturers that use it in the construction of products such as, but not limited to, paneling, countertops, framing studs, siding, decking, fencing, railroad ties, or molding. Remanufacturers generally do not finish the material with stain, paint, or lacquer. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; the manufacture of roof trusses and ceiling and floor joints which is to be reported separately in classification 2903-21; veneer manufacturing which is to be reported separately in classification 2904; establishments that exclusively kiln dry and/or treat lumber with preservatives, fire retardants, or insecticides, and that do not perform any remanufacturing operations which are to be reported separately in classification 1003; and sawmill operations which are to be reported separately in classification 1002.

2903-27 Ridge cap and/or shim: Manufacturing

Applies to establishments engaged in the production of shims and ridge caps. Shims are thin wedges of wood used for filling spaces or leveling. Ridge caps are shingles which are used as a covering for roof peaks. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes all activities away from the shop or plant which are to be reported separately in the classification applicable to the work being performed; veneer manufacturing which is to be reported separately in classification 2904; and sawmill operations which are to be reported separately in classification 1002.

Special note: This classification must be assigned only by Classification Services after a field inspection of the business has been performed. If a classification must be assigned prior to the field inspection, assign classification 1005-02.

2903-28 Wood boat: Manufacturing, repair, or refinish

Applies to establishments engaged in manufacturing, repairing, or refinishing wooden boats. Raw materials include, but are not limited to, dimensional lumber, plywood, glue, staples, screws, nails, stains, paints, oils, and lacquers. Machinery includes, but is not limited to, band saws, lathes, drill presses, jointers, planers and sanders. Other than pleasure craft, very few wooden boats have been manufactured over the last 50 years. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

This classification excludes the manufacture of fiberglass boats which is to be reported separately in classification 3511, and the manufacture of metal boats which is to be reported separately in the classification applicable to the materials used and work being performed.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-58201 Classification 3405.

~~(3405-01 Aircraft parts, N.O.C.: Manufacturing~~

~~Applies to establishments engaged in the manufacture of aircraft parts not covered by another classification (N.O.C.); usually from steel and aluminum mixes and exotic metals. For the purpose of this rule, aircraft parts means the component parts making the aircraft operative and becoming part of the aircraft when being manufactured by the aircraft manufacturing company. The component parts manufactured in this classification are usually small, light weight, and can easily be held in the hand. Machinery includes, but is not limited to, mills, lathes, grinders, and forklifts. Computer Numeric Controlled (CNC) equipment is used most of the time for many of the parts being mass produced. Once pieces are cut and milled, they are usually deburred, then inspected and prepared for shipping in separate areas. Businesses in this classification routinely employ engineers and draftsmen who perform office work only who may be reported in classification 4904 provided all the conditions in the general reporting rule~~

covering standard exception employees have been met. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Special note: This classification is not to be assigned to an employer who has operations reported separately in classifications 3402, 3404, 3510, 3511, 3512, or 5201 unless all the conditions in the general reporting rule covering the operation of a secondary business have been met.)

3405-02 Precision machined parts and products, N.O.C.: Manufacturing

Applies to establishments engaged in the manufacture of parts and products not otherwise classified (N.O.C.) of various sizes and metal compositions which are primarily produced with computer numeric controlled machinery and equipment and are frequently used by aerospace, aircraft, automotive, medical, and scientific industries.

This classification excludes establishments engaged in the manufacture of hand tools, hardware, or similar parts or products, N.O.C. which are not produced with computer numeric controlled machinery and equipment. This classification excludes all foundry operations involving the preparation of castings, the pouring of metal, and shake out operations which are to be reported separately in classification 5103.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-524 Classification 0603.

0603-00 Machinery: Installation, service and/or repair, N.O.C.; Millwright work, N.O.C.

Applies to contractors engaged in the installation, service and/or repair of heavy machinery or equipment at a customer's location which is not covered by another classification (N.O.C.). Millwright work and the service or repair of engines and gas machines is also included. A millwright is a technician who specializes in installing and repairing industrial machinery. Typical customers include, but are not limited to, wood, metal and plastic manufacturing plants, fuel refineries, and mills. Types of machinery installed and repaired includes, but is not limited to, escalators, conveyor systems, printing presses, lathes, mill saws, dairy equipment and wind machines. (Store operations of dairy equipment/supply dealers or wind machine dealers are to be reported separately in classification 6407.) Work contemplated by this classification includes, but is not limited to, the pouring of a concrete pad on which the machinery will be installed, cutting and welding of brackets and mountings, assembling component parts, any incidental electrical connections needed to complete the installation, and calibrating the controls and testing the machinery's operation when done by employees of an employer having operations subject to this classification. Placement of heavy machinery must often be done with cranes or by rigging hoists. This classification also includes the dismantling and removal of machinery and equipment covered by this classification.

0603-05 Dynamos, electrical generators and turbines: Installation, service and/or repair

Applies to contractors engaged in the installation, service and/or repair of dynamos, electrical generators and turbines at a customer's location. A dynamo is a generator of direct electrical current; a turbine is a mechanism that converts moving fluid into mechanical power. Customers include, but are not limited to, electrical utilities, manufacturing plants, mills, and telecommunications companies. Work contemplated by this classification includes, but is not limited to, preparation of a concrete pad on which the machinery will be installed, cutting and welding of brackets and mountings, assembly of component parts if necessary, any incidental electrical connections needed to complete the installation, and calibrating and testing the machinery's operation when done by employees of an employer having operations subject to this classification. Placement of heavy machinery must often be done with cranes or by rigging hoists. Also included is the dismantling and removal of dynamos, generators and turbines.

This classification excludes the installation of underground overhead power lines and poles by an electric utility company which is to be reported separately in classification 1301; the installation of overhead power lines by a nonelectric utility contractor which is to be reported separately in classification 0509; and the installation of underground power lines by a nonelectric utility contractor which is to be reported separately in classification 0107.

0603-07 Industrial plant maintenance by contractor

Applies to contractors engaged in maintaining, repairing and installing machinery on a long-term contract basis for customers at the customers' location. Customers include, but are not limited to, manufacturing or chemical plants, petroleum refineries, food processing plants and mills. Work contemplated by this classification includes all routine maintenance and repair of a customer's equipment such as, but not limited to, cleaning, oiling and regularly scheduled maintenance and replacement of machinery or machinery parts, equipment and other mechanical installations that are part of the customer's building when done by employees of an employer having operations subject to this classification.

0603-08 Metal playground equipment, portable bleachers or stages, above ground swimming pools: Installation, dismantling, and/or repair

Applies to contractors engaged in the installation, dismantling, and/or repair of metal playground equipment, portable bleachers or stages, and above ground swimming pools. Playground equipment includes, but is not limited to, swings, monkey bars, merry-go-rounds, and slides. Work contemplated by this classification (~~for the erection of playground equipment and portable bleachers or stages~~) includes all operations necessary for the erection of metal playground equipment including, but not limited to, boring holes in the ground (usually with an auger) into which the various pieces of equipment will be set in concrete, any incidental cutting, welding, drilling and bolting of the tubular steel components which are usually from one to four inches in diameter, and fastening on the chains, swings, handlebars, sliding surface, platforms, bench seats, or other components. (~~Activities in~~

~~the installation of above ground pools are similar.~~) This classification also includes the application of any finish material or paint when done by employees of an employer having operations subject to this classification.

This classification excludes the installation of wood playground equipment which is to be reported separately in classification 0516.

0603-09 Commercial equipment: Installation, dismantling, service, and/or repair

Applies to contractors engaged in the installation, dismantling, service, and/or repair of commercial equipment such as, but not limited to, commercial dishwashing units, bakery and restaurant ovens, stoves, grills, sanitizers, steam tables, car washing equipment, commercial laundry equipment, electric entry doors, dry cleaning equipment, gas pumps, or parimutuel totalizer equipment at horse racing facilities. Work contemplated by this classification includes, but is not limited to, placing and leveling the equipment, any assembly of component parts if necessary, connecting or bolting to the wall or floor, making any necessary incidental plumbing or electrical connections, and calibrating and testing the equipment when done by employees of an employer having operations subject to this classification. Some pieces of equipment in this classification may be large enough that they must be moved and positioned with hoists or cranes. Also included is the dismantling and removal of commercial equipment.

AMENDATORY SECTION (Amending WSR 04-18-025, filed 8/24/04, effective 10/1/04)

WAC 296-17-527 Classification 0607.

0607-11 Household appliances: Installation, service and/or repair by nonstore service or repair company; dealers of used household appliances

Applies to establishments engaged in the installation, service and/or repair of electrical or gas household appliances and to dealers of used electrical or gas household appliances. Many establishments covered by this classification have small retail store operations where they offer reconditioned or second hand appliances for sale, a parts department, and an area where appliances brought into the shop are repaired. Although this classification deals primarily with service away from the shop, the store, parts department and shop operations are included within the scope of this classification. The term "household appliances" includes, but is not limited to, stoves, ovens, ranges, dishwashers, refrigerators, trash compactors, television sets, residential type garage door openers, washing machines, and clothes dryers. This classification also applies to the installation, service or repair of automated teller machines. Repair services provided by establishments subject to this classification may also include related smaller appliances such as video players, portable television sets, stereo systems, microwave and toaster ovens, blenders, coffee makers and mixers. The *servicing* of water softening systems, coffee and juice machines, and beer taps is also included in this classification.

This classification excludes dealers of new household appliances who are to be reported separately in classification

6306; installation, service, and/or repair of commercial appliances such as those used in laundries, bakeries, and restaurants which is to be reported separately in classification 0603; installation, service, and repair of commercial garage doors and openers which is to be reported separately in classification 0603; installation of water softening systems which is to be reported separately in classification 0306; and small table top or counter top appliance stores which are to be reported separately in classification 6406.

Special note: Classification 0607 is distinguishable from classification 6306-02 operations in that appliance stores covered in classification 6306-02 are engaged primarily in the sales of new appliances. Although classification 6306 includes repair of appliances, most repairs are related to warranty work and represent a minor part of the business. By contrast, the repair of appliances in classification 0607 is the primary activity of the business.

0607-16 Television antenna or satellite dish: Installation, removal, service and/or repair

Applies to establishments engaged in the installation, removal, service and/or repair of television antennas or satellite dish receiving units. Operations contemplated by this classification are limited to rooftop installation of television antennas or ground or rooftop-mounted satellite dish reception units. Establishments covered by this classification will generally employ technicians and installers to install systems and trouble shoot reception problems. Equipment is limited primarily to delivery trucks, vans, ladders, and small power and/or hand tools.

This classification excludes specialty contractors who install, remove, service or repair antennas, dish units, and/or other transmitting/receiving apparatus to a structure covered by classification 0508, who are to be reported separately in classification 0508; and establishments engaged in the sale of new console type and big screen televisions who also sell and install antennas which are to be reported separately in classification 6306.

0607-17((A)) Safes or vaults(~~private mail boxes, or safe deposit boxes~~): Installation, removal, service and/or repair,

Lock sets and/or dead bolt locks: New installation

Applies to contractors engaged in the installation, removal, service and/or repair of all types of safes or vaults regardless of size or application, private mail or postal boxes, or safe deposit box units within buildings. Safes and vaults are found in businesses such as, but not limited to, banks, jewelry stores, rare coin and stamp stores, grocery stores, and gasoline service stations, as well as in private residences. Services contemplated by this classification include, but are not limited to, safe opening services.

~~((0607-17B Lock sets and/or dead bolt locks: New installation~~

~~Applies to the))~~ **New installation** of lock sets and/or dead bolt locks on buildings or structures by contractor or by employees of a locksmith **also applies to this classification.** The term new installation applies to installing a lock set (locking doorknob) or a dead bolt where none previously existed. The process consists of measuring and marking where the unit is to be placed on the door, boring holes into

the door to accept the lock set or dead bolt lock, and installing the lock set unit using a power drill and basic hand tools.

This classification excludes the installation of a *replacement* lock set or dead bolt lock unit by employees of a locksmith, and locksmith store operations which are to be reported separately in classification 6309.

0607-18(A) Window/door blinds, shades, curtains and drapes: Installation

Applies to contractors and employees of store operations who are engaged in the installation of indoor or outdoor window coverings, such as, but not limited to, blinds, shades, screens, exterior roll shutters and draperies or curtains, but does not include awnings. The process consists of marking the location of covering on the frame or opening, securing brackets or hardware, rods and poles, and installing the covering.

This classification excludes the installation of window and door awnings which is to be reported separately in the applicable classification, and the manufacture of coverings which is to be reported in the applicable classification.

Special note: Care should be taken when considering the assignment of a store classification to an establishment engaged in the installation of coverings to verify that a store exists. It is common for establishments subject to this classification to have show rooms to help customers visualize covering products available for sale. These establishments have little or no product available for immediate sale, as most items are special order from the manufacturer. A bona fide window/door covering store will have a large assortment of coverings, as well as related home interior products such as, but not limited to, pillows, small rugs, and accent pieces, readily available for sale to customers.

0607-19 Advertising or merchandise display: Set up or removal within buildings by nonstore employees

Applies to contractors engaged in the set up or removal of advertising or merchandise displays within buildings for retail or wholesale store customers. Operations contemplated by this classification will vary from seasonal panoramas with extensive carpentry, painting, and art work to dressing mannequins to be displayed in store windows.

This classification also applies to establishments engaged in providing merchandising services, not covered by another classification, (N.O.C.), without the responsibility of delivering products to the customer's place of business. Merchandising services contemplated by this classification include, but are not limited to, taking inventory of goods on hand, restocking, reordering, removing outdated or damaged merchandise from shelves, and/or assembling temporary displays.

This classification excludes employees of store operations engaged in setting up displays who are to be reported separately in the applicable store classification as this is a common store activity, and merchandising establishments or employees who deliver products to their customer's place of business, and may also perform related merchandising functions, who are to be reported separately in classification 1101.

0607-21 Meat slicer or grinder: Installation, service and/or repair

Applies to contractors and employees of equipment manufacturers engaged in the installation service and/or repair of meat cutting, slicing, or grinding equipment within stores, restaurants, or processing plants. Repair may be performed at the customer's location or in a shop operated by an employer subject to this classification. This classification includes repair shops, field technicians, installers, and warehouse or parts department employees.

Special note: Establishments subject to this classification generally do not have store operations. Equipment is generally ordered from the manufacturer or distributor and shipped to the customer's location where it will be installed. In the event that an establishment subject to this classification has a store operation it is included within classification 0607.

0607-22 Protective bumpers: Installation

Applies to contractors engaged in the installation of protective bumpers on structures such as, but not limited to, store loading docks for freight or cargo. Operations contemplated by this classification are limited to measuring the dock to be fitted with a rubber bumper, finish cutting or otherwise fabricating the rubber pieces to fit the required application, and fastening the dock bumper with the use of hand tools. Dock bumpers are made of rubber from recycled tires or similar pliable materials.

This classification excludes the manufacture of loading dock bumpers which is to be reported separately in the applicable manufacturing classification.

0607-23 Cellular phone systems or audio components: Installation in vehicles, service and repair

Applies to establishments engaged in the installation of cellular phone systems and/or audio components in vehicles. Audio components include, but are not limited to, radios and stereo systems, speakers and amplifiers, alarm systems, television units, antennas, two-way radio systems. This classification applies to installation employees of stores that sell products as well as to auto service centers that specialize in the installation of products covered by this classification.

This classification excludes retail and wholesale store operations which are to be reported separately in the applicable store classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-701 Classification 6306.

**6306-00 Stores: Furniture - wholesale or retail
Stores: Billiard or pool table - wholesale or retail**

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique household furniture. This classification also includes the sale of related items such as, but not limited to, lamps, bedding, pillows, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with a furniture store operation. This classification includes the delivery and the incidental repair of merchandise sold. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. The installation of

carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and is readily available for sale and delivery to the customer. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, a furniture store could bid on a job to carpet all units of an apartment complex. If the carpet is ordered from the factory as opposed to carpet carried at the store and in the stores inventory, then the installation is to be reported separately in classification 0502. This classification also applies to stores that sell billiard or pool tables.

Special note: Care should be exercised when considering this classification for antique or used furniture stores since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

6306-01 Stores: Furniture - rental

Applies to establishments engaged in the rental of new, used, or antique household furniture. This classification also includes the sales of related items such as, but not limited to, lamps, bedding, pillows, framed pictures, art pieces and sculptures when sold in connection with a furniture rental store operation. This classification includes the delivery and the incidental repair of merchandise rented. Incidental repair in this classification is limited to such activities as the repair or cleaning of upholstery or fixing a small scratch on a table. This classification also applies to establishments that provide rent-to-own purchasing options, and to establishments engaged in the sale or rental of hospital beds, motorized wheelchairs and similar patient appliances.

Special note: Care should be exercised when considering this classification for an antique or used furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing, or upholstery work which are to be reported separately in the applicable service or repair classification.

6306-02 Stores: Appliance - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of gas, electric, or propane household appliances. Household appliances include, but are not limited to, refrigerators, freezers, stoves, range tops, trash compactors, washing machines, clothes dryers, television consoles, big screen tele-

visions, and television antennas or satellite dish receiving units. Appliance stores will routinely carry smaller appliances which are generally referred to as counter top units which include, but are not limited to, mixers, blenders, microwave ovens, toasters and espresso machines and are included in this classification when sold in connection with the appliance store operation. This classification covers the sale of primarily new appliances although establishments subject to this classification accept trade-ins and sell some used appliances. Also included is the incidental repair of appliances sold by the appliance store, parts departments employees, and the delivery of products sold. The contract installation of any merchandise which must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an appliance store could bid on a job to supply appliances for all units of an apartment complex. If the appliances are ordered from the factory as opposed to items carried at the store and in the stores inventory then the installation is to be reported separately in classification 0607. Establishments engaged in the sale of commercial appliances may be assigned to this classification provided such establishments operate a bonafide store operation. Generally, however, commercial appliances such as those used to equip bakeries and restaurants are factory ordered items which are made to a customer's specifications from a manufacturer's representative.

Special note: Care should be taken when considering this classification for an antique or used appliance store since such establishments are primarily engaged in reconditioning appliances (service and repair) for resale and are to be reported separately in classification 0607.

6306-03 Stores: Piano or organ - wholesale or retail

Applies to establishments engaged ((primarily)) in the wholesale or retail sale of new pianos and organs. This classification includes all operations associated with the store including service, repair, and delivery. It is common for stores subject to this classification to carry other musical instruments such as, but not limited to, guitars, drums and wind instruments as well as provide instructions on the use of instruments.

This classification excludes establishments engaged exclusively in piano tuning which are to be reported separately in classification 4107; stores that sell musical instruments other than pianos or organs which are to be reported separately in classification 6406; and establishments engaged in the reconditioning of organs and pianos accompanied by the related sales of reconditioned pianos and organs which are to be reported separately in classification 2906.

6306-06 Stores: Office furniture - wholesale or retail

Applies to establishments engaged in the wholesale or retail sale of new, used, or antique office furniture. This classification also includes the sales of related items such as, but not limited to, lamps, floor and window coverings, framed pictures, art pieces and sculptures when sold in connection with an office furniture store operation. This classification includes the delivery of furniture and related items, and the incidental repair of office furniture items sold by the office furniture store such as upholstery repair and cleaning. The

installation of carpet and window coverings may be included in this classification if such merchandise is part of the store's inventory and readily available for sale and delivery to the customer. The contract installation of any merchandise that must be ordered from a factory or distributor to fulfill the terms of contract is to be reported separately in the classification applicable to the work being performed. For example, an office furniture store could bid on a job to supply modular desk units for a large office complex. If the desk units are ordered from the factory as opposed to units carried at the store and in the stores inventory, then the installation is to be reported separately in classification 2002.

Special note: Care should be exercised when considering this classification for an antique or used office furniture store since such establishments may actually be a furniture refinishing business or an upholstery shop which are to be reported separately in the appropriate classification. Repair work covered by this classification (6306) is limited to such activities as fixing a small scratch on a table, replacing a piece of glass or mirror in a china or curio cabinet, sewing on a button or adjusting a reclining chair mechanism. Classification 6306 should not be assigned to an establishment that is engaged in furniture refinishing or upholstery work.

AMENDATORY SECTION (Amending WSR 99-18-068, filed 8/31/99, effective 10/1/99)

WAC 296-17-764 Classification 7202.

7202-00 Real estate agencies

Applies to establishments engaged in buying, selling, renting, and appraising real estate for others. A real estate licensee will study property listings, accompany clients to property sites to show the property, and assist in the completion of real estate documents such as real estate contracts, leases, and seller's disclosure documents. They will also hold open houses, conduct negotiations, and assist at the closing. This classification includes clerical office and sales personnel. Real estate sales personnel, including agents, are considered to be workers of the broker or real estate agency employing them.

This classification excludes building and/or property management services which are to be reported separately in classification 4910.

WSR 05-12-032

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed May 24, 2005, 9:16 a.m., effective June 30, 2005]

Effective Date of Rule: June 30, 2005.

Purpose: The department is proposing a fee increase for the following rules: Contractor registration (chapter 296-200A WAC), elevators (chapter 296-96 WAC), and factory assembled structures (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC).

The purpose of this rule making is to increase fees 3.03% (rounded down to the nearest tenth of a dollar), which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005. The fee increase is necessary to help cover the costs of ongoing services of the contractor registration, factory assembled structures, and elevator programs.

Citation of Existing Rules Affected by this Order: Amending WAC 296-96-00922 What are the fees associated with licensing?, 296-96-01010 What are the installation permit fees for conveyances, material lists, and hoists and how are they calculated?, 296-96-01012 What are the permit fees for alterations to conveyances, material lists, and hoists and how are they calculated?, 296-96-01027 Are initial installation permit fees refundable?, 296-96-01030 What is the process for installation and alteration plan approval?, 296-96-01035 Are there inspection fees?, 296-96-01040 What is the fee for testing and inspecting regular elevators used as temporary elevators to provide transportation for construction personnel, tools, and materials only?, 296-96-01045 What are the inspection requirements and fees for conveyances in private residences?, 296-96-01050 How did I get a supplemental inspection?, 296-96-01055 Are technical services available and what is the fee?, 296-96-01060 Can I request an after hours inspection and what is the fee?, 296-96-01065 What are the annual operating permits fees?, 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and option requirements of chapter 70.87 RCW and this chapter?, 296-150C-3000 Commercial coach fees, 296-150F-3000 Factory-built housing and commercial structure, 296-150M-3000 Manufactured home fees, 296-150P-3000 Recreational park trailer fees, 296-150R-3000 Recreational vehicle fees, 296-150T-3000 Factory-built temporary worker housing fees, 296-150V-3000 Conversion vendor units and medical units—Fees, and 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration?

Statutory Authority for Adoption: Chapters 18.27, 43.22, and 70.87 RCW.

Adopted under notice filed as WSR 05-08-111 on April 5, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-150R-3000 Recreational vehicles fees, the fee increases were received and for the state plan increases, we decided to decrease the following:

- Design plan fees.
 - New plan review fee was changed to \$90.00.
 - Resubmittal fee was changed to \$65.00.
 - Addendum fee was changed to \$65.00.
- Quality control/manual fees.
 - Resubmittal fee was changed to \$65.00.
 - Addendum fee was changed to \$65.00.

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 21, 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 21, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Judy Schurke
for Gary K. Weeks
Director

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-00922 What are the fees associated with licensing? The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	\$(50.00) <u>51.50</u>
Elevator contractor/mechanic examination fee	Per application	\$(150.00) <u>154.50</u>
Reciprocity application fee*	Per application	\$(50.00) <u>51.50</u>
Elevator mechanic license	2 years	\$(100.00) <u>103.00</u>
Elevator contractor license	2 years	\$(100.00) <u>103.00</u>
Temporary elevator mechanic license	30 days	\$(25.00) <u>25.70</u>
Elevator mechanic/contractor timely renewal fee**	2 years	\$(100.00) <u>103.00</u>
Elevator mechanic/contractor late renewal fee***	2 years	\$(200.00) <u>206.00</u>
Training provider application/renewal fee	2 years	\$(100.00) <u>103.00</u>
Continuing education course fee by approved training provider****	1 year	Not applicable
Replacement of any licenses		\$(15.00) <u>15.40</u>

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Refund processing fee		\$(30.00) <u>30.90</u>
*	Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity agreement.	
**	Renewals will be considered "timely" when the renewal application is received on or prior to the expiration date of the license.	
***	Late renewal is for renewal applications received no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.	
****	This fee is paid directly to the continuing education training course provider approved by the department.	

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01010 What are the installation permit fees for conveyances, material lifts, and hoists and how are they calculated? Installation permit fees are based on the total cost of the conveyance and the labor to install the conveyance. The following permit fees apply to the construction or relocation of all conveyances and material lifts:

TOTAL COST OF CONVEYANCE	FEE
\$0 to and including \$1,000	\$(50.00) <u>51.50</u>
\$1,001 to and including \$5,000	\$(75.00) <u>77.20</u>
\$5,001 to and including \$7,000	\$(125.00) <u>128.70</u>
\$7,001 to and including \$10,000	\$(150.00) <u>154.50</u>
\$10,001 to and including \$15,000	\$(200.00) <u>206.00</u>
OVER \$15,000	\$(280.00) <u>288.40 plus</u>
Each additional \$1,000 or fraction thereof	\$(7.00) <u>7.20</u>

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01012 What are the permit fees for alterations to conveyances, material lifts, and hoists and how are they calculated? Permit fees are based on the total cost of the equipment, materials and labor to perform the alteration. The following permit fees apply to the alteration of all conveyances and material lifts:

TOTAL COST OF ALTERATION	FEE
\$0 to and including \$1,000	\$(50.00) <u>51.50</u>

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\$1,001 to and including \$5,000.....	(75.00) <u>77.20</u>
\$5,001 to and including \$7,000.....	(125.00) <u>128.70</u>
\$7,001 to and including \$10,000.....	(150.00) <u>154.50</u>
\$10,001 to and including \$15,000.....	(200.00) <u>206.00</u>
OVER \$15,000.....	(200.00) <u>206.00</u>
Each additional \$1,000 or fraction thereof.....	\$(7.00) <u>7.20</u>

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01027 Are initial installation permit fees refundable? Your initial installation permit fees are refundable if the installation work has not been performed minus a processing fee unless your permits have expired. No refunds will be issued for expired permits. All requests for refunds must be submitted in writing to the elevator section and must identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is ~~\$(30.00)~~ 30.90

AMENDATORY SECTION (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

WAC 296-96-01030 What is the process for installation and alteration plan approval? Prior to the start of construction, you must submit to the department for approval two copies of plans for new installations or major alterations. To be approved, the plan must comply with the latest adopted edition of the American Society of Mechanical Engineers (ASME), the National Electrical Code (NEC) and applicable Washington Administrative Codes (WAC). In addition, the plans must include all information necessary in determining whether each installation/alteration complies with all applicable codes. You must keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan must be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for reviewing your plans are:

For each installation/major alteration. ~~\$(25.00)~~ 25.70
 If more than two sets of plans are submitted, the fee for each additional set ~~\$(10.00)~~ 10.30

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01035 Are there inspection fees? Yes. The initial inspection of a conveyance or for the initial inspection of construction, alteration or relocation of a conveyance is included with your permit fee. Once the department has approved the initial installation of the conveyance you will be issued a temporary operating permit that is valid for 30 days. Prior to the expiration of the 30-day permit the application for an annual operating permit and the appropri-

ate fees must be paid to the department. Once the department has received the appropriate fees and application you will be issued your first annual operating permit. You are required to renew your annual operating permit yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is ~~\$(100.00)~~ 103.00 per conveyance plus \$50.00 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is ~~\$(100.00)~~ 103.00 plus ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is ~~\$(150.00)~~ 154.50 per conveyance plus ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is ~~\$(50.00)~~ 51.50 per conveyance. The individual requesting the variance must provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is ~~\$(25.00)~~ 25.70.

Note: You must provide the department with written approval from the building official, indicating that the conveyance is not required for building occupancy, when you apply to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is ~~\$(50.00)~~ 51.50. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit must be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be ~~\$(100.00)~~ 103.00 per conveyance and ~~\$(50.00)~~ 51.50 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

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AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01040 What is the fee for testing and inspecting regular elevators used as temporary elevators to provide transportation for construction personnel, tools, and materials only? (1) The fee for the inspecting and testing of regular elevators used as temporary elevators is \$~~((80.00))~~ 82.40, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department must be conspicuously posted in the elevator.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01045 What are the inspection requirements and fees for conveyances in private residences? (1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to inspection, you must complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating permit is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating permit, the following fee must be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence	\$ ((23.40)) <u>24.10</u>
Each inclined wheel chair lift in a private residence	((23.40)) <u>24.10</u>
Each vertical wheel chair lift in a private residence	((29.60)) <u>30.40</u>
Each dumbwaiter in a private residence.	((23.40)) <u>24.10</u>
Each inclined elevator at a private residence . . .	((83.20)) <u>85.70</u>
Each private residence elevator	((53.60)) <u>55.20</u>
Duplication of a lost, damaged or stolen operating permit	((10.00)) <u>10.30</u>

AMENDATORY SECTION (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

WAC 296-96-01050 How do I get a supplemental inspection? Any person, firm, corporation or governmental agency can request a supplemental inspection from the department by paying a fee of \$~~((60.00))~~ 61.80 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. This fee is for inspections occurring during regular working hours.

AMENDATORY SECTION (Amending WSR 03-12-045, filed 5/30/03, effective 6/30/03)

WAC 296-96-01055 Are technical services available and what is the fee? You may request elevator field technical services from the department by paying a fee of \$~~((60.00))~~ 61.80 per hour (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01060 Can I request an after hours inspection and what is the fee? You may request an inspection outside of normal business hours, which are 7:00 a.m. to 5:00 p.m., if an inspector is available and the inspection is authorized by the department. The minimum fee for an after-hours inspection is \$~~((75.00))~~ 77.20 and \$~~((75.00))~~ 77.20 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors. This fee is in addition to any other fees required for your project.

AMENDATORY SECTION (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

WAC 296-96-01065 What are the annual operating permits fees? An annual operating permit will be issued to you upon payment of the appropriate fee:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator	\$ ((100.00)) <u>103.00</u>
Each roped-hydraulic elevator	((125.00)) <u>128.70</u>
plus for each hoistway opening in excess of two	((10.00)) <u>10.30</u>
Each cable elevator	((125.00)) <u>128.70</u>

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plus for each hoistway opening in excess of two	((10.00)) <u>10.30</u>
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled	((10.00)) <u>10.30</u>
Each limited-use/limited-application (—LULA) elevator	((100.00)) <u>103.00</u>
Each escalator	((83.10)) <u>85.60</u>
Each dumbwaiter in other than a private residence	((53.60)) <u>55.20</u>
Each material lift	((100.00)) <u>103.00</u>
Each incline elevator in other than a private residence	((107.50)) <u>110.70</u>
Each belt manlift	((100.00)) <u>103.00</u>
Each stair lift in other than a private residence	((53.60)) <u>55.20</u>
Each wheel chair lift in other than a private residence	((53.60)) <u>55.20</u>
Each personnel hoist	((100.00)) <u>103.00</u>
Each grain elevator personnel lift	((83.10)) <u>85.60</u>
Each material hoist	((100.00)) <u>103.00</u>
Each special purpose elevator	((100.00)) <u>103.00</u>
Each private residence elevator installed in other than a private residence	((100.00)) <u>103.00</u>
Each casket lift	((83.10)) <u>85.60</u>
Each sidewalk freight elevator	((83.10)) <u>85.60</u>
Each hand-powered manlift or freight elevator	((56.30)) <u>58.00</u>
Each boat launching elevator	((83.10)) <u>85.60</u>
Each auto parking elevator	((83.10)) <u>85.60</u>
Each moving walk	((83.10)) <u>85.60</u>
Duplication of a damaged, lost or stolen operating permit	((10.00)) <u>10.30</u>

veyance who violates a provision of chapter 70.87 RCW or this chapter shall be subject to the following civil penalties:

- (a) Operation of a conveyance without a permit:
 - First violation
 - Second violation
 - Each additional violation
- (b) Installation of a conveyance without a permit:
 - First violation
 - Second violation
 - Each additional violation
- (c) Relocation of a conveyance without a permit:
 - First violation
 - Second violation
 - Each additional violation
- (d) Alteration of a conveyance without a permit:
 - First violation
 - Second violation
 - Each additional violation
- (e) (i) Operation of a conveyance for which the department has issued a red tag or has revoked or suspended an operating permit or operation of a decommissioned elevator
- (ii) Removal of a red tag from a conveyance
- (f) Failure to comply with a correction notice:
 - Within 90 days
 - Between 91 and 180 days
 - Between 181 and 270 days
 - Between 271 and 360 days
 - Each 30 days after 360 days

Note: Penalties cumulate

AMENDATORY SECTION (Amending WSR 04-12-047, filed 5/28/04, effective 6/30/04)

WAC 296-96-01070 What are the civil (monetary) penalties for violating the conveyance permit and operation requirements of chapter 70.87 RCW and this chapter? (1) Any licensee, installer, owner or operator of a con-

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- (g) Failure to submit official written notification that all corrections have been completed:
- | | |
|---------------------------------------|-----------------------|
| Within 90 days | \$(100.00) |
| | <u>103.00</u> |
| Between 91 and 180 days | ((250.00)) |
| | <u>257.50</u> |
| Between 181 and 270 days | ((400.00)) |
| | <u>412.10</u> |
| Between 271 and 360 days | ((500.00)) |
| | <u>515.10</u> |
| Each 30 days after 360 days | ((500.00)) |
| | <u>515.10</u> |

(2) A violation as described in subsection (1)(a), (b), (c), and (d) of this section will be a "second" or "additional" violation only if it occurs within one year of the first violation.

(3) The department must serve notice by certified mail to an installer, licensee, owner, or operator for a violation of chapter 70.87 RCW, or this chapter.

Note: Penalties cumulate

- (h) Failure to notify the department of each accident to a person requiring the services of a physician or resulting in a disability exceeding one day may result in a ~~\$(500)~~ 515.10 penalty per day. The conveyance must be removed from service until the department authorizes the operation of the conveyance. This may require an inspection and the applicable fees will be applied. Failure to remove the conveyance from service may result in an additional ~~\$(500)~~ 515.10 penalty per day.

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-3000 Commercial coach fees.

INITIAL FILING FEE	\$(21.40) <u>32.30</u>
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$(216.30) <u>222.80</u>
INITIAL FEE - ONE YEAR DESIGN	\$(88.60) <u>91.20</u>
RENEWAL FEE	\$(37.50) <u>38.60</u>
RESUBMIT FEE	\$(63.20) <u>65.10</u>
ADDENDUM (Approval expires on same date as original plan)	\$(63.20) <u>65.10</u>
ELECTRONIC PLAN SUBMITTAL FEE \$(4.80) <u>4.90</u> per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (When required by chapter 296-46B WAC. Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$(63.20) <u>65.10</u>
Service/feeder Ampacity:	
0 - 100	\$(28.00) <u>28.80</u>
101 - 200	\$(34.90) <u>35.90</u>
201 - 400	\$(65.50) <u>67.40</u>
401 - 600	\$(77.20) <u>79.50</u>
601 - 800	\$(99.50) <u>102.50</u>
801 - 1000	\$(121.80) <u>125.40</u>
Over 1000	\$(132.10) <u>136.10</u>
Over 600 volts surcharge	\$(20.90) <u>21.50</u>
Thermostats:	
First	\$(12.40) <u>12.70</u>

PERMANENT

Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$(11.30) 11.60
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$(74.90) 77.10
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	((204)) 207 plus
Service/feeder	\$(184.30) 189.80
Additional Feeder	\$(35.00) 36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	((204)) 207 plus
Service/feeder	\$(97.80) 100.70
Additional Feeder	\$(25.00) 25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$(60.60) 62.40
FIRST STATION	\$(60.60) 62.40
EACH ADDITIONAL STATION	\$(22.20) 22.80
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$(96.40) 99.30
INITIAL FEE - ONE YEAR DESIGN	\$(58.40) 60.10
RENEWAL FEE	\$(58.40) 60.10
ADDENDUM	\$(58.40) 60.10
PLANS APPROVED BY PROFESSIONALS	\$(44.00) 45.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$(11.90) 12.20
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$(63.20) 65.10
TRAVEL (Per hour)	\$(63.20) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$(63.20) 65.10
TRAVEL (Per hour*)	\$(63.20) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

PERMANENT

ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) 97.40
INSIGNIA FEES:	
FIRST SECTION	\$((19.20)) 19.70
EACH ADDITIONAL SECTION	\$((11.90)) 12.20
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.90)) 12.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

INITIAL FILING FEE	\$((55.70)) 57.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$((274.50)) 282.80
INITIAL FEE - ONE YEAR DESIGN	\$((160.90)) 165.70
RENEWAL FEE	\$((55.70)) 57.30
RESUBMIT FEE	\$((80.40)) 82.80
ADDENDUM (Approval expires on same date as original plan.)	\$((80.40)) 82.80
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (When required by chapter 296-46A WAC, Plan review for educational, institutional or health care facilities and other buildings):	
Electrical Plan submission fee	\$((61.30)) 63.10
Service/feeder Ampacity:	
0 - 100	\$((27.20)) 28.00
101 - 200	\$((33.90)) 34.90
201 - 400	\$((63.40)) 65.30
401 - 600	\$((74.90)) 77.10
601 - 800	\$((96.40)) 99.30
801 - 1000	\$((118.00)) 121.50
Over 1000	\$((128.00)) 131.80
Over 600 volts surcharge	\$((20.30)) 20.90
Thermostats:	
First	\$((12.10)) 12.40
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$((11.00)) 11.30
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*	\$((72.50)) 74.60

PERMANENT

ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service /feeders Ampacity	((201)) 207 plus
Service/feeder	\$((184.30)) 189.80
Additional Feeder	\$((35.00)) 36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	((201)) 207 plus
Service/feeder	\$((97.80)) 100.70
Additional Feeder	\$((25.00)) 25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$((76.30)) 78.60
FIRST STATION	\$((76.30)) 78.60
EACH ADDITIONAL STATION	\$((27.80)) 28.60
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN	\$((122.80)) 126.50
INITIAL FEE-ONE YEAR DESIGN	\$((74.30)) 76.50
RENEWAL FEE	\$((74.30)) 76.50
ADDENDUM	\$((74.30)) 76.50
PLANS APPROVED BY DESIGN PROFESSIONALS	\$((55.70)) 57.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((14.40)) 14.80
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((71.20)) 73.30
TRAVEL (Per hour*)	\$((71.20)) 73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((71.20)) 73.30
TRAVEL (Per hour*)	\$((71.20)) 73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((227.00)) 233.80
EACH ADDITIONAL SECTION	\$((20.60)) 21.20
REISSUED-LOST/DAMAGED	\$((55.70)) 57.30
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((71.20)) 73.30
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$((30.00)) 31.80
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$((11.60)) 11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

PERMANENT

AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

WAC 296-150M-3000 Manufactured home fees.

INITIAL FILING FEE	\$(30.50) 31.40
DESIGN PLAN FEES:	
STRUCTURAL ALTERATION - MASTER DESIGN (CODE CYCLE)	\$(122.90) 126.60
STRUCTURAL ALTERATION - ONE YEAR DESIGN	\$(82.50) 84.90
RENEWAL FEE	\$(36.70) 37.80
RESUBMITTAL FEE	\$(61.30) 63.10
ADDENDUM (Approval expires on the same date as original plan.)	\$(61.30) 63.10
ELECTRONIC PLAN SUBMITTAL FEE \$(4.70) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
INSPECTION	
MECHANICAL	
Heat Pump	\$(30.90) 31.80
Combination Heat Pump (new) and Furnace (replacement)	\$(41.20) 42.40
Air Conditioning	\$(30.90) 31.80
Combination Air Conditioning (new) and Furnace (replacement)	\$(41.20) 42.40
Furnace Installation (gas*** or electric)	\$(30.90) 31.80
Gas*** Piping	\$(30.90) 31.80
Wood Stove	\$(30.90) 31.80
Pellet Stove	\$(30.90) 31.80
Gas*** Room Heater	\$(30.90) 31.80
Gas*** Decorative Appliance	\$(30.90) 31.80
Range: Changing from electric to gas***	\$(30.90) 31.80
Gas*** Water Heater Replacement	\$(20.60) 21.20
Water Heater: Changing from electric to gas***	\$(20.60) 21.20
Any combination of Furnace, Range, and Water Heater changing from electric to gas*** and includes Gas Piping charge	\$(61.90) 63.70
ELECTRICAL	
Heat Pump	\$(41.20) 42.40
Heat Pump (when home is prewired for a heat pump)	\$(10.30) 10.60
Combination Heat Pump (new) and Furnace (replacement)	\$(51.60) 53.10
Air Conditioner	\$(41.20) 42.40
Air Conditioner (when home is prewired for an air conditioner)	\$(10.30) 10.60
Combination Air Conditioner (new) and Furnace (replacement)	\$(51.60) 53.10
Furnace Installation (gas or electric)	\$(41.20) 42.40
Wood Stove (if applicable)	\$(41.20) 42.40
Pellet Stove (if applicable)	\$(41.20) 42.40
Gas*** Room Heater (if applicable)	\$(41.20) 42.40
Gas*** Decorative Appliance (if applicable)	\$(41.20) 42.40
Range: Changing from gas*** to electric	\$(41.20) 42.40
Electric Water Heater Replacement	\$(41.20) 42.40
Electric Water Heater replacing Gas*** Water Heater	\$(41.20) 42.40
Each added or modified 120 volt circuit (maximum charge is two circuits)	\$(41.20) 42.40
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)	\$(41.20) 42.40
Hot Tub or Spa (power from home electrical panel)	\$(41.20) 42.40
Replace main electrical panel	\$(41.20) 42.40
Low voltage fire/intrusion alarm	\$(41.20) 42.40
Fire Safety	\$(41.20) 42.40
Any combination of Furnace, Range and Water Heater changing from electric to gas***	\$(41.20) 42.40

PERMANENT

PERMANENT

PLUMBING	
Fire sprinkler system (also requires a plan review)	\$((20.60)) 21.20
Each added fixture	\$((20.60)) 21.20
Replacement of water piping system (this includes two inspections)	\$((92.80)) 95.60
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	\$((41.20)) 42.40
Reroofs (may require a plan review)	\$((72.20)) 74.30
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	\$((72.20)) 74.30
Other structural changes (may require a plan review)	\$((72.20)) 74.30
Fire Safety (may also require an electrical fire safety inspection)	\$((41.20)) 42.40
MISCELLANEOUS	
Other structural changes (may require a plan review)	\$((72.20)) 74.30
Plan Review	\$((82.50)) 84.90
OTHER REQUIRED INSPECTIONS (Per hour*)	\$((56.70)) 58.40
ALL REINSPECTIONS (Per hour*)	\$((56.70)) 58.40
INSIGNIA FEES:	
ALTERATION	\$((10.30)) 10.60
REISSUED - LOST/DAMAGED	\$((10.30)) 10.60
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	\$((27.90)) 28.70
Second and succeeding inspections of unlabeled sections (Per hour*)	\$((61.30)) 63.10
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (Per hour* separate from other fees)	\$((61.30)) 63.10
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Attendance at manufacturers training classes (Per hour* only)	\$((61.30)) 63.10
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Alterations to a labeled unit (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)	\$((61.30)) 63.10
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	\$((61.30)) 63.10
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	\$((61.30)) 63.10
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	\$((61.30)) 63.10
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	\$((56.70)) 58.40
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$((11.60)) 11.90
VARIANCE INSPECTION FEE	\$((82.50)) 84.90
HOMEOWNER REQUESTED INSPECTION	\$((82.50)) 84.90
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	\$((82.50)) 84.90
DEMOLITION OF A MOBILE/MANUFACTURED HOME	\$((82.50)) 84.90
NOTE: Local jurisdictions may have other fees that apply.	
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Gas means all gases; natural, propane, etc.	

AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

WAC 296-150P-3000 Recreational park trailer fees.

INITIAL FILING FEE	\$(31.40) 32.30
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	\$(88.60) 91.20
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	\$(117.00) 120.50
RESUBMITTAL FEE	\$(63.20) 65.10
ADDENDUM (Approval expires on same date as original plan.)	\$(63.20) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$(4.80) 4.90 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
QUALITY CONTROL/MANUAL FEES:	
INITIAL APPROVAL	\$(11.90) 12.20
RESUBMITTAL FEE	\$(63.20) 65.10
ADDENDUM	\$(63.20) 65.10
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$(63.20) 65.10
TRAVEL (per hour)*	\$(63.20) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$(63.20) 65.10
TRAVEL (per hour)*	\$(63.20) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$(94.60) 97.40
INSIGNIA FEES:	
STATE CERTIFIED	\$(11.70) 12.00
ALTERATION	\$(31.40) 32.30
REISSUED-LOST/DAMAGED	\$(11.70) 12.00
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$(63.20) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	\$(11.90) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

PERMANENT

AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

WAC 296-150R-3000 Recreational vehicle fees.

STATE PLAN	
INITIAL FILING FEE	\$(31.40) 32.30

PERMANENT

DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE	\$((88.60)) 90.00
RESUBMITTAL FEE	\$((63.20)) 65.00
ADDENDUM (Approval expires on same date as original plan.)	\$((63.20)) 65.00
QUALITY CONTROL/MANUAL FEES:	
INITIAL APPROVAL	\$((11.90)) 12.20
RESUBMITTAL FEE	\$((63.20)) 65.00
ADDENDUM	\$((63.20)) 65.00
ELECTRONIC PLAN SUBMITTAL FEE \$((4.80)) 4.90 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$((94.60)) 97.40
INSIGNIA FEES:	
STATE CERTIFIED	\$((11.30)) 11.60
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.30)) 11.60
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

SELF CERTIFICATION	
INITIAL FILING FEE	\$((31.40)) 32.30
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE (one time fee)	\$((88.60)) 91.20
RESUBMITTAL FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan.)	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.80)) 4.90 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	

PERMANENT

SELF CERTIFICATION/MANUAL FEES:	
INITIAL APPROVAL	\$((11.90)) 12.20
RESUBMITTAL FEE	\$((63.20)) 65.10
ADDENDUM	\$((63.20)) 65.10
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	\$((63.20)) 65.10
TRAVEL (per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
SELF CERTIFIED	\$((11.30)) 11.60
ALTERATION	\$((31.40)) 32.30
REISSUED-LOST/DAMAGED	\$((11.30)) 11.60
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	\$((11.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

INITIAL FILING FEE	\$((44.00)) 45.30
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	\$((126.90)) 130.70
RENEWAL FEE	\$((44.00)) 45.30
RESUBMIT FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan)	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$((75.00)) 77.20
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$((11.90)) 12.20
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10

PERMANENT

TRAVEL (Per hour)*	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$((63.20)) 65.10
TRAVEL (Per hour*)	\$((63.20)) 65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$((477.90)) 183.20
EACH ADDITIONAL SECTION	\$((47.30)) 17.80
REISSUED-LOST/DAMAGED	\$((44.00)) 45.30
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	((201)) 207 plus
Service/feeder	\$((184.30)) 189.80
Additional Feeder	\$((35.00)) 36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	((201)) 207 plus
Service/feeder	\$((97.80)) 100.70
Additional Feeder	\$((25.00)) 25.70
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$((63.20)) 65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year)	\$((41.90)) 12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	\$((31.40)) 32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$((216.30)) 222.80
INITIAL FEE - ONE YEAR DESIGN	\$((88.60)) 91.20
RENEWAL FEE	\$((37.80)) 38.90
RESUBMIT FEE	\$((63.20)) 65.10
ADDENDUM (Approval expires on same date as original plan)	\$((63.20)) 65.10
ELECTRONIC PLAN SUBMITTAL FEE \$((4.70)) 4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$((96.40)) 99.30

PERMANENT

INITIAL FEE - ONE YEAR DESIGN	\$(58.40) <u>60.10</u>
RENEWAL FEE	\$(58.40) <u>60.10</u>
ADDENDUM	\$(58.40) <u>60.10</u>
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	
	\$(11.90) <u>12.20</u>
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$(63.20) <u>65.10</u>
TRAVEL (Per hour)*	\$(63.20) <u>65.10</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$(94.60) <u>97.40</u>
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$(63.20) <u>65.10</u>
TRAVEL (Per hour*)	\$(63.20) <u>65.10</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$(18.30) <u>18.80</u>
ALTERATION	\$(31.40) <u>32.30</u>
REISSUED-LOST/DAMAGED	\$(11.90) <u>12.20</u>
EXEMPT	\$(31.40) <u>32.30</u>
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	((204)) <u>207 plus</u>
Service/feeder	\$(184.30) <u>189.80</u>
Additional Feeder	\$(35.00) <u>36.00</u>
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	((204)) <u>207 plus</u>
Service/feeder	\$(97.80) <u>100.70</u>
Additional Feeder	\$(25.00) <u>25.70</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$(63.20) <u>65.10</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$(11.90) <u>12.20</u>
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

WAC 296-200A-900 What fees does the department charge contractors for issuance, renewal, reregistration, and reinstatement of certificates of registration? The department charges the following fees:

- (1) ~~\$(106.50)~~ 109.70 for each issuance, renewal or reregistration of a certificate of registration for contractors. This registration is valid for two years from date of issuance, renewal or reregistration or until it is suspended or revoked.
- (2) ~~\$(50.40)~~ 51.90 for the reinstatement of a certificate of registration.

(3) ~~\$(11-90)~~ 12.20 for providing a duplicate certificate of registration.

(4) ~~\$(24-10)~~ 24.80 for each requested certified letter prepared by the department.

(5) \$162.00 for the construction and electrical contractor listing publication on CD ROM per year, prorated according to the number of issues left in the subscription year, which runs from November 1 through October 31. Each issue costs \$13.50.

(6) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$27.20.

(7) \$20.00 is required to cover the costs for the service of process in an action against a contractor, the contractor's bond, or the deposit under RCW 18.27.040.

(8) \$25.00 is required to cover the costs for the service of processing refunds.

Date Adopted: May 24, 2005.

Diane Cherry
for John R. Batiste
Chief

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-025 Definition—"Fireworks." The term "fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of (~~("common")~~) articles pyrotechnic, consumer, or (~~("special")~~) display fireworks.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-030 Definition and classification—"Trick and novelty devices." The term "trick and novelty devices" shall mean any small firework device not classified as (~~("common")~~) consumer or (~~("special")~~) display fireworks by the United States Department of Transportation or elsewhere in these rules, including:

(1) Snakes, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(a) Party popper. Small plastic or paper item containing not more than 16 mg of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

(d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

(e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle and/or smoke when ignited. A small quantity of explosive, not exceeding 50 mg, may also be used to produce a small report. A squib is used to ignite the device.

WSR 05-12-033

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed May 24, 2005, 3:50 p.m., effective June 24, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to clarify and amend rules defining the dates of fireworks purchase, possession, and discharge and updating definitions to comply with revised American Pyrotechnic Association definitions. Also, to add rules for the issuance of fines and citations.

Citation of Existing Rules Affected by this Order: Amending chapter 212-17 WAC.

Statutory Authority for Adoption: Chapters 43.43 and 70.77 RCW.

Adopted under notice filed as WSR 05-07-102 on March 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: Reference to NFPA 1123 (2002) has been removed. NFPA 1123 (1996) will continue to be referenced. Further study will be necessary to address concerns with NFPA 1126 (2002) expressed at the public hearings.

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 33, Amended 40, 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 33, Amended 40, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 33, Amended 40, 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 33, Amended 40, Repealed 0.

NEW SECTION

WAC 212-17-032 Definition and classification—
"Articles pyrotechnic." The term "articles pyrotechnic" shall mean pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use which meet the weight limits for consumer fireworks but which are not labeled as such and which are classified as UN0431 or UN0432 by the Department of Transportation at 49 C.F.R. Sec. 172.101.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-035 Definition and classification—
"((Common)) Consumer fireworks." The term "~~((common))~~ consumer fireworks" shall mean any fireworks designed primarily to produce visible or audible effects by combustion. The term includes:

(1) Ground and hand-held sparking devices.

(a) Dipped stick, sparkler. Stick, or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed 100 grams per item. Those devices containing any perchlorate or chlorate salts may not exceed 5 grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item, not ~~((Class C))~~ Division 1.4, 1.5, or 1.6 explosives under DOT regulations, are included in this category.

(b) Cylindrical fountain. Cylindrical tubes not more than 3/4 inch (19 mm) inside diameter, containing up to 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).

(c) Cone fountain. Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

(d) Illuminating torch. Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.

(e) Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six "driver" units; tubes not exceeding 1/2 inch (12.5 mm) inside diameter and containing up to 60 grams of pyrotechnic composition. Total pyrotechnic composition of each wheel shall not exceed 240 grams. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) Ground spinner. Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(2) Aerial device.

(a) Helicopter, aerial spinner. A tube not more than 1/2 inch (12.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(b) Roman candles. Heavy paper or cardboard tube ~~((not exceeding 3/8 inch (9.5 mm) inside diameter and))~~ containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

(c) Mine, shell. Heavy cardboard or paper tube up to 2 1/2 inches (63.5 mm) inside diameter attached to a wood or plastic base and containing up to 40 grams of pyrotechnic composition. Upon ignition, "stars," ~~((firecrackers,))~~ or other devices are propelled into the air. The tube remains on the ground.

(3) Combination items. Fireworks devices containing combinations of two or more of the effects described in this section.

(4) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(5) ~~((Class C))~~ Aerial shell. A 1 3/4" or smaller cylindrical or spherical cartridge containing up to 40 grams of chemical composition.

(6) Mortar. A 1 3/4" or smaller cardboard tube in which aerial shells are discharged into the air.

(7) Division 1.4G explosives classified on January 1, 1984, as ~~((common))~~ consumer fireworks by the United States Department of Transportation except that the term shall not include firecrackers, salutes, chasers, skyrockets, or missile-type rockets.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-040 Definition and classification—
"((Special)) Display fireworks." The term "~~((special))~~ display fireworks" shall mean large fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes, but is not limited to:

(1) Sky rocket. Tubes not exceeding 1/2 inch (12.5 mm) inside diameter that may contain up to 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight.

(2) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability. Firework devices which use a cylindrical bore or rod for launching stability, even though the word "missile" may appear on the label, are not included in this category.

(3) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than 2 grains (130 mg) of explosive composition. Upon ignition, noise and a flash of light is produced.

(4) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 mg.

(5) Display pieces. Fireworks containing more than 2 grains (130 mg) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as "~~((common))~~ consumer fireworks." ~~((Special))~~ Display fireworks are classified as ((Class-B)) Division 1.3G explosives by the United States Department of Transportation.

NEW SECTION

WAC 212-17-042 Definition and classification— "Special effects." The term "special effects" shall mean a visual or audible effect for entertainment purposes created exclusively by "display fireworks" or "articles pyrotechnic."

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-050 Firework device chemical content, construction. All ~~((common))~~ consumer fireworks devices shall meet the following chemical content, design, and construction requirements.

(1) Prohibited chemicals. Fireworks devices shall not contain any of the following chemicals:

- (a) Arsenic sulfide, arsenates, or arsenites.
- (b) Boron.
- (c) Chlorates, except:
 - (i) In colored smoke mixtures in which an equal or greater amount of sodium bicarbonate is included;
 - (ii) In caps and party poppers;
 - (iii) In those small items wherein the total powder content does not exceed four grams of which not greater than fifteen percent is potassium, sodium, or barium chlorate.
- (d) Gallates or gallic acid.
- (e) Magnesium (magnesium/aluminum alloys, called magalium, are permitted).
- (f) Mercury salts.
- (g) Phosphorus (red or white). EXCEPT that red phosphorus is permissible in caps and party poppers.
- (h) Picrates or picric acid.
- (i) Thiocyanates.
- (j) Titanium, except in particle size greater than 100-mesh.
- (k) Zirconium.

(2) Fuses.

- (a) Fireworks devices that require a fuse shall:
 - (i) Utilize only a fuse that has been treated or coated in such manner as to reduce the possibility of side ignition. Devices such as ground spinners that require a restricted orifice for proper thrust and contain less than 6 grams of pyrotechnic composition are exempt from this requirement.
 - (ii) Utilize only a fuse which will burn at least three seconds but not more than six seconds before ignition of the device.

(b) The fuse shall be securely attached so that it will support either the weight of the fireworks device plus eight ounces dead weight or double the weight of the device,

whichever is less, without separation from the fireworks device.

(3) Bases. The base or bottom of fireworks devices that are operated in a standing upright position shall have the minimum horizontal dimensions or the diameter of the base equal to at least one-third of the height of the device including any base or cap affixed thereto.

(4) Pyrotechnic leakage. The pyrotechnic chamber in fireworks devices shall be sealed in a manner that prevents leakage of the pyrotechnic composition during shipping, handling and normal operation.

(5) Burnout and blowout. The pyrotechnic chamber in fireworks devices shall be constructed in a manner to allow functioning in a normal manner without burnout or blowout.

(6) Handles and spikes. Fireworks devices that are intended to be hand-held and are so labeled shall incorporate a handle at least four inches in length. Handles shall remain firmly attached during transportation, handling and full operation of the device, or shall consist of an integral section of the device at least four inches below the pyrotechnic chamber, except sparklers 10" or less in length shall have handles at least 3" in length. Spikes provided with fireworks devices shall protrude at least two inches from the base of the device and shall have a blunt tip not less than 1/8 inch in diameter or 1/8 inch square.

(7) Wheel devices. Drivers in fireworks devices commonly known as "wheels" shall be securely attached to the device so that they will not come loose in transportation, handling, and normal operation. Wheel devices intended to operate in a fixed location shall be designed in such a manner that the axle remains attached to the device during normal operation.

(8) Toy smoke devices and flitter devices.

(a) Toy smoke devices shall be so constructed that they will neither burst nor produce external flame (excluding the fuse and ~~((first fire upon ignition))~~ small but brief bursts of flame accompanying normal smoke production) during normal operation.

(b) Toy smoke devices and flitter devices shall not be of such color and configuration so as to be confused with ~~((banned fireworks))~~ illegal explosive devices such as M-80 salutes, silver salutes, or cherry bombs.

(c) Toy smoke devices shall not incorporate plastic as an exterior material if the pyrotechnic composition comes in direct contact with the plastic.

(9) Rockets with sticks. Rockets with sticks (including sky rockets and bottle rockets) shall utilize a straight and rigid stick to provide a direct and stable flight. Such sticks shall remain straight and rigid and attached to the driver so as to prevent the stick from being damaged or detached during transportation, handling, or normal operation.

(10) Party poppers. Party poppers (also known by other names such as "champagne party poppers" and "party surprise poppers" shall not contain more than 0.25 grains of pyrotechnic composition. Such devices may contain non-flammable soft paper or cloth inserts ~~((provided any such inserts do not ignite during normal operation))~~.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-055 Firework device, labeling. (1) Any ~~((common))~~ consumer fireworks device not required to have a specific label by 16 CFR 1500.14 (b)(7), 1981, as of October 29, 1982, shall carry a warning label indicating to the user where and how the item is to be used and necessary safety precautions to be observed.

(2) Every fireworks device, or fireworks device container where the device is packaged in an immediate container intended or suitable for delivery to the ultimate consumer, shall be conspicuously labeled with the name and place of business of the manufacturer, packer, distributor, or seller and the United States Department of Transportation designation as "~~((Class C common))~~ Division 1.4G consumer fireworks" or "~~((Class B special))~~ Division 1.3G special fireworks."

(3) All label wording shall be prominently located, in the English language, and in conspicuous and legible type in contrast by typography, layout, or color with the printed matter on the fireworks device or container.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-060 Public purchase of fireworks. (1) The public may purchase ~~((common))~~ consumer fireworks only from licensed retail fireworks stands between noon, June 28th and ~~((noon))~~ 9:00 p.m. July ~~((6th))~~ 5th of each year. Purchase or discharge is prohibited between the hours of 11:00 p.m. and 9:00 a.m., except on July 4th, in which fireworks can be discharged between the hours of 9:00 a.m. and 12:00 midnight. Possession and discharge of fireworks is lawful during this period only, except as provided in subsection (2) of this section.

(2) Religious organizations or private organizations or adult persons may be authorized to purchase ~~((common))~~ consumer fireworks or such audible ground devices as firecrackers, salutes, and chasers, as defined in WAC 212-17-040 (3) and (4) from licensed manufacturers, importers, or wholesalers for use on prescribed dates and locations for religious or specific purposes, when a permit is obtained from the fire chief or other designated local official. Application shall be on forms provided by the director of fire protection and shall contain the following information:

(a) The name and mailing address of the organization or person desiring to purchase and discharge the fireworks;

(b) The date and time of the proposed discharge;

(c) The location of the proposed discharge;

(d) The quantity and type of fireworks desired to be purchased and discharged;

(e) The reason or purpose of the discharge; and

(f) The signature of the applicant, following a statement that: "The applicant understands and agrees to comply with all provisions of the application and requirements of the approving authority, will discharge the fireworks only in a manner that will not endanger persons or property or constitute a nuisance, and assumes full responsibility for all consequences of the discharge, intended or not." Upon approval by the fire official, the applicant may submit a copy of the

approval to any licensed wholesaler as proof of authorization to purchase the fireworks listed therein. The applicant shall retain the approval and have it available for inspection by any public official at the actual discharge of the fireworks.

(3) The purchase or receipt of mail-order fireworks through any medium of either interstate or intrastate commerce is prohibited unless the purchaser has first obtained an importers license ~~((or has complied with the provisions of subsection (2) of this section))~~.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-085 Fireworks manufacturer—Records and reports. Manufacturers shall, when requested to do so, submit written reports to the chief of the Washington state patrol, through the director of fire protection on production, sale and distribution of fireworks and name of the person to whom such fireworks were sold ~~((to the director of fire protection))~~.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-185 Retailers of fireworks—License and permit. (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the director of the Washington state patrol fire protection bureau.

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of forty dollars.

(b) License applications shall be made on or before May 1 of the year for which the license is desired.

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

(d) Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.

(3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

AMENDATORY SECTION (Amending Order FM 84-05, filed 11/9/84)

WAC 212-17-198 Retailers of fireworks—List. The following is the list of fireworks that may be sold to the public.

(1) Ground and hand-held sparkling devices.

(a) Dipped stick, sparkler. Stick, or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed 100 grams per item. Those devices containing any perchlorate or chlorate salts may not exceed 5 grams of pyrotechnic composition per item. Wire sparklers which contain no mag-

nesium and which contain less than 100 grams of composition per item, not Class C explosives under DOT regulations, are included in this category.

(b) **Cylindrical fountain.** Cylindrical tubes not more than 3/4 inch (19 mm) inside diameter, containing up to 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain).

(c) **Cone fountain.** Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

(d) **Illuminating torch.** Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base, or hand-held.

(e) **Wheel.** Pyrotechnic device attached to a post or tree by means of a nail or string. Each wheel may contain up to six "driver" units; tubes not exceeding 1/2 inch (12.5 mm) inside diameter and containing up to 60 grams of pyrotechnic composition. Total pyrotechnic composition of each wheel shall not exceed 240 grams. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect.

(f) **Ground spinner.** Small device similar to a wheel in design and effect and placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

(g) **Flitter sparkler.** Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. This device does not have a fuse for ignition. The paper at one end of the tube is ignited to make the device function.

(2) **Aerial devices.**

(a) **Helicopter, aerial spinner.** A tube not more than 1/2 inch (12.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight.

(b) **Roman candles.** Heavy paper or cardboard tube not exceeding 3/8 inch (9.5 mm) inside diameter and containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

(c) **Mine, shell.** Heavy cardboard or paper tube up to 1/2 inches (63.5 mm) inside diameter attached to a wood or plastic base and containing up to 40 grams of pyrotechnic composition. Upon ignition, "stars," firecrackers, or other devices are propelled into the air. The tube remains on the ground.

(d) Aerial shell. A 1 3/4" or smaller cylindrical or spherical cartridge containing up to 40 grams of chemical composition.

(e) Mortar. A 1 3/4" or smaller cardboard tube in which aerial shells are discharged into the air.

(3) **Combination items.** Fireworks devices containing combinations of two or more of the effects described in this section.

(4) **Smoke device.** Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(5) ~~((Class C))~~ Division 1.4G explosives classified on January 1, 1984 as ~~((common))~~ consumer fireworks by the United States Department of Transportation except that the term shall not include firecrackers, salutes, chasers, skyrockets or missile-type rockets.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21503 Retailers of fireworks—Definitions. (1) ~~((Common))~~ Consumer fireworks" means those fireworks defined as ~~((common))~~ consumer fireworks in RCW 70.77.136.

(2) "Following year" means the year immediately following the year in which a license or permit is issued.

(3) "License" means a license as defined in RCW 70.77.170.

(4) "Magazine" means a structure as defined in Section ~~((214 of the Uniform))~~ 3302.1 of the International Fire Code.

(5) "Membrane material" means a thin, flexible, impervious material capable of being supported by an air pressure of 1.5 inches of water column (373 Pa).

(6) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of thirty days or more used for the sales, at retail or wholesale, of legal fireworks of any kind.

(7) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(8) "Permit" means a permit as defined in RCW 70.77.180.

(9) "Private way" means any privately owned driveway, lane, access way or similar parcel of land essentially unobstructed from the ground to the sky which serves as access from private property to a public road.

(10) "Public road" means any street or alley essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

(11) "Recognized testing laboratory" means a nationally recognized testing laboratory approved by the state fire marshal.

(12) "Temperature overheat protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit exceeds its designed operating temperature.

(13) "Temporary power drop" means an electrical service connection to a temporary retail fireworks stand.

(14) "Retail fireworks stand" means a structure used for the retail sales of ~~((common))~~ consumer fireworks.

(15) "Temporary storage structure" means a building or other structure used for storage of ~~((common))~~ consumer fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(16) "Temporary structure" means an enclosure or shelter erected for a period of less than thirty days and not otherwise defined in the ~~((Uniform))~~ International Fire Code as a tent or canopy.

(17) "Tip-over protection" means a device which immediately interrupts the power to the heating element of a portable heating unit when the portable heating unit is tipped or tilted more than forty-five degrees from its designed operating position.

(18) "~~((Uniform))~~ International Building Code" means the edition currently adopted by the state of Washington.

(19) "~~((Uniform))~~ International Fire Code" means the edition currently adopted by the state of Washington.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21505 Retailers of fireworks—General provisions. (1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary and permanent structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of ~~((common))~~ consumer fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as ~~((common))~~ consumer fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Except as prescribed by this rule, the use of permanent structures or temporary structures over four hundred square feet for fireworks sales and storage shall be subject to the provisions of the ~~((Uniform))~~ International Fire Code and the ~~((Uniform))~~ International Building Code, and local ordinances.

(4) The use of temporary structures for the temporary sale or storage of ~~((common))~~ consumer fireworks are exempt from the ~~((Uniform))~~ International Building Code, ~~((Uniform))~~ International Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those provisions of that county's or that city's building code or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Each license and permit shall be issued and shall remain valid and effective for the thirteen-month period beginning on January 1 of the year in which application is made and ending January 31 of the following year.

(6) Only ~~((Class C common))~~ Division 1.4G consumer fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance,

and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold from 12:00 noon to 11:00 p.m. on June 28 through ~~((12:00 noon))~~ 9:00 p.m. on July ~~((6))~~ 5. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold from 12:00 midnight on July 4 through 9:00 a.m. on July 5. ~~((Fireworks may not be sold from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.))~~

(8) Except as limited by local ordinance, fireworks may be sold from ~~((6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the following year))~~ 12:00 noon to 11:00 p.m. on each day from the 27th of December through the 31st of December of each year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the temporary suspension or immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure and/or forfeiture of some or all of the fireworks, and other criminal penalties as specified by law.

(11) The local authority having jurisdiction, with the concurrence of the state fire marshal, is authorized to modify any of the provisions of WAC 212-17-21509, 212-17-21511, 212-17-21513, 212-17-21515, and 212-17-21517 upon written application by the licensee or a duly authorized representative, where there are practical difficulties in the way of carrying out the provisions of these sections, provided that the spirit of the rule shall be complied with, public safety secured and substantial justice done. The particulars of such modification shall be registered with the state fire marshal.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21507 Retailers of fireworks—Transportation. When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local authority having jurisdiction may waive or modify the local transportation requirements. Nothing in these rules shall restrict the right of any person to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21509 Retailers of fireworks—Location. (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than one hundred fifty feet from a private way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private way shall be

determined by the local authority having jurisdiction, but shall not exceed the requirements of locally adopted street, road and access standards.

(3) Any two retail fireworks stands shall be at least one hundred feet apart or shall be separated by a road, street or highway not less than thirty feet in width.

(4) Retail fireworks stands shall be located as required by Table 212-17-21509 in this section. The minimum required area surrounding the stand shall be marked or flagged, except that flagging and marking shall not block a sidewalk or pedestrian pathway. Flagging need not exceed twenty feet in any direction.

Retail Fireworks Stands - Minimum Clearances						
	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC ROAD*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	40 FT. 20 FT.**	40 FT. 20 FT.**	20 FT.	20 FT.	20 FT.	20 FT.

NOTE: Clearance distances are not cumulative
 * Measured from the outer edge of the nearest traffic lane.
 ** If stand is equipped with 135 fusible links which will automatically close all sales doors in case of fire, or is equipped with a wire-mesh screen with openings of not more than one inch which covers not less than 90% of all sales openings.

PERMANENT

(5) Retail fireworks stands shall not be located closer than one hundred feet from any motor vehicle dispensing station, retail propane dispensing station, flammable liquid storage, or combustible liquid storage. Retail fireworks stands shall not be located closer than three hundred feet from any bulk storage of flammable or combustible liquid or gas, including bulk plant dispensing areas.

EXCEPTION: 1. Fuel for generators as allowed by WAC 212-17-21513 (4).
 2. Fuel within the tanks of motor vehicles.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21511 Retailers of fireworks—Area around the retail fireworks stand. (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within one hundred feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 100 FEET" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

(4) No smoking shall be allowed within the retail fireworks stand or within the minimum flagged off area. Signs reading "NO SMOKING WITHIN 20 FEET" in letters at least two inches high, with principal stroke of not less than one-half

inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21513 Retailers of fireworks—Stand use and construction. (1) Fireworks may be sold from:

(a) A permanent structure which meets provisions of WAC 212-17-21505(3).

(b) Temporary, stable structures made from wood, metal, fiberglass or other material. Any temporary fireworks retail stand greater than four hundred square feet shall meet the requirements of a permanent structure, except tents or canopies as defined in the ((Uniform)) International Fire Code.

(c) Tents, canopies, or structures utilizing temporary membrane material. All tents, canopies or temporary membrane materials structures shall be made from fire retardant material or treated with a fire retardant as identified in the ((Uniform)) International Fire Code. Any tent, canopy or temporary membrane material structure falling within the scope of the ((Uniform)) International Fire Code shall comply with those requirements. When those requirements are in conflict with other provisions of these rules, the more restrictive provisions shall apply.

(2) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure or location must be listed by a recognized laboratory and used in accordance with that listing. If electrical power is supplied by an extension cord, the size of the cord, the length of the cord and the amperage and the voltage supplied shall be in compliance with the requirements of the National Electrical Code,

current edition. The cord shall be protected as necessary from "drive-over" and other physical damage. No additional permits from a city or county or state official having jurisdiction shall be required for these temporary uses except as specified in subsection (5) of this section.

(3) All heating units shall be listed by a recognized testing laboratory and shall be used in accordance with the listing. Heating sources shall have "tip-over" and temperature overheat protection. All heating devices shall have sealed type elements (i.e., oil filled or water filled radiator type). Open flame heating devices are prohibited.

(4) Generators which use combustible fuel and which are at least twenty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than five gallons and stored at least twenty feet from all stands.

(5) Compliance with the National Electrical Code, current edition, shall be required for all new, permanent electrical installations, including temporary power drops, subject to possible permit fees.

(6) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21515 Retailers of fireworks—Operation of retail fireworks stands. (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure. Customers shall only be permitted inside a temporary retail fireworks stand that is greater than four hundred square feet and which meets minimum exit requirements of the ((Uniform)) International Building Code and ((Uniform)) International Fire Code, as now or amended hereafter.

(2) Each temporary retail fireworks stand must have at least two exits, at least twenty-eight inches in width, located at opposite ends of the structure. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(4) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.

(5) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(6) Each retail fireworks stand shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.

(7) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(8) Retail fireworks stands shall be secured when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

(9) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person, other than customers, under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Fireworks, except for prepackaged assortments, boxes, or similarly packaged containers of more than one item, whether of the same or different kind, must be displayed in a manner which prevents the fireworks from being handled by the public or a customer without the direct intervention of the licensee or his or her representative who shall maintain visual contact.

(10) Retail fireworks stands may be required to be inspected by the state fire marshal and/or the local jurisdiction issuing the permit prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(11) In order to obtain return of a clean-up bond if required by the local authority having jurisdiction as a condition of permit, the cleanup of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in these rules.

(12) Fireworks retailers shall not knowingly sell fireworks to persons under the age of sixteen.

(a) A sign reading "no sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on the front of each retail fireworks stand.

(b) Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a public or private school, state, federal or foreign government. No other forms of identification shall be accepted.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21517 Retailers of fireworks—Temporary fireworks storage associated with the retail fireworks stand operation. (1) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales and may only be from June 13 through July 31 and from December 12 through January 10 of the following year. Permanent fireworks storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified for temporary storage. Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the ((Uniform)) International Fire Code and the ((Uniform)) International Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited. If the approved storage location is outside the jurisdiction issuing the permit, the authority issuing the permit shall notify the appropriate authorities of the jurisdiction in which the storage is to be located.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored:

(a) In a locked or secured retail fireworks stand; or

(b) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from the retail fireworks stand during hours of retail sales; or

(c) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than twenty feet from an inhabited building where the term "inhabited building" is defined as in the (~~Uniform~~) International Fire Code; or

(d) In a magazine which meets the minimum standards of Type 4 as prescribed by the (~~Uniform~~) International Fire Code, and which is not less than ten feet from an inhabited building where the term "inhabited building" is defined as in the (~~Uniform~~) International Fire Code; or

(e) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than:

20 feet from an inhabited building for storage of fireworks for one or two retail stands; or

30 feet from an inhabited building for storage of fireworks for three or more stands.

The term "inhabited building" is defined as in the (~~Uniform~~) International Fire Code.

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

AMENDATORY SECTION (Amending WSR 98-04-007, filed 1/23/98, effective 2/23/98)

WAC 212-17-21519 Retailers of fireworks—Cleanup. (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the

removal of all temporary structures authorized by the license and permit shall be completed no later than 11:59 p.m., July 15 for the Fourth of July selling period or no later than 11:59 p.m., January 10 for the New Year's (~~Eve~~) selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-220 Pyrotechnic operators—General. Pyrotechnic operators are licensed to conduct public displays of (~~special~~) fireworks and articles pyrotechnic. No public display license is issued unless at least one licensed pyrotechnic operator is listed on the application as being responsible for conducting the display.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-230 Pyrotechnic operators—Examination, investigation and licensing. Upon receipt of application and license fee, the director of fire protection shall cause an investigation to be made as to the experience and competency of the applicant to conduct and supervise a public display of fireworks in a safe manner. Past experience in assisting in public displays shall be verified with the licensed pyrotechnic operator under whose supervision the applicant assisted. If experience requirements are satisfactory, the director of fire protection shall schedule a written examination for the applicant. A passing score of at least (~~seventy~~) eighty percent shall be attained on the written examination. An applicant failing the written examination may reapply within thirty days to retake the examination. No reexamination shall be taken within thirty days of the previous and no more than two examinations may be taken by the applicant in the same calendar year. Any applicant failing to appear for the written examination at the time and location established or who fails the written examination and fails to reapply within thirty days, or fails the examination on the second attempt, is deemed to have forfeited the license fee. All applicants shall submit to a background check through the Washington state patrol criminal records division. Costs for the background check shall be the responsibility of the applicant. The director of fire protection shall grant or deny the license on the basis of the successful completion of the investigation and examination.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-235 Pyrotechnic operators—Responsibility. The pyrotechnic operator shall be responsible for properly setting up the fireworks public display in accordance with the rules and regulations of the director of fire protection. He/she shall determine that all the mortars, set pieces, are properly installed and that the proper safety precautions have been taken to insure the safety of persons and property. He/she shall have charge of all activities directly

related to handling, preparing and firing all fireworks at the public display, including fixing lifting charges and quick match as needed to aerial shells.

The pyrotechnic operator shall refuse to fire any fireworks that are deemed by him/her to be unsafe or where its discharge might jeopardize life or property.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-250 Public displays of fireworks—Application, state license. Application for fireworks public display license shall be made on forms provided by the director of fire protection and shall be accompanied by the prescribed license fee.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-255 Public displays of fireworks—Type of license. A public display license authorizes the applicant to conduct a public display of fireworks at a given location only. A "general" license for public display of fireworks authorizes public displays of fireworks at any locations or dates within the current year.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-260 Public displays of fireworks—General licenses. Application for a "general" license to hold public displays of fireworks shall be accompanied by a surety bond or a certificate evidencing public liability insurance. Such bond and public liability insurance shall be noncancelable except upon fifteen days' written notice by the insurer to the director of fire protection.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-270 Public displays of fireworks—Local permit, application for. When applying for permit, applicant shall submit information and evidence to local fire authorities covering the following:

- (1) The name of the organization sponsoring the display, if other than the applicant.
- (2) The date the display is to be held.
- (3) The exact location for the display.
- (4) The name and license number of the pyrotechnic operator who is to supervise discharge of the fireworks and the name of at least one experienced assistant.
- (5) The number of set pieces, shells (specify single or multiple break), and other items.
- (6) The manner and place of storage of such fireworks prior to the display.
- (7) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, and other lines of communication, the lines behind which the audience will be restrained, the location of all nearby trees, telegraph or telephone lines, or other overhead obstruction.

(8) Documentary proof of procurement of:

Surety bond;

Public liability insurance; or

A director of fire protection's "general license" for the public display of fireworks.

~~((+10))~~ (9) Permittee shall be responsible for compliance with the provisions under which a public display permit has been granted.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-275 Public displays of fireworks—Investigation. The officer to whom the application for permit is made shall make, or cause to be made, investigation of site of the proposed display for the purpose of determining if the fireworks will be of such a character or so located as to be hazardous to property or dangerous to any person. He shall also determine whether the provisions of the state fireworks law and these rules and regulations are complied with in the case of a particular display. He shall, in the exercise of reasonable discretion, grant or deny the application subject to reasonable conditions, if any, as he may prescribe, taking into account locations, parking of vehicles, controlling spectators, storage and firing fireworks, and precautions in general against danger to life and property from fire, explosion, and panic.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-280 Public displays of fireworks—Permits may not be granted, when. No permit shall be granted for any public display of fireworks where the discharge, failure to fire, faulty firing, or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests, brush, or other grass covered land.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-285 Public displays of fireworks—Spectators. Spectators at public displays of fireworks shall be restrained behind lines or barriers as designated by local authorities. Only authorized persons and those in actual charge of the display shall be allowed inside these lines or barriers during the unloading, preparation, or firing of fireworks.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-290 Public displays of fireworks—Pyrotechnic operators. No public display permit shall be granted unless at least two experienced pyrotechnic operators are provided, one of whom shall be a licensed pyrotechnic operator. The licensed operator shall:

- (1) Be responsible for and have charge of the display with respect to preparation for transporting, unloading, storing, preparing special effects, set and mechanical pieces, setting mortars and rocket launchers, loading, arming and firing

and disposing of all unfired or defective (dud) rockets, missiles and fireworks articles or items;

(2) Be responsible for setting all fireworks including mortars, finale batteries (hedgehogs) and rocket launchers at locations designated by the authority having jurisdiction and take into account wind direction and velocity predicted for the firing time in setting the firing angles. Shells, rockets and/or missiles shall not be permitted to cross or burst above areas occupied by persons;

(3) Be held responsible for acts of his assistants in connection with the display, from delivery to final firing who, through smoking, drinking, carelessness or negligence or any other act, endangers the safety of himself, any other person, or any property.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-295 Public display—General. This section shall apply to the construction, handling, and use of ((Class B special)) Division 1.3G display or Division 1.4G consumer fireworks intended solely for public display. It shall also apply to the general conduct and operation of the display.

AMENDATORY SECTION (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

WAC 212-17-300 Public display—Definitions. For the purpose of this section, the following terms shall have the meanings shown:

(1) Assistant. A person who works under the direction of the pyrotechnic operator in charge to put on an outdoor fireworks display. The duties of an assistant include such tasks as: Loading mortars, spotting the bursting location of aerial shells, tending a ready box, setting up and cleaning the discharge site, igniting fireworks, etc.

(2) Barrage. A rapidly fired sequence of aerial fireworks. Mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(3) Black match. A fuse made from thread impregnated with black powder and used for igniting pyrotechnic devices.

(4) Boxed finale. A number of mortars grouped closely together and contained by a suitable frame. The mortars are loaded prior to the display and fused for rapid sequence firing.

(5) Break. An individual effect from an aerial shell; generally either color (stars) or noise (salute). Aerial shells can be single-break (having only one effect) or multiple-break (having two or more effects).

(6) Chain fusing. A series of two or more aerial shells fused so as to fire in sequence from a single ignition. Finales and barrages are typically chain fused.

(7) Colored pot. A paper tube containing pyrotechnic composition that produces a colored flame on ignition. Colored pots are used in the construction of ground display pieces.

(8) Discharge site. The area immediately surrounding the mortars used to fire the aerial shells.

(9) Electric match. A device consisting of wires terminating at a high resistance element surrounded with a small

quantity of heat sensitive pyrotechnic composition. When a sufficient electric current is passed through the wire circuit, the heat that is generated ignites the pyrotechnic composition, producing a small burst of flame. This flame can be used to ignite a fuse or a lift charge in a fireworks device.

(10) Electrical firing unit. The source of electrical current used to ignite electric matches. Generally the firing unit will have switches to control the routing of the current to various firework items and shall have test circuits and warning indicators, etc.

(11) Electrical ignition. A technique used to discharge fireworks in which an electric match and source of electric current are used to ignite fuses or lift charges. The electric matches are attached prior to the display, generally with wires connected to an electrical firing unit during the display.

(12) Fallout area. The area over which aerial shells are fired. The shells burst over this area, and unsafe debris and malfunctioning aerial shells fall into this area.

(13) Finale. A rapidly fired sequence (barrage) of aerial fireworks, typically fired at the end of a display. The mortars are loaded prior to the display and the aerial shells are chain fused to fire in rapid sequence.

(14) Finale rack. A row of closely spaced two-inch (51 mm) or three-inch (76 mm) inside diameter, mortars held in a wooden frame. It is similar to a boxed finale.

(15) Fireworks display. An outdoor display of special fireworks performed as entertainment.

(16) Flash powder. Explosive composition intended for use in firecrackers and salutes. Flash powder produces an audible report and a flash of light when ignited. Typical flash powder composition contains potassium chlorate or potassium perchlorate, sulfur or antimony sulfide, and powdered aluminum.

(17) Fusee. A highway distress flare, sometimes used to ignite fireworks at outdoor fireworks displays.

(18) Ground display piece. A pyrotechnic device that functions on the ground (as opposed to an aerial shell which functions in the air). Typical ground display pieces include fountains, roman candles, wheels, "set pieces."

(19) Lance. A thin cardboard tube packed with color-producing pyrotechnic composition used to construct ground display pieces. Lances are mounted on a wooden frame and fused so that ignition of all tubes is simultaneous.

(20) Lift charge. That part of an aerial shell which actually lifts the shell into the air. It usually consists of a black powder charge ignited by a quick match fuse. A delay fuse then ignites the main part of the shell, producing the desired effect.

(21) Manual ignition. A technique used to ignite fireworks using a handheld ignition source such as a fusee or port fire.

(22) Monitor. A person designated by the licensee of the display to keep the audience in the intended viewing area and out of the discharge site and fallout area.

(23) Mortar. A metal or heavy cardboard tube from which aerial shells are fired.

(24) Mortar rack. A strong wooden or metal frame containing closely spaced mortars. Such racks are most often used for barrages and finales, and in electrically ignited displays.

(25) Mortar trough. Above ground structures filled with sand or similar material into which mortars are positioned ready for use in a fireworks display.

(26) Movable ground piece. A ground display piece having movable parts, such as a revolving wheel.

(27) No-fire current. The maximum current that can be applied to an electric match for five seconds at room temperature without the match igniting.

(28) Operator. The licensed pyrotechnician (pyrotechnic operator) responsible for setting up and firing a public fireworks display.

(29) Potential landing area. The area over which shells are fired. The shells will normally burst over this area, but debris and malfunctions will fall into this area; therefore, it must be kept clear of spectators.

(30) Quick match. Black match that is encased in a loose-fitting paper sheath. While exposed black match burns slowly, quick match propagates flame extremely rapidly, almost instantaneously. Quick match is used in fuses for aerial shells and for simultaneous ignition of a number of pyrotechnic devices, such as lances in a ground display piece.

(31) Safety cap. A paper tube, closed at one end, that is placed over the end of the fuse of an aerial shell to protect it from accidental ignition. The cap is not removed until just before firing of the shell.

(32) Salute. A special firework that is designed to produce a loud report.

(33) Salute powder. A pyrotechnic composition which makes a loud report when ignited and constitutes the sole pyrotechnic mixture in a salute.

(34) Shell (aerial). A cylindrical or spherical cartridge containing pyrotechnic composition, a long fuse, and a black powder lift charge. The shells are most commonly three-inch (76 mm) to six inch (152 mm) outside diameter and are fired from mortars. Upon firing, the fuse and lift charge are consumed.

(35) Stars. Small masses of pyrotechnic compounds that are projected from aerial shells, mines, or roman candles.

(36) Theatrical flash powder. A pyrotechnic composition intended for use in theatrical shows. Theatrical flash powder produces a flash of light when ignited. Typical theatrical flash powder burns more slowly than salute powder and may also produce a shower of sparks. Theatrical flash powder is not intended to produce a loud report.

AMENDATORY SECTION (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

WAC 212-17-310 Public display—Storage of shells.

(1) As soon as the fireworks have been delivered to the display site, they shall not be left unattended (~~nor shall they be allowed to become wet~~) and shall be kept dry.

(2) All shells shall be inspected upon delivery to the display site by the display operators. Any shells having tears, leaks, broken fuses, or showing signs of having been wet shall be set aside and shall not be fired. After the display, any such shells shall either be returned to the supplier or be destroyed according to the supplier's instructions.

Exception: Minor repairs to fuses shall be allowed. Also, for electrically ignited displays, attachment of electric matches and other similar tasks shall be permitted.

(3) All shells shall be separated according to diameter and stored in tightly covered containers of metal, wood, or plastic or in fiber drums or corrugated cartons meeting United States Department of Transportation specifications for transportation of fireworks. A flame-resistant tarpaulin shall be permitted to be used as a covering over the containers, if additional protection is desired.

(4) The shell storage area shall be located at a minimum distance of not less than 25 feet (7.6 m) from the discharge site.

(5) During the display, shells shall be stored upwind from the discharge site. If the wind should shift during the display, the shell storage area should be relocated so as to again be upwind from the discharge site.

AMENDATORY SECTION (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

WAC 212-17-317 Public display—Electrical firing unit. (1) At no point shall electrical contact be allowed to occur between any wiring associated with the electrical firing unit and any metal object in contact with the ground.

(2) If the electrical firing unit is powered from AC power lines, some form of line isolation shall be employed (e.g., a line isolation transformer).

(3) The electrical firing unit shall include a key operated switch or other similar device that greatly reduces the possibility that unauthorized or unintentional firings can occur.

Exception: When the electrical firing unit is very small in size, and is only in the immediate area and attached to the wire running to electric matches for the brief duration of the actual firing, there is no requirement for a key operated switch.

(4) Manually activated electrical firing units shall be designed such that at least two positive actions must be taken to apply electric current to an electric match. For example, this might be accomplished with two switches in series, both of which must be operated in order to pass current.

(5) Computer activated electrical firing units shall have some form of "dead-man-switch," such that all firings will cease the moment the switch is released.

(6) If the electrical firing unit has a built-in test circuit, the unit shall be designed to limit the test current (into a short circuit) to 0.05 ampere or to twenty percent of the no-fire current of the electric match, whichever is less. Multitesters such as Volt-Ohm Meters shall not be used for testing unless their maximum current delivering potential has been measured and found to meet these requirements.

(7) When any testing of firing circuits is performed, no person shall be allowed to be present in the immediate area of fireworks that have been attached to the electrical firing unit.

AMENDATORY SECTION (Amending Order 90-02, filed 4/19/90, effective 5/20/90)

WAC 212-17-335 Public display—Firing of shells. (1) Shells shall be carried from the storage area to the discharge site only by their bodies, never by their fuses.

(2) Shells shall be checked for proper fit in their mortars prior to the display.

(3) When loaded into mortars, shells shall be held by the thick portion of their fuses and carefully lowered into the mortar. At no time shall the operator place any part of his body over the throat of the mortar.

(4) The operator shall be certain that the shell is properly seated in the mortar.

(5) Shells shall not, under any circumstances, be forced into a mortar too small to accept them. Shells that do not fit properly into the mortars shall not be fired; they shall be disposed of according to the supplier's instructions.

(6) Shells shall be ignited by lighting the tip of the fuse with a fusee, torch, portfire, or similar device. The operator shall never place any part of his body over the mortar at any time. As soon as the fuse is ignited, the operator shall retreat from the mortar area.

Exception: Alternatively, electrical ignition may be used.

(7) The safety cap protecting the fuse shall not be removed by the operator responsible for igniting the fuse until immediately before the shell is to be fired.

Exception: Where electrical ignition is used.

(8) The first shell fired shall be carefully observed to determine that its trajectory will carry it into the intended firing range and that the shell functions over, and any debris falls into, the potential landing area.

(9) The mortars shall be re-angled or reset if necessary at any time during the display.

(10) In the event of a shell failing to ignite in the mortar, the mortar shall be left alone for a minimum of fifteen minutes, then carefully flooded with water. Immediately following the display, the mortar shall be emptied into a bucket of water. The supplier shall be contacted as soon as possible for proper disposal instructions.

Exception: When electrical ignition is used and the firing failure is electrical in nature or the aerial shell was intentionally not fired, the shell may be salvaged by the pyrotechnic operator.

(11) It is the responsibility of the person igniting the aerial shells to detect when a shell does not fire from a mortar. The person shall warn others in the area and shall immediately cause the mortar to be marked to indicate the presence of an unfired aerial shell.

Exception: When electrically firing, it is not necessary to mark the mortar; however, persons entering the area after the fireworks display shall be warned that an unfired shell remains.

(12) Operators shall never attempt to repair a damaged shell nor shall they attempt to dismantle a dry shell. In all such cases, the supplier shall be contacted as soon as possible for proper disposal instructions.

(13) Operators shall never dry a wet shell, lance, or pot for reuse. In such cases, the shell, lance, or pot shall be handled according to disposal procedures.

(14) The entire firing range shall be inspected immediately following the display for the purpose of locating any defective shells. Any shells found shall be immediately doused with water before handling. The shells shall then be placed in a bucket of water. The supplier shall then be contacted as soon as possible for proper disposal instructions.

(15) When fireworks are displayed at night, the licensee shall insure that the firing range is inspected ~~((early))~~ right after the show and at first light the following morning.

(16) The operator of the display shall keep a record, on a form provided by the director of fire protection, of all shells that failed to ignite or fail to function. The form shall be completed and returned to the director of fire protection. Failures shall also be reported to the supplier.

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-345 Public display—Reports. After every public display, it shall be the responsibility of the licensed pyrotechnic operator in charge of the display to submit a written report to the director of fire protection, within ten days following the display, covering:

(1) A brief report of any duds, defective shells, with manufacturer's name, and the type and size of shell.

(2) A brief account of the cause of injury to any person(s) from fireworks and such person's name and address.

(3) A brief account of any fires caused by fireworks.

(4) Any violation of the state fireworks law or of these regulations relating to public display fireworks, with special observations on any irregularities on the part of persons present at the firing site.

(5) The names of pyrotechnic assistants who satisfactorily assisted in all phases of the display, if other than those shown on the license.

Failure to file this report shall constitute grounds for revocation of the operator's current license and/or rejection of his application for his license renewal.

PART IX—((TRANSPORTATION))
PROXIMATE DISPLAYS

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-350 ((Transportation—General))
Proximate display—Use of proximate before an audience. ~~((Licensees are authorized to transport the class and quantity of fireworks for which they have a license to possess from the point of acceptance from a licensed source to an approved storage facility or use site. Transportation shall be in accordance with the regulations of the United States Department of Transportation and the laws of the state of Washington governing the transportation of Class B and C explosives.))~~ This section shall provide requirements for the indoor use of pyrotechnics in the performing arts in conjunction with theatrical, musical, or similar productions before a proximate audience, performers, or support personnel. This section shall also apply to any outdoor use of pyrotechnics at distances from the audiences less than those required for public fireworks displays; however, the use of pyrotechnics before a proximate audience shall not be construed as a public display of fireworks as defined in WAC 212-17-295.

PERMANENT

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-355 ((Storage—General)) Proximate display—Proximate permit. ((Storage of fireworks shall be free from any condition which increases or may cause an increase of the hazard or menace of fire or explosion or which may obstruct, delay or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishment of fire.)) (1) No permit shall be granted for the use of articles pyrotechnic or special effects unless at least one state licensed pyrotechnician is provided to direct and control the display. The permit applicant shall provide the following:

(a) Name of the person, group, or organization sponsoring the production.

(b) Date and time of day of the production.

(c) Exact location of the production.

(d) Name and license number of the pyrotechnician in charge of firing the pyrotechnic display.

(e) Qualifications of the pyrotechnic operator.

(f) Evidence of the permittee's insurance carrier or financial responsibility.

(g) Number and types of pyrotechnic devices and materials to be used.

(h) Diagram of the grounds or facilities where the production is to be held. This diagram shall show the point at which the pyrotechnic devices are to be fired, the fallout radius of each pyrotechnic device used in the performance, and the lines behind which the audience shall be restrained.

(i) Point of the on-site assembly of pyrotechnic devices.

(j) Manner and place of storage of the pyrotechnic materials and devices.

(k) Certification that the set, scenery, and rigging materials are inherently flame-retardant or have been treated to achieve flame retardancy.

(l) Certification that all materials worn by performers in the fallout area during use of pyrotechnic effects shall be inherently flame retardant or have been treated to achieve flame retardancy.

(2) All plans shall be submitted as soon as is possible so that the authority having jurisdiction has time to be present and to notify interested parties. In no event shall such advance notice be less than twenty-four hours.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-360 ((Storage—Explosive safety)) Proximate display—Pyrotechnic display plans. ((Any person storing fireworks shall have a license for the possession (manufacturer, wholesaler, importer, retailer, display) and, in addition, a permit from the local fire authority for the storage site. Storage shall be in accordance with requirements of the local fire official, who may use the safety practices in the appendix of these rules as guidelines in approving the storage permit.)) (1) Before the performance of any production, the permittee shall submit a plan for the use of pyrotechnics to the authority having jurisdiction. The approved plan shall be kept at the site for review by the authority having jurisdiction.

(2) Any changes or additions to the performance must receive approval of the authority having jurisdiction.

(3) The plan for the use of pyrotechnics shall be made in writing or such other form as is approved by the authority having jurisdiction.

NEW SECTION

WAC 212-17-365 Proximate display—Pyrotechnic display demonstrations. A walk through and a representative demonstration of the pyrotechnics shall be approved by the authority having jurisdiction before a permit is approved. (The local authority having jurisdiction may waive this requirement based on past history, prior knowledge, and other factors, provided the local authority having jurisdiction is confident the discharge of pyrotechnics can be conducted safely.)

NEW SECTION

WAC 212-17-370 Proximate display—Definitions. For the purpose of this section the following definitions are used:

(1) Aerial shell. Usually a cylindrical or spherical cartridge containing pyrotechnic material, a long fuse or electric match wires, and a black powder lift charge.

(2) Airburst. A pyrotechnic device that is suspended in the air to simulate outdoor aerial fireworks shells without producing hazardous debris.

(3) Binary system. A two-component pyrotechnic system.

(4) Black powder. A low explosive consisting of an intimate mixture of potassium or sodium nitrate, charcoal, and sulfur.

(5) Comet. A pellet of pyrotechnic composition that is ignited and propelled from a mortar tube by a charge of black powder.

(6) Concussion effect. A pyrotechnic effect that produces a loud noise and a violent jarring shock for dramatic effect.

(7) Concussion mortar. A device specifically designed and constructed to produce a loud noise and a violent jarring shock for dramatic effect without producing any damage.

(8) Electric match. A device containing a small amount of pyrotechnic material that ignites when a specified electric current flows through the leads. An electric match is used to initiate pyrotechnics. Electric matches are often incorrectly called squibs.

(9) Fallout radius. A line that defines the fallout area of a pyrotechnic device.

(10) Fixed production. Any production performed repeatedly in only one geographic location.

(11) Flare. A pyrotechnic device designed to produce a single source of intense light for a defined period of time.

(12) Flash pot. A device used with flash powder that produces a flash of light and is capable of directing the flash in an upward direction.

(13) Gerb. A cylindrical preload intended to produce a controlled spray of sparks with a reproducible and predictable duration, height, and diameter.

(14) Integral mortar. A preloaded mortar containing pyrotechnic materials and intended for a single firing only.

(15) Lift charge. The composition in a pyrotechnic device that propels the effect into the air when ignited.

(16) Manufacturer. An individual who performs the following:

- (a) Prepares any pyrotechnic material; and
- (b) Loads or assembles any pyrotechnic device.

(17) Mine. A pyrotechnic device, usually a preload, that projects multiple pellets of pyrotechnic material that produce sparks or flame.

(18) Mortar. A tube or pot-like device used to direct and control the effect of the pyrotechnic material.

(19) Proximate audience. An audience closer to pyrotechnic devices than permitted by WAC 212-17-325.

(20) Pyrotechnic device. Any device containing pyrotechnic materials and capable of producing a special effect as defined in the section.

(21) Pyrotechnic material. (Articles pyrotechnic.) A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation.

(22) Pyrotechnic operator. (Special effects operator.) An individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects.

(23) Pyrotechnic special effect. A special effect created through the use of articles pyrotechnic materials and devices. (See also special effects.)

(24) Pyrotechnics. Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume.

(25) Rocket. A pyrotechnic device that moves by the ejection of matter produced by the internal combustion of propellants.

(26) Saxon. A pyrotechnic device consisting of a tube that rotates around a pivot point to produce a circular shower of sparks.

(27) Special effect. A visual or audible effect used for entertainment purposes, created exclusively by articles pyrotechnic.

(28) Waterfall, falls, park curtain. An effect of a cascade of sparks usually produced by multiple devices fired simultaneously.

(29) Wheel. A pyrotechnic device that rotates on a central axis consisting of multiple gerbs or rockets attached to a framework.

NEW SECTION

WAC 212-17-375 Proximate display—Transportation of pyrotechnic material. All ingredients, pyrotechnic materials, and pyrotechnic devices shall be transported in accordance with all state and local requirements.

NEW SECTION

WAC 212-17-380 Proximate display—Storage of pyrotechnic materials and WAC devices. All pyrotechnic

materials and devices shall be stored in accordance with any state and local regulations. Provisions for lockable storage for pyrotechnics, approved by the authority having jurisdiction, shall be provided.

NEW SECTION

WAC 212-17-385 Proximate display—Separation from heat sources. Pyrotechnic materials and devices shall not be stored within fifty feet of any unprotected source of heat or open flame.

NEW SECTION

WAC 212-17-390 Proximate display—Identification of pyrotechnic devices or binary systems. All pyrotechnic products or binary systems used shall have been identified or marked by the manufacturer with the following information:

- (1) Name of the pyrotechnic device or binary system;
- (2) Name, address, and phone number of the manufacturer;
- (3) Statement describing the conditions of use and potential hazards;
- (4) Manufacturer's statement regarding whether the pyrotechnic device or binary system is intended for indoor use.

NEW SECTION

WAC 212-17-395 Proximate display—General fire protection. (1) Two or more fire extinguishers of the proper classification and size as approved by the authority having jurisdiction shall be readily accessible while the pyrotechnics are being loaded, prepared for firing, or fired.

(2) Fire detection and life safety systems shall not be permitted to be interrupted during the operation of pyrotechnic effects except portions of fire detection and life safety systems may be permitted to be interrupted during the operation of temporarily installed pyrotechnic effects when all of the following conditions are met:

- (a) Approval of the authority having jurisdiction;
- (b) Approval of the owner or owner's representative;
- (c) An approved fire watch capable of directing the operation of all fire detection and life safety systems installed in the building is present.

NEW SECTION

WAC 212-17-400 Proximate display—Firing prerequisites. (1) All pyrotechnic devices shall be mounted in a secure manner to maintain their proper positions and orientations so that, when they are fired, the pyrotechnic effects described in the plan submitted by the permittee are produced.

(2) Pyrotechnic devices shall be mounted so that no fall-out from the device endangers human lives, results in personal injury, or damages property.

(3) Before firing the pyrotechnic device, the pyrotechnic operator or designated performance security staff shall prevent unauthorized entry into the area where the special effects are to occur.

NEW SECTION

WAC 212-17-405 Proximate display—Firing safe-guards. Firing systems shall not be left unattended while connected to loaded pyrotechnic devices.

Pyrotechnic devices shall be fired only when the area where the effect is to occur is in clear view of the pyrotechnic operator, or an assistant who is in direct communication with the operator.

NEW SECTION

WAC 212-17-410 Proximate display—Separation distances from audience. (1) Each pyrotechnic device fired during a performance shall be separated from the audience by at least fifteen feet, but not by less than twice the fallout radius of the device.

(2) Concussion mortars shall be separated from the audience by at least twenty-five feet.

(3) There shall be no glowing or flaming particles within ten feet of the audience.

(4) No smoking is permitted within twenty-five feet of the area where pyrotechnics are being handled or fired.

NEW SECTION

WAC 212-17-415 Proximate display—Performance. (1) The pyrotechnic effect operator shall advise all performers and support personnel that they are exposed to a potentially hazardous situation when performing or otherwise carrying out their responsibilities in the vicinity of a pyrotechnic effect.

(2) Immediately before any performance, the pyrotechnic operator shall make a final check of wiring, position, hookups, and pyrotechnic devices to ensure that they are in proper working order. The pyrotechnic operator also shall verify safety distances.

(3) When pyrotechnics are fired, the quantity of smoke developed shall be controlled so as not to obscure the visibility of exit signs or paths of egress.

NEW SECTION

WAC 212-17-420 Proximate display—After the performance. (1) The pyrotechnic operator shall verify that all pyrotechnic devices have been fired. Any unfired materials or devices shall either be fired or disposed of in accordance with the manufacturer's recommendations.

(2) Life safety and other systems that have been disarmed or disengaged shall be restored to normal operating condition as soon as the likelihood of false alarms from the use of pyrotechnics has passed.

PART X—(~~STORAGE~~) TRANSPORTATION**NEW SECTION**

WAC 212-17-425 Transportation—General. Licensees are authorized to transport the class and quantity of fireworks for which they have a license to possess from the point of acceptance from a licensed source to an approved storage

facility or use site. Transportation shall be in accordance with the regulations of the United States Department of Transportation and the laws of the state of Washington governing the transportation of Division 1.3G and 1.4G explosives.

NEW SECTION

WAC 212-17-430 Transportation—By common carrier. No common carrier, as defined in RCW 81.29.010, shall deliver fireworks from an out-of-state shipper to any person or firm within this state without first determining that the person or firm possesses an importer's license, issued by the director of fire protection to receive them, or the shipper has an importer's license, issued by the director of fire protection to ship them into this state.

PART (~~X~~) XI—STORAGE**NEW SECTION**

WAC 212-17-435 Storage—General. Storage of fireworks shall be free from any condition which increases or may cause an increase of the hazard or menace of fire or explosion or which may obstruct, delay or hinder, or may become the cause of any obstruction, delay or hindrance, to the prevention or extinguishment of fire.

NEW SECTION

WAC 212-17-440 Storage—Explosive safety. Any person storing fireworks shall have a license for the possession (manufacturer, wholesaler, importer, retailer, display) and, in addition, a permit from the local fire authority for the storage site. Storage shall be in accordance with requirements of the local fire official, who may use the safety practices in the appendix of these rules as guidelines in approving the storage permit.

NEW SECTION

WAC 212-17-445 Storage—By common carrier. No common carrier shall store fireworks while in transit within a building without first obtaining a storage permit from the local fire authority.

PART XII—FINES AND PENALTIES**NEW SECTION**

WAC 212-17-450 Fines and penalties. (1) These rules establish the basis and process by which citations and penalties will be determined and issued for violations of chapters 70.77 RCW and 212-17 WAC.

(2) Each violation(s) is classified and penalty(ies) assessed according to violation type and instance.

NEW SECTION

WAC 212-17-455 Definitions. (1) "Citation" means a document issued by the office of the state fire marshal pursu-

ant to chapter 70.77 RCW to issue a civil penalty for a violation of RCW 70.77.480 through 70.77.520. A citation may include, but is not limited to, a description of the violation(s) and a notice of civil penalty assessment.

(2) "Formal hearing" is a hearing before a hearings officer where the laws, rules, and evidence are presented, considered, and a proposed opinion issued.

(3) "Hazard" means a condition which could result in fire loss injury or damage to a person or property.

(4) "Hearings request" means the written request for a formal hearing to contest a civil penalty.

(5) "Instance" means the number of times a person has been cited. These are identified as 1st, 2nd, and 3rd instances.

(6) "Local fire authority" means the local fire official having authority.

(7) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations.

(8) "Type" means the classification of violation, i.e., least, minimal, moderate, or severe. These are identified as Type I, II, III, or IV.

(9) "Violation types" shall mean:

(a) "Least violation" means a Type I Violation which poses very little hazard or threat;

(b) "Minimal violation" means a Type II Violation which poses a minor hazard or threat;

(c) "Moderate violation" means a Type III Violation which poses a significant hazard or threat;

(d) "Severe violation" means a Type IV Violation which poses a substantial hazard or threat.

NEW SECTION

WAC 212-17-460 General rules. (1) These rules establish civil penalty criteria for Types I, II, III, and IV Violations and the instances for each type of violation.

(2) These rules apply to persons who violate the requirements of chapters 70.77 RCW and/or chapter 212-17 WAC.

(3) Each separate instance of noncompliance with chapters 70.77 RCW and/or 212-17 WAC shall be considered a separate violation.

(4) Each day that a violation continues shall be considered a separate violation.

(5) The distribution, sale, use, manufacture, or possession of any amount of illegal fireworks is prohibited and subject to citation and penalty.

(6) In addition to the issuance of citations and penalties under these rules, the state fire marshal and local fire marshal acting in accordance with chapters 70.77 RCW and/or 212-17 WAC:

(a) May confiscate any amount of illegal fireworks; and

(b) May confiscate other fireworks possessed by persons violating chapters 70.77 RCW and/or 212-17 WAC.

(7) In addition to the issuance of citations, penalties, and the confiscation of fireworks, the state fire marshal may also revoke, suspend, or deny any fireworks license provided for

under chapter 70.77 RCW to any person who fails to pay a penalty(ies) assessed under these rules.

(8) The penalty for each violation shall range from \$0 to \$1,000 per day and occurrence.

NEW SECTION

WAC 212-17-465 Violation types and penalty assessments. (1) Penalties shall be assessed according to violation type.

(2) The types of violations are:

(a) Least—Type I;

(b) Minimal—Type II;

(c) Moderate—Type III;

(d) Severe—Type IV.

NEW SECTION

WAC 212-17-470 Violation assessment at the local level. (1) Local fire authorities shall have the authority to issue civil penalty citations for violations of chapters 70.77 RCW and/or 212-17 WAC.

(2) A citation may impose a penalty or provide a warning.

(3) The citation shall be forwarded to the office of the state fire marshal within ten days of issuance. Where possible, each citation shall be accompanied by a copy of the issuing authority's written report, inspection sheets, evidence receipt, or any other forms that are completed during the process of issuing citations.

(4) The office of the state fire marshal shall issue a notice of civil penalty based upon the information contained in the citation and any accompanying documentation.

NEW SECTION

WAC 212-17-475 Hearings. (1) Any person may request a hearing regarding the assessment of a civil penalty.

(2) Hearings requests shall be filed with the office of the state fire marshal within fourteen days from the date of the service of civil penalty.

(3) Any person who requests a hearing shall be entitled to a hearing.

NEW SECTION

WAC 212-17-480 Informal conference. (1) The office of the state fire marshal will provide an opportunity for a person to informally discuss a civil penalty that has been assessed against them.

(2) An informal conference may be requested prior to a request for a formal hearing; however, a formal hearing shall be requested within twenty-eight days of the date of service of the notice of civil penalty.

(3) The request for an informal conference may be in any form; and

(a) Shall be addressed to the office of the state fire marshal; and

(b) Shall clearly state the subject to be discussed.

(c) An informal conference concerning civil penalties shall not exceed the fourteen days allowed for filing a formal hearing request.

(d) If the parties agree, an informal conference may be held by telephone.

(e) As the result of an informal conference, the state fire marshal may, for good cause, amend, withdraw, or reduce a civil penalty.

NEW SECTION

WAC 212-17-485 Formal hearing. (1) A person may request a formal hearing at any time before or after an informal conference, as long as the twenty-eight day period for requesting a hearing has not lapsed.

(2) The office of the state fire marshal will arrange for a hearings officer to conduct the formal hearing.

(3) The office of the state fire marshal will set a date, time, and location for the formal hearing.

(4) The office of the state fire marshal will notify, by letter, the person requesting the hearing (or their designated representative) of the date, time, location and the hearings officer conducting the formal hearing.

(5) The hearings officer will hear the case and render a proposed opinion and order including recommended findings of fact and conclusions of law, according to chapter 34.05 RCW.

(6) The formal hearing shall be conducted as follows:

(a) The hearings officer will act as an impartial third party.

(b) It is not necessary for the person that requested the hearing to be represented by legal council.

(c) Testimony shall be taken under oath.

(d) All evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their serious affairs is admissible.

(e) Hearsay evidence is admissible if it meets statutory standards for being reliable and trustworthy.

(7) The proposed opinion and order shall be reviewed by the state fire marshal and, if accepted, finalized and issued as a final order.

NEW SECTION

WAC 212-17-490 Penalty adjustment. (1) The assessment of adjustment of penalties for amounts other than those set by chapter 70.77 RCW shall be done only by the state fire marshal through a hearings process either formally or informally.

(2) The assessment of penalties for not being in conformance with chapters 70.77 RCW and/or 212-17 WAC may be made only after considering:

(a) The gravity and magnitude of the violation;

(b) The person's previous record;

(c) Such other considerations as the state fire marshal may consider appropriate.

(3) During a formal hearing or informal conference, the office of the state fire marshal may modify or adjust the citation, cited violations, or penalties assessed in order to meet the requirements of these rules and to ensure uniformity and consistency in their application statewide.

NEW SECTION

WAC 212-17-495 Payment of civil penalty. (1) The penalty shall be paid to the office of the state fire marshal immediately after an order assessing a civil penalty becomes final by operation of law or on an appeal.

(2) The attorney general may bring an action in the name of the Washington state patrol, through the director of fire protection, in the superior court of Thurston County or of any county in which the violator may do business to collect any penalty imposed under chapter 70.77 RCW.

NEW SECTION

WAC 212-17-500 Type I violations. (1) Type I Violations are subject to penalties ranging from a warning to seventy-five dollars per day depending upon the instance and in accordance with WAC 212-17-390.

(2) Examples of Type I Violations include, but are not limited to:

(a) Failure to post "no smoking" signs at the retail fireworks stand;

(b) Failure to provide required fire extinguishing equipment at the retail fireworks stand;

(c) Failure to maintain a clean, orderly area within twenty feet of the retail sales area;

(d) Failure to keep a copy of the retail fireworks stand license at the retail stand while the stand is open;

(e) Possession of illegal fireworks worth less than fifty dollars.

NEW SECTION

WAC 212-17-505 Type II violations. (1) Type II Violations are subject to penalties ranging from a warning to one hundred fifty dollars per day depending upon the instance and in accordance with WAC 212-17-390.

(2) Examples of Type II Violations include, but are not limited to:

(a) Failure to have a person eighteen years of age or over inside the retail stand during business hours;

(b) Possession of more than fifty dollars but less than one hundred dollars of illegal fireworks;

(c) Discharge of less than fifty dollars worth of illegal fireworks;

(d) Smoking or the ignition of fireworks within fifty feet of any fireworks stand.

NEW SECTION

WAC 212-17-510 Type III violations. (1) Type III Violations are subject to penalties ranging from seventy-five dollars to two hundred fifty dollars per day depending upon instance and in accordance with WAC 212-17-390.

(2) Examples of Type III Violations include, but are not limited to:

(a) Possession of one hundred dollars or more of illegal 1.4G fireworks.

(b) Sale of any amount of illegal 1.4G fireworks without the necessary licenses issued by the office of the state fire

marshal and/or, where required, a permit from the local authority having jurisdiction.

(c) The purchase of fireworks by a Washington state retail fireworks stand operator from an unlicensed wholesaler.

(d) Manufacturing or altering fireworks without the necessary state license and local permit.

(e) Storage of any amount of 1.3G fireworks without the necessary license issued by the office of the state fire marshal and a permit from the local authority having jurisdiction.

(f) Use of fireworks in a manner that presents a danger to life or property.

NEW SECTION

WAC 212-17-515 Type IV violations. (1) Type IV Violations are subject to penalties ranging from one hundred twenty-five dollars to one thousand dollars per day depending on instance and in accordance with WAC 212-17-390.

(2) Examples of Type IV Violations include, but are not limited to:

(a) Possession of fifty dollars or more of 1.3G fireworks without the necessary license issued by the office of the state fire marshal and the required permit from the local authority having jurisdiction;

(b) Conducting a public fireworks display without the necessary license issued by the office of the state fire marshal and the required permit from the local authority having jurisdiction;

(c) Purchase of any amount of 1.3G fireworks without the necessary licenses issued by the office of the state fire marshal and/or, where required, the local authority having jurisdiction;

(d) Conducting a public display using illegal or unauthorized fireworks;

(e) Intentional or indiscriminate use of fireworks which injure someone or cause more than two hundred fifty dollars in property damage;

(f) Wholesale sales of fireworks without a valid Washington state wholesalers license;

(g) Importing, or causing to be imported, fireworks into the state of Washington without a valid Washington state importers license.

AMENDATORY SECTION (Amending Order FM 82-10, filed 11/2/82)

WAC 212-17-900 Appendix. This appendix is not a part of this rule but is included to provide guidelines, based on nationally-recognized standards, for use by licensees in establishing safe practices involving the manufacture or storage of fireworks and for use by local fire officials in determining compliance with safety standards for the purpose of issuing permits for fireworks manufacture or storage.

In addition to the definitions in chapter 70.77 RCW and this rule, the following definitions apply to this appendix:

Barricade. A natural or artificial barrier that will effectively screen a magazine, building, railway, or highway from the effects of an explosion in a magazine or building containing explosives. It shall be of such height that a straight line from the top of any sidewall of a building or magazine con-

taining explosives to the cave line of any magazine, or building, or to a point twelve feet above the center of a railway or highway, will pass through such natural or artificial barrier.

Natural barricade. Natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures that require protection cannot be seen from the magazine or building containing explosives when the trees are bare of leaves.

Artificial barricade. An artificial mound or revetted wall of earth of a minimum thickness of three feet.

Breakaway construction. A general term which applies to the principle of purposely providing a weak wall so that the explosive effects can be directed and minimized. The term "weak wall" as used in this code refers to a weak wall, weak wall and roof, or weak roof.

The term "weak wall" is used in a relative sense as compared to the construction of the entire building. The design strength of a "weak wall" will vary as to the building construction, as well as to the type and quantity of explosive or pyrotechnic materials in the building. The materials used for "weak wall" construction are usually light gauge metal, plywood, hardboard or equivalent lightweight material, and the material is purposely selected to minimize the danger from flying missiles. Method of attachment of the weak wall shall be such as to aid the relief of blast pressure and fireball.

Fireworks plant. Means all lands, and buildings thereon, used for or in connection with the manufacture or processing of fireworks. It includes storage buildings used with or in connection with plant operation.

Highway. Means any public street, public alley or public road.

Inhabited building. Means a building or structure regularly used in whole or part as a place of human habitation. The term "inhabited building" shall also mean any church, school, store, passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, and storage of explosive materials or fireworks.

Magazine. Means any building or structure, other than a manufacturing building, meeting the requirements specified in chapter 3 of this code.

Manufacture of fireworks. Means the preparation of fireworks mixes and the loading and assembling of all fireworks, except pyrotechnic display items made on-site by qualified personnel for immediate use when such operation is otherwise lawful.

Mixing building. Means any building used primarily for mixing and blending pyrotechnic composition, excluding wet sparkler mixes.

Motor vehicle. Means any self-propelled passenger vehicle, truck, tractor, semitrailer, or truck-full trailer used for the transportation of freight over public highways.

Nonprocess building. Means office buildings, warehouses, and other fireworks plant buildings where no fireworks or explosive compositions are processed or stored.

Person. Means any individual, firm, copartnership, corporation, company, association, joint stock association, and

including any trustee, receiver, assignee, or personal representative thereof.

Process building. Means any mixing building, any building in which pyrotechnic or explosive composition is pressed or otherwise prepared for finishing and assembling, or any finishing and assembling building, including a building used for preparation of fireworks for shipment. If a pyrotechnic or explosive composition while in the state of processing is stored in a process building, the building is classified as a process building. See also storage building.

Public conveyance. Means any vehicle carrying passengers for hire.

Pyrotechnic composition. Means a chemical mixture which on burning and without explosion produces visible or brilliant displays or bright lights, or whistles.

Railway. Means any steam, electric, diesel electric or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives or fireworks are stored or where fireworks manufacturing buildings are situated.

Screen type barricade. Means any of several barriers for containing embers and debris from fires and deflagrations in process buildings that could cause fires and explosions in other buildings. Screen type barricades are constructed of metal roofing, one-quarter-inch and one-half-inch mesh screen or equivalent material. A screen type barricade extends from the floor level of the donor building to such height that a straight line from the top of any side wall of the donor building to the cave line of the acceptor building will go through the screen at a point not less than five feet from the top of the screen. The top five feet of the screen are inclined at an angle of between 30 and 45 degrees, toward the donor building.

Squib. Means a device containing a small quantity of ignition compound in contact with a bridge wire.

Storage building. Means any building, structure, or facility in which ((Class E)) Division 1.4G, 1.5G or 1.6G fireworks in any state of processing, or finished ((Class E)) Division 1.4G, 1.5G, or 1.6G fireworks are stored, but in which no processing or manufacturing is performed.

Warehouse. Means any building or structure used exclusively for the storage of materials, except fireworks or combustible or explosive compositions used to manufacture fireworks.

PART I

MANUFACTURING OPERATIONS

1. General

11. All fireworks plants shall comply with the requirements of this section except that those plants that meet all of the conditions of the following paragraphs a, b and c need not comply with Articles 2 and 6:

a. Making only customized fireworks not for general sale.

b. Having not more than five pounds of explosive composition, including not more than one-half pound of initiating explosive, in a building at one time.

c. All explosive and pyrotechnic compositions are removed to an appropriate storage magazine at the end of each work day.

2. Building site security

21. All fireworks plants shall be completely surrounded by a substantial fence having a minimum height of six feet. All buildings, except office buildings in which no processing or storage is permitted, must be located within the fence. All openings in the fence shall be equipped with suitable gates which shall be kept securely locked at all times, except when in actual use; except that the main gate of the plant may be left open during the regular hours of plant operation while in plain view of and under observation by authorized responsible employees or guards. Conspicuous signs indicating "WARNING—NO SMOKING—NO TRESPASSING" shall be posted along the plant fence at intervals not to exceed 500 feet.

22. No person other than authorized employees or representatives of departments of Federal, state, or political subdivisions of the state governments having jurisdiction over the establishment shall be allowed in any fireworks plants, except by special permission secured from the plant office.

3. Separation distances

31. All process buildings shall be separated from inhabited buildings, public highways and passenger railways in accordance with Table 1.

32. The separation distance between process buildings shall be in accordance with Table 2.

33. Separation distances of nonprocess buildings from process buildings and magazines shall be in accordance with Table 2.

34. Separation of magazines containing black powder or salutes classified as ((Class B)) Division 1.3G fireworks from inhabited buildings, highways, and other magazines containing black powder or salutes classified as ((Class B)) Division 1.3G fireworks shall be in accordance with Table 3.

4. Building construction

41. Process buildings, except buildings in which customers' orders are prepared for shipment, shall embody break-away construction. The exterior of process buildings constructed after this Code is adopted shall be constructed of materials no more combustible than painted wood.

42. No building shall have a basement or be more than one story high. Interior wall surfaces and ceilings of buildings shall be smooth, free from cracks and crevices, noncombustible, and with a minimum of horizontal ledges upon which dust may accumulate. Wall joints and openings for wiring and plumbing shall be sealed to prevent entry of dust. Floors and work surfaces shall not have cracks or crevices in which explosives or pyrotechnic compositions may lodge.

43. Mixing and pressing buildings shall have conductive flooring, properly grounded.

44. The number and location of exits in buildings in which fireworks are being processed shall comply with a, b and c.

a. From every point in every undivided floor area of more than one hundred square feet there shall be at least two exits accessible in different directions. Where building floors are divided into rooms, there shall be at least two ways of escape from every room of more than one hundred square feet; toilet rooms need have only one exit and shall be so

located that the points of access thereto are away from or suitably shielded from fireworks processing areas.

b. Exits shall be so located that it will not be necessary to travel more than twenty-five feet from any point to reach the nearest exit. The routes to the exits shall be unobstructed.

c. Exit doors shall open outward, and shall be capable of being pressure-actuated from the inside.

5. Heat, light, electrical equipment

51. No stoves, exposed flames, or electric heaters may be used in any part of a building except in a boiler room, machine shop, office building, pumphouse, or lavatory in which the presence of fireworks, fireworks components, or flammable liquids are prohibited. Heating shall be by means of steam, indirect hot air radiation, hot water, or any other means approved by local authorities. Unit heaters, located inside buildings that at any time contain explosive or pyrotechnic composition, shall be equipped with motors and switches suitable for use in Class II, Division 1 locations.

52. Where artificial lighting is required in fireworks processing buildings it shall be by electricity. Temporary or loose electrical wiring shall not be used. Extension lights are prohibited except that during repair operations approved portable lighting equipment may be used after the area has been cleared of all pyrotechnic or explosive composition and after all dust has been removed by washing down.

53. All wiring in process buildings shall be in rigid metal conduit or be Type MI cable. The wiring, lighting fixtures, and switches shall comply with the requirements for Class II, Division 1 locations in Article 502 of the National Electrical Code, 1981 Edition.

54. Wiring, switches, and fixtures in storage buildings shall comply with the requirements for Class II, Division 2 locations in Article 502 of the National Electrical Code, 1981 Edition.

55. All presses and other mechanical devices shall be properly grounded.

56. A master switch shall be provided at the point where electric current enters the plant, which will, upon being opened, immediately cut off all electric current to the plant, except that to emergency circuits such as a supply to a fire pump or emergency lighting.

6. Maximum building occupancy and quantities of explosive or pyrotechnic compositions permitted

61. The number of occupants in each process building and magazine shall be limited to that number necessary for the proper conduct of those operations.

Note: This requirement is for purposes of minimizing personnel exposure and is distinct from any requirement on maximum building occupancy that may be in the local building code.

62. The maximum number of occupants permitted in each process building and magazine shall be posted in a conspicuous location.

63. No more than 500 pounds of pyrotechnic and explosive composition shall be permitted at one time in any mixing building or any building in which pyrotechnic and explosive compositions are pressed or otherwise prepared for finishing and assembling.

64. No more than 500 pounds of pyrotechnic and explosive composition shall be permitted in a finishing and assembling building at one time.

7. Fire, explosion prevention

71. All buildings shall be kept clean, orderly, and free from accumulation of dust or rubbish. Powder or other explosive or pyrotechnic materials, when spilled, shall be immediately cleaned up and removed from the building.

72. Rags, combustible, pyrotechnic or explosive scrap, and paper shall be kept separate from each other and placed in approved marked containers. All waste and reject hazardous material shall be removed from all buildings daily and removed from the plant at regular intervals and destroyed by submersion in water or by burning in a manner acceptable to local authorities.

73. No smoking or carrying of lighted pipes, cigarettes, cigars, matches, lighters, or open flame, is permitted within the plant fence; except that smoking may be permitted in office buildings or buildings used exclusively as lunchrooms or rest rooms and in which the presence of fireworks or any explosive composition is prohibited. Authorized smoking locations shall be so marked, contain suitable receptacles for cigarette and cigar butts and pipe residue, and contain at least one serviceable fire extinguisher suitable for use on Class A fires. Persons whose clothing is contaminated with explosives, pyrotechnic, or other dangerous materials to the degree that may endanger the safety of personnel shall not be permitted in smoking locations.

74. Matches, cigarette lighters or other flame-producing devices shall not be brought into any process building or magazine.

75. No employee or other person shall enter or attempt to enter any fireworks plant with liquor or narcotics in his possession, or while under the influence of liquor or narcotics, or partake of intoxicants or narcotics or other dangerous drugs while in a fireworks plant.

76. All persons working at or supervising the operations in fireworks mixing and pressing buildings shall be provided with, and wear, cotton working uniforms. In addition, conductive shoes and cotton socks shall be required for all ((Class B)) Division 1.3G fireworks operations and all mixing, pressing, loading, and matching related to ((Class C)) Division 1.4G, 1.5G or 1.6G fireworks. Facilities for changing into these uniforms, and safekeeping for the employees' street clothes shall be provided. The uniforms shall be frequently washed, to prevent accumulation of explosive or other pyrotechnic compounds, and shall not be worn outside the fireworks plant. Washing and shower facilities for employees shall be provided. All persons working in or supervising the operations in a process building shall wear protective clothing and eye protection as needed. All persons working in or supervising mixing areas shall wear respirators when the situation dictates their need.

77. Each fireworks plant shall have an employee designated as safety officer. All employees of a fireworks plant, upon commencing employment and at least annually thereafter, shall be given formal instruction by this safety officer, regarding proper methods and procedures in fireworks plants and safety requirements and procedures for handling explosives, pyrotechnics and fireworks.

78. In areas where there is a danger of ignition of materials by sparks, properly maintained and nonferrous safety hand tools shall be used.

79. In no case shall oxidizers such as nitrates, chlorates, or perchlorates be stored in the same building with combustible powdered materials such as charcoal, gums, metals, sulfur, or antimony sulfide.

8. Testing fireworks

81. Testing of fireworks and components of fireworks shall be performed in an area set aside for that purpose and located at a safe distance, considering the nature of the materials being tested, from any plant building or other structure.

9. Fire extinguishers; emergency procedures

91. Fire extinguishers shall be provided in all buildings except those in which pyrotechnic mixtures are exposed. The number and location of extinguishers shall be in accordance with the requirements of the local fire official.

92. Emergency procedures shall be formulated for each plant which will include personnel instruction in any emergency that may be anticipated. All personnel shall be made aware of an emergency warning signal.

93. Emergency procedures shall include instruction in the use of portable fire extinguishers and instructions on the type of fires on which they may and may not be used.

a. The employees shall be told that if a fire is involving or is in danger of spreading to pyrotechnic mixtures, they are to leave the building at once and follow prescribed procedures for alerting other employees.

b. Extinguishers may be used on fires involving ordinary combustible materials, if the fire can be fought and extinguished without exposing pyrotechnic mixtures.

PART II

STORAGE OF ~~((CLASS-B))~~ DIVISION 1.3G FIREWORKS

1. General provisions

11. ~~((CLASS-B))~~ Division 1.3G fireworks shall be stored in magazines that meet the requirements of this section.

12. ~~((CLASS-B))~~ Division 1.3G fireworks shall be stored in magazines unless they are in process of manufacture, being physically handled in the operating process, being packaged or being transported.

13. Magazines required by this section shall be constructed in accordance with Articles 2 and 3.

14. ~~((CLASS-B))~~ Division 1.3G fireworks that are bullet-sensitive, shall be stored in Type 1, 2, or 3 magazines.

a. Black powder, and ~~((CLASS-B))~~ Division 1.3G fireworks that are not bullet-sensitive shall be stored in a Type 1, 2, 3, or 4 magazine.

15. Magazines containing black powder shall be separated from inhabited buildings, passenger railways, and public highways, and other magazines in accordance with Table 3.

16. Magazines containing ~~((CLASS-B))~~ Division 1.3G fireworks shall be separated from inhabited buildings, passenger railways and public highways in accordance with Table 1.

17. Magazines containing ~~((CLASS-B))~~ Division 1.3G fireworks shall be separated from other magazines and from fireworks plant buildings by barricades or screen-type barricades

and the distances from other magazines and process buildings shall be in accordance with Table 2.

2. Construction of magazines—general

21. Magazines shall be constructed in conformity with the provisions of this section or may be of substantially equivalent construction.

22. The ground around magazines shall be graded in such a manner that water will drain away from the magazines.

23. Magazines requiring heat shall be heated by either hot water radiant heating within the magazine building, or air directed into the magazine building over either hot water or low pressure steam (15 psig maximum) coils located outside the magazine building.

24. The magazine heating systems shall meet the following requirements:

1. The radiant heating coils within the building shall be installed in such a manner that the fireworks containers cannot contact the coils and air is free to circulate between the coils and the fireworks.

2. The heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the fireworks or fireworks containers.

3. The heating device used in connection with a magazine shall have controls that prevent the ambient building temperature from exceeding 130° F.

4. The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

5. The electric fan motor and the controls for an electrical heating device used in heating water or steam shall have overloads and disconnects, which comply with the ~~((National))~~ I.C.C. Electrical Code, ~~((1981))~~ 2003. All electrical switch gear shall be located a minimum distance of 25 feet from the magazine.

6. The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electric and 50 feet when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

7. The storage of fireworks and fireworks containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the stored materials.

25. When lights are necessary inside the magazine, electric safety flashlights or electric safety lanterns shall be used.

a. The authority having jurisdiction may authorize interior lighting of special design for magazines provided that adequate safety is maintained.

26. When ventilation is required in a magazine, sufficient ventilation shall be provided to protect the stored materials in storage for the specific area in which the magazine is located. Stored materials shall be so placed in the magazine as not to interfere with ventilation and shall be stored so as to prevent contact with masonry walls or with any steel or other ferrous metal by means of a nonsparking lattice or equivalent lining.

3. Construction of magazines

31. Type 1 magazine. A Type 1 magazine shall be a permanent structure such as a building or an igloo that is bullet-resistant, fire-resistant, theft-resistant, weather-resistant, and ventilated.

a. Walls. Examples of wall construction considered suitable for Type 1 magazines are:

1. Hollow masonry block construction with 8-inch blocks having the hollow spaces filled with well-tamped dry sand or a well-tamped cement/sand mixture.

2. Brick or solid cement block construction 8 inches thick.

3. Wood construction covered with 26-gauge metal having 3/4-inch plywood or wood sheathing with a 6-inch space between the exterior and interior sheathing and the space between the sheathing filled with well-tamped dry sand or well-tamped cement/dry sand mixture, with not less than 1-to-8 ratio of cement to sand.

4. Fourteen-gauge metal construction lined with 4 inches of brick, solid cement block or hardwood; or filled with 6 inches of sand.

b. Doors. Examples of door construction considered suitable for Type 1 magazines are:

1. Steel plate 3/8-inches thick lined with four layers of 3/4-inch tongue and groove hardwood flooring.

2. Metal plate not less than 14 gauge lined with four inches of hardwood.

c. Roof. The roof of a Type 1 magazine may be constructed of metal not less than 14 gauge; or 3/4-inch wood sheathing covered by metal not less than 26 gauge or other noncombustible roofing material. All exposed wood on the exterior including the eaves shall be protected by metal not less than 26 gauge.

d. Ceiling. Where the natural terrain around a Type 1 magazine makes it possible to shoot a bullet through the roof at such an angle that a bullet could strike the explosives stored in the magazine, then either the roof or the ceiling shall be of bullet-resistant construction. A bullet-resistant ceiling may be constructed at the eave line, covering the entire area of the magazine except the space necessary for ventilation. Examples of ceiling construction that are considered bullet-resistant are:

1. A tray having a depth of not less than 4 inches of sand.

2. A hardwood ceiling not less than 4 inches thick.

e. Foundation. The foundation may be of masonry, wood, or metal and shall be completely enclosed except for openings to provide cross ventilation. A wooden foundation enclosure shall be covered on the exterior with not less than 26-gauge metal.

f. Floor. The floor may be constructed of wood or other suitable floor materials. Floors constructed of materials that may cause sparks shall be covered with a surface of non-sparking material or the packages of explosives shall be placed on pallets of nonsparking material. Magazines constructed with foundation ventilation shall have at least a 2-inch air space between the side walls and the edge of the floor.

g. Ventilation. Type 1 magazines shall be ventilated to prevent dampness and heating of stored explosives. Ventilating openings shall be screened to prevent the entrance of

sparks. Ventilators in side walls shall be offset or shielded. Magazines having foundation and roof ventilators with the air circulating between the side walls and the floor and between the side walls and the ceiling shall have constructed a wooden lattice lining or equivalent to prevent the packages of explosives from being stacked against the side walls and blocking the air circulation.

h. Locks. Each door of a Type 1 magazine shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and a padlock; or with a mortise lock that requires two keys to open; or a three-point lock, or equivalent type of lock that secures a door to the frame at more than one point. Padlocks shall be steel having at least five tumblers and at least a 7/16-inch-diameter case-hardened shackle. All padlocks shall be protected by steel hoods that are installed in a manner to discourage insertion of bolt cutters. Doors that are secured by a substantial internal bolt do not require additional locking devices. Hinges and hasps shall be securely fastened to the magazine and all locking hardware shall be secured rigidly and directly to the door frame.

32. Type 2 magazine. A Type 2 magazine shall be a portable or mobile structure, such as a box, skid-magazine, trailer or semitrailer, that is fire-resistant, theft-resistant, weather-resistant, and ventilated. It shall also be bullet-resistant except when used for indoor storage.

a. Type 2 outdoor box magazine

1. The sides, bottom, top and covers or doors of Type 2 outdoor box magazines shall be constructed of metal, lined with at least 4 inches of hardwood or equivalent bullet-resistant material. The floor shall be of wood or other suitable nonsparking floor materials. Floors constructed of ferrous metal shall be covered with a surface of nonsparking material. Magazines with top opening shall have a lid that overlaps the sides by at least 1 inch when in closed position.

2. Type 2 outdoor box magazines shall be supported in such a manner as to prevent the floor from having direct contact with the ground. Small magazines shall be securely fastened to a fixed object to prevent theft of the entire magazine.

3. Hinges, hasps, locks, and locking hardware shall conform to the provisions for Type 1 magazines as specified in paragraph 31(h).

b. Type 2 vehicular magazine

1. The sides and roof shall be not less than 20 gauge metal. The walls shall be lined with 4 inches of brick or solid cement block or hardwood, or 6 inches of sand, or other bullet-resistant material. The exposed interior walls may be lined with wood. The roof shall be protected by a bullet-resistant ceiling meeting the construction requirements for bullet-resistant ceilings in paragraph 31(d).

2. The doors shall be of metal, lined with not less than 4 inches of hardwood, or a metal exterior with a hardwood inner door not less than 4 inches in thickness.

3. The floors shall be in accordance with the provisions for Type 1 magazines in paragraph 31(f).

4. The doors shall be locked with at least two padlocks for each door opening, either two padlocks on the exterior door fastened on separate hasps and staples or one padlock on the exterior door and one padlock on the interior door. The padlocks shall be steel having at least five tumblers and at

least a 7/16-inch-diameter case-hardened shackle. The padlocks need not be protected by steel hoods. Hinges and hasps shall be securely fastened to the magazine and all locking hardware shall be secured rigidly and directly to the door frame. When unattended, vehicular magazines shall have wheels removed, or be locked with a kingpin locking device, or otherwise be effectively immobilized.

c. Type 2 indoor magazine

1. An indoor Type 2 magazine shall be provided with substantial wheels or casters to facilitate removal from a building in an emergency. The cover for the magazine shall have substantial strap hinges and a means for locking. The magazine shall be kept locked except during the placement or removal of explosive materials with one five-tumbler padlock or equivalent.

2. Type 2 indoor magazines shall be painted red and shall bear lettering in white, on top, at least three inches high, "Explosives—Keep fire away."

3. Type 2 indoor magazines constructed of wood shall have sides, bottoms, and covers or doors constructed of 2-inch hardwood and shall be well braced at corners. The magazines shall be covered with sheet metal of not less than 20 gauge. Nails exposed to the interior of such magazines shall be countersunk.

4. Type 2 indoor magazines constructed of metal shall have sides, bottoms, and covers or doors constructed of 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least 1 inch.

33. Type 3 magazine. Type 3 magazines shall be portable structures that are bullet-resistant, fire-resistant, theft-resistant, and weather-resistant.

a. Type 3 magazines shall be equipped with a five-tumbler padlock.

b. Type 3 magazines constructed of wood shall have sides, bottoms, and covers or doors constructed of 4-inch hardwood and shall be well braced at corners. They shall be covered with sheet metal of not less than 20 gauge. Nails exposed to the interior of such magazines shall be countersunk.

c. Type 3 magazines constructed of metal shall have sides, bottoms, and covers or doors constructed of 12-gauge metal and shall be lined inside with a nonsparking material. Edges of metal covers shall overlap sides at least 1 inch.

34. Type 4 magazine. A Type 4 magazine shall be a permanent, portable, or mobile structure, such as a building igloo, box, semitrailer, or other mobile container that is fire-resistant, theft-resistant, and weather-resistant.

a. Type 4 outdoor magazine

1. A Type 4 outdoor magazine shall be constructed of masonry, wood covered with metal, fabricated metal or a combination of these materials. The doors shall be metal or wood covered with metal. Permanent magazines shall be constructed in accordance with those provisions for Type 1 magazines pertaining to: foundations (paragraph 31(e)); ventilation (paragraph 31(g)); and locks, hinges, hasps and locking hardware (paragraph 31(h)). Vehicular Type 4 magazines shall be in accordance with the provisions for Type 2 vehicular magazines for locks, hinges, hasps and locking hardware

(paragraph 32(b)4) and shall be immobilized when unattended (paragraph 32(b)2).

b. Type 4 indoor magazine

1. A Type 4 indoor magazine shall be in accordance with the provisions of a Type 2 indoor magazine (paragraph 32(d)).

4. Magazine operations

41. Storage within magazines

a. Magazines shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions. The competent person shall keep an up-to-date inventory of the contents of magazines.

b. All magazines containing ((Class-B)) Division 1.3G fireworks or black powder shall be opened and inspected at intervals of not greater than three days to determine whether there has been an unauthorized entry or attempted entry into the magazines; or to determine whether there has been unauthorized removal of the magazines or the contents of the magazines.

c. Magazine doors shall be kept locked, except during the time of placement and removal of stocks or during inspection.

d. Safety rules covering the operations of magazines shall be posted on the interior of the magazine door.

e. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked.

f. Containers shall be piled in a stable manner.

g. Containers of ((Class-B)) Division 1.3G fireworks shall be laid flat with top side up.

h. Black powder in shipping containers, when stored in magazines with other explosives, shall be segregated. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down.

i. Open containers shall be securely closed before being returned to a magazine. Only fiberboard containers may be opened in the magazine. No container without a closed lid may be stored in the magazine.

j. Wooden packages of ((Class-B)) Division 1.3G fireworks or black powder shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosive materials.

k. Tools used for opening containers of ((Class-B)) Division 1.3G fireworks or black powder shall be constructed of nonsparking material, except that metal slitters may be used for opening fiberboard containers. A wood wedge and a fiber, rubber or wood mallet shall be used for opening or closing wood containers of explosives.

l. Magazines shall be used exclusively for the storage of ((Class-B)) Division 1.3G fireworks and black powder. Metal tools other than nonferrous transfer conveyors, shall not be stored in any magazine containing ((Class-B)) Division 1.3G fireworks or black powder. Ferrous metal conveyor stands may be stored in the magazine when the stands are protected by a coat of paint.

m. Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages and rubbish. Brooms and other cleaning utensils shall not have any spark-

producing metal parts. Sweepings from floors of magazines shall be properly disposed of, in accordance with the instructions of the manufacturer.

n. When magazines need interior repairs, all fireworks and black powder shall be removed therefrom and the floors cleaned.

o. In making exterior magazine repairs, when there is a possibility of causing sparks or fire, the fireworks and black powder shall be removed from the magazine.

p. Fireworks and black powder removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the fireworks and black powder shall be promptly returned to the magazine.

42. Miscellaneous safety precautions

a. Smoking, matches, open flames, spark-producing devices and firearms (except firearms carried by authorized guards) shall not be permitted inside of or within 50 feet of magazines.

b. The land surrounding magazines shall be kept clear of brush, dried grass, leaves and similar combustibles for a distance of at least 25 feet.

c. Combustible materials shall not be stored within 50 feet of magazines.

d. Property upon which magazines are located shall be posted with signs reading "Explosives—Keep off." Such signs shall be located so as to minimize the possibility of a bullet's traveling in the direction of the magazine if anyone shoots at the sign.

PART III

STORAGE OF ((Class-C)) Division 1.4G FIREWORKS

1. General provisions

11. ((Class-C)) Division 1.4G fireworks shall be kept in storage buildings that meet the requirements of this section.

12. ((Class-C)) Division 1.4G fireworks shall be stored in storage buildings unless they are in process of manufacture, being physically handled in the operating process, being used, packaged, or being transported.

13. Storage buildings required by this section shall be constructed in accordance with Article 2.

14. Storage buildings containing ((Class-C)) Division 1.4G fireworks shall be separated from inhabited buildings, passenger railways and public highways, in accordance with Table 1.

15. Storage buildings containing ((Class-C)) Division 1.4G fireworks shall be separated from other storage buildings, magazines and fireworks plant buildings in accordance with Table 2.

2. Construction of storage buildings

21. Storage buildings for ((Class-C)) Division 1.4G fireworks may be a building, igloo, box, trailer, semi-trailer or other mobile facility. They shall be constructed to resist fire from an outside source and to be weather-resistant and theft-resistant.

22. Storage buildings for ((Class-C)) Division 1.4G fireworks shall be vented, or in the alternative, shall be constructed in such a manner that venting will occur by yielding

of weaker parts of the structure under pressure generated by burning fireworks.

23. All storage buildings shall be equipped with locking means for all openings.

24. All doors shall open outward and all exits must be clearly marked. Aisles and exit doors shall be kept free of any obstructions.

25. Only dust-ignition proof type electrical fixtures shall be used and wiring shall comply with Section 502-4(b) of the National Electrical Code. No wall receptacles are permitted. All light fixtures must have guards.

26. An outside master electrical switch shall be provided at each storage building where electricity is used.

3. Storage building operations

31. Storage.

a. Storage buildings shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions.

b. Doors shall be kept locked, except during hours of operation.

c. Safety rules covering the operations of storage buildings shall be posted.

d. Containers shall be piled in a stable manner.

e. ((Class-C)) Division 1.4G fireworks shall be stored in their original packaging and in unopened cases or cartons so as to take advantage of the insulation provided by such packaging; provided, however, unpackaged fireworks which have been returned by retailers may be temporarily retained in bins for repackaging.

f. Tools used for opening containers of ((Class-C)) Division 1.4G fireworks shall be constructed of nonsparking material, except that metal slitters may be used for opening fiberboard containers.

g. Storage buildings shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings shall be properly disposed of.

h. When storage buildings need interior repairs, all fireworks shall be removed therefrom and the interior cleaned.

i. In making exterior storage building repairs, when there is a possibility of causing sparks of fire, the fireworks shall be removed from the storage building.

j. Fireworks removed from a storage building under repair shall either be placed in another storage building or placed a safe distance from the storage building, where they shall be properly guarded and protected until repairs have been completed. Upon completion of repairs, the fireworks shall be promptly returned to the storage building.

32. Miscellaneous safety precautions

a. Smoking, matches, open flames, spark-producing devices and firearms (except firearms carried by authorized guards) shall not be permitted inside of or within 25 feet of storage buildings.

b. The land surrounding storage buildings shall be kept clear of brush, dried grass, leaves and similar combustibles for a distance of at least 25 feet, unless equivalent protection is provided.

c. Smoking shall not be permitted in storage buildings or within 25 feet of the storage building. There shall be conspicuously posted signs with the words "FIREWORKS—NO SMOKING" in letters not less than four inches high.

PART IV
QUANTITY-DISTANCE SEPARATION TABLES

Table 1. Minimum Separation Distances of Fireworks Processing Buildings, Fireworks Magazines, and Fireworks Storage Buildings from Inhabited Buildings, Passenger Railways, and Public Highways.¹

Net Weight of Fireworks ²	Distance from Passenger Railways and Public Highways ^{3,4,5}		Distance from Inhabited Buildings ^{3,4,5}	
	((Class-C)) Division 1.4G Fireworks	((Class-B)) Division 1.3G Fireworks ²	((Class-C)) Division 1.4G Fireworks	((Class-B)) Division 1.3G Fireworks ⁵
Pounds	Feet	Feet	Feet	Feet
100	25	200	50	200
200	30	200	60	200
400	35	200	70	200
600	40	200	80	208
800	45	200	90	252
1,000	50	200	100	292
2,000	58	230	115	459
3,000	62	296	124	592
4,000	65	352	130	704
5,000	68	400	135	800
6,000	70	441	139	882
8,000	73	509	140	1,018
10,000	75	565	150	1,129
15,000	80	668	159	1,335
20,000	83	745	165	1,490
30,000	87	863	174	1,725
40,000	90	953	180	1,906
50,000	93	1,030	185	2,060
60,000	95	1,095	189	2,190
80,000	98	1,205	195	2,410
100,000	100	1,300	200	2,600
150,000	105	1,488	209	2,975
200,000	108	1,638	215	3,275
250,000	110	1,765	220	3,530

- Note 1: This table does not apply to separation distances at fireworks manufacturing buildings, and magazines for storage of ((Class-B)) Division 1.4G fireworks and storage buildings for ((Class-C)) Division 1.4G fireworks. Those separation distances are given in Table 2.
- Note 2: Net weight is the weight of all pyrotechnic and explosive composition and fuse only.
- Note 3: See definitions of "passenger railways," "public highways" and "inhabited buildings."
- Note 4: ((Class-B)) Division 1.3G fireworks processing buildings and ((Class-B)) Division 1.3G fireworks magazines, including buildings located on the property of a fireworks plant shall be separated from passenger railways, public highways, and inhabited buildings by a minimum distance of 200 feet except that the separation from hospitals, schools and bulk storages of flammable

liquids or flammable gases shall be by a minimum distance of 500 feet.

- Note 5: The separation distances shall apply to all ((Class-B)) Division 1.3G fireworks except salutes. The separation distances in Table 3 shall apply for salutes. When salutes and ((Class-B)) Division 1.3G fireworks are stored in the same magazine, the net weight of salute is applied to Table 3 and the net weight of ((Class-B)) Division 1.3G fireworks, including the net weight of salutes, is applied to Table 1. Whichever distance is the greater shall determine the separation distances of the magazine.
- Note 6: All distances in Table 1 are to be applied with or without barricades or screen-type barricades.

Table 2.
Minimum Separation Distances at Fireworks Manufacturing Plants

Net Weight of Fireworks ¹	Distance of Magazines and Storage Buildings from Process Buildings and Nonprocess Buildings ^{2,5}		Distance Between Process Buildings and Between Process and Nonprocess Buildings ²	
	((Class-C)) Division 1.4G Fireworks ³	((Class-B)) Division 1.3G Fireworks ⁴	((Class-C)) Division 1.4G Fireworks ³	((Class-B)) Division 1.3G Fireworks ⁴
	Pounds	Feet	Feet	Feet
100	30	30	37	57
200	30	35	37	69
400	30	44	37	85
600	30	51	37	97
800	30	56	37	105
1,000	30	60	37	112
2,000	30	76	37	172
3,000	35	87	48	222
4,000	38	95	60	264
5,000	42	103	67	300
6,000	45	109	72	331
8,000	50	120	78	382
10,000	54	129	82	423

- Note 1: Net weight is the weight of all pyrotechnic and explosive compositions and fuse only.
- Note 2: For the purposes of applying the separation distances in Table 2 a process building includes a mixing building, any building in which pyrotechnic or explosive compositions is pressed or otherwise prepared for finishing and assembling, and any finishing and assembling building. A nonprocess building means office buildings, warehouses, and other fireworks plant buildings where no fireworks or explosive compositions are processed or stored.
- Note 3: Distances apply with or without barricades or screen-type barricades.
- Note 4: Distances apply only with barricades or screen-type barricades.
- Note 5: Distances include those between magazines, between storage buildings, between magazines and storage buildings, between magazines or storage buildings from process buildings and non-process buildings.

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Table 3. Minimum Separation Distances of Magazines for Storage of Black Powder or ((Class B)) Division 1.3G Salutes from Inhabited Buildings, Highways, and Other Magazines for Storage of Black Powder or ((Class B)) Division 1.3G Salutes. American Table of Distances for Storage of Explosives as Revised and Approved by The Institute of Makers of Explosives—November 5, 1971. Distances in feet.

Explosives		Inhabited Buildings		Public Highways Class A to D		Passenger Railways— Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded
2	5	70	140	30	60	51	102	6	12
5	10	90	180	35	70	64	128	8	16
10	20	110	220	45	90	81	162	10	20
20	30	125	250	50	100	93	186	11	22
30	40	140	280	55	110	103	205	12	24
40	50	150	300	60	120	110	220	14	28
50	75	170	340	70	140	127	254	15	30
75	100	190	380	75	150	139	278	16	32
100	125	200	400	80	160	150	300	18	36
125	150	215	430	85	170	159	318	19	38
150	200	235	470	95	190	175	350	21	42
200	250	255	510	105	210	189	378	23	46
250	300	270	540	110	220	201	402	24	48
300	400	295	590	120	240	221	442	27	54
400	500	320	640	130	260	238	476	29	58
500	600	340	680	135	270	253	506	31	62
600	700	355	710	145	290	266	532	32	64
700	800	375	750	150	300	278	556	33	66
800	900	390	780	155	310	289	578	35	70
900	1,000	400	800	160	320	300	600	36	72
1,000	1,200	425	850	165	330	318	636	39	78
1,200	1,400	450	900	170	340	336	672	41	82
1,400	1,600	470	940	175	350	351	702	43	86
1,600	1,800	490	980	180	360	366	732	44	88
1,800	2,000	505	1,010	185	370	378	756	45	90
2,000	2,500	545	1,090	190	380	408	816	49	98
2,500	3,000	580	1,160	195	390	432	864	52	104
3,000	4,000	635	1,270	210	420	474	948	58	116
4,000	5,000	685	1,370	225	450	513	1,026	61	122
5,000	6,000	730	1,460	235	470	546	1,092	65	130
6,000	7,000	770	1,540	245	490	573	1,146	68	136
7,000	8,000	800	1,600	250	500	600	1,200	72	144
8,000	9,000	835	1,670	255	510	624	1,248	75	150
9,000	10,000	865	1,730	260	520	645	1,290	78	155
10,000	12,000	875	1,750	270	540	687	1,374	82	164
12,000	14,000	885	1,770	275	550	723	1,446	87	174
14,000	16,000	900	1,800	280	560	756	1,512	90	180

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American Table of Distances for Storage of Explosives as Revised and Approved by The Institute of Makers of Explosives—
November 5, 1971. Distances in feet.

Explosives		Inhabited Buildings		Public Highways Class A to D		Passenger Railways— Public Highways with Traffic Volume of more than 3,000 Vehicles/Day		Separation of Magazines	
Pounds Over	Pounds Not Over	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded	Barri- caded	Unbarri- caded
16,000	18,000	940	1,880	285	570	786	1,572	94	188
18,000	20,000	975	1,950	290	580	813	1,626	98	196
20,000	25,000	1,055	2,000	315	630	876	1,752	105	210
25,000	30,000	1,130	2,000	340	680	933	1,866	112	224
30,000	35,000	1,205	2,000	360	720	981	1,962	119	238
35,000	40,000	1,275	2,000	380	760	1,026	2,000	124	248
40,000	45,000	1,340	2,000	400	800	1,068	2,000	129	258
45,000	50,000	1,400	2,000	420	840	1,104	2,000	135	270
50,000	55,000	1,460	2,000	440	880	1,140	2,000	140	280
55,000	60,000	1,515	2,000	455	910	1,173	2,000	145	290
60,000	65,000	1,565	2,000	470	940	1,206	2,000	150	300
65,000	70,000	1,610	2,000	485	970	1,236	2,000	155	310
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000	160	320
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000	165	330
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000	170	340
85,000	90,000	1,760	2,000	530	1,050	1,344	2,000	175	350
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000	180	360
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000	185	370
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000	195	390
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000	205	410
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000	215	430
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000	225	450
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000	235	470
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000	245	490
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000	255	510
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000	265	530
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000	275	550
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000	285	570
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000	295	590
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000	315	630
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000	335	670
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000	360	720
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000	385	770

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 212-17-265 Reports.

WSR 05-12-036

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 25, 2005, 9:50 a.m., effective June 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule-making order is to adopt a rewritten, reformatted and reorganized chapter 16-

406 WAC, standards for apricots, that is easier to understand and use. **No new requirements are included in the rewritten chapter 16-406 WAC.** The rewritten chapter 16-406 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and the department's effort to comply with the executive order's "clarity criteria."

Citation of Existing Rules Affected by this Order: Repealing WAC 16-406-040 and 16-406-050; and amending WAC 16-406-020, 16-406-025, 16-406-030, and 16-406-060.

Statutory Authority for Adoption: Chapters 15.17 and 34.05 RCW.

Adopted under notice filed as WSR 05-07-153 on March 23, 2005.

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 4, Amended 4, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 4, Repealed 2.

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 4, Amended 4, Repealed 2.

Date Adopted: May 25, 2005.

William E. Brookreson
Deputy Director
for Valoria H. Loveland
Director

Chapter 16-406 WAC

WASHINGTON STANDARDS FOR APRICOTS

NEW SECTION

WAC 16-406-005 What definitions are important to understanding this chapter? The following definitions are important to this chapter:

"Aggregate" means that injury areas on an apricot's surface may be combined into one circular area with a diameter equal to the maximum diameter specified for the particular injury.

"Damage" means an injury to an apricot that is readily apparent during grading and handling.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end.

(1) Apricots having a diameter of 1-1/2 inches or larger, ring measurement, may be considered "large."

(2) Apricots having a diameter of less than 1-1/2 inches may be considered "small."

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Mature" means apricots have reached a growth stage that will insure the proper completion of the ripening process.

"Serious damage" means:

(1) Immaturity; or

(2) Any deformity; or

(3) Injuries either causing skin breaks exceeding 3/8 of an inch in diameter or that seriously affects the apricot's appearance.

"Well formed" means having a shape that is characteristic of the variety.

NEW SECTION

WAC 16-406-010 How do you determine the maturity of an apricot? The information in the following table must be considered when determining an apricot's maturity:

MATURITY CHARACTERISTIC	EXPLANATION
(1) Ambering	"Ambering," which many authorities on apricots recognize as an indicator of maturity, refers to the replacement of the green colored flesh immediately around the pit with an amber shade of flesh.
(2) Springiness	"Springiness" develops in connection with the separation of the flesh from the pit. It is an indication that the apricot is reaching proper tree maturity for picking for fresh shipment. Springiness may be detected by: •External pressure on the apricot; or •Cutting the apricot in half at right angles to the longitudinal axis and noting how one-half or both halves slip away from the pit.
(3) Taste	On a tree whose fruit is ready for harvest for fresh shipment, it is quite common to find apricots that are fairly palatable because they have lost much of their green taste. However, in using this test, do not be misled by apricots that, because of worm infestation, may be maturing abnormally.
(4) Separation of fruit from the stem	The way apricots separate from their stems is an indication of their maturity. For example, immature apricots tend to tear the adjacent skin and flesh more than apricots that are near proper maturity.

NEW SECTION

WAC 16-406-012 Do all apricot varieties mature in the same way? Not all varieties of apricots mature in the same way. The varieties listed in the following table have not reached a stage of maturity that will insure a proper completion of the ripening process until they have developed a characteristic yellow color (shades Nos. 3 or 4 on U.S. standard ground color chart) over the minimum surface area shown:

APRICOT VARIETY	MINIMUM YELLOW SURFACE AREA STATED AS A PERCENTAGE OF AN APRICOT'S TOTAL SURFACE AREA
Moorpark	20%
Gilbert or Newcastle	50%
Tilton	40%

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APRICOT VARIETY	MINIMUM YELLOW SURFACE AREA STATED AS A PERCENTAGE OF AN APRICOT'S TOTAL SURFACE AREA
Blenheim	40%
Royal	40%

For the Riland variety, the following are considered damage:	For the Riland variety, the following are considered serious damage:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

NEW SECTION

WAC 16-406-015 What is considered "damage" and "serious damage" to apricots? The following tables explain the differences between "damage" and "serious damage" as applied to apricots:

Table 1

"Damage" and "Serious Damage" for All Varieties of Apricots except the Riland Variety

Except for the Riland variety, the following are considered damage:	Except for the Riland variety, the following are considered serious damage:
(1) Well-healed growth cracks over 3/8 of an inch in length.	(1) Well-healed growth cracks that are more than 1/2 inch in length.
(2) Punctures over 3/16 of an inch in diameter.	
(3) Stem pulls over 3/8 of an inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russeting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(2) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(3) Hail marks that are more than:
(a) Not shallow and superficial; or	(a) 3/16 of an inch deep; or
(b) More than 3/8 of an inch in diameter in the aggregate; or	(b) 1/2 of an inch in diameter in the aggregate; or
(c) More than 1/8 inch in diameter when the skin has been broken.	(c) 1/2 inch in diameter when the skin has been broken.

Table 2

"Damage" and "Serious Damage" for the Riland Variety of Apricots

For the Riland variety, the following are considered damage:	For the Riland variety, the following are considered serious damage:
(1) Growth cracks exceeding 3/8 inches in length.	(1) Growth cracks that are not well healed and are more than 1/2 inch in length.
(2) Punctures exceeding 1/4 of an inch in diameter.	
(3) Stem pulls exceeding 1/2 inch in diameter.	
(4) Smooth shallow limb rubs more than 1/4 of an inch in diameter.	
(5) Russeting affecting more than ten percent of the apricot's surface.	
(6) Bruises exceeding five percent of the apricot's surface.	(2) Bruises exceeding ten percent of the surface of the apricot.
(7) Hail marks that are:	(3) Hail marks that are more than:

AMENDATORY SECTION (Amending WSR 99-17-003, filed 8/4/99, effective 9/4/99)

WAC 16-406-020 ((Tolerances.)) What tolerances apply to apricots? ~~((1))~~ In order to allow for variations incident to proper grading and handling, not more than a total of ten percent of the apricots in any lot may be below the requirements of grade, provided that not more than five percent shall be seriously damaged by insects, and not more than one percent shall be allowed for decay or internal breakdown. ~~Provided, That in addition in Washington No. 1 not more than ten percent, by count, of the apricots in any lot may be damaged but not seriously damaged by bruising.~~

~~(2) When applying the foregoing tolerances to the combination grade no part of any tolerance shall be used to reduce the percentage of Washington No. 1 apricots required in the combination, but individual containers may have not more than ten percent less than the percentage of Washington No. 1 required, provided that the entire lot averages within the percentage specified.)~~ (1) To allow for variations incident to proper grading and handling, the following tolerances apply to apricots:

(a) No more than ten percent of the apricots in any lot may be below grade requirements.

(b) Serious damage by insects must affect no more than five percent of the apricots in any lot.

(c) No more than one percent must be affected by decay or internal breakdown.

(d) In addition, for Washington No. 1 grade, no more than ten percent, by count, of the apricots in any lot may be damaged (but not seriously damaged) by bruising.

(2) When applying the tolerances in subsection (1) of this section to the Washington combination grade:

(a) No part of any tolerance must be used to reduce the percentage of Washington No. 1 apricots required for the combination grade.

(b) However, individual containers may contain forty percent Washington No. 1 grade apricots if the entire lot averages fifty percent.

AMENDATORY SECTION (Amending WSR 03-24-008, filed 11/20/03, effective 12/21/03)

WAC 16-406-025 ((Application of tolerances.)) How are apricot tolerances applied to individual samples? ~~((1))~~ The contents of individual samples are subject to the following limitations: ~~Provided, That the averages for the entire lot are within the tolerances specified for this grade.~~

~~(2) For packages which contain more than ten pounds, and a tolerance of ten percent or more is provided, individual samples in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain~~

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more than ten pounds and a tolerance of less than ten percent is provided, individual samples in any lot shall have not more than double the tolerance specified. ~~Provided, That not more than one apricot which is affected by decay or internal breakdown may be permitted in any sample.~~

(3) ~~Washington No. 1 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may have more than three times the tolerances specified, except that at least one defective apricot may be permitted in any~~

~~sample. Provided, That not more than one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.~~

~~(4) Washington No. 2 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may contain more than three times the tolerances specified.)) If the averages for the entire lot are within the tolerances specified for the grade, the contents of individual samples are subject to the following limitations:~~

<u>Package Weight and/or Apricot Grade</u>	<u>With a Tolerance of:</u>	<u>Individual Sample in Any Lot:</u>	<u>Defects Allowed in a Sample</u>
<u>(1) Packages containing more than ten pounds</u>	<u>Ten percent or more</u>	<u>Must have no more than one and one-half times the tolerance specified</u>	<u>No more than one apricot affected by decay or internal breakdown is permitted in any sample.</u>
<u>(2) Packages containing more than ten pounds</u>	<u>Less than ten percent</u>	<u>Must have no more than double the tolerance specified</u>	<u>No more than one apricot affected by decay or internal breakdown is permitted in any sample.</u>
<u>(3) Washington No. 1 grade packages containing ten pounds or less</u>	<u>Ten percent or less</u>	<u>May have more than three times the tolerances specified</u>	<u>At least one defective apricot may be permitted in any sample and one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.</u>
<u>(4) Washington No. 2 grade packages containing ten pounds or less</u>	<u>Ten percent or less</u>	<u>May have more than three times the tolerances specified</u>	<u>N/A</u>

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AMENDATORY SECTION (Amending WSR 99-17-003, filed 8/4/99, effective 9/4/99)

~~WAC 16-406-030 ((**Marking and packing requirements.**)) **What marking and packing requirements apply to apricots?** (((1) When the numerical count is used, the apricots in any container shall not vary more than one-fourth inch in diameter. In order to allow for variations incident to proper sizing, not more than ten percent, by count, of the apricots in any package may be below the minimum size specified. The determination of grade may be made on the count basis.~~

~~(2) When apricots are prepared for market and/or offered for sale in containers, open or closed, such containers shall have stamped thereon the variety, grade, and packer's, grower's or shipper's name and address, count, or net weight and minimum diameter.~~

~~(These marking requirements do not apply to apricots being sold or shipped to canneries.))~~

~~Note: The marking requirements in this section do not apply to apricots being sold or shipped to canneries.~~

~~(1) When a numerical count is used to pack apricots, the apricots in any container must not vary more than one-quarter inch in diameter.~~

~~(2) To allow for variations incident to proper sizing, no more than ten percent, by count, of the apricots in any package may be below the specified minimum size.~~

~~(3) Numerical count may be used to determine apricot grades.~~

~~(4) When apricots are prepared for market and/or offered for sale in containers (either open or closed), the following information must be clearly stamped on each container:~~

- ~~(a) Variety;~~
- ~~(b) Grade;~~
- ~~(c) Packer's, grower's or shipper's name and address; and~~
- ~~(d) Count; or~~
- ~~(e) Net weight and minimum diameter.~~

AMENDATORY SECTION (Amending Order 1015, Regulation A, filed 4/29/66)

~~WAC 16-406-060 ((**Definition of grades.**)) **What grades apply to apricots?** (((1) Washington No. 1 shall consist of apricots of one variety which are mature but not soft, overripe or shriveled, and which are well formed, visibly clean and free from decay, worm holes, and from damage caused by dirt, limb rubs, growth cracks, bruises, scale, hail, disease, insects or mechanical or other means. (See tolerances WAC 16-406-020)~~

~~(2) Washington No. 2 shall consist of apricots of one variety which are mature but not soft, overripe or shriveled, but which are fairly clean and free from decay, worm holes, and from serious damage caused by growth cracks, bruises,~~

~~hail, insect pests, mechanical or other means. (See tolerances WAC 16-406-020)~~

~~(3) Washington combination shall consist of a combination of Washington No. 1 and Washington No. 2 and may be packed. When such a combination is packed, at least fifty percent of the apricots in any container shall meet the requirements of Washington No. 1. (See tolerances WAC 16-406-020)~~

~~(4) Culls shall consist of apricots which are immature or seriously damaged by growth cracks, nail, insect pests, mechanical or other means. (See marking and packing requirements WAC 16-406-030))~~ The following table identifies apricot grades and describes their characteristics:

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-406-040 Culls for fresh market.
- WAC 16-406-050 Definition of terms.

WSR 05-12-037

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 25, 2005, 9:52 a.m., effective June 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule-making order is to adopt a rewritten, reformatted and reorganized chapter 16-414 WAC Cherries, that is easier to understand and use. **No new requirements are included in the rewritten chapter 16-414 WAC.** The rewritten chapter 16-414 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and the department's effort to comply with the executive order's "clarity criteria."

Citation of Existing Rules Affected by this Order: Repealing WAC 16-414-015, 16-414-030, 16-414-040, 16-414-050, 060, 16-414-070, 16-414-080, 16-414-095, 16-414-100 and 16-414-130; and amending WAC 16-414-010, 16-414-020, 16-414-085, 16-414-090, 16-414-110, and 16-414-120.

Statutory Authority for Adoption: Chapters 15.17 and 34.05 RCW.

Adopted under notice filed as WSR 05-07-154 on March 23, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 14, Amended 6, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 6, Repealed 10.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 6, Repealed 10.

Date Adopted: May 25, 2005.

William E. Brookreson
Deputy Director
for Valoria H. Loveland
Director

PERMANENT

<u>WASHINGTON APRICOT GRADES</u>	<u>CHARACTERISTICS</u>
<u>(1) Washington No. 1</u>	<p><u>Washington No. 1 grade apricots consist of apricots of one variety that are:</u></p> <ul style="list-style-type: none"> •<u>Mature but not soft</u> •<u>Not overripe or shriveled</u> •<u>Well formed</u> •<u>Visibly clean</u> •<u>Free from decay and worm holes</u> •<u>Free from damage caused by dirt, limb rubs, growth cracks, bruises, scale, hail, disease, insects or mechanical or other means. (See tolerances WAC 16-407-060.)</u>
<u>(2) Washington No. 2</u>	<p><u>Washington No. 2 grade apricots consist of apricots of one variety that are:</u></p> <ul style="list-style-type: none"> •<u>Mature but not soft</u> •<u>Not overripe or shriveled</u> •<u>Fairly clean</u> •<u>Free from decay and worm holes</u> •<u>Free from serious damage caused by growth cracks, bruises, hail, insect pests, mechanical or other means. (See tolerances WAC 16-407-060.)</u>
<u>(3) Washington combination</u>	<ul style="list-style-type: none"> •<u>Washington combination grade consists of a combination of Washington No. 1 and Washington No. 2 grade apricots.</u> •<u>Washington combination grade apricots may be packed.</u> •<u>When packed, at least fifty percent of the apricots in any container must meet the requirements of Washington No. 1 grade. (See tolerances WAC 16-407-060.)</u>
<u>(4) Culls</u>	<ul style="list-style-type: none"> •<u>Culls consist of apricots that are immature or seriously damaged by growth cracks, hail, insect pests, mechanical or other means. (See marking and packing requirements WAC 16-406-030.)</u> •<u>Cull apricots for fresh market must be clearly marked with the word CULLS, in large letters at least two inches high, on closed type of containers.</u>

Chapter 16-414 WAC

WASHINGTON STANDARDS FOR CHERRIES

Part I
SWEET CHERRIES

NEW SECTION

WAC 16-414-005 What definitions are important to this chapter? "Clean" means cherries are practically free from dirt, dust, spray residue, or other foreign material.

"Condition defects" means defects that may develop or change during shipment or storage. Condition defects include, but are not limited to, decayed or soft cherries and such other factors as pitting, shriveling, sunken areas, brown discoloration and bruising that, because of its location appears to have occurred after packing.

"Damage" means any injury or specific defect described in WAC 16-414-045 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Face packed" means the cherries in the top layer of any container are placed so the stem ends are pointing downward toward the bottom of the container.

"Fairly well colored" means that at least ninety-five percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

"Firm" means the cherries:

- (1) Possess a firm, fleshy texture;
(2) Retain their approximate original shape;
(3) Are not shriveled; and
(4) Do not show more than slight collapsed areas of flesh.

"Mature" means cherries have reached the stage of growth that will insure the proper completion of the ripening process.

"Permanent defects" means defects that are not subject to change during shipping or storage. Permanent defects include, but are not limited to, factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical injury that, because of its location, appears to have occurred before shipment.

"Off-size" means a cherry whose diameter fails to meet a designated size when measured at right angles to a line from its stem to its blossom end.

"Serious damage" means any specific defect described in WAC 16-414-065 or an equally objectionable variation of any one of these defects, any other defect, or any combination

of defects that seriously detracts from the appearance, edible quality or marketing quality of cherries.

"Shipping point" means:

- (1) The point of origin of the shipment in the producing area or at the port of loading; or
(2) The port of entry into the United States in the case of shipments from outside the continental United States.

"Similar varietal characteristics" means the cherries in any container are similar in color and shape.

"Well formed" means a cherry has the normal shape characteristic of the variety. Mature well-developed doubles are considered well formed if the halves are approximately evenly formed with a variation of no more than 2/64 of an inch.

AMENDATORY SECTION (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

WAC 16-414-010 ((Washington No. 1 grade and tolerances defined.)) What are Washington No. 1 grade and Northwest No. 1 grade sweet cherries? ((1) Washington No. 1 shall consist of sweet cherries which meet the following requirements: Similar varietal characteristics; mature; fairly well colored; well formed and clean; free from decay insect larvae or holes caused by them, soft overripe or shriveled, underdeveloped doubles and sunsealed; and free from damage by any other cause.

(2) Size.

(a) The minimum diameter of each cherry shall be not less than 54/64 inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.

(b) When containers of cherries are marked with a row count/row size designation, the row count/row size marked shall be one of those shown in column 1 of the following table and shall be of the corresponding minimum diameter size shown in column 2:

Table with 2 columns: Column 1 (Row count/Row size) and Column 2 (Diameter in inches). Rows include: 9 (75/64), 9-1/2 (71/64), 10 (67/64), 10-1/2 (64/64), 11 (61/64), 11-1/2 (57/64), 12 (54/64).

(3) Tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided as specified:

(a) For defects at shipping point. Washington No. 1. Eight percent for cherries which fail to meet the requirements for this grade. Provided, That included in this amount not more than four percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of one percent for cherries which are affected by decay.

PERMANENT

Note: Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(b) For defects en route or at destination:

Washington No. 1. Twenty-four percent for cherries in any lot which fail to meet the requirements for this grade: Provided, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Eight percent for cherries which fail to meet the requirements for this grade because of permanent defects; or

(ii) Six percent for cherries which are seriously damaged, including therein not more than four percent for cherries which are seriously damaged by permanent defects and not more than two percent for cherries which are affected by decay.

(c) For off size:

(i) Not more than ten percent, by count, of cherries in any inspection lot shall measure less than 5/64 inches in diameter.

(ii) Ten percent, by count, for cherries which fail to meet any specified maximum diameter when such maximum diameter is marked on the container or specified in terms of fractions of inches.

(iii) When the containers are marked with row count/row size or the lot is specified by row count/row size, not more than ten percent, by count, of the cherries in any inspection lot may fail to meet the corresponding diameter size as defined in subsection (2)(b) of this section.) The following table describes the characteristics of Washington No. 1 grade and Northwest No. 1 grade sweet cherries:

<u>Washington No. 1 Grade Sweet Cherries</u>	<u>Northwest No. 1 Grade Sweet Cherries</u>
<u>Washington No. 1 sweet cherries must meet the following requirements:</u>	<u>Northwest No. 1 sweet cherries must meet the:</u>
<u>(1) Similar varietal characteristics;</u>	<u>(1) Quality requirements of Washington No. 1 sweet cherries listed in this table; and</u>
<u>(2) Mature;</u>	<u>(2) Size requirements listed in WAC 16-414-011.</u>
<u>(3) Not soft overripe or shriveled;</u>	
<u>(4) Fairly well colored;</u>	
<u>(5) Well formed;</u>	
<u>(6) No underdeveloped doubles;</u>	
<u>(7) Clean;</u>	
<u>(8) Free from decay, insect larvae or holes caused by them and sunscald; and</u>	
<u>(9) Free from damage by any other cause.</u>	

NEW SECTION

WAC 16-414-011 What size requirements apply to sweet cherries? (1) The minimum diameter of each cherry must be at least 5/64 inch.

(2) The maximum diameter of the cherries in any lot may be specified according to the facts.

(3) When containers of cherries are marked with a row count/row size designation, the row count/row size marked must comply with the corresponding minimum diameter size as shown in the following table:

<u>If containers of cherries are marked with the following row count/row size designations:</u>	<u>Then minimum diameter size of the cherries in inches must be:</u>
8	84/64
8 1/2	79/64
9	75/64
9 1/2	71/64
10	67/64
10 1/2	64/64
11	61/64
11 1/2	57/64
12	54/64

PERMANENT

NEW SECTION

WAC 16-414-012 What tolerances apply to Washington No. 1 and Northwest No. 1 grade sweet cherries at their shipping point and en route or at their destination? To allow for variations incident to proper grading and handling at the shipping point, en route or at their destination, the following tolerances, by count, are established for Washington No. 1 and Northwest No. 1 grade sweet cherries:

<u>Washington No. 1 Grade Sweet Cherries</u>	<u>Northwest No. 1 Grade Sweet Cherries</u>
<u>(1) Tolerances applied at shipping point</u>	<u>(1) Tolerances applied at shipping point</u>
(a) Eight percent for cherries that fail to meet the requirements for Washington No. 1 grade.	(a) Ten percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of eight percent, no more than four percent is allowed for defects causing serious damage.	(b) Of the total tolerance of ten percent, no more than five percent is allowed for defects causing serious damage.
(c) Of the four percent tolerance for serious damage defects, no more than one-half of one percent is allowed for cherries affected by decay.	(c) Of the five percent tolerance for serious damage defects, no more than one percent is allowed for cherries affected by decay.
	(d) The contents of individual samples or containers in any lot must not be limited to the percentage of grade defects discussed in WAC 16-414-020.

PERMANENT

Washington No. 1 Grade Sweet Cherries	Northwest No. 1 Grade Sweet Cherries
(2) Tolerances applied en route or at destination	(2) Tolerances applied en route or at destination
(a) Twenty-four percent for cherries in any lot that fail to meet the requirements for Washington No. 1 grade.	(a) Twenty-four percent for cherries in any inspection lot that fail to meet the requirements for Northwest No. 1 grade.
(b) Of the total tolerance of twenty-four percent, no more than eight percent is allowed for cherries that fail to meet the requirements for Washington No. 1 grade because of permanent defects.	(b) Of the total tolerance of twenty-four percent, no more than ten percent, by count, is allowed for cherries that fail to meet the requirements for Northwest No. 1 grade because of permanent defects.
(c) Of the total tolerance of twenty-four percent, no more than six percent is allowed for cherries that are seriously damaged, including no more than:	(c) Of the total tolerance of twenty-four percent, no more than seven percent, by count, is allowed for cherries that are seriously damaged, including no more than:
(i) Four percent for cherries seriously damaged by permanent defects; and	(i) Five percent for cherries seriously damaged by permanent defects; and
(ii) Two percent for cherries affected by decay.	(ii) Two percent for cherries affected by decay.

NEW SECTION

WAC 16-414-014 What tolerances apply to sweet cherries that are "off-size"? To allow for variations in size incident to proper grading and handling, the following tolerances, by count, are established for off-size grade sweet cherries:

(1) No more than ten percent of the cherries in any inspection lot must measure less than 54/64 inches in diameter.

(2) Ten percent for cherries that fail to meet any specified maximum diameter when that maximum diameter is marked on the container or specified in terms of fractions of inches.

(3) When containers are marked with row count/row size or a lot is specified by row count/row size, no more than ten percent of the cherries in any inspection lot may fail to meet the corresponding diameter size listed in the table in WAC 16-414-011(3).

(4) When containers are marked with a "minimum diameter," no more than five percent of the cherries in the container may fail to meet the corresponding diameter.

NEW SECTION

WAC 16-414-016 Does Washington state adopt the U.S. standards for grades of sweet cherries? In addition to the standards for sweet cherries contained in this chapter, the Washington state department of agriculture adopts the United States standards for grades of sweet cherries (effective May 7, 1971) as they apply to U.S. No. 1 grade cherries, except the minimum size of cherries and tolerances for undersize cherries must meet the requirements for Washington No. 1 grade.

AMENDATORY SECTION (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

WAC 16-414-020 (~~Application of tolerances.~~) **How are individual sample tolerances applied to Washington No. 1 and Northwest No. 1 grade sweet cherries?** (~~(1) Individual samples shall have not more than double the tolerances specified, except that at least two defective and two off-size specimens may be permitted in any sample. Provided, That the averages for the entire lot are within the tolerances specified for the grade.~~

~~(2) When containers are marked with row count/row size or the lot is specified by row count/row size, the individual samples or containers shall not be limited as to the percentage of cherries which are smaller than the diameter corresponding to the particular row count/row size, except that not more than twenty percent, by count, of the cherries in any sample or container shall measure less than 54/64 inches in diameter.)~~ **Tolerances are applied to Washington No. 1 and Northwest No. 1 sweet cherries as follows:**

(1) Individual samples must have no more than double the tolerances specified. However, if the averages for the entire lot are within the tolerances specified for the grade, at least two defective and two off-size specimens may be allowed in any sample.

(2) When containers are marked with row count/row size or when a lot is specified by row count/row size, the individual samples or containers must not be limited by the percentage of cherries that are smaller than the diameter corresponding to the particular row count/row size. However, no more than twenty percent, by count, of the cherries in any sample or container must measure less than 54/64 inches in diameter.

(3) When marked with minimum size, individual samples may have no more than double the tolerances specified.

NEW SECTION

WAC 16-414-045 What specific defects are considered damage to Washington standards? The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Cracks within the stem cavity	Cracks within the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The cherry's appearance is affected to a greater extent than a cherry that has a superficial well healed crack one-sixteenth inch in width extending one-half the greatest circumference of the stem cavity.
(2) Cracks outside of the stem cavity	Cracks outside of the stem cavity are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing and handling; or • Materially affecting the cherry's appearance.
(3) Hail marks	Hail marks are considered damage when: <ul style="list-style-type: none"> • Deep or not well healed; or • The aggregate area exceeds the area of a circle three-sixteenths inch in diameter.

DEFECT	DESCRIPTION
(4) Evidence of insects	Evidence of insects is considered damage when: <ul style="list-style-type: none"> Scale or more than one scale mark is present; or Any insect materially affects the cherry's appearance.
(5) Limb rubs	Limb rubs are considered damage when they affect the cherry's appearance more than the amount of scarring that is permitted.
(6) Pulled stems	Pulled stems are considered damage when the skin or flesh is slightly torn.
(7) Russetting	Russetting is considered damage when affecting the cherry's appearance more than the amount of scarring permitted.
(8) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> Bird pecks; Sunburn; Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or Any cherry with flesh that is materially discolored.
(9) Scars	Scars are considered damage when: <ul style="list-style-type: none"> Excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter; or Smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter.
(10) Skin breaks	Skin breaks are considered damage when: <ul style="list-style-type: none"> Not well healed; or The cherry's appearance is materially affected.
(11) Sutures	Sutures are considered damage when: <ul style="list-style-type: none"> Excessively deep; or Causing the cherry's shape to be less than well formed.

NEW SECTION

WAC 16-414-065 What specific defects are considered "serious damage" to Washington standards? The defects listed in the following table are considered "serious damage":

DEFECT	DESCRIPTION
(1) Cracks	Cracks are considered serious damage if they are not well healed.
(2) Insect larvae or holes caused by them	The presence of insect larvae or holes caused by insect larvae is considered serious damage.
(3) Pulled stems	Pulled stems are considered serious damage if they cause: <ul style="list-style-type: none"> A more than slight tear in the cherry skin or flesh; or The cherry to leak.
(4) Skin breaks	Skin breaks are considered serious damage if they are not well healed.
(5) Decay	Any sign of decay is considered serious damage.

AMENDATORY SECTION (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

WAC 16-414-085 (~~Container requirements~~) What requirements apply to containers used to ship sweet cherries? ((All sweet cherries except Rainier, Royal Anne, and similar varieties commonly known as "light sweet cherries," shall be placed in containers which meet the following requirements:

(1) The net weight of loose packed (jumble filled) cherries in any container shall be twelve pounds or less, or twenty pounds or more. The net weight of face packed cherries in any container shall be fifteen pounds, or twelve pounds or less. Provided, That containers with a net weight of twelve pounds or less may be packed together with like containers in a master shipping container.

(2) The director may, upon the recommendation by the Washington state horticultural association's cherry committee, allow the use of containers not specified in subsection (1) of this section, as experimental containers for the purpose of test or trial marketing. Provided, That cherries placed in such containers shall meet the quality requirements of the Washington No. 1, U.S. No. 1, or Northwest No. 1 grade, and that at least ninety percent, by count, of the cherries in any lot of such containers shall measure not less than 54/64 inches in diameter, by requesting a waiver.)) Except for varieties commonly known as "light sweet cherries," all sweet cherries must be placed in containers that meet the following requirements:

(1) The net weight of loose packed (jumble filled) cherries in any container must either be:

- (a) Twelve pounds or less; or
- (b) Twenty pounds or more.

(2) The net weight of face packed cherries in any container must either be:

- (a) Fifteen pounds; or
- (b) Twelve pounds or less.

(3) Containers with a net weight of twelve pounds or less may be packed together with like containers in a master shipping container.

NEW SECTION

WAC 16-414-086 Can the director grant exemptions to the container requirements listed in WAC 16-414-085?

(1) Upon the recommendation of the Washington State Horticultural Association's cherry committee, the director may waive the container requirements in WAC 16-414-085 and allow the use of experimental containers for the purpose of test or trial marketing.

(2) Cherries placed in experimental containers:

(a) Must meet the quality requirements of Washington No. 1, U.S. No. 1, or Northwest No. 1 grade; and

(b) At least ninety percent, by count, must measure at least 54/64 inches in diameter.

AMENDATORY SECTION (Amending WSR 95-13-038, filed 6/14/95, effective 7/15/95)

WAC 16-414-090 (~~Marking containers~~) What marking requirements apply to sweet cherry containers?

PERMANENT

((Containers shall be conspicuously and legibly stamped with the name and the address of the grower, packer or shipper, the net weight, and shall be marked with the true variety name or "sweet cherries." The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1-)) (1) Containers must be conspicuously and legibly stamped with the:

(a) Name and the address of the grower, packer or shipper;

(b) Net weight; and

(c) True variety name or "sweet cherries."

(2) The containers may be marked with the grade name Washington No. 1, U.S. No. 1, or Northwest No. 1.

**Part II
SULPHURED CHERRIES**

NEW SECTION

WAC 16-414-105 What definitions are important to sulphured cherries? "Damage" means any injury or specific defect described in WAC 16-414-145 or any equally objectionable variation of those defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible quality or marketing quality of the fruit.

"Fairly well bleached" means the cherries possess a reasonably uniform color typical of reasonably well bleached sulphured cherries for that variety.

"Pit" means an entire pit or portion of a pit that is attached to a sulphured cherry or located within the pit cavity.

"Properly matured" means that stage of ripeness when a cherry is ready for brining.

"Serious damage" means any injury that seriously affects the appearance or market quality of the product.

"Sulphured cherries" means properly matured whole cherries of similar varietal characteristics packed in a solution of sulphur dioxide of sufficient strength to preserve the cherries without adding hardening agents.

"Sulphured cherries with pits" means whole cherries, with or without stems, from which the pits have not been removed. If:

(1) Without stems, not more than twenty percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Sulphured cherries without pits" means whole cherries with or without stems from which the pits have been removed. If:

(1) Without stems (cocktail), not more than seven percent, by weight, of all the cherries may have the stems removed.

(2) With stems, not more than one-half of one percent, by weight, of all the cherries may have the stems attached.

"Unclassified cherries" means sulphured cherries that do not conform to the descriptions of "sulphured cherries with pits" or sulphured cherries without pits.

"Well bleached" means the cherries possess a practically uniform color that is typical of well bleached sulphured cherries for that variety.

NEW SECTION

WAC 16-414-107 What are the Washington state grades for sulphured cherries? The following table lists and describes the various grades of Washington state sulphured cherries:

IF THE GRADE IS:	THEN THE CHERRIES MUST BE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> • Portions of sliced cherries with no particle smaller than an estimated one-third or larger than an estimated two-thirds of a whole cherry; • Properly matured; • Of similar varietal characteristics; • Clean; • Firm; • Well formed; • Well bleached; and • Free from damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> • Properly matured; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> • Properly matured cherries; • Of similar varietal characteristics; • Clean; • Fairly firm; • Well formed; • Fairly well bleached; and • Free from serious damage caused by mechanical injury, surface discoloration, rain cracks, blemishes or other means.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> • A combination of Washington No. 1 and Washington No. 2 cherries of any style; and • Unless otherwise specified, packed in a lot that averages at least fifty percent Washington No. 1 quality cherries.
(6) Washington No. 3 grade sulphured cherries	<ul style="list-style-type: none"> • Cherries that fail to meet the requirements of the above grades; and • Practically free of stems, leaves, fruit spurs, bark, dirt or foreign material.

PERMANENT

NEW SECTION

WAC 16-414-108 What are the tolerances for Washington sulphured cherries? The following table describes the tolerances for various grades of Washington sulphured cherries:

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
(1) Washington No. 1 grade sulphured whole cherries	<ul style="list-style-type: none"> At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(2) Washington No. 1 grade sulphured halved cherries	<ul style="list-style-type: none"> At least ninety-five percent of the cherries of any lot must meet the requirements of "firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade, of which not more than one-half or five percent must be allowed for defects classified as serious damage.
(3) Washington No. 2 grade sulphured whole cherries	<ul style="list-style-type: none"> At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(4) Washington No. 2 grade sulphured halved cherries	<ul style="list-style-type: none"> At least ninety percent of the cherries of any lot must meet the requirements of "fairly firm." In addition, not more than ten percent of the cherries of any lot may be below the remaining requirements of this grade.
(5) Washington combination grade sulphured cherries	<ul style="list-style-type: none"> A tolerance of not more than ten percent is allowed for cherries that are below the requirements of Washington No. 2 grade. The tolerances for combination grade sulphured cherries are on a container basis. However, individual containers in any lot may vary from the specified tolerances, if the averages for the entire lot, based on sample inspections, are within the specified tolerances. For the entire lot, no part of any tolerance must reduce the requirement that fifty percent of cherries in the combination must be of the higher grade. However, individual containers may have at least thirty-five percent of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade. When other combinations are specified, individual containers may not have more than fifteen percent less than the percentage specified of the higher grade or be more than twenty percent below the requirements of Washington No. 2 grade.

IF THE GRADE IS:	THEN THE TOLERANCES ARE:
(6) Washington No. 3 grade sulphured cherries	There are no applicable tolerances for Washington No. 3 grade sulphured cherries.

AMENDATORY SECTION (Amending Order 1708, filed 6/20/80)

WAC 16-414-110 (~~Size~~) **What are the size requirements for all grades of Washington sulphured whole cherries?** (~~The following approximate sizes shall be considered as standards for all grades of sulphured cherries except for halved cherries.~~)

- (1) Extra small: 14 mm. to and including 16 mm.
- (2) Small: 16 mm. to and including 18 mm.
- (3) Medium: 18 mm. to and including 20 mm.
- (4) Large: 20 mm. to and including 22 mm.
- (5) Extra large: 22 mm. and over.

~~A tolerance of five percent for cherries which fail to meet the specified minimum diameter and ten percent for cherries that fail to meet the specified maximum diameter shall be allowed.)~~ (1) The following table lists the standard sizes for all grades of Washington whole sulphured cherries.

SIZE DESIGNATION	SIZE RANGE
Extra small	14 mm to and including 16 mm
Small	16 mm to and including 18 mm
Medium	18 mm to and including 20 mm
Large	20 mm to and including 22 mm
Extra large	22 mm and over

(2) The following tolerances are allowed:

- (a) Five percent for cherries that fail to meet the specified minimum diameter; and
- (b) Ten percent for cherries that fail to meet the specified maximum diameter.

AMENDATORY SECTION (Amending Order 1708, filed 6/20/80)

WAC 16-414-120 (~~Application of tolerances for certification of lots of Washington No. 1 or Washington No. 2 grade sulphured cherries.~~) **What are the tolerance requirements for the certification of lots of Washington No. 1 and Washington No. 2 grade sulphured cherries?** (~~(1) The tolerances for certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries shall be on a container basis. However, not to exceed one sixth of the individual containers in any lot may vary from the specified tolerances provided the averages for the entire lot, based on sample inspection, are within the tolerances specified. For a tolerance of ten percent or more, individual containers in any lot may contain not more than one and one half times the tolerance specified. For a tolerance of less than ten percent, individual containers in any lot may contain not more than double the tolerance specified.~~)

(2) In pitted cherries:

- (a) Of extra small and small sizes there shall not be found in excess of two pits per each forty ounces of cherries.
- (b) Of medium, large or mixed sizes, there shall not be found in excess of one pit per each forty ounces of cherries.

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~~(e) Of extra large size there shall not be found in excess of one pit per each sixty ounces of cherries.)~~ (1) Tolerances for the certification of lots of Washington No. 1 or Washington No. 2 grades of sulphured cherries must be on a container basis.

(2) At least one-sixth of the individual containers in any lot may vary from the specified tolerances if the averages for the entire lot, based on sample inspection, are within the specified tolerances.

(3) For a tolerance of ten percent or more, individual containers in any lot may contain no more than one and one-half times the specified tolerance.

(4) For a tolerance of less than ten percent, individual containers in any lot may contain no more than double the specified tolerances.

NEW SECTION

WAC 16-414-125 What tolerances apply to sulphured pitted cherries? The following tolerances apply to sulphured pitted cherries:

IF THE CHERRY SIZE IS:	THEN THE TOLERANCE IS:
(1) Extra small and small sizes	No more than two pits per each forty ounces of cherries
(2) Medium, large or mixed sizes	No more than one pit per each forty ounces of cherries
(3) Extra large size	No more than one pit per each sixty ounces of cherries

NEW SECTION

WAC 16-414-145 What specific defects are considered damage to Washington standards for sulphured cherries? The defects listed in the following table are considered "damage":

DEFECT	DESCRIPTION
(1) Mechanical injury	Any of the following mechanical injuries are considered damage: <ul style="list-style-type: none"> • Open pitter hole; or • Pitter hole where there is a material loss of flesh; or • Pitter tear or pitter tears; or • Other mechanical injuries that materially affect the appearance of the cherry.
(2) Surface discoloration	Surface discoloration for Washington No. 1 whole cherries is considered damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, the area of a circle three-sixteenths inches in diameter, but does not exceed, in the aggregate, one-eighth of the cherry's surface.

DEFECT	DESCRIPTION
(3) Surface discoloration	Surface discoloration for Washington No. 1 halved cherries is considered damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, one-eighth of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, the area of a circle one-sixteenth inch in diameter.
(4) Rain cracks	Rain cracks on Washington No. 1 whole cherries are considered damage if: <ul style="list-style-type: none"> • In the stem basin and more than one-fourth inch in length; or • Outside the stem basin and more than three-sixteenths of an inch in length, measured on the circumference.
(5) Rain cracks	Rain cracks on Washington No. 1 halved cherries are considered damage if: <ul style="list-style-type: none"> • In the stem basin and more than one-eighth inch in length; or • Outside the stem basin. (Note: No rain cracks are allowed outside the stem basin.)
(6) Blemished	Any of the following blemishes are considered damage: <ul style="list-style-type: none"> • Insect injury; • Bird pecks; • Limb rub; • Hail marks; • Sunburn; • Solution cracks; • Other blemishes or combinations of blemishes that materially affect the appearance of the cherry; or • Any cherry with flesh that is materially discolored.

NEW SECTION

WAC 16-414-155 What specific defects are considered serious to Washington standards for sulphured cherries? The defects listed in the following table are considered serious:

DEFECT	DESCRIPTION
(1) Deformed cherry or double cherry	Any deformed sulphured cherry or double sulphured cherry is considered serious damage.
(2) Mechanical injury	Mechanical injury to Washington No. 2 whole cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh; • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.

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DEFECT	DESCRIPTION
(3) Mechanical injury	Mechanical injury to Washington No. 2 halved cherries is considered serious damage if it causes any: <ul style="list-style-type: none"> • Open pitter holes; • Pitter hole where there is a serious loss of flesh; • Pitter tears; or • Other mechanical injury that seriously affects the cherry's appearance.
(4) Surface discoloration	Surface discoloration is considered serious damage when any: <ul style="list-style-type: none"> • Light surface discoloration exceeds, in the aggregate, 1/2 of the cherry's surface; or • Dark surface discoloration exceeds, in the aggregate, 1/8 of the cherry's surface.
(5) Rain cracks	Rain cracks on Washington No. 2 whole cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/2 inch in length; or • Outside the stem basin and more than 3/8 of an inch in length, measured on the circumference.
(6) Rain cracks	Rain cracks on Washington No. 2 halved cherries are considered serious damage if: <ul style="list-style-type: none"> • In the stem basin and more than 1/4 inch in length; or • Outside the stem basin more than 3/16 of an inch in length, measured on the circumference.
(7) Blemished	Any blemish or combination of blemishes are considered serious damage if they seriously: <ul style="list-style-type: none"> • Affect the appearance of the cherry; or • Discolor the flesh of the cherry.

WSR 05-12-041

**PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed May 25, 2005, 2:29 p.m., effective June 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules clarify the requirements and process for an active member to designate a beneficiary or beneficiaries. They also address situations in which a surviving spouse is eligible to receive a benefit, but dies before requesting a distribution. These rules affect members of the Washington State Patrol retirement system, law enforcement officers' and fire fighters' retirement system, public employees' retirement system, school employees' retirement system and the teachers' retirement system.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-450, 415-108-315, 415-110-315, and 415-112-705.

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 05-08-030 on March 30, 2005.

Changes Other than Editing from Proposed to Adopted Version: Clarified that, in the event a surviving spouse dies before making an election, the eligible child or children may choose either the member's accumulated contributions or a monthly allowance. This was unclear in the proposed rule, even though it was the agency's intent. Changed Example 4 to clarify that the children would receive a monthly allowance until the age of majority. Provided a statutory reference to information about the defined benefit portion of Plan 3 (in the PERS, SERS and TRS rules). In WAC 415-112-705(7), added the pertinent subsection to the reference to RCW 41.32.520.

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 4, 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 4, Repealed 0.

Date Adopted: May 25, 2005.

Sandra J. Matheson
Director

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REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-414-015 Northwest No. 1 grade and tolerances defined.
- WAC 16-414-030 Definitions.
- WAC 16-414-040 Damage.
- WAC 16-414-050 Diameter.
- WAC 16-414-060 Serious damage.
- WAC 16-414-070 Permanent defects.
- WAC 16-414-080 Condition defects.
- WAC 16-414-095 Adoption of United States standards as state standards.
- WAC 16-414-100 Grades.
- WAC 16-414-130 Definitions.

NEW SECTION

WAC 415-103-275 How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to members commissioned on or after January 1, 2003.

(1) You may designate or change a beneficiary by submitting a Beneficiary Designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including unborn or later adopted children. However, unborn or later adopted children must be specifically designated as beneficiaries on the form. You must indicate the date of birth for any living person you name as a beneficiary.

(b) Your estate.

(c) An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 43.43.295.

(7) If your surviving spouse is eligible to receive a benefit under RCW 43.43.295(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

EXAMPLE ONE.

Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

At John's death, Ann and the Barbara Trust are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 43.43.295.

EXAMPLE TWO.

Facts

John, a member, completes a Beneficiary Designation form. In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

Facts

When she became a WSPRS member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by court order, the department will comply with RCW 43.43.295(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

Facts

John is a member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 43.43.295(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

AMENDATORY SECTION (Amending WSR 00-10-017, filed 4/21/00, effective 5/22/00)

WAC 415-104-450 (~~Designation of beneficiaries—Death benefit if a member dies before retirement.~~) **How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to Plan 2 members.**

(1) ~~(As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of~~

your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department. You may designate or change a beneficiary by submitting a beneficiary designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) ~~((As a member))~~ You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~((your))~~ unborn or later adopted children. However, unborn or later adopted children ~~((will not be included unless you))~~ must be specifically ~~((designate them))~~ designated as beneficiaries on the form. You must ~~((state))~~ indicate the date of birth for any living person you name as a beneficiary~~((s))~~.

(b) Your estate~~((s))~~.

(c) ~~((A trust in existence at the time of death.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to ~~((the))~~ any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number~~((s))~~.

~~((A trust to be established under your last will)).~~

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by RCW 41.26.510.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.26.510(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

Examples:

EXAMPLE ONE.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

~~((Subject to applicable statute,))~~ At John's death, ~~((the department will consider both))~~ Ann and the Barbara Trust ~~((and daughter Ann as))~~ are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.26.510.

EXAMPLE TWO.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ~~((s))~~; i.e., no trust name is provided~~((s))~~. ~~((He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.))~~ John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

Facts

When she became a LEOFF Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by court order, the department will comply with RCW 41.26.510(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

Facts

John is a LEOFF 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW

41.26.510(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike until each child reaches the age of majority.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-315 (~~Can I specify who can receive my benefits if I die in service?~~) How do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts. RCW 41.40.835 governs the defined benefit portion of Plan 3.

(1) ~~(You have the right to designate a beneficiary or beneficiaries to receive a benefit if you die while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.)~~ You may designate or change a beneficiary by submitting a beneficiary designation form to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) ~~(As a member)~~ You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~(your)~~ unborn or later adopted children. However, unborn or later adopted children (will not be included unless you) must be specifically (designate them) designated as beneficiaries on the form. You must (state) indicate the date of birth for any living person you name as a beneficiary(¿).

(b) Your estate~~(¿ and/or)~~.

(c) ~~(A trust.)~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making a distribution to any trust the department must receive:

- (i) A copy of the entire trust document;
 - (ii) The name, address, and telephone number of the current trustee; and
 - (iii) The tax identification number.
- (3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) ~~(If you are a member of Plan 3, you may name the same or different beneficiaries for your defined benefit and defined contribution accounts.)~~ You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.40.270 for Plan 1 members;

(b) RCW 41.40.700 for Plan 2 members; and

(c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.40.270(2) or 41.40.700(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

Examples:

EXAMPLE ONE.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

~~((Subject to applicable statute,))~~ At John's death, ((the department will consider both)) Ann and the Barbara Trust ((and daughter Ann as)) are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.40.270 for Plan 1 members, RCW 41.40.700 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

EXAMPLE TWO.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally; i.e., no trust name is provided. John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

Because John has created no trust, the designation ~~((in the trust/organizational location on the form is void. Subject to existing law, the department will issue the death benefit to Ann unless it receives a notice of a competing claim. If the department receives notice of competing claims, a court resolution may be required))~~ of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.**Facts**

When she became a PERS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

Result

Unless required to do otherwise by court order, the department will comply with RCW 41.40.270 (1)(b) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.**Facts**

John is a PERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.40.700(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-110-315 ~~((Designation of beneficiaries—Death benefit if a member dies before retirement.))~~ **How do I designate a beneficiary, and who will receive a distribution if I die before retirement?** This section applies to the designation of beneficiaries for Plan 2 members' defined benefit ~~((or))~~ and Plan 3 members' defined contribution ~~((distribution))~~ accounts. RCW 41.35.710 governs the defined benefit portion of Plan 3.

(1) ~~((As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.))~~ You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~((your))~~ unborn or later adopted children. However, unborn or later adopted children ~~((will not be included unless you))~~ must be specifically ~~((designate them))~~ designated as beneficiaries on the form. You must ~~((state))~~ indicate the date of birth for any living person you name as a beneficiary~~((;)).~~

(b) Your estate~~((;)).~~

(c) ~~((A trust in existence at the time of death.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust, the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number~~((;))~~

~~((d) A trust to be established under your last will)).~~

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.35.460 for Plan 2 members; and

(b) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.35.460(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

Examples:**EXAMPLE ONE.****Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

~~((Subject to applicable statute.))~~ At John's death, ~~((the department will consider both))~~ Ann and the Barbara Trust ~~((and daughter Ann as))~~ are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.35.460 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

EXAMPLE TWO.**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ((~~); i.e., no trust name is provided(~~)~~)). ~~((He checks the box labeled "primary beneficiary."~~ John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.) John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.~~

Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.

Facts

When she became a SERS Plan 2 member, Joan named her mother as her beneficiary. Joan later married, but did not file a new beneficiary form before she died with eleven years of service.

Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.35.460(2) and pay Joan's surviving spouse either a retirement allowance or lump sum. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.

Facts

John is a SERS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.35.460(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-705 (~~Designation of beneficiaries—Death benefit if a member dies before retirement~~) **How**

do I designate a beneficiary, and who will receive a distribution if I die before retirement? This section applies to the designation of beneficiaries for Plan 1 and Plan 2 members' defined benefit and Plan 3 members' defined contribution accounts. RCW 41.32.895 governs the defined benefit portion of Plan 3.

(1) ~~((As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.))~~ You may designate or change a beneficiary by submitting a *beneficiary designation form* to the department. Your designation will become effective upon the department's receipt of the form, only if it is completed properly and signed by you and a witness.

(2) ~~((As a member))~~ You may name one or more of the following as a beneficiary or beneficiaries:

(a) An organization or person, including ~~((your))~~ unborn or later adopted children. However, unborn or later adopted children ~~((will not be included unless you))~~ must be specifically ~~((designate them))~~ designated as beneficiaries on the form. You must ~~((state))~~ indicate the date of birth for any living person you name as a beneficiary(~~;~~).

(b) Your estate(~~;~~).

(c) ~~((A trust in existence at the time of death.))~~ An existing trust, or a trust to be established at a later date or under your last will. If you designate a trust that is not in existence at the time of your death, or is not created under your last will, the designation will be invalid. Before making distribution to any trust the department must receive:

(i) A copy of the entire trust document;

(ii) The name, address, telephone number of the current trustee; and

(iii) The tax identification number(~~;~~);

~~((A trust to be established under your last will)).~~

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) You may change your beneficiary designation at any time.

(5) A change in marital status may invalidate your prior designation.

(6) Your named beneficiary may not necessarily receive a distribution if you die prior to retirement. (See example three.) Distribution is governed by:

(a) RCW 41.32.520 for Plan 1 members;

(b) RCW 41.32.805 for Plan 2 members; and

(c) RCW 41.34.070 for Plan 3 members.

(7) If your surviving spouse is eligible to receive a benefit under RCW 41.32.520 (1)(b) or 41.32.805(2), but your spouse dies before requesting a distribution, your minor children and your spouse's minor children may elect to receive either:

(a) Your accumulated contributions; or

(b) A monthly benefit, share and share alike, until each child reaches the age of majority. See example four.

Examples:**EXAMPLE ONE.****Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

~~((Subject to applicable statute,))~~ At John's death, ~~((the department will consider both))~~ Ann and the Barbara Trust ((and daughter Ann as)) are the primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the entire trust and other information specified in this rule before distribution to the trust. Distribution is governed by RCW 41.32.520 for Plan 1 members, RCW 41.32.805 for Plan 2 members, and RCW 41.34.070 for Plan 3 members.

EXAMPLE TWO.**Facts**

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

~~In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally (()); i.e., no trust name is provided(()). ((He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.))~~ John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann. If the department receives notice of competing claims, a court resolution may be required.))~~ Because John has created no trust, the designation of the Barbara Trust is void. Barbara, personally, will not be a beneficiary.

EXAMPLE THREE.**Facts**

When she became a TRS 1 member, Joan was unmarried and named her mother as her beneficiary. Joan later married, but did not complete a new beneficiary form before she died with four years of service.

Result

Unless required to do otherwise by a court order, the department will comply with RCW 41.32.520(1) and pay Joan's surviving spouse the accumulated contributions in her retirement account. In this case, Joan's mother will not receive a distribution.

EXAMPLE FOUR.**Facts**

John is a TRS Plan 2 member with eleven years of service. He and his wife Mary have a total of three minor children. They have one child together, and each has one child from a previous marriage.

John and Mary were in a skydiving accident. John died instantly making Mary eligible for a benefit under RCW 41.32.805(2). However, Mary died the following week before requesting a distribution from the department.

Result

Since Mary died before requesting a distribution of John's account, John and Mary's three minor children are eligible and opt to receive a monthly benefit, share and share alike, until each child reaches the age of majority.

WSR 05-12-042

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed May 25, 2005, 2:31 p.m., effective June 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is the first phase of a three-phase project to update teachers' retirement system rules to reflect current policy and the Department of Retire Systems (DRS) clear-writing standards.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-112-020, 415-112-100, 415-112-135, 415-112-310, 415-112-320, 415-112-444, 415-112-445, 415-112-450, 415-112-460 and 415-112-470; and amending WAC 415-112-015, 415-112-119, 415-112-120, 415-112-125, 415-112-130, 415-112-145, 415-112-240, 415-112-250, 415-112-260, 415-112-270, 415-112-290, 415-112-300, and 415-112-412.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: For WAC 415-112-015 is RCW 41.32.010 and chapter 41.32 RCW; for WAC 415-112-119, 415-112-300 and 415-112-401 is chapter 41.32 RCW; for WAC 415-112-120 is RCW 41.32.010(29); for WAC 415-112-122 is RCW 41.32.032; for WAC 415-112-125 is RCW 41.32.240, 41.32.780, 41.32.835, 41.32.013; for WAC 415-112-130 is RCW 41.32.240, 41.32.780, 41.32.835; for WAC 415-112-145 is RCW 41.32.500, 41.32.820, 41.32.837, chapter 41.32 RCW; for WAC 415-112-240 is RCW 41.32.010(26); for WAC 415-112-250 is RCW 41.32.267, 41.32.810, 41.32.865; for WAC 415-112-260 is RCW 41.32.270, 41.32.010(26); for WAC 415-112-270 is RCW 41.32.330; for WAC 415-112-290 is RCW 41.32.300; and

for WAC 415-112-402 and 415-112-412 is RCW 41.32.010 (10).

Adopted under notice filed as WSR 05-08-031 on March 30, 2005.

Changes Other than Editing from Proposed to Adopted Version: Changed a WAC citation in WAC 415-112-401.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 13, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 13, Repealed 10.

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 3, Amended 13, Repealed 10.

Date Adopted: May 25, 2005.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

WAC 415-112-015 Definitions. ~~((4))~~ All definitions in RCW 41.32.010 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.32 RCW are defined in this chapter.

(1) **Accrual date** means the first date from which a member's or beneficiary's benefit is calculated. See WAC 415-112-520, RCW 41.32.795 and 41.32.855.

(2) ~~((2))~~ **Annual leave**~~((2))~~ means leave provided by an employer for the purpose of taking regularly scheduled work time off with pay. Annual leave does not usually include leave for illness, personal business if in addition to and different than vacation leave, or other paid time off from work. However, if an employer authorizes only one type of leave, covering paid leave for vacation, illness, and any other excused absence from work, such leave will be considered annual leave for purposes of RCW 41.50.150.

(3) **Dual member** means a person who:

(a) Is or becomes a member of a retirement system, as defined in RCW 41.50.030 or 41.54.010(6), on or after July 1, 1988;

(b) Has been a member of one or more other systems; and

(c) Has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or 41.54.010(6). See WAC 415-113-041.

(4) **Ineligible position** means a position ~~((which))~~ that does not ~~((qualify as))~~ meet the requirements of an eligible position ~~((under))~~ as stated in RCW 41.32.010(37).

~~((4))~~ (5) **Pension benefit** means that portion of a retiree's monthly retirement allowance that is funded by the

state of Washington and the retiree's former employer or employers.

~~((5))~~ (6) **Public educational institution** means a school district, the state school for the deaf, the state school for the blind, educational service districts, institutions of higher education, or community or technical colleges.

~~((6))~~ (7)(a) **Public school** as defined in RCW 41.32.010 includes school districts, educational service districts, the state school for the deaf, and the state school for the blind but does not include the office of the superintendent of public instruction.

(b) As applied to ~~((either))~~ TRS employers other than those listed in (a) of this subsection, "public school" means an institution, fifty percent or more of whose employees are "qualified to teach," whose primary function is to educate students. See subsection (8) of this section.

~~((7))~~ (8) **Qualified to teach** as used under RCW 41.32.010~~(29)~~ means ~~((either))~~:

(a) Having ~~((the authority to provide instruction at a common school as defined under RCW 28A.150.020 pursuant to:~~

(i)) a valid ~~((teaching))~~ certificate issued by the office of the superintendent of public instruction ~~((under WAC 180-75-055; or~~

(ii) A) pursuant to WAC 180-79A-140;

(b) Having a valid permit to teach issued by a lawful authority of this state ~~((under RCW 28A.405.010))~~ pursuant to WAC 180-79A-128; or

~~((b))~~ (c) Being employed under a contract to teach with an institution of higher education as defined in RCW ~~((28A.150.020))~~ 28B.10.016.

~~((8) Reportable compensation means earnable compensation as that term is defined in RCW 41.32.010(10).))~~

(9) **Service in an administrative or supervisory capacity** as used under RCW 41.32.010 and in this chapter:

(a) Means:

(i) Service in a managerial role relating to the administration of a public school; or

(ii) Service involving the exercise of direction over employees of the public school.

(b) Includes, but is not limited to, service as: Principal, assistant principal, superintendent, assistant superintendent, personnel manager and business manager.

(10) ~~((Service in an instructional capacity means a qualified teacher performing services as a classroom teacher.~~

~~((1))~~ **Spousal consent** requires written evidence that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on the retirement application, duly executed and filed with the department, constitutes "written evidence."

~~((12))~~ (11) **System acronyms** used in this chapter are defined as follows:

- "PERS" means the public employees' retirement system.

- "SERS" means the school employees' retirement system.

- "TRS" means the teachers' retirement system.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-119 Purpose and scope of eligibility rules. WAC 415-112-120 through ~~((415-112-155))~~ **415-112-156** codifies the department's existing interpretation of statutes and existing administrative practice regarding eligibility for membership in TRS Plans ~~((and Plan H))~~ **1, 2 and 3**. The department has applied and will apply these rules to determine eligibility for ~~((service))~~ **membership** occurring prior to the effective dates of these sections.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-120 ~~((Am I eligible to establish membership?))~~ **What is the definition of a "teacher"?** ~~((1) You must be a teacher. You are eligible to establish membership as provided under WAC 415-112-125 only if you work as a teacher. You are a teacher if you are qualified to teach and work for a public school in an instructional, administrative or supervisory capacity.~~

~~(2) Nonteaching positions. Positions which do not require service in an instructional, administrative or supervisory capacity include, but are not limited to, the following: Custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, and payroll clerk.)~~ **Only teachers are eligible to establish membership in TRS.**

(1) A teacher is a person who:
(a) Is qualified to teach under WAC 415-112-015(8); and is employed by a public school in an instructional, administrative, or supervisory capacity; or

(b) Otherwise meets the criteria in RCW 41.32.010(29).
(2) For example, persons employed in the following positions are included in the definition of teacher:

- (a) Classroom teacher;**
- (b) Superintendent and assistant superintendent;**
- (c) Principal and assistant principal;**
- (d) Educational staff associate (see WAC 415-112-122);**
- (e) School librarian;**
- (f) Program administrator;**
- (g) School doctor.**

(3) For example, persons employed in the following positions are not included in the definition of teacher:

- (a) Custodian, bus driver, or cafeteria worker;**
- (b) Library technician;**
- (c) Administrative assistant or payroll clerk.**

NEW SECTION

WAC 415-112-122 Am I eligible for TRS membership if I am an educational staff associate? (1) For the purposes of this chapter, you are considered a teacher and are eligible for TRS membership if you:

- (a) Possess a valid educational staff associate certificate issued by the office of the superintendent of public instruction under chapter 180-79A WAC; and
- (b) Serve in an educational staff associate position in a public school consistent with subsection (2) of this section.

(2) Educational staff associate positions include, but are not limited to: Communications disorder specialist, occupational therapist, physical therapist, reading resource technician, school counselor, school nurse, school psychologist, school social worker and school librarian. Educational staff associate positions do not include positions such as custodian, groundskeeper, bus driver, cafeteria worker, library technician, administrative assistant, payroll clerk or any other position that does not require service in an instructional, administrative or supervisory capacity.

(3) If you established service credit in PERS prior to June 7, 1984, in an educational staff associate position, and were employed as such on or after June 7, 1984, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

(4) If you were enrolled in PERS prior to June 7, 1984, based on employment as an educational staff associate, and were converted to SERS membership under RCW 41.40.750, you may transfer your membership to TRS within the time limits established in RCW 41.32.032.

AMENDATORY SECTION (Amending WSR 04-21-080, filed 10/20/04, effective 11/20/04)

WAC 415-112-125 If I am eligible, how can I establish membership? ~~((+))~~ If you ~~((met))~~ **are a teacher** as defined in WAC 415-112-120 and meet the conditions in the following table, you established TRS membership. Your plan status depends upon the date you established membership, as indicated in the following table:

((Period of Service	Type of Employment	Plan
10/01/77¹	If you were contracted to teach full-time you were mandated into membership. If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days ² during a fiscal year.	Plan 1
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member. If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days ² during a fiscal year, provided 1 month had at least 90 hours.	Plan 2
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during an annual period September through August). For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2

PERMANENT

((Period-of Service	Type of Employment	Plan
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during an annual period September through August). For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 2
7/01/96	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during an annual period September through August). For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan 3

¹¹ If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

²¹ "Ninety days of employment," under RCW 41.32.240 and this section means either:

- (a) Ninety full-time calendar days, or the equivalent, during a fiscal year if you were employed as a teacher under a contract; or
- (b) Ninety full-time days of actual, compensated service, or the equivalent, during a fiscal year if you were employed as a substitute teacher.
- (c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

(2) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:

- (a) "Member" — RCW 41.32.010.
- (b) "Eligible position" — RCW 41.32.010.
- (c) "Employer" — RCW 41.32.010.
- (d) "Full-time" — RCW 41.32.240
- (e) "Service" — RCW 41.32.010.
- (f) "Substitute teacher" — RCW 41.32.010.
- (g) "Teacher" — RCW 41.32.010.)

Period of Service	Type of Employment	Plan
Prior to 10/01/77 ¹¹	(1) You were mandated into membership, if: (a) You were contracted to teach full time, as defined in RCW 41.32.240; and (b) You were employed for ninety calendar days. (2) If you were employed less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days ²¹ during a fiscal year; and (b) Established membership under RCW 41.32.240 prior to 10/01/77.	Plan 1
10/01/77 through 06/06/90	(1) If you were contracted to teach full time, you were required to be a member. (2) If you were employed as a substitute teacher or less than full time, you were a member if you: (a) Worked the equivalent of ninety or more full-time days ²¹ during a fiscal year; (b) Worked at least ninety hours during one month; and	Plan 2

Period of Service	Type of Employment	Plan
	(c) Established membership under RCW 41.32.240.	
06/07/90 through 08/31/91	(1) You were a member if you: (a) Were employed in an eligible position as defined in RCW 41.32.010 (37)(a); (b) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August. (2) If you were a substitute teacher, you were a member if you: (a) Worked two consecutive months of ninety hours or more of compensated employment each month during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
09/01/91 through 06/30/96	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 2
07/01/96	(1) If you were employed in an eligible position as defined in RCW 41.32.010 (37)(b), you were required to be a member. (2) If you were employed as a substitute teacher, you were a member if you: (a) Worked at least five months of seventy hours or more of compensated employment during an annual period September through August; and (b) Established membership under RCW 41.32.013.	Plan 3

¹¹ If you previously established Plan 1 membership as detailed above, you may reestablish Plan 1 membership after October 1, 1977.

²¹ The equivalent of a full-time day is the sum of partial days, which, when added together, equal one full-time day.

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-112-130 If I separate from, and then reenter employment, ((can)) **do** I continue to participate in TRS? ((1)) If you are a TRS Plan 1 member, you will participate in TRS Plan 1 if you become reemployed with a TRS employer. If you are a Plan 1 member and have separated)) This section applies to Plan 1, 2 and 3 members who separate employment without retiring.

(1) As a Plan 1 member:

(a) If you separate from service without withdrawing contributions, you will participate in ((the system)) **Plan 1** again if you become reemployed with a TRS employer, even if you are not working as a teacher as defined in WAC 415-112-120.

PERMANENT

~~((2) If you terminate TRS Plan 1 membership, you will not reenter TRS Plan 1 unless you requalify for membership or repay withdrawn contributions as a dual member. If you were a Plan 1 member and have terminated your membership, you can reestablish your membership and be eligible to participate in the system again only if you:~~

~~(a) Become reemployed as a teacher in a position or positions meeting the membership eligibility criteria under RCW 41.32.240 and WAC 415-112-125(1); or~~

~~(b) Repaid withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).~~

~~(3) If you have service credit in TRS Plan 2, you will only reestablish membership if you work as a teacher in an eligible position. If you were a Plan 2 member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:~~

~~(a) Become reemployed as a teacher; and~~

~~(b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).~~

~~(4) If you have service credit in TRS Plan 3, you will only reestablish membership if you work as a teacher in an eligible position. If you were a Plan 3 member who separated from service, you will reestablish membership and be eligible to participate in the system again only if you:~~

~~(a) Become reemployed as a teacher; and~~

~~(b) Render service in a position or positions meeting the membership eligibility criteria under WAC 415-112-125(1) or 415-112-140(1).~~

~~(5) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed:~~

~~(a) "Dual member" RCW 41.54.010 and WAC 415-113-041.~~

~~(b) "Eligible position" RCW 41.32.010.~~

~~(c) "Employer" RCW 41.32.010.~~

~~(d) "Member" RCW 41.32.010.~~

~~(e) "Service" RCW 41.32.010.~~

~~(f) "Service in an administrative or supervisory capacity" WAC 415-112-015.~~

~~(g) "Service in an instructional capacity" WAC 415-112-0163.~~

~~(h) "Teacher" RCW 41.32.010.) (b) If you separate from service and withdraw your contributions, you will reestablish Plan 1 membership only if:~~

~~(i) You are a teacher, as defined in WAC 415-112-120, and meet the eligibility requirements in RCW 41.32.240; or~~

~~(ii) You are a member of another retirement system and repay your withdrawn contributions as a dual member under portability. See RCW 41.54.020(2).~~

(2) As a Plan 2 member: If you separate from service, you will participate in Plan 2 again if you become reemployed in an eligible TRS position with a TRS employer.

(3) As a Plan 3 member: If you separate from service, you will participate in Plan 3 again if you become reemployed in an eligible TRS position with a TRS employer.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-145 ((Can I terminate)) When does my status as a TRS member terminate? (1) (If you are a TRS Plan 1 member, you will remain a member until you:

(a) Die;

(b) Retire for service or disability; or

(c) Withdraw your accumulated contributions.

(2) If you are a TRS Plan 2 member, you will remain a member until you:

(a) Die;

(b) Retire for service or disability; or

(c) Separate from service as a teacher in an eligible position.

(3) If you are a TRS Plan 3 member, you will remain a member until you:

(a) Die; or

(b) Retire for service or disability.

(4) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" RCW 41.32.010.

(b) "Member" RCW 41.32.010.

(c) "Service" RCW 41.32.010.

(d) "Teacher" RCW 41.32.010.) Your TRS Plan 1 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service and withdraw your accumulated contributions; or

(c) Upon your death.

(2) Your TRS Plan 2 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service and withdraw your accumulated contributions; or

(c) Upon your death.

(3) Your TRS Plan 3 membership terminates:

(a) When you retire for service or disability;

(b) When you separate from service, withdraw your accumulated contributions, and irrevocably waive your one percent defined benefit according to the provisions of WAC 415-112-150; or

(c) Upon your death.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-240 ((Service credit to be retroactive.)) In TRS Plan 1, do I receive service credit for my first ninety days of service? In TRS Plan 1, the service ((rendered) you provide during the ninety days of ((employment or the ninety days of) service required to establish membership after July 1, 1964, ((shall qualify)) qualifies as creditable service after you establish membership ((has been established, except as to Plan II members)).

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-112-250 ((Can)) Will I receive service credit for leave with pay? (1) Plan 1 members: If you are otherwise eligible, you will receive service credit for any

time (~~on or after July 1, 1960, during which~~) you were on official leave from your position on or after July 1, 1960, provided that:

- (a) You were listed as employed by your employer; and
- (b) You were receiving compensation from your employer for the time of your leave.

(2) **Plan 2 members:** You may receive service credit in accordance with RCW 41.32.810(~~(+)~~).

(3) **Plan 3 members:** You may receive service credit in accordance with RCW 41.32.865(~~(+)~~).

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-260 ((Credit)) How is service credit evaluated for service in higher institutions(+)? Service credit for teaching in public higher educational institutions (~~shall be~~) is evaluated (~~under the same rules and regulations as apply to service credit in public common schools~~) according to RCW 41.32.270 (Plan 1) and RCW 41.32.010 (2)(b) (Plans 2 and 3).

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-270 ((Evaluating)) In TRS Plan 1, may I receive service credit for professional preparation(+)? ((H)) As a TRS Plan 1 member (~~is otherwise eligible, professional preparation credit may be allowed~~), you may be eligible for service credit for additional study at an institution of higher learning(;) or (~~(a)~~) a commercial or technical school where the courses supplement (~~the member's~~) your professional preparation.

The department considers thirty-six quarter hours or twenty-four semester hours of credit, or the equivalent, (~~shall be considered a year's work. Any less credits shall be evaluated as a fractional part of a year~~) as one year of service credit. Fewer academic credits may be converted into a fraction of a year of service credit.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-290 May I purchase service credit for out-of-state (service) teaching? (1) (~~A TRS Plan 1 member who leaves Washington public school service and terminates his membership in the teachers' retirement system by lapsation or withdrawal and who subsequently returns to service and membership may establish or reestablish only such credit for out of state service as may be credited under the laws in effect at the time when he reestablishes membership.~~)

(2) Effective July 1, 1964, a new or former TRS Plan 1 member who returns to membership after his former membership was cancelled by lapsation or withdrawal may not establish or reestablish out-of-state prior service credit of any kind, including out-of-state prior service credit for teaching, professional preparation, or military service.

(3) Out-of-state membership service credit, regardless of when the service was rendered, may be established or reestablished after July 1, 1964, within the limitations of existing law, only if the out-of-state service was rendered while the

~~member was on official leave of absence granted by a state of Washington employer.)~~ **Do I qualify to purchase service credit for out-of-state teaching?**

(a) **Plan 1.** If you are a Plan 1 member, you may establish service credit for teaching out-of-state, which includes teaching out of the country, only if:

(i) You were on an official leave of absence granted by your employer when you provided the service; and

(ii) You returned to public school service in Washington state.

(b) **Plans 2 and 3.** If you are a Plan 2 or 3 member, you may not purchase service credit for out-of-state teaching.

(2) **As a Plan 1 member, how do I apply to purchase service credit for out-of-state teaching?** To establish such service credit, you must submit the following to the department within the time limits set in RCW 41.32.310:

(a) Proof of your out-of-state service;

(b) Proof of your official leave of absence; and

(c) Payment of contributions.

(3) **What is the maximum amount of service credit I may purchase?** If you meet the requirements in this section, you may establish a maximum of four years of service credit for teaching out-of-state. Except that, at the time of retirement, you may not have more years of service credit for out-of-state teaching than for Washington state service, unless you established the out-of-state service credit prior to July 2, 1947.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-300 ((Red Cross service)) What types of service do not qualify for TRS service credit? Service credit (~~shall not be allowed~~) is not earned for service:

(1) With the National Red Cross organization;

(2) As a teacher or educational advisor in the Civilian Conservation Corps camps; or

(3) As a Peace Corps volunteer.

NEW SECTION

WAC 415-112-401 What types of payments are considered earnable compensation? The following table indicates whether certain types of payments are earnable compensation under TRS Plan 1, 2 or 3 and provides a cross-reference to the specific WAC.

Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-112-415	No - WAC 415-112-415
Base Contract	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Car Allowances	No - WAC 415-112-41301 ¹	No - WAC 415-112-41301
Cafeteria Plans	Yes - WAC 415-112-4604	Yes - WAC 415-112-4604
Deferred Wages	Yes - WAC 415-112-4609	Yes - WAC 415-112-4609
Disability Payments	No - WAC 415-112-482	No - WAC 415-112-482

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Type of Payment	TRS 1 Earnable Compensation?	TRS 2/3 Earnable Compensation?
Employer Provided Vehicle	No - WAC 415-112-413 ²	No - WAC 415-112-413
Employer Taxes/Contributions	No - WAC 415-112-4609	No - WAC 415-112-4609
Evening/Summer School	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Extracurricular Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Fringe Benefits, including insurance	No - WAC 415-112-480	No - WAC 415-112-480
Illegal Payments	No - WAC 415-112-485	No - WAC 415-112-485
Legislative Leave	Yes - WAC 415-112-471	Yes - WAC 415-112-471
Longevity/Education Attainment Pay	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
National Board of Professional Teaching Standards Certification Bonus	No - WAC 415-112-4602	No - WAC 415-112-4602
Nonmoney Maintenance	Yes - WAC 415-112-412 ³	No - WAC 415-112-412
Optional Payments	No - WAC 415-112-487	No - WAC 415-112-487
Performance Bonuses	Yes - WAC 415-112-4603	Yes - WAC 415-112-4603
Retroactive Salary Increase	Yes - WAC 415-112-4607	Yes - WAC 415-112-4607
Reimbursements	No - WAC 415-112-489	No - WAC 415-112-489
Reinstatement Payments	Yes - WAC 415-112-477	Yes - WAC 415-112-477
Retirement or Termination Bonuses	No - WAC 415-112-490	No - WAC 415-112-490
Severance Pay - Earned Over Time	Yes - WAC 415-112-4608	No - WAC 415-112-4608
Severance Pay - Not Earned Over Time	No - WAC 415-112-4608	No - WAC 415-112-4608
Sick Leave Cash Outs	No - WAC 415-112-417	No - WAC 415-112-417
Supplemental Contracts	Yes - WAC 415-112-4601	Yes - WAC 415-112-4601
Time Off with Pay	Yes - WAC 415-112-473	Yes - WAC 415-112-473
Union Leave ⁴	Yes - WAC 415-112-475	Yes - WAC 415-112-475
Workers' Compensation	No - WAC 415-112-482	No - WAC 415-112-482

¹A portion of the value of an employer car allowance may be reportable in Plan 1 only. See WAC 415-112-41301.

²A portion of the value of an employer provided vehicle may be reportable in Plan 1 only. See WAC 415-112-413.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan 1 only. See WAC 415-112-412.

⁴Only specific types of union leave are reportable. See WAC 415-112-475.

NEW SECTION

WAC 415-112-402 What is earnable compensation?

(1) The department determines whether payments to an employee are earnable compensation based on the nature of the payment, **not** the name of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of earnable compensation.

(2) Earnable compensation must meet the definition in RCW 41.32.010(10). It must:

(a) Be paid by a TRS employer to an employee as salary or wages for services provided; or

(b) Qualify as earnable compensation under WAC 415-112-471 through 415-112-477, even though it was not paid for services provided. See RCW 41.32.010(10), 41.32.267, 41.32.810 and 41.32.865.

(3) In certain cases you may establish service credit for out-of-state teaching, military service, and professional preparation. However, any compensation you may have received for these periods is excluded from earnable compensation because it is not salary or wages from a TRS employer.

(4) Some types of compensation are defined as earnable compensation in one plan and not in another.

(5) An employer must report all of an employee's earnable compensation to the department. An employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-112-412 Are nonmoney payments from my employer (~~considered compensation~~) earnable compensation? (1) (~~TRS Plan 1 members:~~

~~(a) If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.~~

~~(i) The value of employer provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.~~

~~(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities:~~

Example: ~~An employer provides an employee with uniforms which the employee must wear in performing services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.~~

~~(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by~~

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corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.

(e) If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.

(i) "Nonmoney maintenance compensation" means the fair market value of materials legally provided by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records, or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is nonmoney maintenance compensation. The employer must report \$400.00 per month to the department as earnable compensation for the employee.

(e) How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation. In addition to the records required under (d) of this subsection, you may provide the department with any evidence which you or your employer believe confirms that your use of employer-provided materials qualifies as earnable compensation. However, verbal evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than verbal evidence or written evidence created years later.

(2) TRS Plan 2 and Plan 3 members. If you are a TRS Plan 2 or Plan 3 member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as earnable compensation.) Nonmoney maintenance compensation, as defined in this section:

(a) Is earnable compensation to the extent authorized by this section, for Plan 1 members; and

(b) Is **not** earnable compensation for Plan 2 and 3 members.

(2) Nonmoney maintenance compensation is compensation legally provided to you in a form other than money. For example, nonmoney maintenance compensation may include the provision of materials such as living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities. To be considered nonmoney maintenance compensation, the materials must be provided for your personal use and/or the personal use of your dependents, not for a business use. The materials are **not** nonmoney maintenance compensation if:

(a) You use them solely in connection with your employer's business; or

(b) They are provided in lieu of reimbursement for your business expenses.

(3) To prove that the provision of materials constitutes nonmoney maintenance compensation:

(a) Your employer must substantiate by adequate records or other sufficient corroborating evidence that the materials were provided to you for your personal use as payment for your services to the employer.

(b) Your employer must substantiate that the fair market value of the materials provided is includable in your taxable income for federal income tax purposes.

(c) You may provide corroborating evidence to the department. Written documentation prepared at or near the time the materials were provided is generally preferred.

(d) In the absence of clear proof, the department will presume that employer-provided materials were not nonmoney maintenance compensation.

(4) If you are a member of TRS Plan 1, your employer must report nonmoney maintenance compensation to the department as earnable compensation. The amount reported as earnable compensation is the fair market value of materials legally provided by your employer. To substantiate the value of nonmoney maintenance compensation:

(a) Your employer must establish and regularly update a written schedule reflecting the monthly fair market value of the materials provided. Typically, the fair market value would be the cost of the item if it were acquired in a purchase

or lease transaction. Your employer must be able to substantiate the accuracy of this schedule with adequate records.

(b) If you pay any amount to your employer in order to own or use the materials, your employer must report as **earnable compensation** the amount by which the fair market value exceeds the amount of your payment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-020	Public records.
WAC 415-112-100	Minimum requirement for membership.
WAC 415-112-135	Can I be a member if I work as an educational staff associate?
WAC 415-112-310	Civilian Conservation Corps service.
WAC 415-112-320	Service as a Peace Corps volunteer.
WAC 415-112-444	Purpose and scope of earnable compensation rules.
WAC 415-112-445	TRS reportable compensation table.
WAC 415-112-450	What compensation can be reported?
WAC 415-112-460	Payments for services rendered.
WAC 415-112-470	Payments not for services rendered.

WSR 05-12-043
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 25, 2005, 2:33 p.m., effective June 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules are being amended to delete obsolete provisions, correct statutory citations, and implement current law. WAC 415-112-840 is repealed and the amended version is adopted as WAC 415-112-544 to improve the organization and accessibility of rules in chapter 415-112 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-112-840; and amending WAC 415-104-111, 415-108-830, and 415-110-830.

Statutory Authority for Adoption: For WAC 415-104-111 is RCW 41.50.050(5), 41.26.500; for WAC 415-108-830 is RCW 41.50.050(5), 41.40.690, 41.40.850; for WAC 415-110-830 is RCW 41.50.050(5), 41.35.230; and for WAC 415-112-544 is RCW 41.50.050(5), 41.32.800, 41.32.860.

Other Authority: For WAC 415-104-111 is RCW 41.26.500; for WAC 415-108-830 is RCW 41.40.690, 41.40.850, 41.40.037; for WAC 415-110-830 is RCW 41.35.230, 41.35.060; and for WAC 415-112-544 is RCW 41.32.800, 41.32.802, 41.32.860, 41.32.862.

Adopted under notice filed as WSR 05-08-033 on March 30, 2005.

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 3, 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 1, Amended 3, Repealed 1.

Date Adopted: May 25, 2005.

Sandra J. Matheson
Director

AMENDATORY SECTION (Amending WSR 02-14-072, filed 6/28/02, effective 7/29/02)

WAC 415-104-111 ~~((Actuarial recomputation of retirement allowance upon retirement following reemployment.))~~ **How does the department calculate the retirement allowance of a LEOFF Plan 2 member who retires, reenters employment, and then either retires or separates employment again?** ~~((The purpose of this rule is to establish))~~ **This rule establishes** a method to actuarially recompute ~~((the))~~ **your** retirement allowance ~~((of))~~ **if you are** a Plan 2 member who retires, reenters employment causing ~~((his or her))~~ **your** retirement allowance to be suspended, and then **either retires or separates employment again.** ~~((The actuarially recomputed retirement allowance shall:~~

~~(a) Include service credit the member earned following reestablishment of membership if any; and~~

~~(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age fifty three.~~

~~((2) If a Plan 2 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.26.500 as follows:))~~ **(1) If you return to employment in a LEOFF eligible position, you must reenter membership.**

~~(a) If ((the member first))~~ **you previously** retired before age fifty-three, the department ~~((shall))~~ **will:**

~~(i) Calculate ((the))~~ **your** retirement allowance pursuant to RCW 41.26.420 using ~~((the retiree's))~~

~~(A) Your~~ total years of career service, including service earned prior to **your** initial retirement and service earned after reentering membership; **and**

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce ~~((the member's))~~ your retirement allowance;

(A) Based on the present value of the retirement allowance payments ((the individual)) you received during ((the)) your initial retirement; ((and

~~(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.)~~ (B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if applicable; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(b) If ~~((the member initially))~~ you previously retired at or after age fifty-three, the department ~~((shall))~~ will recompute ~~((the member's))~~ your retirement allowance pursuant to RCW ~~((41.26.500))~~ 41.26.420 and include any additional service credit you earned and any ~~((applicable))~~ increase in ~~((the member's))~~ your final average ~~((final compensation))~~ salary resulting from ~~((the member's))~~ your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-104-215.

(c) Under no circumstances ((shall a retiree)) will you receive a retirement allowance creditable to a month during which ((that individual)) you earned service credit.

~~((3) If a retiree's retirement allowance is suspended under RCW 41.26.500 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:~~

~~(a) The amount of the monthly suspended retirement allowance; plus~~

~~(b) An actuarially computed increase based upon the retirement allowance payment the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:~~

~~(i) An amount amortized over the expected term of the recomputed retirement allowance; or~~

~~(ii) A lump sum payment equal to the suspended retirement allowance plus interest.)~~ (2) If you enter employment in a PERS, TRS or SERS eligible position, whether or not you enter PERS, TRS or SERS membership, your LEOFF retirement allowance will be suspended under RCW 41.26-500. Upon separation from such employment, your suspended retirement allowance will be reinstated. In addition, you may choose to have the total monthly retirement payments you would have received had you not reentered employment, plus interest, either:

(a) In a lump sum; or

(b) Actuarially computed in your retirement allowance.

AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

WAC 415-108-830 ~~((Actuarial recomputation of a Plan 2 or Plan 3 retirement allowance upon retirement following reemployment.))~~ How does the department calculate the retirement allowance of a PERS Plan 2 or Plan

3 member who retires, reenters PERS membership, and then retires again? ~~((+))~~ This rule establishes a method to actuarially recompute ~~((the))~~ your defined benefit retirement allowance ~~((of))~~ if you are a Plan 2 or Plan 3 member who retires, reenters ~~((employment))~~ PERS membership causing ~~((the))~~ your retirement allowance to ~~((be suspended))~~ stop, and then retires again. ~~((The actuarially recomputed retirement allowance shall:~~

~~(a) Include service credit the member earned following reestablishment of membership if any; and~~

~~(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.~~

~~(2) If a Plan 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:~~

~~(a))~~ (1) If ((the member first)) you previously retired before age sixty-five, the department ((shall)) will:

~~((i) Calculate the))~~ (a) Recompute your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) using ((the retiree's));

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce ((the member's)) your retirement allowance;

(i) Based on the present value of the retirement allowance payments ((the individual)) you received during ((the)) your initial retirement; ((and))

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

~~(iii) ((Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.~~

~~(b))~~ To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(2) If ((the member initially)) you previously retired at or after age sixty-five, the department ((shall)) will recompute ((the member's)) your retirement allowance pursuant to RCW 41.40.620 (Plan 2) or 41.40.790 (Plan 3) and include any additional service credit you earned and any ((applicable)) increase in ((the member's)) your average final compensation resulting from ((the member's)) your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-108-326.

(3) Under no circumstances ((shall a retiree)) will you receive a retirement allowance creditable to a month during which ((that individual)) you earned service credit.

~~((3) If a Plan 2 or Plan 3 retiree's retirement allowance is suspended under RCW 41.40.690 or 41.40.850 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:~~

~~(a) The amount of the monthly suspended retirement allowance; plus~~

~~(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:~~

~~(i) An amount amortized over the expected term of the recomputed retirement allowance; or~~

~~(ii) A lump sum payment equal to the suspended retirement allowance plus interest.)~~

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-110-830 ~~((Actuarial recomputation of retirement allowance upon retirement following reemployment.))~~ **How does the department calculate the retirement allowance of a SERS Plan 2 or Plan 3 member who retires, reenters SERS membership, and then retires again?** ~~((1) The purpose of)~~ This rule ~~((is to establish))~~ establishes a method to actuarially recompute ~~((the))~~ your defined benefit retirement allowance ~~((of))~~ if you are a Plan 2 or Plan 3 member ~~((or the defined benefit retirement allowance of a Plan 3 member))~~ who retires, reenters ~~((employment causing his or her))~~ SERS membership causing your retirement allowance to ~~((be suspended))~~ stop, and then retires again. ~~((The actuarially recomputed retirement allowance shall:~~

~~(a) Include service credit the member earned following reestablishment of membership if any; and~~

~~(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.~~

~~(2) If a Plan 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.35.230 (Plan 2) or RCW 41.35.640 (Plan 3) as follows:~~

~~(a)) (1) If ((the member first)) you previously retired before age sixty-five, the department ((shall)) will:~~

~~((i) Calculate the)) (a) Recompute your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) using ((the retiree's));~~

~~(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and~~

~~(ii) Any increase in your average final compensation resulting from your reentry into membership; and~~

~~(b) Actuarially reduce ((the member's)) your retirement allowance;~~

~~(i) Based on the present value of the retirement allowance payments ((the individual)) you received during ((the)) your initial retirement; ((and))~~

~~(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and~~

~~(iii) ((Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.~~

~~(b)) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.~~

~~(2) If ((the member initially)) you previously retired at or after age sixty-five, the department ((shall)) will recompute ((the member's)) your retirement allowance pursuant to RCW 41.35.400 (Plan 2) or RCW 41.35.620 (Plan 3) and include any additional service credit you earned and any ((applicable)) increase in ((the member's)) your average final compensation resulting from ((the member's)) your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-110-326.~~

~~(3) Under no circumstances ((shall a retiree)) will you receive a retirement allowance creditable to a month during which ((that individual)) you earned service credit.~~

~~((3) If a retiree's retirement allowance is suspended under RCW 41.35.450 or 41.35.640 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:~~

~~(a) The amount of the monthly suspended retirement allowance; plus~~

~~(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive due to reemployment. The retiree may elect to receive the actuarially computed increase in either:~~

~~(i) An amount amortized over the expected term of the recomputed retirement allowance; or~~

~~(ii) A lump sum payment equal to the suspended retirement allowance plus interest.)~~

NEW SECTION

WAC 415-112-544 How does the department calculate the retirement allowance of a TRS Plan 2 or Plan 3 member who retires, reenters TRS membership, and then retires again? This rule establishes a method to actuarially recompute your defined benefit retirement allowance if you are a Plan 2 or Plan 3 member who retires, reenters TRS membership causing your retirement allowance to stop, and then retires again.

(1) If you previously retired before age sixty-five, the department will:

(a) Recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3) using:

(i) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(ii) Any increase in your average final compensation resulting from your reentry into membership; and

(b) Actuarially reduce your retirement allowance:

(i) Based on the present value of the retirement allowance payments you received during your initial retirement;

(ii) To reflect the difference in the number of years between your current age and the attainment of age sixty-five, if applicable; and

(iii) To offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-493.

(2) If you previously retired at or after age sixty-five, the department will recompute your retirement allowance pursuant to RCW 41.32.760 (Plan 2) or 41.32.840 (Plan 3) and include any additional service credit you earned and any increase in your average final compensation resulting from your reentry into membership. The department will actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See WAC 415-112-493.

(3) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-112-840 Actuarial recomputation of retirement allowance upon retirement following reemployment.

**WSR 05-12-047
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed May 26, 2005, 8:12 a.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To increase the fees for an application for notary appointment and also for a renewal of notary appointment. The amount of the increase is \$10.00 for a four-year appointment.

Citation of Existing Rules Affected by this Order: Amending WAC 308-30-100.

Statutory Authority for Adoption: RCW 42.44.190, 43.35.055, 43.24.086, WAC 308-30-100.

Adopted under notice filed as WSR 05-09-028 on April 12, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 26, 2005.

Jon Donnellan
Administrator

AMENDATORY SECTION (Amending WSR 90-06-052, filed 3/2/90, effective 4/2/90)

WAC 308-30-100 Fees. The following fees shall be charged by the director of the department of licensing:

Title of Fee	Fee
Application for notary appointment	\$(20.00) 30.00
Renewal of notary appointment	((20.00) 30.00)
Duplicate certificate of appointment (including change of name)	15.00
Evidence of verification of notarial commission	15.00
Apostille	15.00

**WSR 05-12-051
PERMANENT RULES**

DEPARTMENT OF AGRICULTURE

[Filed May 26, 2005, 11:25 a.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments were made to establish provisions for producer reporting and amend assessment collection requirements. Clarifying provisions for reporting were added to aid producers in understanding the necessary reporting procedures.

Citation of Existing Rules Affected by this Order: Amending WAC 16-532-110.

Statutory Authority for Adoption: Chapter 15.65 RCW, specifically RCW 15.65.047 and 15.65.280, and chapter 34.05 RCW.

Adopted under notice filed as WSR 05-08-102 on April 4, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 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 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: May 26, 2005.

Valoria H. Loveland
Director

PERMANENT

AMENDATORY SECTION (Amending WSR 97-17-096, filed 8/20/97, effective 9/20/97)

WAC 16-532-110 Requirements for collection of assessments. (1) Assessments on all hops marketed or processed shall be paid at the rate specified in WAC 16-532-040 to the hop commodity board (commission) by the first handler receiving or handling such hops for or from a producer (~~or by the producer if processing occurs before the first sale~~). ~~((Such))~~ The assessments shall be deducted from the payment to be made by such handler to the producer. If processing occurs before the first sale, the assessment shall be paid by the producer.

(2) Payment of such assessment shall be due and payable on the tenth day of the second calendar month following the receiving or delivery to said first handler or the assumption of control of a producer's hops, or following the date of processing, if processed prior to the first sale, by said first handler or producer.

(3) ~~((An inventory))~~ A report on all hops which are ~~((not marketed or processed))~~ produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced shall be submitted by the producer no later than January 31 of the following year.

(4) Any handler or producer failing to pay on or before the due date set forth for payment in this regulation, shall add ten percent to the total amount due as a cost for collection as prescribed in RCW 15.65.440.

NEW SECTION

WAC 16-532-115 Reporting. (1) A report on all hops which are produced during the preceding crop year, including a breakdown of pounds marketed, pounds not processed or marketed, and pounds processed but not marketed prior to December 31 of the year in which those hops are produced, shall be submitted by the producer no later than January 31 of the following year.

(2) A "custom processing" report on all hops processed but not sold will be submitted to the commission by the custom processor on the form prescribed by the commission.

**WSR 05-12-052
PERMANENT RULES
HOP COMMISSION**

[Filed May 26, 2005, 11:26 a.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Pursuant to RCW 15.65.305, promotional hosting rules should be included within the rules of Washington State Hop Commodity Board. Definitions of "promotional hosting" and "hosting" are being added (WAC 16-532-103) and the current promotional hosting rule is being updated and added as a rule of the Hop Commodity Board (WAC 16-532-105). WAC 16-532-065 will be repealed.

Statutory Authority for Adoption: Chapter 15.65 RCW, specifically RCW 15.65.305, chapter 34.05 RCW.

Adopted under notice filed as WSR 05-08-104 on April 4, 2005.

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 2, 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 2, Amended 0, Repealed 0.

Date Adopted: May 26, 2005.

Ann E. George
Administrator

NEW SECTION

WAC 16-532-103 Rules for implementation of promotional hosting by the Washington state hop commodity board (commission)—Definitions. For the purposes of WAC 16-532-105, the following definitions shall apply:

(1) **"Promotional hosting"** as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington-grown hops.

(2) **"Hosting"** may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

NEW SECTION

WAC 16-532-105 Rules for implementation of promotional hosting by the Washington state hop board. RCW 15.65.305 and 15.04.200 provide that agricultural commodity boards or commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity board or commission employees, agents, or commissioners. The rules governing promotional hosting expenditures for the Washington state hop board (commission) shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at annual public hearings on the commission budget.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

(a) Hop board members.

(b) **Administrators.** Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) **Payment and reimbursement.** All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms will be supplied by the commission, and shall require the following information:

(a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required.

(b) General purpose of the hosting.

(c) Date of hosting.

(d) Location of the hosting.

(e) To whom payment was or will be made.

(f) Signature of person seeking payment or reimbursement.

(4) The chair of the commission and administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations and promote sales of Washington-grown hops, provided that such hosting shall not violate federal or state conflict of interest laws:

(a) Individuals from private business.

(b) Foreign government officials.

(c) Federal and state officials: Provided, lodging, meals, and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer.

(d) The general public, at meetings and gatherings open to the general public.

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate and promote sales of Washington-grown hops.

WSR 05-12-053

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 26, 2005, 11:38 a.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order increases application certification fees and field inspection fees for certain field crops certified by the seed program to ensure cost recovery for these services. It also decreases fees for certain services to better align the fee to the value of the service provided and corrects typographical errors.

Citation of Existing Rules Affected by this Order: Amending WAC 16-303-020, 16-303-200, 16-303-210, 16-303-250, 16-303-310, and 16-303-320.

Statutory Authority for Adoption: Section 309(2), chapter 25, Laws of 2003 1st sp.s., RCW 15.49.310, 15.49.370(3).

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-08-142 on April 6, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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 6, Repealed 0.

Date Adopted: May 26, 2005.

William E. Brookreson
Deputy Director
for Valoria Loveland
Director

AMENDATORY SECTION (Amending WSR 01-01-015, filed 12/6/00, effective 1/6/01)

WAC 16-303-020 Schedule of charges—Billing policies and procedures. (1) Accounts.

(a) All billable services provided for under chapter 15.49 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing service. Accounts not paid in full within thirty days of billing are considered delinquent.

(b) On all debts due and payable after July 28, 1991, all delinquent accounts are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(c) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less than twenty dollars are due and payable on the date that service is rendered.

(d) No person with an account ninety days or more in arrears may receive service except on the basis of payment in full at the time service is rendered. Accounts in arrears may be subject to legal action for collection and are not restored to monthly billing status until all past due amounts are paid-in-full.

(e) Accounts that become ninety or more days in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

(2) Unless otherwise provided for in rule, requests for refund fees or assessments must be submitted to the department by June 30 of the year following payment of the fee or assessment.

(3) Fees for services not listed in rule are set on the basis of the actual cost to the department of agriculture, or the most appropriate fee established by rule.

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-200 Seed program testing fees. Seed testing fees are as follows:

(1)

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	37.00	22.60	41.83	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	28.78	24.66	41.83	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	26.72	24.66	41.83	Beans
4	Beets	39.06	43.16	41.83	Beets, Swiss chard, spinach
5	Bentgrass, redtop	65.78	34.94	41.83	Bentgrass, redtop
6	Bluegrass	45.22	30.82	41.83	Bluegrass, all types
7	Brassica sp.	69.88	34.94	41.83	Brassica Species
8	Brome	47.28	24.66	41.83	Brome: Mountain, Smooth, Meadow
9	Fescue	37.00	24.66	41.83	Fescue: Tall and Meadow
10	Fescue, all others	45.22	24.66	41.83	Fescue: Arizona, Blue, Blue Hard, chewings, creeping, Hard, Idaho, Red, Sheep
11	Flax	28.78	24.66	41.83	Lewis flax
12	Orchardgrass	51.38	26.72	41.83	Orchardgrass
13	Peas and other large seeded legumes	28.78	24.66	41.83	Peas, ((other large seeded legumes)) <u>Chickpeas, Lentil</u>
14	Primrose	28.78	24.66	41.83	Primrose
15	Ryegrass	45.22	22.60	41.83	Ryegrass, (Perennial or Annual)
16	Small burnet	28.78	24.66	41.83	Small burnet
17	Sudangrass	28.78	24.66	41.83	Sudangrass
18	Vegetables	28.78	24.66	45.00	Vegetables: Asparagus, ((Cabbage)) Cantaloupe, Carrot, Celery, ((Chard)) Corn, Coriander, Cucumber, Dill, Eggplant, Endive, ((Kale)) Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, ((Furnip)) Watermelon
19	Grains and Pulses	28.78	24.66	41.83	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, ((Lentils)) Buckwheat, Barley, Oats, ((Chickpeas)) Vetch
20	Wheatgrass, Wildrye, other native sp.	78.12	30.82	41.83	Wheatgrass: Beardless, Bluebunch, Crested, Intermediate, Pubescent, R/S, Slender, Siberian, Tall, Thickspike, Western Wildrye

PERMANENT

Category	Crop kind	PURITY	GERM/1	TZ	Additional Crops in each Category/2 Other Native Species: Echina- cea, Green needlegrass, Indian ricegrass, Junegrass, Little bluestem, Needle and Thread, Squirreltail, Kochia, Penstemon, Oatgrass, Prairie sandreed, Sand dropseed, Sand Lovegrass, Sideoats grama
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/1 Standard 400 seed germination test.

(2) Crops not listed in the above table will be charged by the category that they fit into.

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-210 Fees for special seed tests.

PERMANENT

Test	Fee	Additional Information
(1) All states noxious weed examination	\$ 33.38	
(2) Dormant Seed Test	\$ 41.83	
((3)) (a) For crops requiring a 400 seed TZ as required in the AOSA rules ((:))	\$ 83.66	
<u>(b)</u> This fee also applies to paired tests when required by AOSA rules		
((4)) (3) Brassica seed chemical identification	\$ 20.94	
((5)) (4) Cold (vigor) test for wheat	\$ 65.00	
((6)) (5) Crop or weed exam		Standard noxious amount from AOSA rules
<u>(a)</u> Turf-type and other small seeded grasses	\$ 38.00	Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues
<u>(b)</u> Small seeded legumes and medium seeded crops	\$ 44.00	Brassicas, ryegrass, tall fescue
<u>(c)</u> Wheatgrass and native species	\$ 50.00	
<u>(d)</u> Grains and pulses	\$ 22.00	
((7)) (6) Fescue seed ammonia test	\$ 30.82	
((8)) (7) Fluorescence test (400 seed test)	\$ 26.72	
((9)) (8) Miscellaneous services, samples requiring extra time, field run samples, etc.	\$ 30.00/hour	
((10)) (9) Pest and disease (phyto exam) or soil exam	\$ 34.94	
((11)) (10) Quarantine tests on seed		
Bluegrass and Bentgrass	\$ 18.04/5 grams	
Other grasses	\$ 18.04/10 grams	
((12)) (11) Rules test—Canadian	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	\$ 32.37	\$ 24.66
Kentucky bluegrass	\$ 49.34	\$ 30.82
Bentgrass	\$ 72.47	\$ 34.94
((13)) (12) Rules test—I.S.T.A.	PURITY	GERMINATION
Alfalfa, clover, peas, lentils	\$ 32.37	\$ 30.82
Kentucky bluegrass	\$ 49.34	\$ 30.82
((14)) (13) Moisture test	\$ 30.00	
((15)) (14) Seed Count	\$ 21.84	

Test	Fee	Additional Information
((16)) <u>(15)</u> Out-sourcing charge	\$ 15.00	
((17)) <u>(16)</u> Sod seed analysis	Bluegrass \$ 75.00 Fescue \$ 52.00 Ryegrass \$ 42.00	
((18)) <u>(17)</u> Sodium Hydroxide test for presence of red and/or white wheat	\$ 20.54	
	((18.04))	Reported on seed analysis certificate)
((19)) <u>(18)</u> Undesirable grass species test (includes an all states noxious test) examination (UGS test)	\$ 70.37	

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-250 Miscellaneous charges for seed services. Fees for miscellaneous department seed services are as follows:

Service	Fee
Rush samples (including phone or FAX report if requested at time sample is submitted)	\$ 15.00
High priority sample - purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)	\$ 150.00
Phone reports on test result, per call	\$ 7.18
Preliminary report on germination	\$ 20.00
Additional mailing of report	\$ 5.12 each destination
Additional copies of reports	\$ 5.12 minimum fee
Revised reports	\$ 10.26 minimum (hourly fee when applicable)
Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight	\$ 3.70 plus exact shipping cost
Fee for facsimile transmission of documents	\$ ((5.39)) 1.00 per document
Mileage - additional or special requested trips	As established by the Washington State Office of Financial Management
Stand-by time - or travel time	\$ 30.00/hour Travel time to be charged when special trip is requested.

Sample envelopes

Customer will be charged the exact cost of the envelopes.

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D. and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

Service	Fee	Additional Information
O.E.C.D. certificate	\$ 15.41 each	
O.E.C.D. grow out test	\$ 65.72 each entry	No charge for control entry
O.E.C.D. assessment	cost to program	
O.E.C.D. tagging fee	\$ 0.84/cwt.	All grasses <u>except tall fescue</u>
	\$ 0.51/cwt.	Tall fescue
	\$ 0.53/cwt.	all other crops

AMENDATORY SECTION (Amending WSR 03-18-071, filed 8/29/03, effective 9/29/03)

WAC 16-303-320 Certification fees for seed certified by the department. (1) Fees apply to both new and renewal applications.

The seed processor is responsible for seed certification fees including sampling, testing, production and final certification fees, and may accept responsibility for any other additional fees associated with certification. Fees for services such as O.E.C.D. and sod quality, etc., are in addition to the fees listed in this section.

PERMANENT

Seed	Application Fee 1/	Seedling field inspection fee	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes tagging) 7/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	\$ ((23-12)) 30.00 per variety per grower	\$ 50.00/field	\$ 1.85/acre	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt. 5/	\$ 0.20/cwt.
Bean	\$ ((23-12)) 30.00 per variety per grower	N/A	\$ 1.85/acre 3/ (one inspection) \$ 3.70/acre 4/ (two inspections)	\$ 41.00	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20/cwt.
Turnip, Rutabaga	\$ ((23-12)) 30.00 per field	N/A	\$ 3.70/acre (two inspections)	\$ 41.00	\$ 53.44 each field	\$ 0.53/cwt.	\$ 0.20
Perennial Grasses 6/	\$ ((23-12)) 30.00 per field	\$ 50.00/field	\$ ((41-00)) 50.00 per field	\$ 41.00	\$ 53.44 each field	Option A \$ 0.84/cwt. for all grass except tall fescue \$ 0.51/cwt. tall fescue Option B \$ 1.17/cwt. (min. \$ 11.66)	\$ 0.31
Corn	\$ ((23-12)) 30.00 for each separate combination /or isolation	N/A	\$ 50.00 first acre \$ 10.99 ea. additional acre except hybrid corn \$ 4.85 ea. additional acre	—	—	—	—
Annual grasses	\$ ((23-12)) 30.00 per field	N/A	\$ 1.85/acre	\$ 41.00 per field	—	\$ 0.42/cwt.	\$ 0.20
Rapeseed	\$ ((23-12)) 30.00 per variety per grower	N/A	\$ 1.85/acre (one inspection)	\$ 41.00 per grower	\$ 53.44 ea. field	\$ 0.53/cwt.	\$ 0.20

PERMANENT

- 1/ Seed certification application due dates can be found in WAC 16-302-050.
- 2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.
- 3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.
- 5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, \$ 0.10 of the \$ 0.53 per cwt. production fee is refundable.
- 6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.
Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the

- conditioner violates certification standards or requirements of memorandum.
- 7/ Does not include shipping and handling charge.
 - (2) Other fees associated with grass seed certification: Out-of-state origin seed tagged with interagency certification tags.

Grass Option A:	\$ 0.31 per cwt.
Grass Option B:	\$ 0.68 per cwt.
Reissuance of cert. tags:	\$ 0.11 per tag or minimum fee of \$ 11.66

WSR 05-12-054
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Filed May 26, 2005, 11:41 a.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.
 Purpose: This rule-making order adopts amendments to chapter 16-390 WAC, WSDA fruit and vegetable inspection districts, inspection fees and other charges, that increase the

following fees in excess of the Office of Financial Management fiscal growth rate factor:

- All cwt. fees.
- The minimum charge for a certificate of compliance (WAC 16-390-150 (4)(a)).
- The field or orchard per acre inspection fee (WAC 16-390-220(1)).

The department is also adopting a volume discount for apples and pears that are inspected and certified online for domestic shipment, controlled atmosphere certification, etc. (WAC 16-390-020(3)).

Citation of Existing Rules Affected by this Order: Amending WAC 16-390-020, 16-390-030, 16-390-150, and 16-390-220.

Statutory Authority for Adoption: Chapter 15.17 RCW, section 309(2), chapter 25, Laws of 2003 1st sp.s.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 05-07-155 on March 23, 2005.

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 4, 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.

Date Adopted: May 26, 2005.

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-020 What are the fees for grade and condition certificates for fruit? WSDA fees for grade and condition certificates for all fruits are:

- (1) A minimum charge of sixteen dollars.
- (2) The fees for **federal-state or state grade and condition certificates** of all fresh market apples, pears, and soft fruits in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Fruit	Fees per CWT or Fraction Thereof
Apples on-line for domestic shipping, CA, etc.	\$((0-155)) 0.17
Apples for export	\$0.17

Type of Fruit	Fees per CWT or Fraction Thereof
Apricots, cherries, nectarines ((and)), peaches, plums, prunes, other soft fruits, grapes and berries	\$((0-21)) 0.23
Pears	\$((0-12)) 0.17
((Plums, prunes, other soft fruits, grapes and berries)) Pears for export	\$((0-16)) 0.17

((3)) The fees for state grade and condition certification of all fresh market apples, and pears that are in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Fruit	Fees per CWT or Fraction Thereof
Apples	\$0.145
Pears	\$0.11)

(3) The department will give a volume discount for apples and pears that are inspected and certified on-line for domestic shipment, controlled atmosphere certification, etc. Packing of up to 4800 cwt per eight-hour shift, the normal inspection fee will be assessed, and every cwt of product above 4800 cwt for that same shift will be charged at \$0.12 cwt. Platform inspection fees will still apply (WAC 16-390-200).

(4) The department charges a fee of ((two)) three dollars ((and fifty cents)) per ton net weight (or fraction thereof) for all apples, pears, stone fruits, berries, and grapes in bulk or in containers that are inspected for processing.

(5) The department charges a fee of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars, when an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-030 What are the fees for grade and condition certificates for vegetables? WSDA fees for grade and condition certificates for all vegetables are:

- (1) A minimum charge of sixteen dollars.
- (2) The fees for **federal-state or state grade and condition certificates** for all fresh market vegetables in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags are listed in the following table:

Type of Vegetables	Fees per CWT or Fraction Thereof
Asparagus	\$((0-21)) 0.23
Cantaloupes and corn	\$((0-125)) 0.14
Onions	\$((0-08)) 0.09
Potatoes	\$((0-06)) 0.07
In-state processing potatoes	\$((0-06)) 0.08

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Type of Vegetables	Fees per CWT or Fraction Thereof
Complete inspection	Rate shall be reduced for the level of service required
Tomatoes	\$ (0.19) 0.21

~~((3))~~ The fee for state grade and condition certification of all fresh market asparagus in containers (wrapped, place pack, face and fill), bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins, or bags is listed in the following table:

Type of Vegetable	Fee per CWT or Fraction Thereof
Asparagus	\$0.19

~~((4))~~ (3) For the inspection of vegetables not listed, the department charges a fee of thirty-two dollars per hour.

~~((5))~~ (4) The department charges a fee of ~~((two))~~ three dollars ~~((fifty cents))~~ per ton net weight (or fraction thereof) for the inspection of vegetables to be processed, whether in bulk or in containers.

~~((6))~~ (5) When an inspection is requested only to verify the product, conveyance, markings, or other factors not related to quality, the department charges the rate of thirty-two dollars per hour, with a minimum certificate charge of sixteen dollars.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-150 What requirements apply to shipping permits and certificates of compliance for fruits and vegetables? (1) Each shipment of apples, apricots, Italian prunes, peaches, pears, dark sweet cherries, Rainier cherries and asparagus must be covered by a shipping permit. All other sweet cherries, whether certified or not, must have a shipping permit indicating freedom from cherry fruit fly larvae.

(2) Shipments of apricots, cherries, peaches, prunes, and asparagus to processors do not require a shipping permit.

(3) A permit or certificate of compliance may be issued without additional charge if the lot is certified.

(4) If the lot has not been certified, a permit or certificate of compliance may be issued based upon the following charges:

(a) The minimum charge for a permit or certificate of compliance is ~~((two))~~ three dollars ~~((fifty cents))~~.

(b) Two-thirds of the rate for federal-state or state grade and condition certificates applies.

(c) A permit to ship apples and/or pears to a by-product plant outside the state is three dollars.

AMENDATORY SECTION (Amending WSR 04-11-078, filed 5/18/04, effective 6/18/04)

WAC 16-390-220 What is the fee for a field or orchard inspection? The fee for field or orchard inspections made at the applicant's request to determine the presence or absence of disease or insect infestation, or for some other reason is:

(1) ~~((Two))~~ Three dollars ~~((and fifty cents))~~ per acre or fraction thereof; or

(2) At the platform inspection rate specified in WAC 16-390-200(1).

**WSR 05-12-055
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS**

[Filed May 26, 2005, 12:13 p.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: To establish an annual tariff for pilotage services in the Puget Sound pilotage district.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 05-08-063 on March 31, 2005.

Changes Other than Editing from Proposed to Adopted Version: The proposed rule reflects a 4% increase in all categories except transportation - the adopted version reflects an increase of 5%.

The proposed transportation schedule of taxi rates reflects a drop charge of \$2.50 - the adopted rates are rounded up to \$3.

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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 12, 2005.

Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 04-12-014, filed 5/24/04, effective 7/1/04)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ~~((2004))~~ 2005, through 2400 hours June 30, ~~((2005))~~ 2006.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section

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CLASSIFICATION	RATE
Boarding fee:	\$ ((33.00)) <u>35.00</u>
Per each boarding/ deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA
LOA of tug + LOA of tow + beam of tow	Zone

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges:

Ships up to 90' beam:

A charge of \$~~((176.00))~~ 185.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$~~((84.00))~~ 88.00 per bridge.

Ships 90' beam and/or over:

A charge of \$~~((239.00))~~ 251.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$~~((167.00))~~ 175.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment	\$ ((238.00)) <u>250.00</u>
Radio direction finder calibration	\$ ((238.00)) <u>250.00</u>
Launching vessels	\$ ((358.00)) <u>376.00</u>

Trial trips, 6 hours or less (Minimum \$ ~~((672.00))~~ 708.00)
118.00
per hr.

Trial trips, over 6 hours (two pilots)
\$ ~~((224.00))~~
235.00
per hr.

Shilshole Bay – Salmon Bay
\$ ~~((140.00))~~
147.00

Salmon Bay – Lake Union
\$ ~~((109.00))~~
114.00

Lake Union – Lake Washington
(plus LOA zone from Webster
Point)
\$ ~~((140.00))~~
147.00

Cancellation charge
LOA Zone I

Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.)

LOA Zone II

Docking delay after anchoring:
\$~~((112.00))~~
118.00
per hr.

Applicable harbor shift rate to apply, plus \$ ~~((112.00))~~ 118.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$ ~~((112.00))~~ 118.00 for every hour or fraction thereof.

Sailing delay:
\$~~((112.00))~~
118.00
per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$~~((112.00))~~ 118.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown:
\$~~((112.00))~~
118.00
per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$~~((112.00))~~ 118.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$~~((0.0056))~~ 0.0059 a gross ton for all gross tonnage up to 20,000 gross tons.

PERMANENT

20,000 to 50,000 gross tons:
 Additional charge to LOA zone mileage of ~~\$(0.0577)~~
~~0.0606~~ a gross ton for all gross tonnage in excess of
 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
 In excess of 50,000 gross tons, the charge shall be
~~\$(0.0694)~~ 0.0726 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: ~~\$(112.00)~~
118.00
 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ~~\$(112.00)~~ 118.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$(144.00) <u>157.00</u>
Bangor	((84.00)) <u>153.00</u>
Bellingham	((158.00)) <u>181.00</u>
Bremerton	((44.00)) <u>135.00</u>
Cherry Point	((175.00)) <u>209.00</u>
Dupont	((85.00)) <u>97.00</u>
Edmonds	((27.00)) <u>35.00</u>
Everett	((52.00)) <u>59.00</u>
Ferndale	((173.00)) <u>199.00</u>
Manchester	((66.00)) <u>131.00</u>
Mukilteo	((52.00)) <u>53.00</u>
Olympia	((108.00)) <u>125.00</u>
Point Wells	((27.00)) <u>35.00</u>

Port Gamble	((77.00)) <u>185.00</u>
Port Townsend (Indian Island)	((109.00)) <u>223.00</u>
Seattle	15.00
((Semiahmoo-Blaine))	196.00))
Tacoma	((56.00)) <u>71.00</u>
((Tacoma Smelter	66.00
Winslow	42.00))

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x ~~\$(1.80))~~ 2.00 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

(LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Intra-Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
Up to 449	175	269	461	687	925	1,200
450-459	181	275	464	697	940	1,206
460-469	183	278	471	709	953	1,211
470-479	190	286	477	723	955	1,214
480-489	195	292	479	736	961	1,219
490-499	197	295	486	750	974	1,224
500-509	207	300	493	759	980	1,233
510-519	209	306	498	770	990	1,236

PERMANENT

(LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
520-529	211	316	505	773	999	1,248
530-539	218	320	512	781	1,015	1,261
540-549	221	324	523	791	1,031	1,272
550-559	226	336	527	802	1,039	1,285
560-569	234	349	537	808	1,050	1,297
570-579	239	353	539	812	1,060	1,306
580-589	248	359	552	819	1,066	1,319
590-599	261	365	555	822	1,082	1,334
600-609	269	376	562	826	1,095	1,341
610-619	285	380	573	830	1,106	1,352
620-629	296	385	578	839	1,118	1,368
630-639	310	391	584	841	1,128	1,380
640-649	322	401	591	843	1,138	1,391
650-659	345	408	601	850	1,152	1,405
660-669	352	412	606	854	1,163	1,416
670-679	364	423	613	869	1,177	1,424
680-689	369	430	621	878	1,188	1,438
690-699	380	437	629	893	1,200	1,468
700-719	397	451	641	903	1,223	1,484
720-739	421	464	657	916	1,248	1,509
740-759	437	486	669	925	1,272	1,536
760-779	455	502	686	940	1,297	1,557
780-799	477	524	697	953	1,319	1,584
800-819	496	539	711	958	1,341	1,608
820-839	512	558	728	974	1,368	1,626
840-859	533	581	741	984	1,390	1,654
860-879	553	601	756	1,010	1,416	1,678
880-899	573	618	770	1,033	1,438	1,703
900-919	589	638	783	1,059	1,468	1,727
920-939	608	657	802	1,082	1,483	1,749
940-959	629	674	813	1,106	1,509	1,772
960-979	644	695	827	1,128	1,536	1,798
980-999	666	711	842	1,152	1,557	1,820
1000-1019	705	757	879	1,212	1,630	1,899
1020-1039	725	779	907	1,248	1,679	1,955
1040-1059	746	798	934	1,285	1,728	2,013
1060-1079	770	827	960	1,324	1,781	2,074
1080-1099	792	850	990	1,362	1,834	2,135
1100-1119	815	875	1,019	1,404	1,888	2,200
1120-1139	840	903	1,051	1,445	1,945	2,265
1140-1159	865	929	1,081	1,489	2,003	2,334
1160-1179	890	955	1,113	1,534	2,063	2,403

(LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
1180-1199	918	985	1,146	1,579	2,125	2,475
1200-1219	945	1,015	1,180	1,626	2,188	2,548
1220-1239	974	1,045	1,215	1,675	2,253	2,624
1240-1259	1,002	1,075	1,251	1,710	2,322	2,703
1260-1279	1,031	1,107	1,289	1,776	2,391	2,784
1280-1299	1,061	1,141	1,327	1,830	2,462	2,868
1300-1319	1,094	1,173	1,367	1,884	2,537	2,953
1320-1339	1,127	1,209	1,408	1,941	2,612	3,042
1340-1359	1,160	1,245	1,450	1,998	2,690	3,133
1360-1379	1,195	1,282	1,494	2,059	2,770	3,226
1380-1399	1,230	1,320	1,539	2,120	2,853	3,324
1400-1419	1,268	1,360	1,583	2,183	2,938	3,423
1420-1439	1,305	1,401	1,631	2,248	3,026	3,525
1440-1459	1,345	1,443	1,681	2,315	3,117	3,631
1460-1479	1,383	1,486	1,729	2,385	3,210	3,739
1480-1499	1,425	1,530	1,782	2,456	3,306	3,851
1500 & Over	1,468	1,576	1,835	2,531	3,404	3,966

LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
<u>Up to 449</u>	<u>183</u>	<u>283</u>	<u>484</u>	<u>721</u>	<u>971</u>	<u>1,260</u>
<u>450 - 459</u>	<u>190</u>	<u>289</u>	<u>487</u>	<u>732</u>	<u>987</u>	<u>1,266</u>
<u>460 - 469</u>	<u>192</u>	<u>292</u>	<u>494</u>	<u>744</u>	<u>1,000</u>	<u>1,272</u>
<u>470 - 479</u>	<u>199</u>	<u>300</u>	<u>501</u>	<u>759</u>	<u>1,003</u>	<u>1,274</u>
<u>480 - 489</u>	<u>204</u>	<u>306</u>	<u>503</u>	<u>773</u>	<u>1,009</u>	<u>1,280</u>
<u>490 - 499</u>	<u>207</u>	<u>310</u>	<u>510</u>	<u>787</u>	<u>1,022</u>	<u>1,286</u>
<u>500 - 509</u>	<u>218</u>	<u>315</u>	<u>518</u>	<u>797</u>	<u>1,029</u>	<u>1,294</u>
<u>510 - 519</u>	<u>219</u>	<u>321</u>	<u>523</u>	<u>808</u>	<u>1,040</u>	<u>1,298</u>
<u>520 - 529</u>	<u>222</u>	<u>332</u>	<u>530</u>	<u>812</u>	<u>1,049</u>	<u>1,310</u>
<u>530 - 539</u>	<u>229</u>	<u>336</u>	<u>537</u>	<u>821</u>	<u>1,066</u>	<u>1,324</u>
<u>540 - 549</u>	<u>233</u>	<u>341</u>	<u>549</u>	<u>830</u>	<u>1,083</u>	<u>1,336</u>
<u>550 - 559</u>	<u>237</u>	<u>353</u>	<u>553</u>	<u>842</u>	<u>1,091</u>	<u>1,349</u>
<u>560 - 569</u>	<u>246</u>	<u>367</u>	<u>564</u>	<u>849</u>	<u>1,102</u>	<u>1,362</u>
<u>570 - 579</u>	<u>251</u>	<u>370</u>	<u>566</u>	<u>853</u>	<u>1,113</u>	<u>1,371</u>
<u>580 - 589</u>	<u>261</u>	<u>376</u>	<u>579</u>	<u>860</u>	<u>1,120</u>	<u>1,385</u>
<u>590 - 599</u>	<u>274</u>	<u>384</u>	<u>583</u>	<u>864</u>	<u>1,136</u>	<u>1,401</u>
<u>600 - 609</u>	<u>283</u>	<u>395</u>	<u>590</u>	<u>867</u>	<u>1,150</u>	<u>1,408</u>
<u>610 - 619</u>	<u>299</u>	<u>399</u>	<u>602</u>	<u>871</u>	<u>1,161</u>	<u>1,420</u>
<u>620 - 629</u>	<u>311</u>	<u>405</u>	<u>606</u>	<u>881</u>	<u>1,174</u>	<u>1,437</u>

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LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
630 - 639	326	411	613	883	1,185	1,449
640 - 649	338	421	620	885	1,194	1,460
650 - 659	362	428	631	893	1,209	1,475
660 - 669	369	433	636	897	1,222	1,487
670 - 679	382	444	643	913	1,236	1,495
680 - 689	388	452	652	921	1,247	1,510
690 - 699	399	459	661	937	1,260	1,541
700 - 719	417	474	673	949	1,284	1,559
720 - 739	442	487	690	962	1,310	1,585
740 - 759	459	510	703	971	1,336	1,613
760 - 779	477	527	721	987	1,362	1,635
780 - 799	501	550	732	1,000	1,385	1,663
800 - 819	521	566	747	1,006	1,408	1,688
820 - 839	537	586	764	1,022	1,437	1,708
840 - 859	560	610	778	1,033	1,459	1,737
860 - 879	581	631	793	1,060	1,487	1,762
880 - 899	602	649	808	1,085	1,510	1,788
900 - 919	619	670	822	1,112	1,541	1,813
920 - 939	638	690	842	1,136	1,557	1,837
940 - 959	661	708	854	1,161	1,585	1,860
960 - 979	677	729	869	1,185	1,613	1,888
980 - 999	699	747	884	1,209	1,635	1,911
1000 - 1019	741	795	923	1,273	1,711	1,994
1020 - 1039	761	818	952	1,310	1,763	2,053
1040 - 1059	784	838	980	1,349	1,814	2,114
1060 - 1079	808	868	1,008	1,390	1,870	2,177
1080 - 1099	832	893	1,039	1,430	1,925	2,242
1100 - 1119	856	919	1,070	1,474	1,982	2,310
1120 - 1139	882	948	1,103	1,517	2,042	2,378
1140 - 1159	908	975	1,135	1,563	2,104	2,450
1160 - 1179	935	1,003	1,169	1,610	2,166	2,523
1180 - 1199	964	1,034	1,203	1,658	2,232	2,599
1200 - 1219	993	1,065	1,239	1,708	2,298	2,676
1220 - 1239	1,022	1,097	1,276	1,759	2,366	2,756
1240 - 1259	1,052	1,129	1,314	1,811	2,438	2,838
1260 - 1279	1,083	1,162	1,353	1,865	2,511	2,923
1280 - 1299	1,115	1,198	1,394	1,922	2,585	3,011
1300 - 1319	1,149	1,232	1,435	1,978	2,663	3,101
1320 - 1339	1,184	1,269	1,479	2,038	2,742	3,194
1340 - 1359	1,218	1,308	1,523	2,098	2,824	3,290
1360 - 1379	1,255	1,346	1,568	2,162	2,908	3,387
1380 - 1399	1,292	1,386	1,616	2,226	2,995	3,490

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1400 - 1419	1,331	1,428	1,662	2,292	3,085	3,594
1420 - 1439	1,370	1,471	1,713	2,361	3,178	3,702
1440 - 1459	1,412	1,515	1,765	2,431	3,273	3,812
1460 - 1479	1,452	1,560	1,816	2,504	3,371	3,926
1480 - 1499	1,496	1,606	1,871	2,578	3,471	4,043
1500 & Over	1,541	1,655	1,927	2,657	3,574	4,164

PERMANENT

WSR 05-12-057
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed May 26, 2005, 2:48 p.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To suspend indefinitely the collection of change of address and transfer fees from real estate licensees, addressed under WAC 308-124A-460. It is anticipated the department will retain its statutory authority to collect such a fee in the future, however, current licensee levels indicate the collection of this fee at this time is unnecessary for administering the program. The department seeks to suspend the collection of the \$26.50 at this time.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124A-460.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 05-09-038 on April 14, 2005.

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 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 25, 2005.

Andrea C. Archer
 Assistant Director

Business and Professions Division

AMENDATORY SECTION (Amending WSR 02-03-057, filed 1/10/02, effective 5/1/02)

WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees. These fees are applicable to all original licenses, examination services, and fee generating services issued or performed after April 30, 2002, and all renewals for existing licenses with expiration date after April 30, 2002. The following fees for a two-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Real estate broker:	
Application/examination	\$138.25
Reexamination	138.25
Original license	200.00
License renewal	200.00
Late renewal with penalty	226.50
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	((26.50)) <u>0.00</u>
Real estate broker - Branch office:	
Original license	\$189.50
License renewal	189.50
Late renewal with penalty	216.00
Duplicate license	26.50
Name or address change	((26.50)) <u>0.00</u>
Real estate salesperson:	
Application/examination	\$138.25
Reexamination	138.25
Original license	136.25
License renewal	136.25
Late renewal with penalty	162.75
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	((26.50)) <u>0.00</u>
The following fee shall be charged annually for land development representatives:	
Land development representative:	
Registration	26.50

WSR 05-12-058**PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed May 26, 2005, 3:02 p.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these changes is to clarify rules governing approval of nursing education programs. Redundant language has been removed and grammatical changes have been made to assure that the requirements are easier to understand. The rules are now consistent with current national accreditation language. The changes will assure that students graduating from these programs will meet the minimum standards needed for safe nursing practice.

Citation of Existing Rules Affected by this Order: Amending WAC 246-840-505 through 246-840-575.

Statutory Authority for Adoption: RCW 18.79.110 and 18.79.150.

Adopted under notice filed as WSR 04-24-085 on December 1, 2004.

Changes Other than Editing from Proposed to Adopted Version: Only editing changes were made between the proposed and adopted versions.

A final cost-benefit analysis is available by contacting Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail kendra.pitzler@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 15, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 15, 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 2, Amended 15, Repealed 0.

Date Adopted: January 14, 2005.

Judith D. Personett,
Ed.D., RN, Chair
Nursing Care Quality
Assurance Commission

NURSING EDUCATION PROGRAMS

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-505 Purposes of commission approval of nursing education programs. The commission approves nursing education programs ((for the following purposes)) to:

(1) ((To)) Assure preparation for the safe practice of nursing by setting minimum standards for nursing education programs preparing persons for licensure as registered nurses or practical nurses((s)).

~~(2) ((To provide guidance for the development of new nursing education programs;~~

~~(3) To foster continued improvement of established nursing education programs;~~

~~(4) To provide criteria for the commission to evaluate new or established nursing education programs;~~

~~(5) To assure the student adequate educational preparation;~~

~~(6) To assure eligibility for admission to the licensing examinations for registered or practical nurses, and to)) Provide criteria for the development, evaluation, and improvement of new and established nursing education programs.~~

(3) Assure candidates are educationally prepared for licensure at the appropriate level of nursing practice.

(4) Facilitate interstate endorsement of graduates of commission approved ((schools)) programs of nursing.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-510 Approval of initial (new) nursing education programs. (1) Application for program development. ~~((a) A))~~ A postsecondary educational institution wishing to establish a program in nursing shall seek nursing commission approval to begin the process in the following manner:

~~((i))~~ (a) Submit to the commission ((at least eighteen months in advance of expected opening date)) a statement of intent to establish a nursing education program((-

~~(ii) Submit to the commission, along with the statement of intent, a))~~ on a form provided by the commission, and a completed feasibility study ((e)) that includes at least the following information:

~~((A))~~ (i) Nursing studies documenting the need for entry level nurses in the area((-);

~~((B))~~ (ii) Purposes and classification of the program((-);

~~((C))~~ (iii) Availability of qualified faculty((-);

~~((D))~~ (iv) Budgeted faculty positions((-);

~~((E))~~ (v) Availability of adequate clinical facilities for the program((-);

~~((F))~~ (vi) Availability of adequate academic facilities for the program((-);

~~((G))~~ (vii) Potential effect on other nursing programs in the area((-);

~~((H))~~ (viii) Evidence of financial resources adequate for the planning, implementation, and continuation of the program((-);

~~((I))~~ (ix) Anticipated student population((-); and

~~((J))~~ (x) Tentative time schedule for planning and initiating the program.

~~((iii))~~ (b) Respond to the commission's request(s) for additional information.

~~((b) The commission shall either grant or withhold))~~ (c) Receive or be denied nursing commission approval for program development.

(2) Program development. ~~((a) At least twelve months in advance of the anticipated admission of students, the organization))~~ Upon approval for program development, the educational institution shall:

(a) Appoint a qualified nurse administrator and provide appropriate resources, consultants, and faculty to develop a proposed nursing education program.

(b) Prior to admission of students and with sufficient time for commission review, submit the proposed program plan ((shall)) that includes all of the following:

(i) Purpose((-, philosophy,)) and ((objectives,)) outcomes;

(ii) Organization and administration((-) including the nurse administrator;

(iii) ((Budget;

(iv) Resources, facilities, and services;

(v) Provisions for faculty, including qualifications, responsibilities, organization, and faculty/student ratio.

(vi) Curriculum, including course descriptions and course outlines.

(vii) Policies and procedures for student selection, admission, progression, withdrawal and graduation, and record system,)) Resources, facilities, and services;

(iv) Policies and procedures for student selection, admission, progression, withdrawal and graduation, and record system;

(v) A plan for hiring and retaining faculty, including qualifications, responsibilities, organizational structure, and faculty/student ratio;

(vi) Curriculum, including course descriptions and course outlines;

(vii) Initial year and five-year sustaining budget;

(viii) Projected plans for the orderly expansion and ongoing evaluation of the program.

~~((b) The nurse administrator shall submit to the commission a written report of the proposed program plan at least five weeks prior to a scheduled commission meeting at which time the plan is to be reviewed. This review shall take place six months prior to the scheduled opening date of the program.))~~

(c) Arrange a survey visit to the campus to clarify and amplify materials included in the written proposed program plan. The visit will be conducted by a representative of the commission before a decision regarding approval is rendered.

~~((Students may not be admitted to the program until approval has been granted by the commission.~~

~~((The nurse administrator of the program and other administrative officers of the organization shall attend the commission meeting to present the formal application and clarify and amplify materials included in the written report of the proposed program plan.~~

~~((The commission shall either grant or withhold provisional))~~ Receive or be denied initial approval of the proposed nursing program.

(3) ((Provisional)) Initial approval.

~~((The school shall submit course outlines to the commission for review and approval at least three months prior to offering the course;))~~ The program may only admit students if it has received initial approval by the commission;

(b) The school shall submit progress reports as requested by the commission; and

(c) Survey visits shall be scheduled as deemed necessary by the commission during the period of ((provisional)) initial approval. A site survey, conducted by the commission, will

determine whether graduates may test for the licensure examination (NCLEX)®.

(4) Full approval.

(a) A self-evaluation report of compliance with the standards for nursing education (~~shall~~) as identified in WAC 246-840-550 through 246-840-575, shall be submitted to the nursing commission within ~~(three)~~ six months following graduation of the first class~~(, and)~~.

(b) The commission may conduct a survey visit ~~(shall be made for consideration of)~~ to determine full approval of the program.

~~((b))~~ (c) The commission will review the self-evaluation report, survey reports and ~~(added materials for)~~ program outcome data in order to grant or deny full approval of the nursing education program ~~(only at scheduled commission meetings).~~

~~(e) The self-evaluation report, added materials and survey reports shall be in the commission office at least five weeks prior to the commission meeting.~~

(5) ~~Satellite nursing education programs. An approved nursing education program wishing to initiate an off-campus, extended or satellite nursing program must submit a plan to the commission demonstrating that:~~

~~(a) A need for entry level nurses exists in the area.~~

~~(b) Faculty on-site meet all the requirements and qualifications of the parent nursing education program.~~

~~(c) Adequate clinical facilities are available and meet the requirements of the parent program.~~

~~(d) Academic facilities and resources are comparable to those of the parent program)) under WAC 246-840-530(1).~~

NEW SECTION

WAC 246-840-515 Branch campus and distance learning nursing education programs. An approved nursing education program wishing to initiate or maintain an off-campus, extended or satellite nursing program must submit an initial plan and subsequent annual reports to the commission.

(1) The initial plan must demonstrate how:

(a) Faculty for the off-campus, extended or satellite program will meet the nursing education standards (WAC 246-840-570);

(b) The program will meet curriculum and academic standards of the main campus nursing education program;

(c) Adequate clinical facilities are available and meet the requirements of the program purpose and outcomes;

(d) Academic facilities and resources are comparable to those of the main program.

(2) The branch campus and distance learning education program must coordinate annual reports and site survey evaluations with administration at the main campus.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-520 ((Periodic)) Ongoing evaluation ((of approved)) and approval of nursing education programs. (1) To ensure continuing compliance with the state-wide articulation plan and standards of nursing education, ~~(all nursing education programs)~~ the commission will ~~(be~~

surveyed and reevaluated)) survey and reevaluate each nursing education program for continued approval every eight to ten years. More frequent evaluation, including a site visit(s) may occur as deemed necessary by the commission or ~~(at the request of)~~ if requested by the nursing education program.

~~((a) The)~~ (2) Any proposed substantive nursing program change must be presented to the commission for approval at least three months prior to implementation. Substantive changes include, but are not limited to, changes in legal status, control, ownership, or resources of the institution; decreases in faculty below that which is required to staff clinical sections of WAC 246-840-570; changes in faculty composition whereby their expertise is not adequate to teach those areas of nursing described in WAC 246-840-575; and major curriculum revision or changes in the length of the program.

(3) The program must submit annual reports on forms provided by the commission and on the date specified.

EVALUATION OF A NURSING PROGRAM BY THE NATIONAL ACCREDITING BODY:

(4) The commission may accept accreditation by a commission-recognized national nursing accreditation body as evidence of compliance with the standards of nursing education programs. The nursing program must submit to the commission a copy of the self-evaluation report submitted to the national agency.

(a) Programs that seek accreditation from a commission recognized national nursing accreditation body shall file evidence of that accreditation with the commission within thirty days of receiving the report from the accreditation body. The nursing program must file notice of any change in program accreditation status with the commission within thirty days of receipt of notice from the accreditation body. The commission shall grant full approval based upon evidence of accreditation for eight or ten years. Failure to submit notice of accreditation survey results within thirty days may result in a site visit or other sanctions as described in WAC 246-840-530.

(b) Programs holding approval based upon national accreditation must comply with WAC 246-840-550 through 246-840-575.

(c) The commission may grant full approval for a continuing period, not to exceed ten years to nursing programs with maximum continuing national accreditation.

(d) The program must submit any interim report requested by the national accrediting body to the commission.

(e) If the nursing program receives notice from the accrediting body addressing interim reports, notice must be sent to the commission within thirty days of receiving the report.

(f) If the program is accredited for less than maximum accreditation, then the program must provide the commission with a copy of the report addressing the items of noncompliance within thirty days of receipt from the accreditation body. The commission may require an additional report regarding noncompliance.

EVALUATION OF A NURSING PROGRAM BY THE COMMISSION:

(5) Programs that are not nationally accredited by a commission-recognized national nursing accreditation body are subject to a survey visit ((will be)) made by representative(s) of the commission on dates mutually agreeable to the commission and the nursing education program.

~~((b) Announcement of)~~ (a) The commission must notify the nurse administrator that a survey visit ((will be sent to programs)) is required at least twelve months in advance of the visit.

~~((e))~~ (b) Prior to the survey visit a program shall submit a self-evaluation report ((which) that provides evidence of compliance with the standards of nursing education as identified in WAC 246-840-550 through 246-840-575.

~~((d) The self-evaluation report prepared for the national nursing accreditation body may be substituted in lieu of the commission's survey report for that year if a national accreditation survey is scheduled concurrently. Where appropriate the survey will be made in conjunction with a national accreditation visit. An addendum to the report for the national accreditation survey must be submitted to address requirements of the state not considered by the national accrediting body.~~

(e)) (c) Within sixty days, and prior to commission consideration, a draft of the commission survey visit report will be made available to the school for review ((and) for corrections in statistical data and for response to issues raised.

~~((f))~~ (d) Following the commission's review and decision, the commission will send to the program nurse administrator, the president and vice-president for instruction written notification regarding approval of the program ((and the commission comments and recommendations will be sent to the administrator of the nursing education program.

(2) ~~Any proposed major curriculum revision, such as changes affecting the philosophy and objectives, significant course content changes, or changes in the length of the program, shall be presented to the commission for approval at least three months prior to implementation.~~

(3) ~~Annual reports will be submitted on forms provided by the commission).~~

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-525 Commission action following survey visits. (1) ~~((Whenever))~~ When a matter directly concerning a nursing program is being considered by the commission, any commission member ~~((who is))~~ associated with the program ~~((shall))~~ may not participate in the deliberation or decision-making action of the commission.

(2) The commission shall evaluate each program ((shall be evaluated)) in terms of its conformance to the ((curriculum)) nursing education standards ((as provided)) in this chapter.

(3) Within thirty days of the commission's decision, the commission shall give written notice to the educational institution ((and the nurse administrator of the nursing program information)) regarding its decision on the program's

approval status including the nurse administrator, the president and vice-president for instruction.

(4) The commission shall grant continuing full approval ((shall be granted)) to a nursing program that meets the requirements of the law and ((rules and regulations of the commission)) this chapter. Full approval may carry recommendations for improvement and for correcting deficiencies.

(5) If the commission determines that an approved nursing program is not maintaining the ~~((curriculum))~~ education standards required for approval, the commission shall give written notice specifying the deficiencies and shall designate the period of time in which the deficiencies must be corrected. The program's approval shall be ((suspended)) withdrawn if a program fails to correct the deficiencies within the specified period of time in WAC 246-840-530.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-530 Denial, conditional approval or withdrawal of approval. (1) The commission may deny full approval to new or ongoing programs ((when) if it determines that a nursing education program fails substantially to meet the standards for nursing education as contained in WAC 246-840-550 through 246-840-575. ((All such commission actions shall be in accordance with the Washington Administrative Procedure Act and/or the administrative rules and regulations of the commission.))

(2) The commission may grant conditional approval ((shall be granted)) to a nursing education program that has failed to meet the minimum standards contained in the law and ((the rules and regulations of the commission)) this chapter.

(a) Conditions ~~((that))~~ must be met within a designated time period and shall be specified in writing.

(b) A conditionally approved program shall be reviewed at the end of the designated time period. ~~((Such))~~ The review shall result in one of the following actions:

(i) Restoration of full approval;

(ii) Continuation of conditional approval for a specified period of time; or

(iii) Withdrawal of approval.

(3) ~~((The commission may withdraw approval from existing programs when it determines that a nursing education program fails substantially to meet the standards for nursing education as contained in WAC 246-840-550 through 246-840-575. All such actions shall be effected in accordance with the Administrative Procedure Act and/or the administrative rules and regulations of the commission.))~~ The following situations may be cause for review and/or a site visit by the commission to determine if the minimum standards for nursing programs are being met:

(a) Complaints relating to violations of WAC 246-840-550 through 246-840-575.

(b) Denial, withdrawal or change of program accreditation status by a commission-recognized national nursing accreditation agency or general academic accreditation agency.

(c) Failure to obtain commission approval of changes that require approval of the commission under "program changes."

(d) Providing false or misleading information to students or the public concerning the nursing program.

(e) Violation of the rules or policies of the commission.

(f) Inability to secure or retain a qualified director or faculty, resulting in substandard supervision and teaching of students.

(g) Noncompliance with the program's stated purpose, objectives, policies, and curriculum resulting in unsatisfactory student achievement.

(h) Failure to provide clinical experiences necessary to meet the objectives of the nursing program.

(i) Faculty student ratio in direct patient care is greater than 1:10.

(j) Failure to maintain an average NCLEX® examination annual passing rate of eighty percent. If a program:

(i) Fails to maintain an average passing rate of eighty percent of first time writers for two consecutive years, the commission will send a letter asking for an assessment of the problem and a plan of correction.

(ii) Fails to maintain an average passing rate of eighty percent of first time writers for three consecutive years, the program must complete an assessment of possible problem areas within six months and the commission may conduct an evaluation visit. The commission may offer technical assistance.

(iii) Fails to maintain a passing rate of eighty percent for four out of five consecutive years, the commission will place the program on conditional approval and require an evaluation visit.

(4) The commission may withdraw approval from ongoing programs if it determines that a nursing education program fails to substantially meet the standards for nursing education as contained in WAC 246-840-550 through 246-840-575.

(5) All these actions shall be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and any applicable rules of the commission.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-535 Reinstatement of approval. The commission may consider reinstatement of withdrawn approval of a nursing education program after six months and upon submission of satisfactory evidence that the program meets the standards of nursing education, WAC 246-840-550 through 246-840-575.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-545 Closing of an approved nursing education program. (1) Voluntary closing. When a governing institution decides to close a program it shall notify the commission in writing, stating the reason, plan, and date of intended closing. The governing institution may choose one of the following closing procedures:

(a) The program (~~shall~~) may continue until the last class enrolled is graduated(~~(:)~~); if:

(i) The program (~~shall~~) continues to meet the standards for approval, WAC 246-840-550 through 246-840-575 until all of the enrolled students have graduated(~~(:)~~);

(ii) The date of closure is the date on the degree, diploma, or certificate of the last graduate(~~(:)~~); and

(iii) The (~~commission shall be notified by the~~) governing institution notifies the commission in writing of the closing date(~~(:)~~); or

(b) The program (~~shall~~) may close after assisting in the transfer of students to other approved programs(~~(:)~~); if:

(i) The program (~~shall~~) continues to meet the standards required for approval, WAC 246-840-550 through 246-840-575 until all students are transferred(~~(:)~~);

(ii) The governing institution submits to the commission a list of the names of students who have been transferred to approved programs and the date on which the last student was transferred (~~shall be submitted to the commission by the governing institution~~); and

(iii) The date on which the last student was transferred shall be the closing date of the program.

~~((e) Custody of records.~~

~~(i) If the program closes but the governing institution continues to function, it shall assume responsibility for the records of the students and graduates. The commission shall be advised of the arrangements made to safeguard the records.~~

~~(ii) If the governing institution ceases to exist, the academic records of each student and graduate shall be transferred to the commission for safekeeping.~~

~~(iii) The commission shall be consulted about the disposition of all other records.)~~

(2) Closing as a result of withdrawal of approval. When the commission withdraws approval of a nursing education program, the governing institution shall comply with the following procedures:

(a) Students of the program shall be notified in writing of their status and options for transfer to an approved program.

(b) The program shall close after assisting in the transfer of students to other approved programs. The commission must establish a time frame for the transfer process (~~will be established by the commission~~).

(c) The governing institution shall submit to the commission a list of the names of students who have transferred to approved programs and the date on which the last student was transferred (~~shall be submitted to the commission by the governing institution~~.

~~(d) Custody of records.~~

~~(i) If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The commission shall be advised of the arrangements made to safeguard the records.~~

~~(ii) If the governing institution ceases to exist, the academic records of each student and graduate shall be transferred to the commission for safekeeping.~~

~~(iii) The commission shall be consulted about the disposition of all other records.)~~

NEW SECTION

WAC 246-840-548 Standards and evaluation of nursing education. The nursing program shall meet minimum standards established by the commission as detailed in WAC 246-840-550 through 246-840-575.

The nursing program shall implement a written, comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and the input of faculty, students and consumers, and which incorporates continuing improvement.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-550 Standard I. Purpose and outcomes for approved nursing education programs. ~~((+))~~ The purpose and ~~((objectives))~~ outcomes for the nursing education program shall be stated clearly and ~~((shall))~~ must be available in written form.

~~((They shall))~~ (1) The purpose and outcomes must be consistent with the definitions of nursing practice as outlined in RCW 18.79.040 and 18.79.060.

(2) The nursing education program shall have a purpose statement ~~((of philosophy))~~ and outcomes that ~~((is))~~ are consistent with ~~((the philosophy of))~~ the governing institution and with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered.

~~((3))~~ ~~The objectives shall be consistent with the philosophy and shall describe the cognitive, affective, and psychomotor capabilities of the graduate.~~

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-555 Standard II. Organization and administration for approved nursing education programs. ~~((+))~~ The nursing education program shall be an integral part of the accredited governing institution.

(1) The governing institution accreditation must be by ~~((an))~~ a commission-approved accrediting body.

(2) The relationship of the nursing education program to other units within the governing institution ~~((shall))~~ must be clearly delineated.

(3) The nursing education program ~~((shall))~~ must be organized with clearly defined institutional authority ~~((;))~~ and administrative responsibility ~~((, and channels of communication))~~ for the nurse administrator.

(4) The nursing education faculty shall be involved in determining academic policies and procedures of the nursing program.

(5) The nursing education program ~~((shall))~~ must allow student participation in committees in the determination of program policies and procedures, curriculum planning and evaluation.

(6) The nursing education program shall be administered by a professionally and academically qualified registered nurse currently licensed in this state ~~((with the following qualifications)).~~

FOR PRACTICAL AND ASSOCIATE DEGREE PROGRAMS:

(a) In a program offering practical nursing education or associate degree, a minimum of:

(i) A minimum of a bachelor's of science in nursing (BSN) and a masters ((with a major)) degree, (preferably in nursing((;)) or a master's of science in nursing (MSN) from an accredited college or university; and

(ii) Educational preparation in ((education)) teaching nursing or two years experience in teaching nursing; and

(iii) Curriculum development and administration((, and at least)) experience; and

(iv) Five years of ((professional)) experience as a registered nurse including two years of experience in nursing education((, Exceptions allowed without prior commission approval:

(i) Current tenured faculty;

(ii) Ongoing reappointment of instructors or faculty prior to November 16, 1995); and

(v) Current knowledge of nursing practice at the practical nurse or associate degree program level as appropriate.

FOR BACHELOR'S DEGREE PROGRAMS:

(b) In a program offering the baccalaureate degree in nursing((;)):

(i) A minimum of a masters degree with a major in nursing, a doctoral degree preferably in nursing ((or a related field,)) from an accredited college or university; and

(ii) Preparation in education and administration((;)); and

(iii) At least five years of experience as a registered nurse including two years of experience in nursing education at the baccalaureate level.

(7) The nurse administrator ~~((of the nursing education program))~~ shall be responsible for creation and maintenance of an environment conducive to teaching and learning through:

(a) Facilitation of the development, implementation and evaluation of the curriculum.

(b) ~~((Liaison))~~ Communication with central administration and other units of the governing institution.

(c) Facilitation of faculty development and performance review consistent with the policies of the institution ~~((Encourage)), and encouragement of faculty to seek ways of improving clinical skills and methods of demonstrating continued educational and clinical competence.~~

(d) Facilitation of faculty recruitment and appointment. The administration of the program is encouraged to establish a goal for acquiring faculty with diversity in ethnicity, gender, clinical specialty and experience ~~((that would be representative of the students enrolled in the program)).~~

(e) Recommendation of faculty for appointment, promotion, tenure, and retention consistent with the policies of the institution.

(f) Facilitation of the development of long-range goals and objectives for the nursing program.

(g) Facilitation of recruitment, selection, and advisement of students.

(h) Assurance that the rules and regulations of the state nursing commission are effectively implemented.

(i) ~~((Notifying))~~ Notification of the commission of any major changes in the program or its administration.

PERMANENT

(8) The nurse administrator ~~((of the nursing education program))~~ shall have ~~((designated))~~ sufficient time provided to ~~((conduct))~~ fulfill relevant administrative duties and responsibilities.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-560 Standard III. Resources, facilities, and services for approved nursing education programs. A nursing education program shall have the fiscal, human, physical and learning resources adequate to support program process and outcomes.

(1) Classrooms, laboratories, and conference rooms ~~((shall))~~ must be available and ~~((shall be))~~ adequate in size, number, and type according to the number of students and the educational purposes for which the rooms are to be used.

(2) Offices ~~((shall))~~ must be available and adequate in size, number, and type to provide faculty with opportunity for uninterrupted work and privacy for ~~((the))~~ conferences with students. Adequate space ~~((shall))~~ must be provided for clerical staff, records, files, and other equipment.

(3) Clinical facilities.

(a) A nursing program shall utilize a variety of sites ~~((shall be utilized))~~ for learning experiences to enable the student to observe and practice safe nursing care of persons at each stage of the human life cycle. These experiences ~~((shall))~~ must include opportunities for the student to learn and provide nursing care to clients in the areas of acute and chronic illnesses, promotion and maintenance of wellness, prevention of illness, rehabilitation, and support in death. Clinical experiences shall include opportunities to learn and provide care to clients from diverse ethnic and cultural backgrounds. ~~((The emphasis placed on these areas and the scope encompassed shall be in keeping with the purpose, philosophy and objectives of the program.))~~ The experiences may include, but need not be limited to, hospitals, clinics, offices of health professionals, health centers, nursery schools, elementary and secondary schools, rehabilitation centers, mental health clinics, public health departments, and extended care resources.

(b) Clinical facilities ~~((shall))~~ must be selected to provide learning experience of sufficient number and kind for student achievement of the course/curriculum objectives. The number of hours of class and clinical practice opportunities and distribution of these shall be in direct ratio to the amount of time necessary for the student at the particular stage of development to accomplish the objectives.

(c) Clinical facilities ~~((shall))~~ must be approved by the appropriate accreditation or licensing evaluation bodies, if such exist.

(d) Throughout the program the total hours of class and required clinical practice opportunities ~~((shall))~~ may not exceed forty hours per week.

(4) Library facilities ~~((shall))~~ must be provided for use by the faculty and students. Physical facilities, hours, and scope and currency of learning resources shall be appropriate for the purpose of the program and for the number of faculty and students.

(5) The administration, faculty and students must conduct periodic evaluations of resources, facilities, and services ~~((shall be conducted by the administration, faculty, and/or students)).~~

(6) The nursing program must demonstrate adequate financial support for faculty, support personnel, equipment, supplies, and services ~~((shall be demonstrated)).~~

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-565 Standard IV. Students in approved nursing education programs. ~~((+))~~ The approved nursing education program shall~~((:~~

~~((a) Provide in writing))~~ provide students the opportunity to acquire and demonstrate the knowledge, skills and abilities for safe and effective nursing practice.

(1) Written policies and procedures for selection, admission, progression, graduation, withdrawal, and dismissal ~~((These policies shall))~~ of students must be available and consistent with the policies of the governing institution and must be communicated in a fair, accurate, inclusive, consistent and readily available format. ~~((Where necessary,))~~

(2) The approved nursing education program shall:

(a) Develop policies specific to nursing students ~~((may be adopted if justified by the nature and purposes of the nursing program)).~~

(b) Maintain a system of student records.

(c) Provide a written statement of student rights and responsibilities.

(d) Require that students, who seek admission by transfer from another approved nursing education program, or readmission for completion of the program, shall meet the equivalent of the program's current standards.

~~((2))~~ (3) The nursing education program shall provide the student in ~~((an ADN or BSN))~~ a registered nursing program with information on the legal ~~((definition and parameters))~~ role of the nursing technician ~~((role,))~~ as defined in WAC 246-840-010 ~~((19))~~ and 246-840-840. ~~((Such))~~ The information ~~((shall))~~ must be provided prior to the time of completion of the first clinical course and shall clearly advise the student of ~~((their))~~ his or her responsibilities, ~~((should they))~~ if he or she chooses to be employed as a nursing technician.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-570 Standard V. Faculty in approved nursing education programs. ~~((+ There shall be))~~ Each nursing education program shall have a sufficient number of professionally and academically qualified faculty with adequate diversity of expertise in nursing to meet the ~~((purposes and objectives of the))~~ nursing education program purpose, outcomes and quality improvement.

~~((2))~~ (1) The maximum ratio of faculty to students recommended in clinical areas involving direct care of patients or clients ~~((shall be))~~ is one faculty member to ~~((twelve))~~ ten students. A lower ratio may be required by the nursing commission ~~((of nursing))~~ for students in initial or highly complex learning situations, or when student/client safety war-

rant. A higher ratio may be allowed with use of trained preceptors for students. Factors to be considered in determining the ratio are:

- (a) The preparation and expertise of the faculty member;
- (b) The objectives to be achieved;
- (c) The level of students;
- (d) The number, type, and ~~((econditions))~~ acuity of patients;
- (e) The number, type, location, and physical layout of clinical facilities being used for a particular course(s);
- (f) Students in initial or highly complex learning situations; and
- (g) The use of trained preceptors.

(2) If the faculty to student ratio in clinical areas involving direct care of patients or clients exceeds one faculty member to ten students, the program nurse administrator must submit a standardized report to the nursing commission. The report can be obtained from the nursing commission office. The contents of the standardized report must include, but is not limited to:

(a) The nursing program pass rate on the National Licensing Examination identified in WAC 246-840-050 for the last two years;

(b) The results of the two most recent faculty satisfaction surveys;

(c) The results of the two most recent student satisfaction surveys;

(d) Rationale for the exception to the one faculty member to ten students ratio and information supporting the program's decision. The rationale must include how the program will maintain patient safety.

The nursing commission must respond to the program nurse administrator, either electronically or in writing, regarding the report and its acceptance or denial, in a timely fashion. The nursing commission may request a site survey to be conducted based upon the report to gather information supporting the document. The commission must notify the program nurse administrator at least two weeks in advance of the site survey and indicate the purpose of the survey.

(3) Clinical preceptors may be used to enhance clinical learning experiences, after a student has received clinical and didactic instruction from program faculty in all basic areas for that course or specific learning experience. Preceptors may be used with the following criteria:

(a) Licensed at or above the level for which the student is preparing;

(b) Experienced in the facility and specialty area;

(c) Orientation to written course and student learning objectives and documented role expectations of faculty, preceptor and preceptee; and

(d) The faculty member shall confer with each preceptor and student regularly during the precepted learning experience.

~~((3))~~ (4) Nursing faculty(~~(, including those in career ladder programs,))~~ shall have a current unrestricted license to practice as a registered nurse in Washington ~~((the following qualifications)).~~

(5) Degree requirements for faculty teaching in nursing education programs shall have:

FOR PRACTICAL NURSING PROGRAMS:

~~(a) ((A current license to practice as a registered nurse in Washington.))~~ In a program preparing practical nurses only, a minimum of a baccalaureate degree with a major in nursing from an accredited college or university.

FOR REGISTERED NURSING PROGRAMS:

~~(b) In a program preparing registered nurses, a minimum of a masters degree with a major in nursing or a baccalaureate degree in nursing with a masters in a related field from an accredited college or university ((shall be the minimum requirement for faculty appointment in a program preparing registered nurses)), unless:~~

~~(i) For faculty teaching in the classroom or laboratory, the nursing program shall provide documentation to the commission within thirty days of hire that:~~

~~(A) Despite aggressive recruitment efforts, it has been unable to attract properly qualified faculty; and~~

~~(B) The individual will either teach one year or less or be currently enrolled in a masters in nursing program at an accredited college or university.~~

~~(ii) For clinical faculty who will directly supervise students at a clinical facility, the nursing program shall provide documentation to the commission within thirty days of hire that:~~

~~(A) The individual has at least a minimum of a baccalaureate degree with a major in nursing from an accredited college or university; and~~

~~(B) The individual has current clinical experience of at least three years in the clinical subject area taught.~~

~~(iii) For faculty teaching in the classroom, laboratory or clinical setting, the individual is nursing faculty tenured prior to November 3, 1995.~~

~~((A Baccalaureate degree with a major in nursing from an accredited college or university shall be the minimum requirement for faculty appointment in program preparing practical nurses only.~~

~~(i) Exceptions allowed without prior commission approval:~~

~~(A) Current tenured faculty.~~

~~(B) Ongoing reappointment of instructors or faculty prior to November 3, 1995.~~

~~(C) Temporary faculty replacement for less than three quarters or two semesters.~~

~~(ii) Exceptions allowed with prior commission approval:~~

~~(A) Temporary short-term faculty appointment of less than one academic year.~~

~~(B) Faculty specializing in a highly selected clinical area such as an operating room.~~

~~(c) Clinical experience as a registered nurse relevant to area(s) of responsibility.~~

~~(4) Nonnurse))~~ (6) Interdisciplinary faculty must have academic and professional education and experience in their field of specialization.

~~((5))~~ (7) Faculty shall be responsible for:

~~(a) Developing, implementing, and evaluating the purpose((, philosophy,)) and ((objectives)) outcomes of the nursing education program.~~

~~(b) Designing, implementing, and evaluating the curriculum.~~

(c) Developing and evaluating student admission, progression, retention, and graduation policies within the framework of the policies of the governing institution.

(d) Participating in or providing for academic advising and guidance of students.

(e) Evaluating student achievement, in terms of curricular objectives as related to both nursing knowledge and practice, including preceptorship experiences.

(f) Selecting, guiding, and evaluating student learning.

(g) Participating in activities to improve their own nursing competency in area(s) of responsibility and to demonstrate current clinical competency.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-575 Curriculum for approved nursing education programs. The curriculum must provide diverse learning experiences consistent with program outcomes. Clinical experiences must include opportunities to learn and provide care to clients from diverse ethnic and cultural backgrounds. The emphasis placed on these areas and the scope encompassed shall be in keeping with the purpose and outcomes of the program.

~~(1) ((The basic curriculum shall not be less than two academic years for preparation of a registered nurse. The basic curriculum shall not be less than nine months or forty weeks for preparation of a practical nurse.~~

~~(2))~~ The length, organization, content, methods of instruction, and placement of courses ~~((shall))~~ must be consistent with the ~~((philosophy))~~ purpose and outcomes of the program.

~~((3) The curriculum shall include:)~~

FOR PRACTICAL NURSE PROGRAMS:

~~((a))~~ (2)(a) The practical nurse certificate must be at least sixty quarter credits. Concepts of social, behavioral, and related foundation subjects ~~((which))~~ may be integrated, combined or presented as separate courses.

(i) Normal growth and development.

(ii) Psychology - social facts and principles; communication techniques and defense mechanisms, normal and abnormal behavior; loss, grief and dying.

(iii) Personal and vocational relationships.

(b) Biological and related foundation subjects ~~((which))~~ may be integrated, combined or presented as separate courses.

(i) Anatomy and physiology.

(ii) Microbiology - elementary concepts.

(iii) Chemistry and physics - elementary concepts.

(iv) Nutrition and diet therapy.

(v) Pharmacology and applied mathematics.

(c) Principles and ~~((practice))~~ skills of practical nursing consistent with the practical ~~((nursing))~~ nurse role of the beginning practitioner as provided by the standards of competency identified in WAC ~~((246-838-260))~~ 246-840-700 and 246-840-705.

(i) Nursing ethics, nursing history and trends, ~~((vocational))~~ standards of practice, licensure and legal aspects of nursing.

(ii) Medical and surgical nursing for clients throughout the life span.

(iii) ~~((Parent/child))~~ Ante/intra/postpartum and newborn nursing with only an assisting role in the care of clients during labor and delivery and those with complications.

(iv) Geriatric nursing.

(v) Mental health nursing.

~~((vi))~~ (d) All nursing courses shall include:

~~((restorative, rehabilitative and supportive care)):~~ Client needs; safe, effective care environment; health promotion and maintenance; psychosocial integrity; and physiological integrity.

~~((vii))~~ (ii) Skills laboratory and clinical practice in the functions of the practical nurse, including but not limited to, administration of medications, ~~((common medical surgical))~~ implementing and monitoring client care techniques and ~~((related client teaching))~~ promoting psychosocial and physiological techniques.

~~((viii))~~ (iii) Concepts of ~~((client))~~ coordinated care ~~((management))~~ and delegation.

FOR REGISTERED NURSE PROGRAMS:

(3)(a) Instruction in the physical ~~((and))~~ biological ~~((sciences and shall include content drawn))~~ social and behavioral sciences. Content is required from the areas of anatomy and physiology (two terms with laboratory), physics, chemistry, microbiology, pharmacology and nutrition, ~~((which may be integrated, combined, or presented as separate courses.~~

~~(b) Instruction in the social and behavioral sciences and shall include content drawn from the areas of communications, psychology, sociology and anthropology, which may be integrated, combined, or presented as separate courses))~~ communication and computations.

~~((e))~~ (b) Theory and clinical experiences in the areas of medical nursing, surgical nursing, obstetric nursing, nursing of children and psychiatric nursing, which may be integrated, combined, or presented as separate courses. Baccalaureate programs also shall include theory and clinical experiences in community and public health nursing.

~~((f))~~ (c) History, health care trends, and ~~((and))~~ legal and ethical issues, and scope of practice, and licensure and professional responsibility pertaining to the ~~((nursing profession, which))~~ registered nurse role including the standards of competency identified in WAC 246-840-700 and 246-840-705. Content may be integrated, combined, or presented as separate courses. Baccalaureate programs shall include study of research principles and statistics.

~~((e))~~ (d) Programs must include opportunities for the student to learn assessment ~~((of))~~ and analysis of client and family needs, planning, implementation, and ~~((and))~~ evaluation, and delegation of nursing care for diverse individuals and groups. Baccalaureate programs shall include the study and practice of leadership and care/case management.

~~((f))~~ (e) All nursing courses shall include:

(i) Comprehensive content on: Client needs; safe, effective care environment; health promotion and maintenance; psychosocial integrity and physiological integrity.

(ii) Clinical experiences in the care of persons at each stage of the human life cycle ~~((These experiences shall include)),~~ with opportunities for the student to learn and have direct involvement in, responsibility and accountability for

the provision of basic nursing care ((in the areas of) and comfort for clients with acute and chronic illnesses, ((promotion and maintenance of wellness)) pharmacological and parenteral therapies and pain management. The emphasis placed on these areas, the scope encompassed, and other allied experiences offered shall be ((in keeping)) consistent with the purpose((-philosophy,)) and ((objectives)) outcomes of the program.

((g)) (iii) Opportunities for ((the student to participate in multidisciplinary health care)) management of care and delegation working within a health care team.

WSR 05-12-059

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed May 26, 2005, 3:04 p.m., effective June 26, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This revision is to add a new section (WAC 246-247-035) which adopts by reference, without material change, the federal standards for radionuclide emissions contained in 40 C.F.R. 61 Subparts A, B, H, I, K, Q, R, T, and W. This action makes Washington state regulations equivalent to the federal rules and allows delegation of the Environmental Protection Agency's authority over airborne emission of radionuclides to the Department of Health.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 05-08-019 on March 29, 2005.

A final cost-benefit analysis is available by contacting Allen W. Conklin, Office of Radiation Protection, P.O. Box 47827, Olympia, WA 98504-7827, phone (360) 236-3261, fax (360) 236-2256, e-mail al.conklin@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, 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 1, Amended 0, Repealed 0.

Date Adopted: May 26, 2005.

Mary C. Selecky
Secretary

NEW SECTION

WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions. (1) The following federal standards, as in effect on July 1, 2004, are

adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 CFR Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 CFR Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.

(iii) 40 CFR Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.

(iv) 40 CFR Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.

(v) 40 CFR Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.

(vi) 40 CFR Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 CFR Part 61 include the department of health except in any section of 40 CFR Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

WSR 05-12-066

PERMANENT RULES

DEPARTMENT OF PERSONNEL

(Personnel Resources Board)

[Filed May 27, 2005, 11:10 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: Title 356 WAC governs general government employees.

Citation of Existing Rules Affected by this Order: Repealing Title 356 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-100 on April 20, 2005.

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 437.

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 437.

Date Adopted: May 24, 2005.

Eva N. Santos
Director, Department of Personnel
Secretary, Personnel Resources Board

REPEALER

The following title of the Washington Administrative Code is repealed:

Title 356 WAC

WSR 05-12-067
PERMANENT RULES
DEPARTMENT OF PERSONNEL
(Personnel Resources Board)

[Filed May 27, 2005, 11:11 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: Title 251 WAC governs higher education employees.

Citation of Existing Rules Affected by this Order: Repealing Title 251 WAC.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-099 on April 20, 2005.

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 351.

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 351.

Date Adopted: May 24, 2005.

Eva N. Santos
Director, Department of Personnel
Secretary, Personnel Resources Board

REPEALER

The following title of the Washington Administrative Code is repealed:

Title 251 WAC

WSR 05-12-068
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:11 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the Washington management service.

Statutory Authority for Adoption: Chapter 41.06 RCW. Adopted under notice filed as WSR 05-04-087 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-58-005, as a result of discussions with stakeholders it was determined that language be added in this section to include aligning the workforce with the organization's strategic plan and creating a productive work environment.

WAC 357-58-040, as a result of discussions with stakeholders it was determined that language be added to include chapter 357-58 WAC.

WAC 357-58-045, as a result of discussions with stakeholders it was determined that language be added to include chapter 357-58 WAC.

WAC 357-58-055, as a result of discussions with stakeholders it was determined that chapter 357-10 WAC, Personnel Resources Board classification, be added to this chapter.

WAC 357-58-065, as a result of discussions with stakeholders it was determined that the first paragraph be changed to "The following definitions apply to chapter 357-58 WAC." Also, added "within a management band" to salary standard definition, added "state" employment to separation definition, added "WMS" to the transfer definition and added Washington general service (WGS) to the definitions.

WAC 357-58-085, as a result of discussions with stakeholders it was determined that the question and answer be reworded to address outside the minimum or maximum of an assigned band.

WAC 357-58-100, as a result of discussions with stakeholders it was determined that the language "life of the position" be removed and clarifying language be added.

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 23, 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.

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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 23, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

Eva N. Santos
Director

Chapter 357-58 WAC

Washington Management Service

NEW SECTION

WAC 357-58-005 What is the key role and accountability for Washington management service employees in state government? State managers have a crucial role in ensuring that the public receives needed government services in the most efficient and cost-effective manner possible. Managers must direct the development and implementation of policies and programs that achieve results. Managers must attract, develop, and retain a competent, productive workforce in order to successfully carry out state programs. Managers must build and sustain a workplace culture that focuses on performance and outcomes.

State managers are expected to personally commit to demonstrating excellent leadership competencies and achieving programmatic results. Also, it is essential that agency leaders hold their managers accountable for properly leading and managing their human resources - their employees. This includes aligning the workforce with the organization's strategic plan; hiring the best qualified staff; creating a productive work environment; setting clear performance expectations; providing day-to-day feedback and support; developing staff competencies; conducting regular performance evaluations; implementing timely and meaningful rewards; and, holding employees accountable for successful performance.

The efficiency and effectiveness with which government services are delivered to the citizens of Washington State depends largely on the quality and productivity of state employees. Each manager has the unique and critical responsibility to foster the building of a performance-based culture that will enable workforce success.

NEW SECTION

WAC 357-58-010 What is the purpose of the Washington management service (WMS) rules? The purpose of chapter 357-58 WAC is to establish a system of personnel administration called the Washington Management Service (WMS) as authorized in RCW 41.06.500. Chapter 357-58 comprehensively covers the personnel matters relating to WMS positions.

The WMS embodies the concepts of a performance management work environment that recognizes competency-based appointments and compensation.

NEW SECTION

WAC 357-58-015 Who is authorized to adopt rules for the WMS? The director of the department of personnel adopts the WMS rules after consultation with state agencies.

NEW SECTION

WAC 357-58-020 What are the goals of the WMS rules? In accordance with RCW 41.06.500, the WMS rules must adhere to the following goals:

(1) Simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(2) Flexibility in setting and changing salaries and a compensation system that is consistent with RCW 41.06.500;

(3) Performance appraisal system that emphasizes individual accountability; 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;

(4) Strengthened management training and career development programs that build critical management competencies; 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;

(5) Flexibility in recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate position-based competencies, leadership skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(6) Provisions that managers may only be reduced, dismissed, suspended, or demoted for cause;

(7) Facilitation of decentralized and regional administration; and

(8) Ensuring that decisions are not based on patronage or political affiliation.

NEW SECTION

WAC 357-58-025 Are WMS employees included in the classified service and what rules apply to WMS employees and positions? WMS employees are part of the classified service.

Chapter 357-58 WAC applies to classified employees and positions that meet the definition of manager in WAC 357-58-035.

NEW SECTION

WAC 357-58-030 Who determines if a position is included in the WMS? Each agency identifies all positions

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that fit the definition of manager. Those identified positions are WMS positions.

NEW SECTION

WAC 357-58-035 What is the definition of a manager or managerial employee? In accordance with RCW 41.06.022, a manager or managerial employee is defined as the incumbent of a position that:

- (1) Formulates state-wide policy or directs the work of an agency or agency subdivision;
- (2) Administers one or more state-wide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; and/or
- (5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

NEW SECTION

WAC 357-58-040 Are there any manager positions or managerial employees that are not included in the WMS? Manager positions or managerial employees that are exempt from civil service and manager positions or managerial employees of institutions of higher education and related boards are not included in WMS or covered by chapter 357-58 WAC.

NEW SECTION

WAC 357-58-045 Who is covered by the WMS rules? Chapter 357-58 WAC applies only to managers and do not apply to classified employees in the Washington general service.

NEW SECTION

WAC 357-58-050 What chapters of civil service rules apply to WMS positions? Other chapters of civil service rules do not apply to WMS positions or employees except for the chapters listed below. If a WMS issue is identified that the director of the department of personnel has not specifically addressed in the adoption of the WMS rules, the other civil service rules do not apply or take precedence in addressing the issue.

Except where specifically stated otherwise, the following chapters apply to positions or employees included in the WMS.

- WAC 357-04 General provisions
- WAC 357-07 Public records
- WAC 357-22 Personnel Files
- WAC 357-25 Affirmative Action Program
- WAC 357-26 Reasonable Accommodation
- WAC 357-31 Leave
- WAC 357-34 Employee Training and Development

- WAC 357-37 Performance Management
- WAC 357-40 Discipline
- WAC 357-43 Employee Business Units
- WAC 357-52 Appeals
- WAC 357-55 Combined Fund Drive

NEW SECTION

WAC 357-58-055 What civil service rules do not apply to WMS? Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the Washington management service:

- WAC 357-01 Definitions
- WAC 357-10 Personnel Resources Board Classification
- WAC 357-13 Classification
- WAC 357-16 Recruitment, Assessment, and Certification
- WAC 357-19 Appointments and Reemployment
- WAC 357-28 Compensation
- WAC 357-46 Layoff and Separation
- WAC 357-49 Director's Reviews

NEW SECTION

WAC 357-58-060 Do the WMS rules apply to all general government employers? The WMS rules, Chapter 357-58 WAC, apply to all general government employers.

NEW SECTION

WAC 357-58-065 Definitions for WMS. The following definitions apply to chapter 357-58 WAC:

(1) Competencies.

Those measurable or observable knowledge, skills, abilities, and behaviors critical to success in a key job role or function.

(2) Dismissal.

The termination of an individual's employment for disciplinary purposes.

(3) Employee.

An individual working in the classified service. Employee business unit members are covered by chapter 357-43 WAC and defined in WAC 357-43-001.

(4) Evaluation points.

Evaluation points are the points resulting from an evaluation of a position using the managerial job value assessment chart.

(5) Layoff unit.

A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

(6) Management bands.

Management bands are a series of management levels included in the Washington management service. Placement in a band reflects the nature of management, decision-making environment and policy impact, and scope of management accountability and control assigned to the position.

(7) Performance management confirmation.

Approval granted by the director of the department of personnel to an employer allowing the employer to link individual employee performance to compensation or layoff decisions.

(8) Premium.

Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions, or circumstances associated with the job.

(9) Reassignment.

A reassignment is an employer-initiated movement of:

(a) a WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) a WMS position and its incumbent from one section, department, or geographical location to another section, department, or geographical location.

(10) Salary standard.

Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

(11) Separation.

Separation from state employment for nondisciplinary purposes.

(12) Suspension.

An absence without pay for disciplinary purposes.

(13) Transfer.

A WMS transfer is an employee-initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

(14) Washington general service (WGS).

Washington general service is the system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

(15) Washington management service (WMS).

Washington management service is the system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

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

NEW SECTION

WAC 357-58-070 What are the responsibilities of each agency for effectively managing and budgeting salaries for WMS positions? Each agency has the overall responsibility for effectively managing and properly budgeting for salaries based on performance management and job-required competencies for its WMS positions.

NEW SECTION

WAC 357-58-075 What is the requirement for agencies to develop compensation policies? Each agency must develop salary administration policies that are consistent with this chapter and guidelines established by the department for WMS positions.

NEW SECTION

WAC 357-58-080 How are positions assigned to the management bands? Each agency must evaluate its WMS positions using a managerial job value assessment chart developed by the department of personnel. The number of points resulting from the evaluation determines the management band to which a position is assigned.

NEW SECTION

WAC 357-58-085 Can WMS salaries be set outside the minimum and maximum of an assigned management band? Compensation for a WMS position must not be set outside the minimum or maximum of the assigned management band when allowed under any provision of this chapter or when approved by the department of personnel.

NEW SECTION

WAC 357-58-090 For what reasons can an agency adjust a WMS salary? Salary adjustments may be made under the following conditions:

(1) Legislatively directed general and/or special increase;

(2) Documented recruitment and/or retention problems as approved by the agency director or designee; and/or

(3) Documented agency and/or state internal salary relationship problems, as approved by the agency director or designee.

NEW SECTION

WAC 357-58-095 May agencies provide progression increases for WMS employees? Employers may grant progression adjustments to employees as follows:

(1) In recognition of the employee's demonstrated growth and development; and/or

(2) If the employer has received performance management confirmation, in recognition of the employee's sustained excellence.

NEW SECTION

WAC 357-58-100 Is there a limit for annual progression increases? Progression increases initiated by the agency normally will not exceed a total of **twenty-five percent (25%)** during the tenure of an employee's appointment to a position as long as the position's duties are unchanged or would not evaluate higher if new duties were assigned.

NEW SECTION

WAC 357-58-105 When can exceptions to the progression increase limits be made? Only the director of the department of personnel may grant requests for exception to the progression increase limit.

NEW SECTION

WAC 357-58-110 What is a promotion? A promotion is one of the following:

(1) The assignment of additional responsibilities, which results in higher evaluation points and/or a higher salary standard for the same position, or

(2) Movement to a different position that has a higher salary standard and/or higher evaluation points.

NEW SECTION

WAC 357-58-115 What is a voluntary demotion and what changes may occur in salary? A voluntary demotion is a voluntary movement by an employee to a position with lower evaluation points. Such movement may result in a salary decrease.

WSR 05-12-069

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:12 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the Washington management services.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-04-088 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-58-120 (1)(2), as a result of discussions with stakeholders it was determined that language be added to this section to include placement in the Washington Government Service (WGS) with a lower base salary.

WAC 357-58-125, as a result of discussions with stakeholders it was determined that the language "WMS management band maximum exceeds the employee's salary" be added.

WAC 357-58-140, as a result of discussions with stakeholders it was determined that the language "over an annual period" be added.

WAC 357-58-220, as a result of discussions with stakeholders it was determined that the word "permanent" be added to the question.

WAC 357-58-225, as a result of discussions with stakeholders it was determined that language and numbering be added to clarify within the same agency and within a different agency.

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 24, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 24, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

Eva N. Santos

Director

NEW SECTION

WAC 357-58-120 What is a disciplinary demotion and what changes may occur in salary? Demotion for cause is a disciplinary demotion. A disciplinary demotion results in the:

(1) Assignment of responsibilities which results in a lower salary standard and/or lower evaluation points for the same position or results in the position being placed in the WGS with a lower base salary, or

(2) Movement to a different position that has a lower salary standard and/or lower evaluation points or to a WGS position with a lower base salary.

A disciplinary demotion may result in a salary decrease. Any salary decrease must comply with the salary basis test of the Fair Labor Standards Act.

NEW SECTION

WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary? An involuntary downward movement is based on a non-disciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position.

Such downward movement will not decrease the employee's current salary. The employee's current salary will be retained until such time as the WMS management band maximum exceeds the employee's salary or the employee leaves the position.

NEW SECTION

WAC 357-58-130 Do salary increases greater than five percent (5%) for a group of employees need approval? Salary changes greater than five percent (5%) proposed for any group of employees must be reviewed and approved by the director of the department of personnel.

NEW SECTION

WAC 357-58-135 Who can provide lump-sum performance recognition payment to employees? The director of the department of personnel or an agency that has received performance management confirmation for decentralized compensation administration may provide additional pay to employees on a lump sum basis. Such payment to an individual or group of employees is to recognize outstanding performance or the achievement of pre-defined work goals. Any pay granted under this section is a premium that is not part of the base salary.

PERMANENT

NEW SECTION

WAC 357-58-140 Is there a limit to the amount an employee can receive for performance recognition pay? Over an annual period, performance recognition pay may not exceed fifteen percent (15%) of an employee's annual base salary unless approved by the director of the department of personnel.

NEW SECTION

WAC 357-58-145 When may an agency authorize lump sum relocation compensation? An agency director may authorize lump sum relocation compensation, within existing resources, whenever:

- (1) It is reasonably necessary that a person move his or her home to accept a transfer or appointment; or
- (2) It is necessary to successfully recruit or retain a qualified candidate or employee who will have to move his or her home in order to accept the position.

NEW SECTION

WAC 357-58-150 For what reasons may an employee be required to pay back the relocation payment? If the employee receiving the relocation payment terminates or causes termination with the state within one year of the date of the appointment or transfer, that employee may be required to pay back the lump sum payment. Termination as a result of layoff, disability separation, or other good cause as determined by the agency director will not require the employee to repay the relocation compensation.

NEW SECTION

WAC 357-58-155 Must the agency develop written criteria for relocation compensation? An agency must develop written criteria prior to authorizing lump sum relocation compensation. The criteria must include:

- (1) A description of the circumstances for which relocation compensation will be granted; and
- (2) The method that will be used to determine the amount of relocation compensation.

NEW SECTION

WAC 357-58-160 How are hours of work established for WMS employees? Agencies must assign each WMS position to one of the overtime eligibility designations identified in the compensation plan and determine the position's work week.

For overtime-eligible employees, compensation must be in accordance with the following sections of chapter 357-28 WAC:

- WAC 357-28-245
- WAC 357-28-250
- WAC 357-28-255
- WAC 357-28-260
- WAC 357-28-265
- WAC 357-28-275

- WAC 357-28-280
- WAC 357-28-285

NEW SECTION

WAC 357-58-165 Do WMS employees receive leave benefits? Leave accrual, leave usage, and paid holidays for WMS employees must be in accordance with chapter 357-31 WAC.

NEW SECTION

WAC 357-58-170 What about other pay issues? Each agency may establish policies and practices for additional compensation such as shift differential, call back pay, and standby pay in accordance with the provisions of chapter 357-28 WAC.

NEW SECTION

WAC 357-58-175 Can an employer authorize lump-sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an incumbent or candidate for a WMS position? In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an incumbent or candidate for a specific WMS position:

- (1) Employers may authorize an accelerated accrual rate for an incumbent or candidate; and/or
- (2) Employers may authorize a lump-sum accrual of up to 80 hours of vacation leave for the incumbent or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC and cannot be used until the employee has completed six continuous months of service.

NEW SECTION

WAC 357-58-180 Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an incumbent for a WMS position? In order to authorize additional leave for the recruitment and/or retention of a candidate or incumbent for a WMS position, an agency must have a written policy that:

- (1) Identifies the reasons for which the employer may authorize additional leave; and
- (2) Requires that lump sum accruals only be granted after services have been rendered in accordance with express conditions established by the employer.

NEW SECTION

WAC 357-58-185 Must an agency develop a recruitment and selection policy and/or procedure for WMS positions? Each agency must develop a recruitment and selection policy and/or procedure that will best meet client, employee, management, and organizational needs. The policy and/or procedure must address filling positions and employee movement.

The policy and procedures for recruitment and selection must be inherently flexible and permit methods and strategies to be varied and customized for each recruitment and selection need.

NEW SECTION

WAC 357-58-190 What must be addressed in agency's WMS recruitment and selection policy and/or procedure? An agency's WMS recruitment and selection policy must:

- (1) Provide for the ability to consider any or all qualified candidates for hire, promotion, or internal movement;
- (2) Ensure that hiring decisions are fair, objective, and based on the evaluation of leadership and other job related competencies and characteristics required for successful job performance and performance management;
- (3) Support workforce diversity and affirmative action goals;
- (4) Consider the career development of the agency's employees and other state employees;
- (5) Ensure that hiring decisions are not based on patronage or political affiliation;
- (6) Ensure compliance with state and federal laws relating to employee selection and nondiscrimination;
- (7) Encourage decentralized and regional administration of the recruitment and selection processes when it is appropriate for the agency.

NEW SECTION

WAC 357-58-195 Are employers required to grant promotional preference when filling WMS positions? Agencies are not required to grant promotional preference when recruiting and selecting for WMS positions. However, an agency may determine, on an individual position basis, if it is in the organization's best interest to limit the candidate pool to promotional candidates. The agency defines who qualifies as a promotional candidate.

NEW SECTION

WAC 357-58-200 How may transfers occur? At any time, an employee and the affected agency or agencies may agree to the transfer of a WMS employee within an agency or between agencies.

NEW SECTION

WAC 357-58-205 Under what conditions may an employer reassign a WMS employee? At any time, an agency may reassign an employee or a position and it's incumbent to meet client or organizational needs. If the new location is within a reasonable commute, as defined by the agency, the employee must accept the reassignment.

If the reassignment is beyond a reasonable commute and the employee does not agree to the reassignment, the employee has layoff rights in accordance with this chapter.

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 357-58-210 When may a WMS employee transfer to a WGS position and vice versa? A permanent employee may transfer from a WMS position to a WGS position if his/her salary is within the salary range of the WGS position.

A permanent employee may transfer from a WGS position to a WMS position if his/her salary is within the management band assigned to the WMS position.

NEW SECTION

WAC 357-58-215 May a permanent WMS employee voluntarily demote to a WGS position? A WMS employee may voluntarily demote from a WMS position to a WGS position at a lower pay level than his/her current position.

NEW SECTION

WAC 357-58-220 May a permanent WMS employee accept a nonpermanent appointment in the WGS? A permanent WMS employee may accept a nonpermanent appointment to a WGS position as provided in chapter 357-19 WAC.

NEW SECTION

WAC 357-58-225 What return rights must an employer provide to a permanent WMS employee who accepts a nonpermanent appointment to a WGS position? (1) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the same agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the different agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six (6) months from the time the employee is appointed. Any return right after six (6) months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) or (2) of this section, the agency and the employee may agree to other terms.

NEW SECTION

WAC 357-58-230 May a WMS employee accept an appointment to a project position in the general service and does the employee have any return right to his/her permanent WMS position? A permanent WMS employee may accept an appointment to a project WGS position as pro-

vided in chapter 357-19 WAC. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

NEW SECTION

WAC 357-58-235 May employers create WMS positions in projects? Employers may designate project positions that meet the definition of manager as WMS project positions.

WSR 05-12-070

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:13 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the Washington management service.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-04-089 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-58-255, as a result of discussions with stakeholders it was determined that the reference to WAC 357-58-260 be changed to WAC 357-58-465.

WAC 357-58-260, as a result of discussions with stakeholders it was determined that the language to be added to distinguish between WGS and WMS. Also, removed the language "Permanent WMS employees return rights following a project appointment."

WAC 357-58-265, as a result of discussions with stakeholders it was determined that the language be clarified in this section to include the definition of an acting appointment.

WAC 357-58-275, as a result of discussions with stakeholders it was determined that the language in this section be written and numbered to clarify the difference between appointments within the same agency and appointments in a different agency.

WAC 357-58-280, as a result of discussions with stakeholders it was determined that this WAC be abolished and that the review period be moved to the definitions section.

WAC 357-58-285, as a result of discussion with stakeholders it was determined that the following language be added "A review period **must** be served when" and also numbered.

WAC 357-58-300, as a result of discussion with stakeholders it was determined that total leave without pay or shared leave must not exceed 174 hours in order to not affect the review period.

WAC 357-58-315, as a result of discussion with stakeholders it was determined that the language be changed from "appointing authorities" to "employers."

WAC 357-58-325, as a result of discussion with stakeholders it was determined that the language be changed from "appointing authorities" to "employers."

WAC 357-58-330, as a result of discussion with stakeholders it was determined that the language be revised to include serving a WGS probationary period concurrently with a WMS review period.

WAC 357-58-355, as a result of discussion with stakeholders it was determined that language be added to include that an employee may request to voluntarily revert. Removed the reference to WAC 357-58-345, 357-58-350, and removed the last sentence which read "voluntary reversion after thirty days is at the discretion of the employer."

WAC 357-58-365, as a result of discussion with stakeholders it was determined that both the question and answer be revised to clarify permanent status in classified service and their reversion rights.

WAC 357-58-375, as a result of discussion with stakeholders it was determined that language and numbering be added to this section to help clarify what happens when permanent WMS employees promote or demote to WGS and do not complete the trial service period.

WAC 357-58-380, as a result of discussion with stakeholders it was determined that this WAC be abolished.

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 31, 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 31, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-58-240 What are the notification requirements for appointing an employee to a project WMS position? An employee appointed to a project WMS position must be notified, in writing, of the status of the appointment and the expected ending date of the position.

NEW SECTION

WAC 357-58-245 Must an employee appointed to a project position serve a review period? An employee who does not have permanent status in classified service must serve a review period when appointed to a project WMS position. The employee gains permanent status upon completion of the review period.

Permanent employees who promote to a project WMS position must serve a review period.

NEW SECTION

WAC 357-58-250 Must an employee who transfers or voluntarily demotes to a project WMS position serve a review period? An appointing authority may require an employee who transfers or voluntarily demotes to a project WMS position to serve a review period.

NEW SECTION

WAC 357-58-255 May a permanent WMS employee accept a project appointment within WMS and does the employee have any return rights to his/her permanent WMS position? A permanent WMS employee may accept an appointment to a project WMS position. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the project position. If no return right is agreed to, the permanent employee has the rights provided by WAC 357-58-465 upon layoff from the project.

NEW SECTION

WAC 357-58-260 What happens to employees in project WMS positions at the conclusion of the project?

(1) At the conclusion of an appointment to a project WMS position, the layoff provisions of this chapter apply.

(2) In addition to the layoff rights provided by this chapter:

(a) A permanent status employee who left a permanent WGS position to accept appointment to a project WMS position without a break in service has the additional rights provided by WAC 357-19-340; and

(b) A permanent status employee who left a permanent WMS position may have additional rights negotiated under WAC 357-58-255.

NEW SECTION

WAC 357-58-265 When may an agency make an acting WMS appointment and what actions are required? When necessary to meet organizational needs, an agency may make nonpermanent appointments in WMS. These appointments are called acting appointments. Prior to the acting appointment, the appointing authority must communicate in writing to the employee the anticipated length, intent, salary, and other conditions of the appointment.

NEW SECTION

WAC 357-58-270 Does time in an acting appointment count as time in the review period? When an individual who is in an acting WMS appointment is subsequently appointed to a permanent WMS position, time spent in the acting appointment may count towards the review period for the permanent WMS position at the discretion of the appointing authority.

NEW SECTION

WAC 357-58-275 May a permanent WMS employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment? Permanent WMS employees may accept acting appointments to WMS positions.

(1) When a permanent WMS employee has accepted an acting appointment within the same agency and the acting appointment ends, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted an acting appointment within a different agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six (6) from the time the employee is appointed. Any return right after six (6) months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) and (2) of this section, the agency and the employee may agree to other terms.

NEW SECTION

WAC 357-58-285 When must a WMS employee serve a review period? A review period must be served when:

(1) A permanent employee promotes to a permanent WMS position or

(2) An employee who does not have permanent status in the classified service is appointed to a permanent WMS position.

NEW SECTION

WAC 357-58-290 How long does the review period last? Based on the nature of the job and the skills of the appointee, the review period will be between twelve (12) and eighteen (18) months as determined by the appointing authority. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period.

NEW SECTION

WAC 357-58-295 May a review period be extended beyond the initial time period? Employers may extend the review period for an individual employee as long as the extension does not cause the total period to exceed 18 months. The employer must notify the employee in writing of the extension.

NEW SECTION

WAC 357-58-300 Does time spent of leave without pay or shared leave count towards completion of an employee's review period? Time spent of leave without pay or shared leave counts towards completion of the employee's review period if the total time does not exceed one hundred seventy-four (174) hours. If the total time on leave without pay or shared leave exceeds one hundred seventy-four (174) the employer determines whether or not the time in excess of one hundred seventy-four (174) hours will count towards completion of the review period. The granting of leave shall be in compliance with chapter 357-31 WAC and the Fair Labor Standards Act.

NEW SECTION

WAC 357-58-305 When does a WMS employee attain permanent status? Upon successful completion of the review period, the employee will attain permanent status in the position.

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.

NEW SECTION

WAC 357-58-310 When may a WMS employee who transfers or voluntarily demotes be required to serve a WMS review period? An appointing authority may require an employee who transfers or voluntarily demotes to serve a review period.

NEW SECTION

WAC 357-58-315 When may an employee, who is promoted to another WMS position, in a different agency, while serving a review period, be required to serve a WMS review period? An employee who is promoted to a different WMS position in a different agency during the review period will begin a new review period for the new position. The new employer may allow for some or all of the time served in the review period for the prior position to count towards the review period. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the employers in both agencies.

NEW SECTION

WAC 357-58-320 What happens when a WMS employee promotes to a new WMS position within the same agency while serving in a review period? If a WMS employee is promoted to a different WMS position in the same agency during the review period, the following applies:

- (1) Time served in the initial review period counts towards the review period of the new position if the employer determines the positions are closely related.
- (2) The review period starts over if the employer determines the positions are not closely related.

NEW SECTION

WAC 357-58-325 When may a probationary or trial service period be served concurrently with the WMS review period? An employee who is appointed to a WMS position from a WGS position in the same agency while serving a probationary or trial service period in the same or similar occupational field may serve the trial service or probationary period concurrently with the review period. At the discretion of the employer, the employee may attain permanent status in the previous job classification once the original probationary or trial service period concludes.

The new employer may allow for some or all of the time served in the review period for the prior position to count towards the review period. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the employers in both agencies.

NEW SECTION

WAC 357-58-330 What happens when a general service employee serving a probationary or trial service period is appointed to a WMS position in a different agency? If agreed to in writing by the employers in both agencies, a WGS employee who is appointed to a WMS position while serving in a probationary or trial service period may serve the probationary or trial service period concurrently with the WMS review period. The employee will attain permanent status in the original WGS position upon completion of the probationary or trial service period.

NEW SECTION

WAC 357-58-335 When a WMS employee is promoted in the same position as a result of additional new duties, is a review period required? The agency may require a review period when the employee remains in the same position and receives a promotion as a result of additional new duties.

NEW SECTION

WAC 357-58-340 When does reversion take place during a review period? During the review period, the appointing authority may separate or revert the employee from the position with written notification of the effective date.

NEW SECTION

WAC 357-58-345 When a permanent WMS employee does not complete the review period, what reversion rights does the employee have? When a WMS permanent employee is appointed to a WMS position and reverted during the review period, the current employing agency at the time of reversion must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qual-

ified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

NEW SECTION

WAC 357-58-350 When a permanent WGS employee does not complete the review period for a WMS position, what reversion rights does the employee have? When a permanent WGS employee is appointed to a WMS position and is reverted during the review period, the employee has reversion rights with the current employer at the time of reversion in accordance with WAC 357-19-115, 357-19-117, and 357-19-120.

NEW SECTION

WAC 357-58-355 Can an employee voluntarily revert during a review period? Within the first 30 calendar days of any review period, an employee may request to voluntarily revert to his/her former agency. If the former agency authorizes the reversion, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment.

NEW SECTION

WAC 357-58-360 May a reverted employee and an agency come to mutual agreement on reversion placement? Nothing in this section precludes agencies and the reverted employee from reaching mutual agreement on placement of a reverted employee within the WMS or within the WGS if permitted by the respective rules.

NEW SECTION

WAC 357-58-365 Does a WMS employee who does not have permanent status in the classified service have reversion rights? A WMS employee who is separated prior to completing the review period and has not gained permanent status in the classified service has no reversion rights.

NEW SECTION

WAC 357-58-370 Are there any appeal rights for reversion or separation during the review period? Employees may not appeal reversion or separation during the review period.

NEW SECTION

WAC 357-58-375 When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees? (1) When a WMS permanent employee promotes to a WGS position within the same agency and is reverted during the trial service, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is com-

parable to the employee's position and salary prior to the WGS appointment. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(2) When a WMS permanent employee demotes to a WGS position in the same agency and is reverted during the trial service period the agency must place the employee in a vacant funded WMS position for which the employee is qualified and with a salary that is equal to or less than the salary range maximum of the class from which the employee is reverting. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(3) When a WMS permanent employee promotes or demotes to a WGS position in a different agency and is reverted during the trial service period, the employer may separate the employee by providing fifteen (15) calendar days' written notice. The employee may apply for the general government transition pool.

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 357-58-385 What is the responsibility of general government employers to provide training and development to WMS employees? In addition to those responsibilities identified in chapter 357-34 WAC, general government employers must provide WMS development and training opportunities specifically designed to refine and broaden managerial knowledge and leadership competencies. Diversity, performance management, and education for managing employees in a civil service system must be part of this training. WMS employees must complete the core curriculum on leadership competencies as determined by the department of personnel within eighteen (18) months of being appointed to a WMS position.

NEW SECTION

WAC 357-58-390 What is the responsibility of WMS managers? In addition to those responsibilities identified in chapter 357-34 WAC, WMS employees are responsible for seeking out and fully participating in opportunities to enhance their managerial knowledge and leadership competencies to implement and emphasize performance management, model efficient leadership in changing work situations, reduce potential liability claims and manage in a civil service environment.

NEW SECTION

WAC 357-58-395 What will be the role of the department of personnel? The department of personnel shall assist state agencies by providing a quality developmental and leadership training program and consultative and technical assis-

tance to help agencies address the development needs of their managers.

NEW SECTION

WAC 357-58-400 How does each agency deal with developmental needs of managers? Each agency must ensure that the development needs of managers are incorporated into the agency's development and training plan. Each agency is responsible for periodic evaluations of its plan.

WSR 05-12-071

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:13 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the Washington management service.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-04-091 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-58-415, as a result of discussions with stakeholders it was determined that the question be rewritten to address what forms and procedures must employers use to plan for and evaluate the performance of managers. The section was rewritten to address this question.

WAC 357-58-450, as a result of discussions with stakeholders it was determined that the language be clarified to address a WMS employee returning from an exempt appointment.

WAC 357-58-460, as a result of discussions with stakeholders it was determined that the language "Define what the employer considers when determining the comparability of a position" be removed.

WAC 357-58-465 (1)(c) and (2)(a), as a result of discussions with stakeholders it was determined that these subsections be abolished. Also the language in subsection (2) was changed for clarification purposes.

WAC 357-58-495, as a result of discussions with stakeholders it was determined that this WAC be abolished.

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 18, 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 18, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-58-405 In addition to the requirements of chapter 357-37 WAC, what must the performance management process focus on for WMS employees? For WMS employees, the performance management process must satisfy the requirements of chapter 357-37 WAC and focus on:

(1) Fostering employee competence, leadership and productivity,

(2) Supporting achievement of organizational goals and objectives, and

(3) Holding managers accountable for achieving programmatic results and helping to build a performance based culture that will enable workforce success.

NEW SECTION

WAC 357-58-410 When and how often must performance feedback be provided to a WMS employee through the formal evaluation process? Employers must provide feedback and formally evaluate the performance of WMS employees during the review period and annually thereafter.

NEW SECTION

WAC 357-58-415 What forms and procedures must employers use to plan for and evaluate the performance of managers? Agencies must use standardized employee performance planning and evaluation procedures and forms developed by the director or alternate procedures and forms approved by the director.

NEW SECTION

WAC 357-58-420 May employers supplement the standardized performance evaluation procedures and forms? Agencies may tailor or supplement the managerial evaluation system to fulfill agency-unique needs, provided the emphasis is placed on:

(1) Assessment of those leadership competencies that are critical to an effective managerial in a performance-based environment;

(2) Planning for development and training in leadership competencies;

(3) Collaboration and communication between the supervisor and managerial employee during the performance planning and evaluation process;

(4) Planning for and assessment of results; and

(5) Preparation of a performance management and development plan.

NEW SECTION

WAC 357-58-425 Can an employer factor performance into compensation and layoff decisions for WMS employees? A general government employer may factor an employee's performance into compensation and layoff deci-

sions if the employer has received performance management confirmation.

NEW SECTION

WAC 357-58-430 How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions for WMS employees? Employers may request performance management confirmation from the director of the department of personnel for WMS employees. The director of the department of personnel will use the elements listed in WAC 357-58-435 to assess and evaluate an employer's readiness to fairly and objectively factor performance into compensation, recognition leave and layoff decisions. If the director of the department of personnel determines that the employer has developed a performance management program that encompasses the necessary elements, the employer will be granted performance management confirmation.

NEW SECTION

WAC 357-58-435 What elements will the director of the department of personnel evaluate to determine if an employer should be granted performance management confirmation? The director of the department of personnel will evaluate the following elements to determine if an employer should receive performance management confirmation:

- (1) Executive commitment to a performance-based culture;
- (2) Present status of performance management in the organization;
- (3) Defined roles and responsibilities for implementing and sustaining a performance management system;
- (4) Policy and process for holding managers accountable for properly carrying out their roles and responsibilities in performance management;
- (5) Internal policies and procedures for a performance management system;
- (6) Strategy for communicating to employees regarding policies, procedures, and timelines for performance management;
- (7) Performance management orientation and training for managers and supervisors;
- (8) Internal mechanisms for managing funding for performance-based compensation;
- (9) Implementation of a performance and development plan for all employees subject to performance factor decisions; and
- (10) Process for monitoring and measuring success.

NEW SECTION

WAC 357-58-440 How may an employer layoff WMS employees and what notice is required? WMS employees may be separated without prejudice due to layoff in accordance with the statutes and the agency's layoff procedure.

Permanent WMS employees must receive at least fifteen (15) calendar days' written notice of layoff, except when the employer and employee agree to waive the fifteen-day notice.

Notice of layoff must include the reason or basis for layoff and the employee's right to appeal the layoff.

WMS employees without permanent status must receive at least one (1) calendar day's written notice of layoff.

NEW SECTION

WAC 357-58-445 What are the reasons for layoff? Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules.

(1) The reasons for layoff include, but are not limited to, the following:

- (a) Lack of funds
- (b) Lack of work; or
- (c) Organizational change.

(2) Examples of layoff actions due to lack of work may include, but are not limited to:

- (a) Termination of a project or special employment;
- (b) Availability of fewer positions than there are employees entitled to such positions;
- (c) Elimination of a position when the work of the position has been competitively contracted; or
- (d) Employee's ineligibility to continue in a position which has been reallocated to the WGS.

NEW SECTION

WAC 357-58-450 How does a WMS employee return from an exempt appointments? When an exempt employee has the right to return under WAC 357-04-030 to a WMS position the return will be accomplished as provided in WAC 357-19-195 and 357-19-200.

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 357-58-455 How does an employer implement a layoff action? The employer is required to have a layoff procedure. When an employer determines a layoff is necessary, the layoff procedure must be followed. The layoff procedure must be available either electronically or in writing to employees subject to layoff.

NEW SECTION

WAC 357-58-460 What must be included in the employer's layoff procedure? The employer's layoff procedure must:

(1) Identify clearly defined layoff unit(s) that minimize disruption of the employer's total operation and provide options to employees scheduled for layoff;

- Employers may establish separate and exclusive layoff units for project employment or special employment programs.

(2) Provide opportunities to avoid or minimize layoff, such as transfers, voluntary demotion, voluntary reduced work schedule, or voluntary leave without pay;

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-58-440.

(4) Provide layoff options for permanent employees being laid off in accordance with WAC 357-58-465. Only employers who have performance confirmation can consider performance in determining layoff options;

(5) Address the timeframe in which employees must select a layoff option;

(6) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-58-465;

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress.

(7) Describe how employment retention ratings will be calculated, including options for factoring performance into ratings; and

(8) Specify how the employer will break ties when more than one employee has the same employment retention rating.

NEW SECTION

WAC 357-58-465 What option does a permanent WMS employee have to take a position when the employee is scheduled for layoff? (1) Within the layoff unit, a permanent WMS employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The employee has the required competencies for the position.

(b) The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or general service positions in classes in which the employee has held permanent status, in descending salary order. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.

(2) The position is funded and vacant, or if no vacant position is available, the position is occupied by the employee with the lowest retention rating. If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

NEW SECTION

WAC 357-58-470 How does an employer determine an employee's employment retention rating? The employer determines an employee's employment retention rating using seniority as calculated in WAC 357-46-055. Employers with performance management confirmation may consider properly documented performance in addition to

seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

NEW SECTION

WAC 357-58-475 Does a veteran receive any preference in layoff? (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding the eligible veteran's total active military service, not to exceed five (5) years, to his/her unbroken service date.

(2) An eligible veteran is defined as any permanent employee who:

(a) Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and

(b) Has received, upon termination of such service:

(i) An honorable discharge;

(ii) A discharge for physical reasons with an honorable record; or

(iii) A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty (20) or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The unmarried widow/widower of an eligible veteran is entitled to veteran's seniority preference for up to five (5) years as outlined in subsection (1) and (2) of this section regardless of whether the veteran had at least one (1) year of active military service.

NEW SECTION

WAC 357-58-480 What provisions governs separation due to disability for WMS employees? WMS employees may be separated due to disability in accordance with WAC 357-46-160, 357-46-165, 357-46-170, and 357-46-175.

NEW SECTION

WAC 357-58-485 What provisions governs nondisciplinary separation for WMS employees? Employers may separate WMS employees for nondisciplinary reasons in accordance with WAC 357-46-195, 357-46-200, and 357-46-205.

NEW SECTION

WAC 357-58-490 What provisions governs separation for unauthorized absence for WMS employees? Employers may separate WMS employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

WSR 05-12-072

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:14 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the Washington management service.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-04-090 on February 2, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-58-515, as a result of discussions with stakeholders it was determined that "informal review" be changed to "reconsideration."

WAC 357-58-520, as a result of discussions with stakeholders it was determined that "informal review" be changed to "reconsideration."

WAC 357-58-525, as a result of discussions with stakeholders it was determined that "action reviews" be changed to "reconsideration of agency action."

WAC 357-58-530, as a result of discussions with stakeholders it was determined that language and numbering be added to this section to clarify the responsibilities an agency has for records of reviews.

WAC 357-58-535, as a result of discussions with stakeholders it was determined that this WAC be abolished.

WAC 357-58-545, as a result of discussions with stakeholders it was determined that RCW 41.06.130 and 41.06.500 be included in this section. Also, the language was modified for clarification purposes.

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 9, 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 9, Amended 0, Repealed 0.

Date Adopted: March 10, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-58-500 May an employee request withdrawal of his/her resignation? An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

NEW SECTION

WAC 357-58-505 Does a WMS employee have appeal rights? Any permanent WMS employee who is laid off, dismissed, suspended, demoted, separated, whose position has been reassigned beyond a reasonable commute without agreeing to the reassignment, or whose base salary is reduced may appeal in accordance with chapter 357-52 WAC.

NEW SECTION

WAC 357-58-510 Can the agency's decision regarding which WMS position to eliminate in a layoff action be appealed? The agency's decision regarding which WMS position to eliminate in a layoff is not subject to appeal.

NEW SECTION

WAC 357-58-515 When a WMS employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken? Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

(1) Salary adjustment (or lack thereof) when the responsibilities of the permanent employee's position have been changed.

(2) Placement following reversion of a permanent employee.

(3) Decisions about whether or not a position is included in the WMS. When reconsidering decisions concerning inclusion in WMS the following apply:

(a) The final agency-internal decision must be made by the agency director or designee.

(b) If the incumbent disagrees with the agency director/designee's decision, he/she may request a director's review by the director of the department of personnel, as long as such request is made within fifteen (15) calendar days of notification of the decision. Such review will be limited to relevant documents and information and will be final.

NEW SECTION

WAC 357-58-520 What requirements must be included in the agency's WMS reconsideration procedures? In developing and administering the agency's WMS reconsideration procedures, the agency will adhere to the following:

(1) Reconsideration must be limited to a maximum of three (3) levels of consideration within the agency.

(2) Reconsideration may be limited to an examination of documentation and other relevant information. Agency decisions should be prompt.

(3) Reconsideration of an agency action will be done by the agency director or designee.

NEW SECTION

WAC 357-58-525 How does the employee request reconsideration of an agency action? Employee requests for reconsideration of an agency action must be in writing and requested within fifteen (15) calendar days of the action or notification or awareness (whichever was first) of the action.

NEW SECTION

WAC 357-58-530 What is the responsibility of agencies to track and analyze requests for reconsideration of agency actions? Each agency must:

- (1) Maintain a record of the number, nature, and outcome of employee requests for reconsideration of an agency action.
- (2) Identify and act upon any patterns or trends that signal problems or development or training needs among its managers.

NEW SECTION

WAC 357-58-540 What type of records are agencies required to keep and report for WMS employees? Each agency will maintain records of employees in the WMS. The records will identify employees as members of the WMS, including position numbers and position titles and will track all personnel actions related to them. Agencies will be responsible for collecting statistical information on WMS personnel regarding diversity, applicant flow, and appointments following each selection.

NEW SECTION

WAC 357-58-545 Does the director of the department of personnel have the rights to review an agency's administration of WMS? Under the authority of RCW 41.06.130 and 41.06.500, the director of the department of personnel retains the right to review:

- An agency's administration of the WMS program; and
- Any action taken by an agency under chapter 357-58 WAC.

WSR 05-12-073**PERMANENT RULES****DEPARTMENT OF PERSONNEL**

[Filed May 27, 2005, 11:15 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to when an employee is considered to have had a break in state service.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-08-127 on April 6, 2005.

Changes Other than Editing from Proposed to Adopted Version: A change was made to the language in WAC 357-

46-058 to clarify how an employee who was laid off must be rehired in order to not have a break in service.

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 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 2, Amended 0, Repealed 0.

Date Adopted: May 12, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-46-057 When is an employee considered to have a break in state service? An employee has a break in his/her continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-46-063 is not considered a break in continuous state service.

NEW SECTION

WAC 357-46-058 Is an employee who is rehired following layoff considered to have had a break in state service? (1) An employee laid off in accordance with the provisions of WAC 357-46-010 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position:

(a) From a layoff list or the general government transition pool; or

(b) As a promotional candidate in accordance with the employer's promotional policy.

(2) Upon appointment, the employee is reinstated with the seniority and unbroken service the employee had at the time of layoff. For a general government employee, the time spent off the payroll due to layoff is treated like leave without pay and seniority and unbroken service dates must be adjusted in accordance with WAC 357-31-345 and WAC 357-46-055 respectively.

WSR 05-12-074**PERMANENT RULES****DEPARTMENT OF PERSONNEL**

[Filed May 27, 2005, 11:15 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to temporary layoff of state employees.

Statutory Authority for Adoption: Chapter 41.06 RCW.
Adopted under notice filed as WSR 05-08-128 on April 6, 2005.

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 7, 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 7, Amended 0, Repealed 0.

Date Adopted: May 12, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-01-173 Furlough. The temporary cessation of an employee's service in accordance with WAC 357-46-063.

NEW SECTION

WAC 357-46-063 May an employer temporarily layoff an employee? For any of the reasons specified in WAC 357-46-010, an employer may temporarily layoff an employee by:

- (1) Reducing the number of hours an employee is scheduled to work; or
- (2) Furloughing the employee.

NEW SECTION

WAC 357-46-064 Are there any limits to temporary layoff? Under the provisions of WAC 357-46-063, an employer may not:

- (1) Furlough an employee for more than 30 calendar days in a calendar year; or
- (2) Temporarily reduce an employee's regular work schedule to less than 20 hours a week for more than 60 calendar days in a calendar year.

NEW SECTION

WAC 357-46-065 Under the provisions of temporary layoff, what happens if an employer has less than 20 hours per week of work for an employee to perform? If an employer has less than twenty (20) hours per week of work for an employee to perform during a period of temporary layoff, the employer must notify the employee that he/she is being furloughed. The employer may then offer the available work hours to the employee as a nonpermanent appointment

under the provisions of WAC 357-19-360 or temporary appointment under the provisions of WAC 357-19-435.

NEW SECTION

WAC 357-46-066 What is the notice requirement to temporarily layoff an employee? An employer must provide the employee seven (7) calendar days' notice of temporary layoff. The temporary layoff notice must inform the employee of his/her status during temporary layoff and the expected duration of the temporary layoff.

NEW SECTION

WAC 357-46-067 What is an employee's status during temporary layoff? (1) Hours not worked due to temporary layoff are not treated as leave without pay, therefore:

(a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff; and

(b) An employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC.

(2) An employees who is temporarily laid off is not entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for his/her vacation leave balance; and

(c) Use of his/her accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds.

(3) If the temporary layoff was not due to lack of funds, an employer may allow an employee to use accrued vacation leave in lieu of temporary layoff.

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 357-46-068 At the conclusion of a temporary layoff, does an employee have the right to return to the position he/she held immediately prior to being temporarily laid off? At the conclusion of the temporary layoff, the employee has the right to resume the position he/she held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment he/she held prior to the layoff.

WSR 05-12-075

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:16 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to how a higher education employee's seniority date is determined.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-08-129 on April 6, 2005.

PERMANENT

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 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 12, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-46-053 How is a higher education employee's seniority date determined? For higher education employees, the seniority date is determined in accordance with the employer's layoff procedure. The employer's layoff procedure must specify a uniform method for determining the seniority date for employees of the higher education institution or related board who are covered by the civil service rules. Employees on military leave as provided in WAC 357-31-370 must not have their seniority date adjusted for the time spent on military leave without pay.

WSR 05-12-076

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:17 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to seasonal appointments for state employees.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-08-130 on April 6, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 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:

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 1, Repealed 0.

Date Adopted: May 12, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-19-300 What is a seasonal appointment? A seasonal appointment is an appointment made by general government employers that is cyclical in nature, recurs at approximately the same time each year, and lasts for a minimum of five (5) months but less than twelve (12) months in duration during any consecutive twelve-month period.

NEW SECTION

WAC 357-19-301 Does chapter 357-16 WAC apply to seasonal appointments? Seasonal appointments must be made accordance with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

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 357-19-302 Do employees appointed to seasonal appointments serve a probationary period and gain permanent status? General government employees who do not have permanent status and receive a seasonal appointment must complete a probationary period. The probationary period may be completed in consecutive seasonal appointments with the same employer. Upon completion of the probationary period, employees in seasonal appointments gain permanent status.

NEW SECTION

WAC 357-19-303 What provisions govern the layoff of employees from seasonal appointments? (1) Employers may take actions to layoff employees in seasonal appointments in accordance with WAC 357-46-005 and 357-46-010.

(2) Employers who use seasonal appointments must address the following within their layoff procedures:

- (a) Definition of seasonal layoff units.
- (b) Description of separate internal layoff lists for seasonal positions.
- (c) Notification of layoff for employees in seasonal appointments.
 - (i) Probationary employees in seasonal appointments must receive at least one calendar day's notice.
 - (ii) Permanent employees in seasonal appointments must receive at least 2 working days' notice.
- (d) Layoff options in accordance with WAC 357-46-035 within the seasonal layoff unit for seasonal employees being laid off.

PERMANENT

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-375 Can an employee receive consecutive general government nonpermanent appointments? Individuals may receive consecutive nonpermanent appointments as long as ~~((any))~~:

(1) Any subsequent appointment is to a different position; or

(2) The multiple appointments are of a seasonal nature but don't meet the definition of seasonal appointment because each appointment last less than 5 months in duration during any consecutive 12-month period.

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

WSR 05-12-077

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:17 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to veteran's preference, trial service periods, nonpermanent appointments, increment increases, review periods, when an exempt position is converted from exempt to classified, reemployment following disability, reversion, general government transition pool and performance recognition pay.

Citation of Existing Rules Affected by this Order: Amending WAC 357-16-110 Do veterans receive any preference in the hiring process?, 357-46-060 Does a veteran receive any preference in layoff?, 357-19-025 When must an employee serve a trial service period?, 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period?, 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment?, 357-28-070 Can an employer adjust the timing and amount of increment increases?, 357-46-110 Must employees who are appointed to a position through the layoff process serve any type of review period?, 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?, 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?, 357-19-115 To which employer and position would an employee revert?, 357-46-095 Who is eligible for the general government transition pool program?, and 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-08-131 on April 6, 2005.

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 12, 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 12, Repealed 0.

Date Adopted: May 12, 2005.

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-200, filed 12/21/04, effective 7/1/05)

WAC 357-16-110 Do veterans receive any preference in the hiring process? (1) If an employer is administering an examination prior to certification, the employer must grant preference to veterans in accordance with the veterans scoring criteria provisions of RCW 41.04.010.

(2) If no examination is administered prior to certification, the employer must refer ~~((eligible veterans or eligible veterans' widows or widowers))~~ the following individuals to the employing official under the provisions of RCW 73.16-010 as long as the ~~((veteran or veteran's widow or widower))~~ individual meets the competencies and other position requirements(-):

(a) Eligible veterans;

(b) Surviving spouses of eligible veterans; or

(c) Spouses of honorably discharged veterans who have a service connected permanent and total disability.

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-060 Does a veteran receive any preference in layoff? (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding the eligible veteran's total active military service, not to exceed five (5) years, to his/her unbroken service date.

(2) An eligible veteran is defined as any permanent employee who:

(a) Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and

(b) Has received, upon termination of such service:

(i) An honorable discharge;

(ii) A discharge for physical reasons with an honorable record; or

(iii) A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty (20) or more

years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The ~~((unmarried-widow/widower))~~ surviving spouse of an eligible veteran is entitled to veteran's seniority preference for up to five (5) years as outlined in subsection (1) and (2) of this section regardless of whether the veteran had at least one year of active military service.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-025 When must an employee serve a trial service period? A permanent employee must serve a trial service period upon promotional appointment to a position in a ~~((new))~~ class in which the employee has not held permanent status.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period? ~~((+))~~ If a permanent employee accepts a nonpermanent appointment during a trial service period and the employer has agreed to return the employee to a position at the conclusion of the nonpermanent appointment, the employer may: ~~((Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;))~~

(1) Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;

(2) Require the trial service period to start over when the employee returns from the nonpermanent appointment; or

(3) Count the time worked in the nonpermanent appointment towards the trial service period.

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 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment? Employees who accept a nonpermanent appointment must give their current employers at least fourteen (14) calendar days' notice before moving to a nonpermanent appointment. The current agency and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employee's permanent agency must notify the employee in writing of his/her return right ~~((to the agency))~~ at the conclusion of the nonpermanent appointment.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-070 Can an employer adjust the timing and amount of increment increases? Employers may adjust the timing and/or amount of regularly scheduled increment increases stated in WAC 357-28-060 by resetting the periodic increment date based on the nature of the work or training requirements. This may apply to all employees, employees in specific positions, all employees allocated to a class, or all employees in an organizational unit. This may happen as long as employees receive minimally an increase of two (2) steps annually until their salary reaches the top step of the salary range.

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-110 Must employees who are appointed to a position through the layoff process serve any type of review period? An employer may require a six-month transition review period when an employee is appointed to a position as a layoff option or is appointed from the internal or statewide layoff list or the general government transition pool. (See WAC 357-46-115 for exceptions to this rule.)

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined? If an exempt position is converted to classified status under the provisions of WAC 357-19-~~((150))~~ 225, the base salary of the incumbent must not be less than the exempt salary at the time of conversion. If the employee's salary at the time of conversion exceeds the maximum of the salary range, the employee's base salary must be set outside the range in accordance with WAC 357-28-040.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do? To be eligible for reemployment the former employee must:

(1) Complete and submit an application(s) for reemployment to the employer;

(2) Meet the competencies and other requirements of the class and/or position for which the former employee is applying; and

(3) Submit to the ~~((appointing authority))~~ employer a statement from a licensed health care provider affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory, or mental disability of the individual.

(a) If the licensed health care provider's statement provides inadequate information, the former employee will obtain the necessary clarification from the licensed health care provider or provide a release to the personnel officer/

appointing authority to communicate directly with the licensed health care provider regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense.

(b) The employer may require that the former employee be examined by a licensed health care provider of the employer's choice at the employer's expense.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-115 To which employer and position would an employee revert? A((~~n~~)) permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(1) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

(a) Allocated to the class the employee last held permanent status in; or

(b) If no positions are available, allocated to a class which has the same or lower salary range maximum.

(2) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class which has the same or lower salary range maximum as the class from which the employee is reverting.

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-095 Who is eligible for the general government transition pool program? The following individuals are eligible to participate in the general government transition pool program:

(1) All general government permanent employees separated by layoff or notified by their employer that they are at risk of layoff;

(2) Employees who are eligible to participate in the return-to-work initiative program in accordance with chapter 357-19 WAC;

(3) Permanent Washington management service employees who accept a position in Washington general service and are being voluntarily or involuntarily reverted during the trial service period;

(4) Former permanent classified general government employees who have submitted a written request for reemployment within two (2) years of disability separation and who have met the reemployment requirements of WAC 357-19-475; and

(5) General government employee business unit members whose contract has expired or been terminated.

(6) Permanent Washington management service employees who accept acting appointments and who do not return on the agreed upon date in accordance with WAC 357-58-275.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay? Over an annual period, ((P)) performance recognition pay may not exceed fifteen percent (15%) of an employee's annual base salary unless approved by the director.

WSR 05-12-078

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:18 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to what happens if an employee does not complete a transition review period.

Citation of Existing Rules Affected by this Order: Amending WAC 357-46-125.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-102 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-125 What happens if an employee does not complete the transition review period? (1) The employer may involuntarily separate an employee from a position during the transition review period or the employee may choose to voluntarily separate from a position. An employee may voluntarily separate a maximum of three (3) times as a result of a single layoff action.

(2) When an employee who is serving a transition review period following appointment to a position as a layoff option

is separated from the position during the transition review period, the following applies:

(a) The employee must be provided with a layoff option in accordance with WAC 357-46-035 if the employer involuntarily separates the employee; or

(b) The employee's name is placed on any layoff lists for which the employee is eligible if the employee voluntarily separates.

((2)) (3) ((F)) When an employee who is serving a transition review period following appointment from a layoff list or the general government transition pool is separated from the position during a transition review period, the employee's name is reinstated on any layoff list from which it was removed at the time of placement in the position. The employee remains on the list until the employee's initial eligibility expires or he/she is rehired. The time served during the transition review period does not extend the period of eligibility for a layoff list or the transition pool.

((3)) (4) Separation during the transition review period is not subject to appeal.

WSR 05-12-079

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:19 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to what happens if an employee does not complete a transition review period.

Citation of Existing Rules Affected by this Order: Amending WAC 357-04-105.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-103 on April 20, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-203, filed 12/21/04, effective 7/1/05)

WAC 357-04-105 When the civil service rules require an applicant, candidate, employee, or employer to

receive notice, how must notice be provided? (1) Except as provided in chapters 357-40 and 357-52 WAC, when the civil service rules require an applicant, candidate, employee, or employer to receive notice, the notice must be provided by personal delivery, United States mail, or by telephone facsimile transmission with same-day mailing of copies unless the specific rule requiring notice allows for alternative methods of providing notice such as electronic mail ("e-mail"), state mail service, commercial parcel delivery or campus mail service.

(2) Except as provided in chapters 357-40 and 357-52 WAC, service of notice upon parties will be regarded as completed when personal delivery has been accomplished; or upon deposit in the United States mail, properly stamped and addressed; or upon production by telephone facsimile transmission of confirmation of transmission. When a specific rule allows alternative methods of service, service upon parties will be regarded as completed when it is actually received by the party to which notice is being provided.

NEW SECTION

WAC 357-40-050 How must notice of disciplinary action be provided to an employee? Notice of dismissal, suspension, demotion, or reduction in base salary must be provided by personal service or certified letter through the United States mail. Service of notice will be regarded as completed when personal delivery has been accomplished; or upon deposit of a certified letter in the United States mail properly stamped and addressed to the employee's last known home address.

WSR 05-12-080

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:19 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to the rate employees accrue vacation leave.

Citation of Existing Rules Affected by this Order: Amending WAC 357-31-165.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-104 on April 20, 2005.

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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-165 At what rate do employees accrue vacation leave? (1) Full-time employees accrue vacation leave at the following rates:

- (a) During the first year of continuous state employment - 12 days (8.0 hours per month);
- (b) During the second year of continuous state employment - 13 days (8 hours, 40 minutes per month);
- (c) During the third and fourth years of continuous state employment - 14 days (9 hours, 20 minutes per month);
- (d) During the fifth, sixth, and seventh years of total state employment - 15 days (10 hours per month);
- (e) During the eighth, ninth, and tenth years of total state employment - 16 days (10 hours, 40 minutes per month);
- (f) During the eleventh year of total state employment - 17 days (11 hours, 20 minutes per month).
- (g) During the twelfth year of total state employment - 18 days (12 hours per month).
- (h) During the thirteenth year of total state employment - 19 days (12 hours, 40 minutes per month).
- (i) During the fourteenth year of total state employment - 20 days (13 hours, 20 minutes per month).
- (j) During the fifteenth year of total state employment - 21 days (14 hours per month).
- (k) During the sixteenth and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section.

(3) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or incumbent for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(k) of this section.

~~((3))~~ (4) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one (1) year of qualifying service.

(d) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

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 05-12-081

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:20 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the effect of leave without pay on a higher education employee's periodic increment date and seniority date.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-108 on April 20, 2005.

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 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 2, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?

For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten (10) working days in a month or ten (10) consecutive working days except when the leave without pay is taken for:

(1) Military leave of absence without pay as provided in WAC 357-31-370;

(2) Compensable work-related injury or illness leave; and/or

(3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295.

NEW SECTION

WAC 357-31-347 Does leave without pay affect a higher education employee's seniority date?

In accordance with WAC 357-46-053, each higher education employer's layoff procedure defines how seniority is determined including any adjustments made for periods of leave without pay.

As provided by WAC 357-19-297, scheduled cyclic leave without pay for an employee in cyclic year positions does not affect the employee's seniority date.

WSR 05-12-082
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:21 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule covers what actions an individual may request a review by the director of Department of Personnel.

Citation of Existing Rules Affected by this Order: Amending WAC 357-49-010.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-106 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-182, filed 12/21/04, effective 7/1/05)

WAC 357-49-010 (~~(A director's review may be requested for what actions?)~~) **For what actions may an individual request a director's review?** (1) If the department is responsible for the assessment process, an applicant or candidate may request a director's review of his/her examination results or the removal of his/her name from an applicant or candidate pool as specified in WAC 357-16-175. Director review decisions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are final and not subject to further review or appeal.

(2) (~~(If the department is responsible for maintaining the layoff list, an)~~) **An individual may request** (~~(the)~~) a director's review of the removal of his/her name from a layoff list as specified in WAC 357-46-145.

(3) An employee may request a director's review of the following:

(a) Allocation or reallocation per WAC 357-13-080; or

(b) Performance evaluation process or procedure per WAC 357-37-080.

(4) In addition to the subjects listed in section (2) of this rule, an employee may request a director's review of an alleged violation of the civil service laws or rules within thirty (30) calendar days of the date the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim or the stated effective date, whichever is later. An employee may not request a director's review of allegations arising from the development and adoption of the classification plan under the provisions of WAC 357-10-020 or the actions of reduction, dismissal, suspension, demotion or separation.

(5) An individual may request the director review his/her request for remedial action per WAC 357-19-430 or 357-19-450. Requests for remedial action must be received within thirty (30) calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules.

WSR 05-12-083
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:21 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to the effect of leave without pay on a higher education employee's periodic increment date and seniority date.

Citation of Existing Rules Affected by this Order: Amending WAC 357-16-130.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-109 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-199 [05-01-200], filed 12/21/04, effective 7/1/05)

WAC 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration? Only eligible candidates who satisfy the competencies and other requirements of the position to be filled will be certified. The order for certifying must follow these criteria:

(1) If there are names on the employer's internal layoff list for the class, all eligible candidates on the internal layoff list are certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified.

~~((2) If there are no names on the employer's internal layoff list and there are names on the statewide layoff list for the class, all eligible candidates on the statewide layoff list must be certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified. If the certification of candidates from the statewide layoff list and internal promotional candidates does not result in at least ten (10) eligible candidates being certified, the employer may certify other eligible candidates. If a general government employer certifies other eligible candidates, all transition pool candidates who satisfy the competencies and other position requirements must be certified.))~~

~~((3) If there are no names on the internal or statewide layoff list, the employer may then certify other available eligible candidates. For general government employers, all transition pool candidates who satisfy the competencies and other position requirements must be certified. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.))~~

(2) If there are no names on the internal layoff list, the employer:

(a) Must certify:

- All statewide layoff candidates who satisfy the competencies and other position requirements; and
- For general government employers, all transition pool candidates who satisfy the competencies and other position requirements.

(b) May then certify other available eligible candidates.

Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

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

WSR 05-12-084

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:22 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to how an employee's employment retention rating is determined and when an employee must receive holiday premium pay.

Citation of Existing Rules Affected by this Order: Amending WAC 357-46-050 and 357-28-200.

Statutory Authority for Adoption: Chapter 41.06 RCW. Adopted under notice filed as WSR 05-09-110 on April 20, 2005.

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 2, 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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

WAC 357-46-050 How does an employer determine an employee's employment retention rating? The employer determines an employee's employment retention rating using seniority as calculated in WAC 357-46-055 for general government employees and 357-46-053 for higher education employees. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-200 When must an employee receive holiday premium pay? (1) Overtime-eligible employees who are directed to work on a designated holiday as listed in chapter 357-31 WAC; must receive their regular rate of pay for the holiday. In addition, employees must receive premium pay at the overtime rate for all hours worked on the holiday. ~~((This does not apply to employees assigned an emergency response fire officer work schedule; They must receive the overtime rate for eight hours rather than all hours worked.))~~ The employer may offer compensatory time off in lieu of monetary payment.

(2) Overtime-exempt employees do not qualify for holiday premium pay unless the employer determines otherwise.

(3) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

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(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

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

WSR 05-12-085

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:22 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to when an employee appointed to a position with permanent status.

Citation of Existing Rules Affected by this Order: Repealing WAC 357-19-190.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-111 on April 20, 2005.

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 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 1, Amended 0, Repealed 1.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-19-190	When is an employee appointed to a position with permanent status?
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NEW SECTION

WAC 357-19-181 When is an employee appointed to a position with permanent status? An appointing authority must make a permanent status appointment of an employee under the following conditions:

(1) Upon successful completion of a probationary, trial service, or transition review period;

(2) Upon reassignment of a permanent employee who is not in trial service status;

(3) Upon transfer, demotion, or elevation when the employee is not required to serve a trial service period;

(4) Upon rehire from layoff or appointment to a position as a layoff option when a transition review period is not required;

(5) Upon the director conferring permanent status to an employee under remedial action provisions; and

(6) Upon conversion of an exempt position to the classified service, per WAC 357-19-225, if the incumbent has been employed for at least an amount of time equal to the probationary period for the class. If the incumbent has not been employed that long, the employee must serve a probationary period. The employer may count the time spent in the position prior to conversion towards the probationary period.

WSR 05-12-086

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:23 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to what an employee is entitled to under the Family and Medical Leave Act.

Citation of Existing Rules Affected by this Order: Amending WAC 357-31-525.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-112 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05)

WAC 357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993? (1) The Family and Medical Leave Act of 1993 (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825, provide that an eligible employee must be granted, during a twelve-month period, a total of twelve (12) work weeks of absence (~~when one or more of the following conditions exist~~):

(a) As a result of the employee's serious health condition;

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(b) To care for an employee's parent, spouse, or minor/dependent child who has a serious health condition; and/or

(c) To provide care to an employee's newborn, adopted or foster child as provided in WAC 357-31-460.

(2) For general government employers, the twelve-month period in subsection (1) above is ~~((a rolling twelve (12) months measured from the date an employee))~~ measured forward from the date the requesting employee begins leave under the Family and Medical Leave Act of 1993. The employee's next twelve (12) month period would begin the first time leave under the Family and Medical Leave Act is taken after completion of the previous twelve (12) month period. Higher education employers must define within their family and medical leave policy how the twelve (12) months ~~((is))~~ are measured.

WSR 05-12-087

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:23 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to how the board decides an appeal on exceptions and how the board notifies the parties whether the appeal will be decided on written or oral arguments.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-113 on April 20, 2005.

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 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 2, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-52-207 How does the board decide an appeal on exceptions? The board reviews the record created by the director's designee or hearing officer. At the board's discretion, the appeal is decided based upon:

(1) The record and the written arguments on the exceptions, or

(2) The record and oral arguments on the exceptions.

NEW SECTION

WAC 357-52-208 How does the board notify the parties whether the appeal on exceptions will be decided upon written or oral arguments? (1) The board provides thirty (30) calendar days' written notice to the parties of:

(a) The timeline for submitting written arguments; or

(b) The date of the hearing.

(2) The parties may agree to less than thirty (30) calendar days' notice.

WSR 05-12-088

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:24 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to how an employee is affected when their position is reallocated.

Citation of Existing Rules Affected by this Order: Amended WAC 357-13-090.

Statutory Authority for Adoption: Chapter 41.06 RCW. Adopted under notice filed as WSR 05-09-105 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

PERMANENT

AMENDATORY SECTION (Amending WSR 05-01-201, filed 12/21/04, effective 7/1/05)

WAC 357-13-090 How is an employee affected when his/her position is reallocated?

This table is used to determine how an employee whose position is reallocated is affected.			
	Employee's position reallocated to:		
	Class with a higher salary range maximum	Class with an equal salary range maximum	Class with a lower salary range maximum
Reallocation results from:			
<p>A position review requested by the employee or initiated by the employer</p>	<p><i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i></p> <p>⇒ The employee remains in the position and ((retains existing appointment status)) <u>is appointed with permanent status provided the probationary or trial service period for the class to which the position is reallocated is six months in duration. If the probationary period or trial service period is longer than six months and the employee has not performed higher level duties for the length of the probationary period or trial service period, the employer may require the employee serve the remainder of the probationary or trial service period before gaining permanent status in the reallocated position.</u></p> <p><i>If the reallocation is the result of a change in the duties of the position and the employee has not performed the higher level duties for six months or more:</i></p> <p>⇒ The employer must give the employee the opportunity to compete for the position. The employer may choose to promote the employee without competition as long as the employee meets the competencies and any other position requirements.</p> <p>If the employee is not selected for the position, the employer's layoff procedure applies. If the employee is appointed, the employee must serve a trial service period.</p>	<p><i>If the employee meets the competencies and other position requirements:</i></p> <p>⇒ The employee remains in the position and retains existing appointment status.</p>	<p><i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i></p> <p>⇒ The employee retains appointment status; has the right to be placed on the employer's internal layoff list; and has his/her salary set in accordance with WAC 357-28-120.</p>
	<p><i>If the employee does not meet the competencies and other position requirements:</i></p>	<p>⇒ The employee retains the previous base salary in accordance with WAC 357-28-120.</p>	<p><i>If the employee chooses to vacate the position or does not meet the competencies and other position requirements:</i></p> <p>⇒ The employer's layoff procedure applies.</p>

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	<p>Upon appointment to the higher class, the employee's base salary must be increased a minimum of a two step increase, not to exceed the top step of the range as provided in WAC 357-28-115.</p>	<p>⇒ The employer's layoff procedure applies.</p>	
<p>The director implementing a new classification plan under provisions of RCW 41.06.136 or revising the classification plan.</p>	<p>The employee remains in the position and keeps existing appointment status. See WAC 357-28-125 and 357-28-130 for determining the employee's salary.</p>		

WSR 05-12-089

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:25 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to what happens to a WMS employee who moves to WGS and fails to complete the trial service period.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-116 on April 20, 2005.

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 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

WSR 05-12-090

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:25 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to how an eligible employee is defined under the Family and Medical Leave Act of 1993.

Citation of Existing Rules Affected by this Order: Amending WAC 357-31-350.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-117 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

PERMANENT

NEW SECTION

WAC 357-19-125 What happens to a permanent Washington management service (WMS) employee who promotes, transfers or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period? A permanent Washington management service (WMS) employee who promotes, transfers, or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period has reversion rights in accordance with WAC 357-58-375.

shared leave is not counted towards the one thousand two

AMENDATORY SECTION (Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05)

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve (12) months and for at least one thousand two hundred fifty (1,250) hours during the previous twelve-month period. (~~Paid time off such as vacation~~) Vacation leave, sick leave, (~~holidays~~,) the personal holiday, compensatory time off, or hundred fifty (1,250) hour eligibility requirement.

WSR 05-12-091
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:26 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules define Washington general service and Washington management service.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-118 on April 20, 2005.

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 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 2, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-01-360 Washington general service (WGS). The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which are not exempt under RCW 41.06.070 and which do not meet the definition of manager found in RCW 41.06.022.

NEW SECTION

WAC 357-01-365 Washington management service (WMS). The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

WSR 05-12-092
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:26 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule defines the term "separation."

Citation of Existing Rules Affected by this Order: Amending WAC 357-01-301.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-119 on April 20, 2005.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-08-134, filed 4/6/05, effective 7/1/05)

WAC 357-01-301 Separation. Separation from state employment for nondisciplinary purposes.

WSR 05-12-093
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:29 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules establish definitions for terms that were originally adopted under WAC 357-31-001 which are now being moved to the definitions chapter.

Citation of Existing Rules Affected by this Order: Repealing WAC 357-31-001.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-120 on April 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: Based on discussion with stakeholders language was added to the second bullet in WAC 357-01-174 for clarification purposes.

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 12, Amended 0, 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 0, Repealed 1.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-31-001 What definitions apply to this chapter of the civil service rules?

NEW SECTION

WAC 357-01-022 Anniversary date (higher education). For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee promotes, demotes, or transfers to another higher education employer.

NEW SECTION

WAC 357-01-023 Anniversary date (general government). For employees of general government agencies, anniversary date is the unbroken service date plus prior state service minus leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost and for computing the rate of vacation leave accrual beginning with the fifth (5th) year of total state employment.

NEW SECTION

WAC 357-01-348 Unbroken service date (general government). The date a general government employee began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth (4th) year of continuous service. The unbroken service date is adjusted by leave without pay when it exceeds fifteen (15) consecutive calendar days as provided in WAC 357-31-345.

NEW SECTION

WAC 357-01-202 Minor/dependent child. A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is:

- Under eighteen (18) years of age, or
- Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.

Persons who are *in loco parentis* are those with day-to-day responsibilities to care for and financially support a child.

NEW SECTION

WAC 357-01-072 Child. A biological, adopted, or foster child, or a stepchild.

NEW SECTION

WAC 357-01-172 Family members. Individuals considered to be members of the family are parent, step-parent, sister, brother, parent-in-law, spouse, grandparent, grandchild, minor/dependent child, and child.

NEW SECTION

WAC 357-01-182 Household members. Persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. The term does not include persons sharing the same house when the living style is primarily that of a dormitory or commune.

NEW SECTION

WAC 357-01-227 Parent. A biological parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a child. A person who had day-to-day responsibilities to care for and financially support the employee when he or she was a child is considered to have stood *in loco parentis* to the employee.

NEW SECTION

WAC 357-01-228 Parent-in-law. A biological parent of an employee's spouse or an individual who stood *in loco parentis* to an employee's spouse when the employee's spouse was a child. A person who had day-to-day responsibilities to care for and financially support the employee's spouse when he or she was a child is considered to have stood *in loco parentis* to the employee's spouse.

NEW SECTION

WAC 357-01-138 Emergency health condition. A sudden, generally unexpected occurrence or set of circumstances related to a person's health, which requires immediate action and is typically short-term in nature.

NEW SECTION

WAC 357-01-174 Full-time employee. An employee who is scheduled to work:

PERMANENT

- Forty (40) hours in one (1) workweek;
- For hospital personnel assigned to a fourteen-day schedule, eighty (80) hours over a fourteen-day period; or
- For law enforcement positions, one hundred sixty hours (160) in the twenty-eight-day work period.

NEW SECTION

WAC 357-01-229 Part-time employee. An employee who is scheduled to work less than that required for a full-time employee.

WSR 05-12-094**PERMANENT RULES****DEPARTMENT OF PERSONNEL**

[Filed May 27, 2005, 11:28 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: These rules pertain to a Washington general service employee who accepts an acting Washington management service appointment and how much notice an employer must give when ending a WMS acting appointment.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-114 on April 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: Clarifying language was added to the first sentence of WAC 357-19-353.

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 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 3, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-19-350 May a permanent WGS employee accept an acting Washington management service (WMS) appointment and what notices must the employee and employer provide each other when an employee accepts the acting appointment? Permanent WGS employees may accept acting appointments to WMS positions.

The employee must give his/her current employer at least fourteen (14) calendar days' written notice before moving to an acting WMS appointment. The current employer and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employer must notify the employee in writing of his/her return right at the conclusion of the acting WMS appointment.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

NEW SECTION

WAC 357-19-353 What return rights must an employer provide to a permanent WGS employee who accepts an acting WMS appointment? At a minimum, the employer must provide the permanent employee who is leaving a WGS position with the employer to accept a WMS acting appointment access to the employer's internal layoff list at the conclusion of the acting appointment. If the employer agrees to return the employee to a position, the employee must notify the employer of his/her intent to return to a permanent position at least fourteen (14) calendar days in advance of return unless the employee and employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

NEW SECTION

WAC 357-58-280 How much notice must an employer give for ending an acting appointment? The end date of an acting appointment may be set in the appointment letter. If the end date is not set in the appointment letter, the employer must give written notice of the termination date of the acting appointment. If the employee is a permanent state employee, the employer must provide at least fifteen (15) calendar days' notice. If the employee is not a permanent state employee, the employer must give one (1) work day's notice.

An acting appointment may be terminated immediately with pay in lieu of the one (1) work day of notice required for nonpermanent employees or the fifteen (15) calendar days' notice required for permanent employees.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

WSR 05-12-095**PERMANENT RULES****DEPARTMENT OF PERSONNEL**

[Filed May 27, 2005, 11:29 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule pertains to what return rights an employer must provide to a permanent employee who accepts a nonpermanent appointment.

Citation of Existing Rules Affected by this Order: Amending WAC 357-19-395.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-115 on April 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: Language was added to clarify that this rule pertains to an employee who is leaving his/her position with the employer to accept a nonpermanent appointment.

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.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-395 What return rights must an ((agency)) employer provide to a permanent employee who accepts a nonpermanent appointment? At a minimum, the ((agency)) employer must provide the permanent employee who is leaving his/her position with the employer to accept a nonpermanent appointment access to the ((agency's)) employer's internal layoff list at the conclusion of the nonpermanent appointment. If the ((agency)) employer agrees to return the employee to a position, the employee must notify the ((agency)) employer of his/her intent to return to a permanent position at least fourteen (14) calendar days in advance of return unless the employee and ((agency)) employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

WSR 05-12-096

PERMANENT RULES

DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:29 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: This rule addresses employers requiring employees to submit to drug/alcohol testing.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-101 on April 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: The adopted version adds language which describes responsibilities assigned to positions that would make that position subject to drug/alcohol testing.

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 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 1, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-37-200 Can an employer require an employee to submit to drug/alcohol testing? In addition to drug/alcohol testing required by state or federal law, an employer may require a specific employee to submit to drug/alcohol testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

- (1) The employer has a policy that:
 - (a) Complies with legal requirements;
 - (b) Establishes procedures under which the test may be conducted;
 - (c) Provides for the confidential treatment of drug and or alcohol test results as required by law or in an action or proceeding challenging any disciplinary action arising from the circumstances which led to the test; and
- (2) One of the following conditions apply:
 - (a) The employee is subject to testing because:
 - (i) The employer has specific, objective grounds to believe the employee's work performance is impaired due to the presence of such substances in the body; or
 - (ii) While on duty the employee is involved in an accident or incident as described by the employer's policy;
 - (b) The employer determines that employees in positions with any of the following responsibilities are subject to testing:
 - (i) Providing security on state property or ensuring public safety;
 - (ii) Administering or dispensing medication; or

(iii) Utilizing a firearm as called for in performance of job duties.

WSR 05-12-097
PERMANENT RULES
DEPARTMENT OF PERSONNEL

[Filed May 27, 2005, 11:30 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: WAC 357-19-184 addresses background checks for state employees or applicants. WAC 357-19-183, 357-19-185, 357-19-186, 357-19-187, 357-19-188, 357-19-189 and 357-19-191 all address background checks for DSHS employees and applicants.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 05-09-107 on April 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 357-19-183, the word "candidate" has been changed to "applicant" and also language in WAC 357-19-183(3) has been changed to reflect "applicant" instead of "candidate."

WAC 357-19-186, after consultation with stakeholders language was removed from this section and the rule was simplified.

WAC 357-19-187, the word "candidate" has been changed to "applicant."

WAC 357-19-188, subsection (3) was added to this rule.

WAC 357-19-189, subsection (2) was added to this rule.

WAC 357-19-191, "applicant or candidate" was changed to "permanent employee" and for clarification purposes subsections (1) through (7) were added.

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 8, 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 8, Amended 0, Repealed 0.

Date Adopted: May 24, 2005.

Eva N. Santos
Director

NEW SECTION

WAC 357-19-183 Must DSHS conduct background checks on all employees in covered positions and applicants under final consideration for a covered position? (1) The secretary of the Department of Social and Health Services (DSHS) or designee must conduct background checks,

which may include fingerprinting as authorized by statute, on all employees in covered positions and applicants under final consideration for a covered position.

(2) The requirement for background checks must include the following:

(a) Any employee seeking a covered position because of a layoff, reallocation, transfer, promotion or demotion.

(b) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis in accordance with agency procedures authorized by WAC 357-19-189.

(3) Applicant means any person who has applied for work or serves in a covered position, including current employees requesting transfer, promotion, demotion, or otherwise requesting a move to a covered position.

NEW SECTION

WAC 357-19-184 Besides the department of social and health services, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees? (1) Employers may conduct background checks on applicants and/or employees if required by state or federal law, or if the employer identifies the need for a background check to verify that the applicant or employee satisfies the position requirements.

(2) Employers who conduct background checks must develop procedures regarding how and when background checks will be conducted. The procedures must include notification to applicants and/or employees if a background check is required.

NEW SECTION

WAC 357-19-185 What is a covered position for purposes of WAC 357-19-183? For purposes of WAC 357-19-183, a covered position is one in which a person will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities.

NEW SECTION

WAC 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DSHS and what are the results of the background check used for? (1) The background check information considered by the secretary of the DSHS will include but not be limited to conviction records, pending charges, and disciplinary board final decisions.

(2) The results of the background check must be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee.

NEW SECTION

WAC 357-19-187 For purposes of WAC 357-19-183, must an employee and/or applicant authorize the secretary of the department of social and health services or designee to conduct a background check and what happens if the employee or applicant does not provide autho-

ization? An employee and/or applicant applying for or being considered to remain in a covered position must authorize the secretary of the department of social and health services or designee to conduct a background check which may include fingerprinting.

Failure to authorize the secretary of the DSHS or designee to conduct a background check disqualifies an employee or applicant from consideration for any covered position including their current covered position.

NEW SECTION

WAC 357-19-188 What happens when a permanent DSHS employee is disqualified because of a background check? (1) A permanent employee with a background check disqualification may be subject to any of the following actions in no specific order:

- (a) Voluntary demotion;
- (b) Job restructuring;
- (c) Voluntary resignation;
- (d) Job reassignment;
- (e) Non-disciplinary separation in accordance with WAC 357-46-195; or
- (f) Disciplinary action in accordance with WAC 357-40-010.

(2) An appointing authority may use the following interim measures while exploring the availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

- (a) Voluntary use of accrued vacation, exchange, and/or compensatory time;
- (b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or
- (c) Reassignment to another work location.
- (d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(3) Before a permanent employee may be separated due to a background check disqualification, the search for a non-covered position will occur over a period of thirty (30) calendar days.

NEW SECTION

WAC 357-19-189 What are the responsibilities of the secretary of the DSHS in carrying out the requirement to conduct background checks? In order to implement the requirements of WAC 357-19-183, the secretary of the DSHS or designee must:

- (a) Notify employees and applicants that a background check is required for covered positions;
- (b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and
- (c) Develop policies and procedures pertaining to background checks.

(2) Information contained in background checks must be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee. The information must not be disseminated further. Dissemination and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC. However, results of a background check may be discoverable pursuant to the rules of civil discovery, or subject to disclosure pursuant to a public records request.

nation and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC. However, results of a background check may be discoverable pursuant to the rules of civil discovery, or subject to disclosure pursuant to a public records request.

NEW SECTION

WAC 357-19-191 Does a permanent employee of DSHS who is disqualified from a covered position as a result of a background check have the right to request a review of the disqualification? A permanent employee of DSHS who is disqualified from a covered position as a result of a background check has the right to present to the secretary of the DSHS or designee evidence that mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

- (1) The employee's background check authorization and disclosure form;
- (2) The employee's age at the time of conviction, charge, or disciplinary board final decision;
- (3) The nature and severity of the conviction, charge, or disciplinary board final decision;
- (4) The length of time since the conviction, charge, or disciplinary board final decision;
- (5) The nature and number of previous offenses;
- (6) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee will or may have unsupervised access; and
- (7) The relationship between the potentially disqualifying event and the duties of the employee.

**WSR 05-12-106
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed May 27, 2005, 3:35 p.m., effective June 27, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 415-108-436 PERS Plans 2 and 3 disability benefits, this rule explains the benefits, eligibility requirements and application process for PERS Plans 2 and 3 disability benefits.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.40.670 and 41.40.825.

Adopted under notice filed as WSR 05-08-032 on March 30, 2005.

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.

Date Adopted: May 27, 2005.

S. J. Matheson
Director

NEW SECTION

WAC 415-108-436 PERS Plans 2 and 3 disability benefits. This section covers disability benefits provided for in RCW 41.40.670 and 41.40.825 for members of PERS Plans 2 and 3. Disability provisions are designed primarily to provide an income to members who have been forced to leave the workforce because of an incapacitating disability. This section applies equally to on- or off-the-job injuries and/or illnesses.

Members may also be eligible for benefits from the Washington state departments of labor and industries (workers' compensation benefits) and social and health services, the U.S. Social Security Administration, employers, disability insurers, and others. Please contact these organizations directly for more information.

(1) **Am I eligible for disability benefits?** You are eligible for a disability allowance if, at the time of your separation from employment, you are totally incapacitated to perform the duties of your job or any other position for a PERS employer for which you are qualified by training or experience. Objective medical evidence is required to establish total incapacitation. Vocational and/or occupational evidence may be required at the discretion of the department.

(2) **If eligible, what will I receive as my monthly disability benefits under the standard option?**

(a) If you are a Plan 2 member, you will receive two percent times average final compensation (AFC) times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(b) If you are a Plan 3 member, you will receive a defined benefit of one percent times average final compensation times service credit years, permanently actuarially reduced to reflect the difference in the number of years between your age when you separate for disability and age sixty-five. See WAC 415-02-320 for early retirement factors and examples.

(c) The degree of your disability or impairment will not impact the amount of your disability benefit.

(3) **May I choose a benefit option that provides a monthly allowance to my survivor beneficiary?** You may choose to have your benefit paid according to any of the benefit options described in WAC 415-108-326. If you choose an option with a survivor feature, your monthly benefit will be actuarially reduced to offset the cost.

(4) How do I apply?

(a) You or your representative must contact the department to request an application. The three-part application must be completed by the proper persons and returned to the department.

(i) **Part 1:** Disability retirement application. You must complete, sign and have notarized. If you are married, your spouse must sign consent of the benefit option you choose.

(ii) **Part 2:** Employer's statement and report. Your employer must complete, sign and return directly to the department.

(iii) **Part 3:** Medical report. You must complete section one. Your physician must complete the remainder of the form, attach supporting documentation, sign and return directly to the department. You are responsible for all medical expenses related to your application for benefits.

(b) When the department receives Part 1 of your application, you are considered to be an applicant for disability benefits. However, your eligibility will not be determined until the department receives all three parts of the application.

(5) **What is the time limit for filing an application for disability benefits?** There is no time limit for applying for benefits. However, if you have separated from employment, your application must be based on your condition at the time of separation.

(6) **If I am eligible to retire, may I still apply for disability benefits?** Yes, however, there will be no difference in the dollar amount of your benefit.

(7) **Once my application is approved, when will my benefit begin?**

(a) You will start accruing disability benefits the first day of the calendar month immediately following your separation from employment. If you are continuing to earn service credit while on paid leave or through programs such as shared leave, you are not considered to be separated from employment.

(b) Your first benefit payment will include all retroactive benefits to which you are entitled.

(c) Department approval will expire ninety days after the approval date if you have not officially separated from PERS employment.

(i) If you are continuing to perform the duties of your position or another PERS position, you may reapply for disability benefits according to subsection (4) of this section if your condition worsens.

(ii) If you are on leave, the department may reinstate approval upon your request and your employer's verification of your leave status.

(8) **What are my options if my application is denied?**

(a) You may submit additional information that shows you were totally incapacitated at the time of your separation from employment.

(b) If you continue to work in a PERS position, you may reapply for disability benefits at a later time if your condition worsens.

(c) You may petition for review of the department's decision according to the provisions of chapter 415-04 WAC.

(9) What information must be provided to the department if I am receiving disability benefits?

(a) You and your doctor must report any improvement in your condition; and

(b) You must report the name of your employer and monthly salary if you resume employment, regardless of the number of hours you work.

(10) How long will my disability benefits last? You may receive benefits throughout your lifetime, subject to the provisions of subsection (15) of this section.

(11) Are my disability benefits taxable? You should consult with your tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department. The department does not:

(a) Guarantee that payments should or should not be designated as exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(12) Are disability benefits subject to court or administrative orders? Your benefits may be subject to orders for spousal maintenance, child support, property division, or any other administrative or court order expressly authorized by federal law. For more information, see RCW 41.40.052(3) or contact the department.

(13) Am I eligible for disability benefits if my disability is the result of my criminal conduct committed after April 21, 1997? No. For more information, see RCW 41.40.054.

(14) How is my disability benefit affected if I am a member of more than one retirement system? If you are a member of more than one retirement system, your benefit is governed by portability law (see chapters 41.54 RCW and 415-113 WAC). You may apply for disability only from your active system. However, if you qualify for a disability benefit from your active system, you will also be eligible for a service retirement calculated under the laws governing the inactive system.

(15) Is it possible to lose my disability benefits after I begin receiving them?

(a) The department may, at its expense, require comprehensive medical examinations to reevaluate your eligibility for disability benefits. You will no longer be eligible to receive disability benefits if both of the following apply:

(i) Medical evidence indicates you have recovered from the disability for which the department granted your disability benefits; and

(ii) You have been offered reemployment by an employer, as defined in RCW 41.40.010 (4)(b), at a comparable compensation.

(b) If you return to employment and reenter PERS membership, your benefits will cease.

(16) If I take my disability benefit in a lump sum and return to work, may I restore my service credit? Yes, you

may restore your service credit if you take a lump sum benefit and return to PERS membership at a later date.

(a) You may restore your service credit within two years of reentering membership or prior to retirement, whichever comes first. You must pay back the lump sum amount you received, minus the monthly amount for which you were eligible, plus interest as determined by the director.

(b) If you restore your service after two years, you will have to pay the actuarial value of the resulting increase in your future retirement benefit. See RCW 41.50.165.

(c) The provisions for restoring service credit vary according to retirement plan.

(i) If you are a member of PERS Plan 2, see RCW 41.40.625.

(ii) If you are a member of PERS Plan 3, see RCW 41.40.815.

**WSR 05-12-107
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed May 27, 2005, 3:37 p.m., effective June 27, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 415-02-140 What is excess compensation and how is the employer's excess compensation billing calculated?, this amendment clarifies department policy, corrects errors in the examples, and expands the rule to address billing for excess compensation when two or more employers are involved.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-140.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.50.150.

Adopted under notice filed as WSR 05-08-034 on March 30, 2005.

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.

Date Adopted: May 27, 2005.

S. J. Matheson
Director

PERMANENT

AMENDATORY SECTION (Amending WSR 03-06-043, filed 2/27/03, effective 4/1/03)

WAC 415-02-140 **What is excess compensation and how is ((#)) the employer's excess compensation billing calculated?** (1) **What is excess compensation?** Excess compensation refers to certain payments from an employer to an employee((-if)) when the payment is used in the calculation of the employee's retirement allowance. ((If used in the calculation of an employee's retirement allowance,)) The following payments are excess compensation when they are reportable compensation and used in the calculation of the employee's retirement allowance:

(a) A cash out of unused annual leave in excess of two hundred forty hours;

(b) A cash out of other forms of leave, including sick leave and holiday leave;

(c) A payment for a personal expense, if the payment qualifies as reportable compensation in the employee's own retirement system;

(d) That portion of any payment, such as an overtime or incentive payment, that exceeds twice the employee's regular rate of pay for the period of time that the overtime or incentive payment applies; and

(e) ((Any)) A termination or severance payment.

(2) ~~((How is the amount of excess compensation calculated? The department:~~

~~(a) Determines the increased amount of retirement benefits related to the excess compensation;~~

~~(b) Obtains the actuarial factor based on age for the monthly benefit per one dollar of accumulation to defined benefit plan (see WAC 415-02-340);~~

~~(c) Divides the benefit increase due to excess compensation by the actuarial factor; and~~

~~(d) Uses the result for the excess compensation billing.~~

~~(3) How does the payment of excess compensation affect employers? The department will bill an employer for any increase in an employee's retirement benefit resulting from the excess compensation. The employer must pay the present value of the amount by which the employee's pension is increased.)) How does the payment of excess compensation affect employers? The department determines how much an employee's retirement benefit will increase as a result of the excess compensation, and bills the employer or employers for the present value of that increase.~~

(a) If an employee cashes out annual leave while working concurrently for two or more employers and the total cash-outs result in excess compensation, each employer's billing will be based on:

(i) The number of hours cashed out by that employer in relation to the total number of hours cashed out by all employers; and

(ii) The hourly rate paid by that employer.

Example: Brian, a PERS 1 member, separated from employment at Agency A and Agency B at the same time. He cashed out 75 hours of annual leave from Agency A and 225 hours from Agency B, resulting in a total of 300 hours that will be used in the calculation of his average final compensation (AFC). A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (see subsection (1)(a) of this section). Therefore, sixty hours

of the cash-out is excess compensation. (300 hours - 240 hours = 60 hours of excess compensation.)

<u>Employer</u>	<u>Total hours cashed out</u>	<u>Percentage of total hours cashed out</u>	<u>Excess compensation billing will be based on:</u>
<u>Agency A</u>	<u>75 hours</u>	<u>25% (75/300)</u>	<u>15 hours (60 hours of excess compensation hours x 25% = 15 hours) at the hourly rate paid by Agency A.</u>
<u>Agency B</u>	<u>225 hours</u>	<u>75% (225/300)</u>	<u>45 hours (60 hours of excess compensation hours x 75% = 45 hours) at the hourly rate paid by Agency B.</u>

(b) If an employee cashes out annual leave from two or more successive employers during his/her AFC period and the total cash-outs result in excess compensation, the department will:

(i) Determine the hours cashed out sequentially (employer by employer);

(ii) Identify the employer at the time the cumulative total cashed out exceeded two hundred forty hours, resulting in excess compensation; and

(iii) Bill the employer, identified in (b)(ii) of this subsection, and any subsequent employers during the AFC period, for the number of excess compensation hours each cashed out.

Example: Deborah is a TRS 1 member who changed employment three times during her AFC period.

1. When Deborah separated employment from School District A, she cashed out 156 hours of annual leave;

2. When she separated employment from School District B, she cashed out 96 hours of annual leave; and

3. When she separated from School District C, she cashed out an additional 48 hours of annual leave.

<u>School District</u>	<u>Annual Leave Cash-out</u>	<u>Rationale and Determination</u>
<u>A</u> <u>7/1/03 -</u> <u>6/30/04</u>	<u>156</u>	<u>The department will not bill School District A because excess compensation did not result from the 156 hours of annual leave Deborah cashed out at School District A.</u>

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School District	Annual Leave Cash-out	Rationale and Determination
<u>B</u> <u>7/1/04 -</u> <u>2/28/05</u>	<u>96</u>	<u>The cumulative total of the annual leave cashed out by School District A and School District B exceeds 240 hours, and results in 12 hours of excess compensation¹. School District B's excess compensation billing will be based on 12 hours at the hourly rate paid by School District B.</u>
<u>C</u> <u>3/1/05 -</u> <u>6/30/05</u>	<u>48</u>	<u>Since the cumulative total exceeded 240 hours prior to Deborah's employment with School District C, all of the leave cashed out by Agency C is excess compensation. School District C's excess compensation billing will be based on 48 hours at the hourly rate paid by School District C.</u>

¹ 156 hours (cashed out by School District A) plus 96 hours (cashed out by Agency B) = 252 hours. A cash-out of unused annual leave in excess of two hundred forty hours is excess compensation (subsection (1)(a) of this section). 252 hours - 240 hours = 12 hours of excess compensation.

(3) How is the excess compensation billing calculated? To determine the amount of each employer's excess compensation billing, the department:

(a) Determines the increased amount of the employee's monthly retirement allowance that will result from the increase in the AFC, based on a standard benefit allowance (benefit option one);

(b) Determines the actuarial factor, based on the employee's age and retirement plan, from WAC 415-02-340; and

(c) Divides the amount of the monthly benefit increase in (a) of this subsection by the actuarial factor in (b) of this subsection.

If two or more employers are responsible for an employee's excess compensation, the department will calculate the bill for each employer individually, based solely on the excess compensation attributed to that employer. See subsection (2)(a) and (b) of this section.

(4) Examples:

(a) Example 1: Excess compensation arising from cash out of sick leave (PERS Plan 1):

Denise is a 59 year-old ~~((public employees' retirement system))~~ PERS Plan 1 member ~~((and retires))~~ working for a public utility district. She will retire with thirty years of service ~~((She will be cashing))~~, and will cash out \$8,000 in sick leave. Denise earned her two highest years of pay during her last two years of employment; therefore, the department will use these years to compute her ~~((average final compensation--))~~AFC~~((--))~~.

Year 1 - \$59,000 Salary
Year 2 - \$61,000 Salary + \$8,000 sick leave cash out

Q: Did Denise receive excess compensation?
A: Yes. Under subsection (1)(b) of this section, the \$8,000 sick leave cash out is excess compensation.

Q: ~~((Does))~~ Will the excess compensation increase Denise's retirement allowance?
A: Yes. Denise's retirement allowance will increase~~((s))~~ by \$200/month as shown:

Without the excess compensation (cash out):

$$\begin{aligned} \text{AFC} &= ((\$59,000 + \$61,000)/2 = \$60,000) \\ &\quad \$59,000 + \$61,000 = \$120,000 \\ &\quad \$120,000/24 = \$5,000/\text{month} \\ \text{Retirement allowance} &= ((2\% \times \$60,000 \times 30 \text{ years} = \$36,000/\text{year} \\ &\quad (\$3,000/\text{month}))) \quad 2\% \times 30 \text{ years} \times \$5,000 = \\ &\quad \$3,000/\text{month} \end{aligned}$$

With the excess compensation (cash out):

$$\begin{aligned} \text{AFC} &= ((\$59,000 + \$61,000 + \$8,000)/2 \\ &\quad = \$64,000) \quad \$59,000 + \$61,000 + \$8,000 \\ &\quad = \$128,000 \\ &\quad \$128,000/24 = \$5,333.33/\text{month} \\ \text{Retirement allowance} &= ((2\% \times \$64,000 \times 30 \text{ years} = \$38,400/\text{year} \\ &\quad (\$3,200/\text{month}))) \quad 2\% \times 30 \text{ years} \times \$5,333.33 \\ &\quad = \$3,200/\text{month} \end{aligned}$$

Difference in retirement allowances:

$$\$3,200/\text{month} - \$3,000/\text{month} = \$200/\text{month}$$

Q: ~~((How much must the employer pay to fund the additional retirement costs?))~~ What is the employer's excess compensation billing?

A: The employer must pay \$24,565.50, as shown:

$$\begin{aligned} \text{Using an annuity factor of 0.0081415}^1: \\ \frac{\$200/\text{month}}{0.0081415} &= \$24,565.50 \end{aligned}$$

¹Based on Denise's age of 59. The factor can be found in the table in WAC 415-02-340.

(b) Example 2: Excess compensation arising from cash out of leave (TRS Plan 1):

George is a ~~((teachers' retirement system))~~ TRS Plan 1 member who has 28 years of service and is retiring at age 55 from a school district. The collective bargaining agreement provides two days of personal holiday leave per year and allows for the cash out at retirement of any unused balance of personal holiday leave. Personal leave days are defined as "other forms of leave" under subsection (1)(b) of this section. The following example shows the computation of excess compensation:

Year 1 - \$52,500 Salary
Year 2 - \$54,000 Salary + \$900 for four days of personal leave cash out

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Q: Did George receive excess compensation?
 A: Yes. Under subsection (1)(b) of this section, the \$900 leave cash out is excess compensation.

Q: ((Does)) Will the excess compensation increase George's retirement allowance?
 A: Yes. George's retirement allowance will increase(s) by \$21/month as shown:

Without the excess compensation (cash out):

AFC = $((\$52,500 + \$54,000)/2 - \$53,250)$
 $\$52,500 + \$54,000 = \$106,500$
 $\$106,500/24 = \$4,437.50/\text{month}$

Retirement allowance = $((2\% \times \$53,250 \times 28 \text{ years} - \$29,820 - (\$2,485/\text{month})) 2\% \times 28 \text{ years} \times \$4,437.50 = \$2,485/\text{month}$

With the excess compensation (cash out):

AFC = $((\$52,500 + \$54,000 + \$900)/2 - \$53,700) \$52,500 + \$54,000 + \$900 = \$107,400$
 $\$107,400/24 = \$4,475/\text{month}$

Retirement allowance = $((2\% \times \$53,700 \times 28 \text{ years} - \$30,072 - (\$2,506/\text{month})) 2\% \times 28 \text{ years} \times \$4,475 = \$2,506/\text{month}$

Difference in retirement allowances:

$\$2,506/\text{month} - \$2,485/\text{month} = \$21/\text{month}$

Q: ((How much must the employer pay to fund the additional retirement costs?)) What is the employer's excess compensation billing?

A: The employer must pay \$2,802.28, as shown:

Using an annuity factor of 0.0074939²:

$$\frac{\$21/\text{month}}{0.0074939} = \$2,802.28$$

²Based on George's age of 55. The factor can be found in the table in WAC 415-02-340.

(c) Example 3: Excess compensation from bonus.

Susan is retiring at age 65 in PERS Plan 2. ((She worked on a special project in February. Her employer awarded Susan with a bonus for February of \$15,083.33-)) Susan's employer awarded her a \$15,083.33 bonus for work she did on a special project in February. The department will compute Susan's excess compensation as follows:

- Year 1** - \$59,000 Salary
- ((Year 2** - \$61,000 Salary + \$15,083.33 bonus for services provided in the month of February-))
- Year 2** = \$59,000 Salary
- Year 3** = \$59,000 Salary
- Year 4** = \$59,000 Salary
- Year 5** = \$76,083.33 (includes a \$15,083.33 bonus for services provided in the month of February).

Q: ((Is there)) Did Susan receive excess compensation?

A: Yes. ((There is \$4,916.67 in)) Under subsection (1)(d) of this section, the portion of the bonus that exceeds twice the employee's regular rate of pay for that period (\$4,916.67) is excess compensation, as shown:

Regular monthly rate: $\$61,000/12 = \$5,083.33/\text{month}$

Twice February's monthly rate: $2 \times \$5,083.33 = \$10,166.66$

Excess compensation: $\$15,083.33 - \$10,166.66 = \$4,916.67$

Q: ((Does)) Will the excess compensation increase Susan's retirement allowance?

A: Yes. It increases by (((\$122.91)) \$49.16/month, as shown:

Without excess compensation (portion of bonus):

AFC = $((\$59,000 + \$61,000 + \$15,083.33 - \$4,916.67)/2 - \$65,083.33) \$59,000 + \$59,000 + \$59,000 + \$76,083.33 - \$4,916.67 = \$307,166.66$
 $\$307,166.66/60 = \$5,119.44/\text{month}$

Retirement allowance = $((2\% \times \$65,083.33 \times 30 \text{ years} - \$39,050/\text{year} - (\$3,254.17/\text{month})) 2\% \times 30 \text{ years} \times \$5,119.44 = \$3,071.67/\text{month}$

With the excess compensation (portion of bonus):

AFC = $((\$59,000 + \$61,000 + \$15,083.33)/2 - \$67,541.67) \$59,000 + \$59,000 + \$59,000 + \$76,083.33 = \$312,083.33$
 $\$312,083.33/60 = \$5,201.39/\text{month}$

Retirement allowance = $((2\% \times \$67,541.67 \times 30 \text{ years} - \$40,525/\text{year} - (\$3,377.08/\text{month})) 2\% \times 30 \text{ years} \times \$5,201.39 = \$3,120.83/\text{month}$

Difference in retirement allowances:

$((\$3,377.08/\text{month} - \$3,254.17/\text{month} - \$122.91/\text{month}))$
 $\$3,120.83/\text{month} - \$3,071.67/\text{month} = \$49.16/\text{month}$

Q: ((How much must the employer pay to fund the additional retirement costs?)) What is the employer's excess compensation billing?

A: The employer must pay (((\$16,962.93)) \$6,784.62, as shown:

Using an annuity factor of 0.0072458:

$$\frac{((\$122.91)) \$49.16/\text{month}}{0.0072458} = ((\$16,962.93)) \$6,784.62$$

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WSR 05-12-108
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 27, 2005, 3:38 p.m., effective June 27, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is the second phase of a three-phase project to update teachers' retirement system rules to reflect current policy and the Department of Retirement Systems clear-writing standards.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-112-4605, 415-112-483, 415-112-491, 415-112-550, 415-112-710, 415-112-725, 415-112-800, 415-112-850 and 415-112-920; and amending WAC 415-112-41301, 415-112-415, 415-112-4601, 415-112-4603, 415-112-4604, 415-112-4607, 415-112-4608, 415-112-4609, 415-112-471, 415-112-473, 415-112-475, 415-112-477, 415-112-480, 415-112-482, 415-112-485, 415-112-487, 415-112-489, 415-112-490, 415-112-500, 415-112-610, 415-112-620, 415-112-630, and 415-112-700.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: WAC 415-112-41301, 415-112-415, 415-112-417, 415-112-4601, 415-112-4602, 415-112-4603, 415-112-4604, 415-112-4607, 415-112-4608, 415-112-4609, 415-112-471, 415-112-477, 415-112-480, 415-112-482, 415-112-485, 415-112-487, 415-112-489 and 415-112-490 implement RCW 41.32.010(10); WAC 415-112-473 and 415-112-475 implement RCW 41.32.267, 41.32.810, 41.32.856; WAC 415-112-500 implements RCW 41.32.480; WAC 415-112-501 implements RCW 41.32.765; WAC 415-112-502 implements RCW 41.32.875; WAC 415-112-507, 415-112-523, 415-112-610 and 415-112-620 implement chapter 41.32 RCW; WAC 415-112-630 implements RCW 41.32.570; and WAC 415-112-700 implements RCW 41.32.520.

Adopted under notice filed as WSR 05-09-055 on April 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: Changed a WAC citation in WAC 415-112-401.

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 6, Amended 23, Repealed 9.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 23, Repealed 9.

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 6, Amended 23, Repealed 9.

Date Adopted: May 27, 2005.

S. J. Matheson
 Director

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

~~WAC 415-112-41301 ((Vehicle allowances—))Are vehicle allowances earnable compensation? ((1))If your employer provides you any payment or allowance in lieu of a reimbursement for expenses you incur or expect to incur in performing services for your employer, the payment or allowance is not earnable compensation. Your vehicle allowance does not qualify as earnable compensation if you receive the allowance in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes.~~

~~((2))The department presumes that any vehicle allowance provided to you by your employer is a payment in lieu of reimbursement for expenses and is not earnable compensation. If the contract authorizing your vehicle allowance states that it is provided solely in lieu of reimbursement for expenses that you incur or expect to incur in using your own vehicle for business purposes, the department's presumption is not rebuttable.~~

~~((3))Your vehicle allowance may qualify as earnable compensation to the extent that it exceeds your actual expenses. If your employer documents that your vehicle allowance exceeds the actual expenses you incur in driving your own vehicle for business purposes, the excess amount is earnable compensation. Your employer must maintain monthly contemporaneous records documenting the following:~~

~~((a))The dates, if any, on which you used a privately owned vehicle in performing services for your employer;~~

~~((b))The miles you drove the vehicle on each of these trips; and~~

~~((c))Your itinerary for each of these trips.~~

~~((4))How to determine what amount of your vehicle allowance, if any, is reportable as earnable compensation. If your employer documents that your vehicle allowance exceeds the actual expenses you incur in using your own vehicle for business purposes, your employer must report to the department as earnable compensation:~~

~~Your Vehicle Allowance LESS (Miles x IRS Rate)~~

~~((a))"Miles" above means the number of miles you drove a privately owned vehicle for business purposes during the month.~~

~~((b))"IRS rate" above means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.~~

~~((5))Your vehicle allowance qualifies as earnable compensation if you also receive a separate reimbursement for each occasion you use your own vehicle for business purposes. If, in addition to your vehicle allowance, you receive a separate reimbursement for vehicle expenses for each occasion that you use a privately owned vehicle for business purposes, your vehicle allowance is earnable compensation.~~

~~((6))Any part of your vehicle allowance that qualifies as earnable compensation is excess compensation. If any part of your vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150. Your employer's bill will equal the total estimated cost of the portion of your~~

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retirement allowance payment attributable to your vehicle allowance.) (1)(a) Plan 1. Vehicle allowances may be earnable compensation for Plan 1 members according to this section.

(b) Plans 2 and 3. Vehicle allowances are not earnable compensation for members of Plans 2 and 3. Subsections (2) through (5) of this section apply to Plan 1 members only.

(2) For TRS Plan 1:

(a) A vehicle allowance is not earnable compensation if it is received in lieu of expenses you incur or expect to incur in using your own vehicle for business purposes.

(b) A vehicle allowance qualifies as earnable compensation to the extent that it exceeds your actual expenses. For instance, if you receive both a vehicle allowance and separate reimbursement for vehicle expenses each time you use a privately owned vehicle for business purposes, the vehicle allowance is earnable compensation.

(3) To prove that your vehicle allowance exceeded your actual expenses, your employer must maintain ongoing monthly records, documenting:

(a) The dates, if any, on which you used a privately owned vehicle in performing services for your employer;

(b) The miles you drove the vehicle on each of these trips;

(c) Your itinerary for each of these trips; and

(d) The amount of the allowance LESS the actual expenses, using IRS methodology. Under the IRS methodology, your actual expenses are the miles you drove multiplied by the IRS rate.

(i) The miles you drove are the number of miles you drove a privately owned vehicle for business purposes during the month.

(ii) "IRS rate" means the Internal Revenue Service mileage rate for use by taxpayers computing the value of the use of a vehicle.

(4) If a vehicle allowance exceeds your actual expenses, your employer must report the excess, calculated in subsection (3)(d) of this section.

(5) If any part of a vehicle allowance is included in the calculation of your retirement allowance, your employer will be billed for excess compensation under RCW 41.50.150.

AMENDATORY SECTION (Amending WSR 00-13-001, filed 6/7/00, effective 7/8/00)

WAC 415-112-415 ((Treatment of cash payments made in lieu of unused leave—First in first out accounting method for determining when leave earned—Forms of leave deemed excess compensation—Conversions.)) **Are cash-outs for annual leave and personal leave included in earnable compensation and/or average final compensation?** ((1) Cash compensation in lieu of unused annual leave may be considered earnable compensation for Plan 1 members subject to the provisions of RCW 41.32.010 (10)(a) and WAC 415-112-4605. Employers may not limit the inclusion of cash compensation paid in lieu of unused annual leave as compensation earnable in conflict with RCW 41.32.010 (10)(a). Provisions of collective bargaining agreements, employment and administrative policies or other rules

applied by an employer that conflict with RCW 41.32.010 (10)(a) and rules adopted thereunder are without legal effect.

(2) When an employer provides cash compensation in lieu of unused annual leave, the department applies a first-in-first-out accounting method to determine when the compensated leave was earned and when or whether the leave was used or cashed out, unless the employer has in place a regulation, charter provision, ordinance, collective bargaining agreement, or other comparable written policy statement which clearly delineates when the cashed-out leave was accrued, or a different method of accounting for the accrual and use of leave, and, if applicable, compensation for unused leave and the same such method is consistently applied in each instance and for all purposes.

Any employer's policy which is not consistent for all purposes which is contained in a regularly negotiated labor agreement in effect on the effective date of this section will be honored until the expiration date of the agreement not including any extensions at which time it will be brought into compliance with this section. Any employer's policy which is not consistent for all purposes which is established by the employer shall be brought into compliance within sixty days of the effective date of this section. In the event an employer fails to come into full compliance with this section by the dates established herein, the department will treat cashed-out leave on the same basis as the employer has established for using leave.

(3) A cash out of leave which is not annual leave as defined under WAC 415-112-015, shall be treated by the department as "any other form of leave" under RCW 41.50.150(2). The department shall bill the employer for any such leave cash out as excess compensation under RCW 41.50.150.

(4) For purposes of determining average final compensation and excess compensation, hours of leave earned by a member shall be considered for all purposes in the form in which it was earned. The department shall disregard any conversion of leave by an employer of one form to another and bill the employer for the amount converted as excess compensation pursuant to RCW 41.50.150.) **(1)(a) Plan 1. Under RCW 41.32.010 (10)(a), cash-outs for up to two hundred forty hours of unused annual leave are included in earnable compensation¹ for Plan 1 members according to this section.**

(b) Plans 2 and 3. Under RCW 41.32.010 (10)(b), cash-outs for unused annual leave and personal leave are not earnable compensation in Plans 2 and 3, and are not includable in average final compensation. Subsections (2) through (4) of this section apply to Plan 1 members only.

(2) For Plan 1 members, cash-outs for unused annual leave and personal leave may be included in average final compensation only if the leave was earned during the two fiscal years used to calculate your average final compensation under WAC 415-112-430.

(3) The department determines when your cashed-out leave was earned as follows:

(a) You accrue annual leave and personal leave at a prescribed rate, often a certain number of hours per month. Your accrued leave is stored until you use it.

(b) Except as provided in (c) of this subsection, the department applies a "first-in-first-out (FIFO)" methodology to determine what personal leave and annual leave you have used.

Example: John has accrued ten days of annual leave. He earned five days in 2000 and five days in 2001. In 2002, John uses five days of annual leave. He is deemed to have used the five days earned in 2000. The five days earned in 2001 remain unused.

(c) If the employer has a different methodology in place, the department will use the employer's methodology, rather than the FIFO methodology; provided that:

(i) The employer's methodology was clearly documented by a collective bargaining agreement, regulation, charter provision, ordinance, or other comparable written policy statement; and

(ii) The employer's methodology was applied consistently to all employees for all purposes.

(4) For purposes of determining average final compensation and excess compensation, the department will consider the hours of leave in the form in which the leave was earned. If an employer converts one form of leave to another form of leave, the department will disregard the conversion and bill the employer for the amount converted if it meets the definition of excess compensation in RCW 41.50.150.

In certain cases, an employee may cash out personal leave and/or more than two hundred forty hours of annual leave. Although this cash-out is not earnable compensation, it may be used in the calculation of the employee's retirement allowance and the employer will be billed for the excess compensation. See WAC 415-02-140.

NEW SECTION

WAC 415-112-417 Are cash-outs for sick leave included in earnable compensation and/or average final compensation? Cash-outs for unused sick leave are not earnable compensation in TRS Plans 1, 2, or 3, and are not includable in average final compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4601 Are contract salary payments((s)) earnable compensation? (1) **Base contract.** ((The base contract establishes the payment for teaching or administrative services provided during each day of the district's school year. For classroom teachers, the base contract authorizes the salary for providing basic education services per RCW 28A.405.200. For administrators and principals, other items may be included. Because services are rendered in exchange for this payment, it is reportable compensation. This does not mean that a payment is reportable compensation solely because it is authorized in an employee's base contract. Rather than relying on the name of a payment or the document where it is authorized, you must evaluate whether services were rendered in exchange for the payment.

(2) ~~Evening or summer school contracts. Evening or summer school payments are for additional time worked. These payments are often authorized in a supplemental contract. These payments are for services rendered and are reportable compensation.~~

(3) ~~Supplemental or TRI contracts under RCW 28A.400.200. A school district may compensate an employee for additional time, responsibility or incentives with a supplemental contract.~~

(a) ~~If the payment is for additional time, then it is for services rendered and qualifies as reportable compensation.~~

(b) ~~If the payment is for additional responsibility (i.e., additional service which does not specifically require more time) within the regularly scheduled working day, then it is also for services rendered and is reportable. Examples of additional responsibility include payments linked to extra enrollment or additional duties outside the scope of the base contract.~~

(c) ~~If the payment is made as an incentive, then it is also for services rendered and is reportable compensation. Incentive payments include payments for meeting performance goals specified by the employer.~~

(4) ~~Longevity or educational attainment. Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.~~

(a) ~~A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is reportable compensation.~~

(b) ~~Simply attaching the label "longevity" to a payment does not guarantee that it will be reportable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.) Payments authorized under a base contract may be earnable compensation.~~

(a) Payments made to classroom teachers for the provision of educational services are earnable compensation.

(b) Payments made to administrators and principals for the provision of administrative services are earnable compensation.

(c) Even though salaries are derived from a salary schedule that incorporates experience and educational attainment, to the extent that the salaries are paid for services provided, they are earnable compensation. Both experience and educational attainment are deemed to increase the quality of the service performed. See RCW 28A.405.200.

(d) Payments pursuant to the base contract that are not made in exchange for services performed are not earnable compensation.

(2) Supplemental contract. Payments authorized under a supplemental time, responsibility or incentives (TRI) contract may be earnable compensation. RCW 28A.400.200 allows the use of supplemental TRI contracts to compensate an employee for additional time, additional responsibility, or the achievement of stated incentives.

(a) Payments authorized by a supplemental contract for services requiring additional time are earnable compensation. Examples include payments for the provision of educational services during evening or summer school.

(b) Payments authorized by a supplemental contract for services requiring additional responsibility within the regularly scheduled working day are earnable compensation. Examples include payments linked to over enrollment or additional duties.

(c) Payments authorized by a supplemental contract for the achievement of stated incentives are earnable compensation. Examples include meeting performance goals specified by the employer.

(3) Longevity or educational attainment. Payments for longevity or educational attainment must be analyzed to determine whether they are paid for services provided. Salaries for all teachers and most administrators are determined by looking at the individual's teaching experience and educational attainment.

(a) A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is therefore a payment for additional service and is earnable compensation.

(b) Simply attaching the label "longevity" to a payment does not guarantee that it will be earnable compensation. If a payment described as a longevity payment is actually based upon some other criteria, such as retirement or notification of intent to retire, the payment may not be reportable.

NEW SECTION

WAC 415-112-4602 Are bonuses for National Board for Professional Teaching Standards certification earnable compensation? Bonuses you receive for attaining National Board for Professional Teaching Standards certification are not earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4603 Are performance bonuses(†) earnable compensation? ((Bonuses that are based upon meeting certain performance goals or having to work under unusual conditions, such as over enrollment, are earned for services rendered and are reportable compensation.)) Bonuses for meeting certain performance goals or working under unusual conditions, such as over enrollment, are earnable compensation because they are paid for services provided.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4604 ((Cafeteria plans.)) Is compensation applied toward cafeteria plans earnable compensation? ((Compensation received in any form under the provisions of a "cafeteria plan," "flexible benefits plan," or similar arrangement pursuant to section 125 of the United States Internal Revenue Code is reportable compensation if the

employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefits are being provided in lieu of cash and are considered reportable compensation, just as the cash would be. If there is no cash option, the value of the fringe benefit is not a salary or wage and is not reportable compensation, see WAC 415-112-480.)) Compensation you receive and apply toward a benefit plan under I.R.C. Section 125 may be earnable compensation. If you have an absolute right to receive cash or deferred cash payments instead of the fringe benefit, the payment is earnable compensation. If you have no cash option, the value of the fringe benefit is not earnable compensation. Also see WAC 415-112-480.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4607 Are retroactive salary increases(†) earnable compensation? ((A retroactive salary payment to an employee who worked during the covered period is a payment of additional salary for services already rendered.

Note: A retroactive salary increase is not the same as a retroactive payment upon reinstatement or in place of reinstatement of a terminated or suspended employee. For treatment of back payments for periods where services were not rendered, see WAC 415-112-477.

(1) To qualify as reportable compensation under this section, the payment must be a bona fide retroactive salary increase. To ensure that is the case, the retroactive payment must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of such a claim before a court or administrative agency; or

(c) A collective bargaining agreement.

(2) The payments will be deemed earned in the period in which the work was done.)) (1) A retroactive salary increase occurs when your rate of pay is increased and made retroactive to a prior date. You receive a lump sum payment for the increased amount earned during the earlier period.

Example: John's salary is \$2000 per month. On April 10, his salary is increased to \$2200 per month. The increase is made retroactive to January 1. On April 25, he receives a lump sum payment of \$600, i.e., the \$200 increase for January, February, and March. In April he also receives a paycheck at the new rate of \$2200.

(2) A lump sum payment received pursuant to certain retroactive salary increases is earnable compensation. See subsection (3) of this section. The payment will be deemed to be earned in the period in which the work was done.

Example: When the \$600 payment is reported to the department, John will receive an additional \$200 of earnable compensation for each of January, February, and March.

(3) To qualify as earnable compensation, the retroactive salary increase must be made pursuant to:

(a) An order or conciliation agreement of a court or administrative agency charged with enforcing federal, state, or local statutes, ordinances, or regulations protecting employment rights;

(b) A bona fide settlement of a claim before a court or administrative agency for a retroactive salary increase;

(c) A collective bargaining agreement; or

(d) A legislative enactment.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-4608 Is severance pay ((earned over time)) **earnable compensation**? (1) **Severance pay earned over time.**

(a) **Plan 1.** Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously ((rendered)) **provided** and to be reportable in Plan 1. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services ((rendered)) **provided.**

Example: Mr. Jones is a TRS Plan 1 member employed as a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is ((reportable)) **earnable compensation**. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his TRS Plan 1 retirement calculation.

((2)) **(b) Plans 2 and 3.** All forms of severance pay are excluded from earnable compensation for Plans 2 and 3 by RCW 41.32.010(10).

((3)) **(2) Severance pay that is not earned over time ((is not earned for services rendered and is not reportable in Plan 1, 2, or 3, see WAC 415-112-491)), Severance pay that is not earned over time is not earned for services provided and is not earnable compensation for Plan 1, 2 or 3.**

Example: A school administrator and a school district negotiate a termination agreement. In the agreement, the school district agrees to pay the administrator a lump sum payment equal to two months salary as severance pay. The severance payment was not accrued over time in exchange for services provided, and therefore is not earnable compensation.

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-112-4609 **Are payroll deductions((r)) **earnable compensation**? ((Salary or wages for services ren-**

dered that are withheld from a member's pay still qualify as reportable compensation:

(1) Retirement contributions. Payments deducted from employee compensation for employee retirement contributions are reportable. Employer contributions are a fringe benefit and are not reportable, see WAC 415-112-480.

(2) Tax withholding. Payments withheld to satisfy federal tax obligations qualify as reportable compensation.

(3) Voluntary deductions. Payments deducted voluntarily, such as 403(b) plan contributions or other authorized deductions, are reportable. Amounts withheld from your salary or wages are earnable compensation. Examples include:

(1) Your employee contributions to TRS (compare WAC 415-112-480 regarding employer contributions);

(2) Amounts withheld for federal income tax purposes; and

(3) Other authorized voluntary deductions, such as the deferred compensation plan or 403(b) plan deferrals.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-471 **Is compensation reported for legislative leave((r))?** If ((an employee)) **you** take((s)) a leave without pay to serve in the legislature, ((the member is)) **you are** entitled to service and ((reportable)) **earnable compensation credit ((for the period)) according to this section.**

(1) **Plan 1.** The salary ((the employee)) **you** would have earned in the position from which you took leave of absence is ((reportable)) **earnable compensation** if ((the employee)) **you** serve((s)) at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) **Plans 2 and ((Plan)) 3.** ((The employee)) **You** may choose between:

(a) The ((reportable)) **earnable compensation ((he or she)) you** would have earned had ((the member)) **you** not served in the legislature; or

(b) The actual ((reportable)) **earnable compensation** received for ((teaching)) **service** plus the legislative ((reportable)) **earnable compensation.**

If ((the employee)) **you** select((s)) option (a), ((he or she is)) **you are** responsible for paying the additional employer and employee contributions to the extent the ((reportable)) **earnable compensation** reported is higher than it would have been under (b) of this subsection.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-473 **Is paid leave, which is not earned over time((r)), **earnable compensation**?** If paid leave is not based upon earned leave accumulated over time, the payment is not ((a deferred payment)) for services previously ((rendered)) **provided and is generally not earnable compensation.** ((Further, the member on leave is not currently rendering services in exchange for the payment. However,)) **Exceptions identified in RCW 41.32.267, 41.32.810 and 41.32.865 ((identify payments received from the employer while on paid leave as)) are reportable ((for TRS)), and contributions**

are due on these payments to the extent they meet both of the following conditions:

(1) The ~~((payment))~~ compensation reported is equal to the salary for the position ~~((that the person is))~~ from which you are on leave ~~((from))~~; and

(2) The payment is ~~((actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267 (Plan 1), 41.32.810 (Plan 2), 41.32.865 (Plan 3), and WAC 415-112-475))~~ received from your employer, not from a third party. Except as provided in WAC 415-112-475, if you receive payment from your employer but your employer is reimbursed for the payment by a third party, the payment is not earnable compensation.

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-475 ((Union leave.)) Is the pay I receive from my employer when I am on union leave earnable compensation? If ~~((a member))~~ you take~~((s))~~ an authorized leave of absence to serve as an elected official of a labor organization ~~((and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of))~~ and you receive payment from your employer during your leave, the payments may be earnable compensation, even if the union reimburses your employer. To qualify as earnable compensation, the payments must meet the specific conditions in RCW 41.32.267 (Plan 1), RCW 41.32.810 (Plan 2), or RCW 41.32.865 (Plan 3)((, as appropriate, are met)).

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-112-477 Are payments for reinstatement or payment instead of reinstatement((s)) earnable compensation? (1) ~~((Payments to an employee are not earned for services rendered if an employer makes them for periods during which the employee was not employed and the payments are made either upon reinstatement or instead of reinstatement. Nonetheless, RCW 41.32.010(10) specifically designates these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working.))~~ When you receive payments upon reinstatement or instead of reinstatement, such payments are earnable compensation to the extent they are equivalent to the salary you would have earned by working in your position. RCW 41.32.010 defines these payments as earnable compensation even though they are not payments for services you provided to your employer. The payment will be prorated over the entire period that ((the employee was)) you were suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of ~~((either))~~:

(a) The employer; ~~((or))~~

(b) ~~((A personnel board, personnel appeals board))~~ A school district; or

(c) A court of law ~~((following a hearing)).~~

AMENDATORY SECTION (Amending WSR 03-06-042, filed 2/27/03, effective 4/1/03)

WAC 415-112-480 Are fringe benefits((s)) earnable compensation? Fringe benefits provided by an employer are not a salary or wage, and ~~((therefore))~~ are not ~~((reportable))~~ earnable compensation. Fringe benefits include, but are not limited to:

(1) Employer retirement contributions;

(2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or

(3) Any employer payments into a private fund to provide health or welfare benefits for ~~((the member (or the member and the member's))~~ you or your dependents((s)), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan or similar arrangement as described in WAC 415-112-4604.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-482 ((Disability insurance.)) Are disability insurance or workers' compensation payments earnable compensation? (1) Disability insurance payments ~~((are paid to persons for periods when they are unable to work. Because no services are rendered in exchange for these payments, they))~~ are not ~~((reportable))~~ earnable compensation~~((--This is true))~~, whether the payments come directly from the employer or from an insurance company.

(2) Workers' compensation payments are not earnable compensation.

Example: Susan, an employee on unpaid disability leave, submits her workers' compensation payments to her employer. The employer then issues Susan a check for the same amount through the payroll system. Even though the payment may have the appearance of compensation from the employer, it is not a payment for services provided and it is not earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-485 ((Illegal payments.)) Are payments that are outside my employer's legal authority earnable compensation? Payments made by an employer ~~((in excess of))~~ that are outside the employer's legal authority are not ~~((reportable))~~ earnable compensation.

Example: School districts are prohibited by RCW 28A.400-.220 from increasing an employee's salary ~~((to include a payment in lieu))~~ instead of

providing a fringe benefit (~~((per RCW 28A.400.220))~~). If a district increased a person's salary instead of providing a district car, the ~~((payment would be illegal and could not be reported))~~ teacher's increased salary payments would not be earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-487 Are optional payments((*) considered earnable compensation? If ~~((an employee can))~~ you receive an additional payment only on the condition of taking an action other than providing service to ~~((the))~~ your employer, the payment is not ~~((for services rendered and is not reportable))~~ earnable compensation.

Example: An employer offers to make a contribution to ~~((a))~~ Joe's deferred compensation plan ~~((on behalf of an employee))~~ only if ~~((the employee))~~ Joe agrees to have a portion of his ~~((or her))~~ salary deferred. Because ~~((the employee))~~ Joe does not have a right to receive the contribution based solely on ~~((the rendering of))~~ providing service, the payment is not ~~((reportable))~~ earnable compensation.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-489 Are reimbursements for business expenses(*) earnable compensation? Reimbursements are not ~~((earned for services rendered and thus are not reportable))~~ earnable compensation. Typical reimbursement payments include mileage reimbursements for use of a private car on employer business, ~~((see WAC 415-112-41301,))~~ or meal and lodging reimbursements for business trips.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-490 Is a retirement bonus or incentive(*) earnable compensation? A payment made ~~((to an employee as a bonus or))~~ as an incentive ~~((when retiring or terminating))~~ to retire or terminate is not a payment for services ~~((rendered. Rather, the payment is made in exchange for an employee's promise or notification of intent to retire or terminate. A retirement or termination bonus or incentive))~~ provided, and is not ~~((reportable))~~ earnable compensation.

Example: A collective bargaining agreement authorizes a school district to pay employees a higher salary during the last two years of employment if the employee gives written notice of his or her intent to retire. Because the payment is in exchange for the agreement to retire and not for services, the payment is not ~~((reportable))~~ earnable compensation.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-500 ~~((Minimum service required for retirement.))~~ Do I qualify for retirement from Plan 1? ~~((In qualifying a member for a retirement allowance the minimum service requirement of "five years of credit for public school service in this state" as set forth in RCW 41.32.470 shall not include credit for professional preparation or credit for military service, but shall be limited to credit for Washington public school service.))~~ You may retire from Plan 1:

(1) At age sixty with a minimum of five years of service. You may not use service credit you purchased for professional preparation or military service to meet the five-year minimum;

(2) At age fifty-five with a minimum of twenty-five years of service; or

(3) At any age with a minimum of thirty years of service. See RCW 41.32.480.

NEW SECTION

WAC 415-112-501 Do I qualify for retirement from Plan 2? You may retire from Plan 2:

(1) At age sixty-five with a minimum of five years of service;

(2) At age fifty-five with a minimum of twenty years of service, however, your retirement allowance will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five; or

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.765.

NEW SECTION

WAC 415-112-502 Do I qualify for retirement from Plan 3? You may retire from Plan 3:

(1) At age sixty-five with the following amounts of service credit to retire with an unreduced defined benefit:

(a) Ten years of service credit; or

(b) Five years of service credit, including at least twelve service credit months after attaining age fifty-four; or

(c) Five years of TRS Plan 2 service credit earned prior to July 1, 1996, before transferring to Plan 3 under RCW 41.40.750.

(2) At age fifty-five with a minimum of ten years of service credit, however, your defined benefit will be actuarially reduced to reflect the difference in the number of years between your age at retirement and age sixty-five.

(3) At age fifty-five with a minimum of thirty years of service credit. Your defined benefit will be reduced by three percent per year to reflect the difference in the number of years between your age at retirement and age sixty-five.

See RCW 41.32.875.

NEW SECTION

WAC 415-112-507 How do I apply for retirement benefits? To apply for retirement benefits, you must submit the following to the department:

(1) A completed, signed, and notarized retirement application, including:

(a) Your selection of one of the benefit options described in WAC 415-112-493.

(b) Designation of a survivor beneficiary if you selected a benefit option with a survivor feature.

(c) If you are married, your spouse's notarized signature indicating consent to the retirement option you selected. See WAC 415-112-015(10).

(i) If you are married and you do not provide spousal consent, the department will pay you a joint and one-half survivor benefit allowance and record your spouse as the survivor beneficiary as required by RCW 41.32.530(2), 41.32.785(2), and 41.32.851(2).

(ii) If you are married, but have had a prior dissolution decree on file with the department designating a survivor beneficiary under RCW 41.50.790, spousal consent is not required. The dissolution decree must have been filed at least thirty days prior to your retirement;

(2) Evidence of your birth date, such as a certified copy of your birth certificate, passport, naturalization certificate, certificate of armed services record U.S. DD 214, or other documentation acceptable to the department; and

(3) If you selected a benefit option with a survivor feature, acceptable evidence of your designated survivor beneficiary's birth date.

NEW SECTION

WAC 415-112-523 How does the department calculate my retirement allowance? (1) When you apply for retirement, you will begin to receive a provisional retirement allowance.

(a) The department will calculate the provisional allowance based on:

(i) The data for service credit and earnable compensation in the department's system at the time it is calculated;

(ii) Projections of your salary for periods that have not yet been reported by your employer.

(b) The department will pay you the provisional allowance until your actual retirement allowance has been calculated.

(2) To compute your actual allowance, the department must receive a final compensation report from your employer.

The department may also require any of the following from your employer:

(a) Cash-out information (Plan 1 only).

(b) Earnings history.

(c) Copies of your employment contract(s).

(d) Copies of your employer's compensation policies.

(3) The department will make a final calculation of your actual retirement allowance by making a final determination of your service credit and average final compensation and by applying the correct formula to these values. Your actual

retirement allowance may be higher or lower than your provisional allowance.

(4) If the amount of your actual allowance is different from your provisional allowance, the department will make the necessary adjustments.

(a) If you were underpaid, the department will pay you a lump sum payment equal to the difference of the total provisional payments you received and the total you would have received based on your actual allowance.

(b) If you were overpaid, the department will recover the overpayment either through a lump sum payment, monthly installment payments, or through an actuarial reduction of your actual allowance.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-610 ((Payment of)) What temporary disability benefits are due upon death of a member((+))? ~~((Any disability benefits which have accrued and are payable upon the death of a member who had applied for or who had qualified for a temporary disability allowance, shall be paid to the deceased member's designated beneficiary as recorded and filed with the department in connection with his application for temporary disability benefits, or to his estate.))~~ When a member applies for temporary disability benefits, the member may designate a beneficiary. Any temporary disability benefits that have accrued and are payable upon the death of the member will be paid to the deceased member's designated beneficiary or to the member's estate if there is no designated beneficiary.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-620 ((Date from which)) When will my disability retirement allowances begin to accrue((+))? ~~(1) ((A member who qualifies directly)) If you qualify for a disability retirement allowance without first qualifying for temporary disability benefits ((shall receive a)), your retirement allowance ((to be effective in accordance with WAC 415-112-520 governing service retirement)) will start according to the provisions governing service retirement in WAC 415-112-520.~~

(2) If ~~((a member qualifies))~~ you qualify for a disability retirement allowance after having first qualified for TRS Plan 1 temporary disability benefits, ~~((the effective date of his))~~ your disability retirement allowance ~~((shall be))~~ will start the first of the month following termination of ~~((his))~~ your temporary disability allowance, and ~~((shall))~~ will otherwise be consistent with WAC 415-112-520, which governs service retirement.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-630 ((Employment of persons retired for disability.)) How will returning to work affect my Plan 1 disability retirement benefits? The provisions of RCW 41.32.570 with regard to service in public education by a

retired teacher ((shall apply)) applies equally to ((teachers)) TRS Plan 1 members retired for disability.

retirement allowance for errors.

WAC 415-112-920

TRS Plan 3 defined benefit retirement eligibility.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-700 (~~(Determining dependency under RCW 41.32.520.)~~) **How is "dependent" defined for determining Plan 1 beneficiary rights?** (~~(To qualify as a dependent of a deceased member under the authority of RCW 41.32.520 the individual must provide proof of the following conditions:~~

~~(1) The beneficiary must receive one half or more of their financial support from the deceased member. Such support must have been continuous prior to death and in effect at the time of the member's death.~~

~~(2) The term "financial support" shall include the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.)~~ (1) For purposes of TRS Plan 1 death benefits under RCW 41.32.520, a dependent must be a dependent as defined in 26 U.S.C. 152.

(2) The department must receive proof that the beneficiary stands in the necessary relationship to the member, and that either:

(a) The member had provided over half of the beneficiary's financial support continuously prior to death and at the time of the member's death; or

(b) The beneficiary otherwise meets the definition of beneficiary set forth in 26 U.S.C. 152.

(3) Financial support includes the cost of food, clothing, shelter, education, medical and dental expenses, and other similar expenses.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 415-112-4605 Leave payments earned over time.
- WAC 415-112-483 Workers' compensation.
- WAC 415-112-491 Severance pay not earned over time—Contract buy out.
- WAC 415-112-550 Peace Corps volunteers not employed in public education.
- WAC 415-112-710 When are survivor benefits payable?
- WAC 415-112-725 Married member's benefit selection—Spousal consent required.
- WAC 415-112-800 Scope.
- WAC 415-112-850 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of

WSR 05-12-109

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed May 27, 2005, 3:39 p.m., effective June 27, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 415-108-475 Fringe benefits, is being amended to correct a WAC citation and WAC 415-108-575 How is the compensation adjustment for elected officials computed?, is being amended to add the 2003 and 2004 compensation thresholds under RCW 41.40.023.

Citation of Existing Rules Affected by this Order: Amending WAC 415-108-475 and 415-108-575.

Statutory Authority for Adoption: RCW 41.50.050(5).

Adopted under notice filed as WSR 05-09-056 on April 19, 2005.

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.

Date Adopted: May 27, 2005.

S. J. Matheson
Director

AMENDATORY SECTION (Amending WSR 03-06-042, filed 2/27/03, effective 4/1/03)

WAC 415-108-475 Fringe benefits. Fringe benefits provided by an employer are not a salary or wage, and therefore are not reportable compensation. Fringe benefits include, but are not limited to:

- (1) Employer retirement contributions;
- (2) Any type of insurance such as medical, dental or life insurance; and any employer contribution to meet the premium or charge for the insurance; or
- (3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan,

PERMANENT

flexible benefit plan or similar arrangement as described in WAC ((415-108-459)) 415-108-455.

AMENDATORY SECTION (Amending WSR 03-08-090, filed 4/2/03, effective 5/1/03)

WAC 415-108-575 How is the compensation adjustment for elected officials computed? (1) This section provides the department's inflation adjustment under RCW 41.40.023 (3)(b) regarding elected officials.

(2) The department uses the criteria in RCW 41.26.240¹ in making annual inflation adjustments to the fifteen thousand dollar compensation threshold stated in RCW 41.40.023 (3)(b).

(3) The department adjusts the compensation threshold on April 1st of each year.²

(4) The department makes this information available upon request. For further information, please contact the department. Please see WAC 415-06-100 for contact information.

Footnotes to section:

¹ The department uses this LEOFF statute because the statute explains how to use the Consumer Price Index for Seattle in making these annual adjustments.

² In 2001, the threshold was \$19,263. In 2002, the threshold was \$19,948. In 2003, the threshold was \$20,595. The 2004 threshold, effective April 2005, is \$20,919.

WSR 05-12-110

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 31, 2005, 8:05 a.m., effective July 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-401 WAC, Nursery inspection fees, by increasing the nursery inspection and nursery dealer license fees by the OFM fiscal growth factor for fiscal year 2006 (2.82%). In addition, this order amends the current language to increase its clarity and readability.

Citation of Existing Rules Affected by this Order: Amending WAC 16-401-027, 16-401-032, and 16-401-041.

Statutory Authority for Adoption: Chapters 15.13, 15.14, and 34.05 RCW.

Adopted under notice filed as WSR 05-09-092 on April 20, 2005.

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 3, Repealed 0.

Date Adopted: May 31, 2005.

William E. Brookreson
for Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 04-17-037, filed 8/10/04, effective 9/10/04)

WAC 16-401-027 Schedule of fees and charges—Applicable rates and charges. The following rates apply for requested inspection services:

(1) Fee or Charge:	
Hourly rate—business hours	\$((31-10)) <u>31.95</u>
Hourly rate—nonbusiness hours	\$((39-70)) <u>40.80</u>
Certificate issued at time ((if)) of inspection	No charge
Certificate issued more than twenty-four hours after the inspection	\$((14-80)) <u>15.20</u>
Additional certificates	\$((4-70)) <u>4.80</u>
Fumigation lot or container fee	\$((12-40)) <u>12.70</u>
Certificate of plant health for noncommercial movement	\$((6-10)) <u>6.25</u>
Compliance agreement	\$((31-10)) <u>31.95</u>
Inspection tags or stickers (lots of 250)	\$((6-10)) <u>6.25</u> per lot
Inspection tags or stickers (minimum 10)	\$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

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(5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee.

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection.

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge.

AMENDATORY SECTION (Amending WSR 03-10-083, filed 5/6/03, effective 6/30/03)

WAC 16-401-032 Schedule of fees and charges—Miscellaneous charges. The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are ~~((charges))~~ **charged** at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter.

AMENDATORY SECTION (Amending WSR 03-21-166, filed 10/22/03, effective 11/22/03)

WAC 16-401-041 Nursery dealer license fees. Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars ~~\$(37.67))~~
38.73

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is ~~\$(80.72))~~
82.99

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more ~~\$(161.45))~~
166.00

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars ~~\$(80.72))~~
82.99

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more ~~\$(161.45))~~
166.00

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270(~~Effective July 1, 2003~~)). ~~\$(6.00))~~
6.15

WSR 05-12-111

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 31, 2005, 8:06 a.m., effective July 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends WAC 16-470-900 through 16-470-917 by (1) increasing the plant pathology laboratory diagnostic fees, hourly fees, and post entry inspection fee by the OFM fiscal growth factor for fiscal year 2006 (2.82%); and (2) increasing the penalty charge for past due accounts to make it consistent with charges related to other program rules.

Citation of Existing Rules Affected by this Order: Amending WAC 16-470-900, 16-470-912, and 16-470-917.

Statutory Authority for Adoption: Chapters 17.24 and 34.05 RCW.

Adopted under notice filed as WSR 05-09-093 on April 20, 2005.

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 3, Repealed 0.

Date Adopted: May 31, 2005.

William E. Brookreson
for Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 99-12-035, filed 5/26/99, effective 6/26/99)

WAC 16-470-900 Schedule of fees and charges—Billing policies and procedures. (1) All billable services provided under chapter 17.24 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing. Accounts not paid in full within thirty days of billing are considered delinquent.

(2) All delinquent accounts are assessed a late charge equal to one and one-half percent per month, or portion of a month, on the unpaid balance.

(3) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is twenty dollars. All billable services of less than twenty dollars are due and payable on the date that service is rendered.

(4) No person with an account ninety days or more in arrears will receive service except on the basis of payment in

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full at the time service is rendered. Such accounts are not restored to monthly billing status until all past due amounts are paid-in-full. Such accounts may be subject to legal action for collection.

(5) Accounts that become ninety days or more in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

AMENDATORY SECTION (Amending WSR 05-01-180, filed 12/21/04, effective 1/21/05)

WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges. (1) Hourly rate.

Hourly rate - business hours	\$ ((31.10)) 31.95
Hourly rate - nonbusiness hours	\$ ((39.70)) 40.80

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+ samples
virus (ELISA)	At cost	At cost	\$ ((10.30)) 10.55 ea	\$ ((5.10)) 5.20 ea	\$ ((2.95)) 3.00 ea
bacteria	((41.20)) 42.35 ea	((39.80)) 40.90 ea	((37.30)) 38.35 ea	((36.10)) 37.10 ea	((36.10)) 37.10 ea
fungus	((43.60)) 44.80 ea	((37.30)) 38.35 ea	((36.10)) 37.10 ea	((34.80)) 35.75 ea	((32.30)) 33.20 ea
nematode	((32.30)) 33.20 ea	((29.80)) 30.60 ea	((27.30)) 28.05 ea	((26.60)) 27.35 ea	((24.80)) 25.45 ea

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

(4) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

- (a) Projects greater than one hundred samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

AMENDATORY SECTION (Amending WSR 04-17-036, filed 8/10/04, effective 9/10/04)

WAC 16-470-917 Schedule of fees and charges—Fees for post entry inspection services. (1) Post entry site inspection and/or permit review and approval. . . \$ ~~((62.30))~~
64.05

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

WSR 05-12-116
PERMANENT RULES
SECRETARY OF STATE

[Filed May 31, 2005, 11:42 a.m., effective July 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To set the filing fee for initiatives, clarify initiative filing process, and define signature verification method.

Reasons for this finding: New federal law requires electronic voting equipment and as counties implement this, new testing procedures are necessary to ensure the security and integrity of elections in the state.

Citation of Existing Rules Affected by this Order: Amending WAC 434-379-010.

Statutory Authority for Adoption: RCW 29A.04.611 and 43.07.120.

Adopted under notice filed as WSR 05-09-047 on April 18, 2005.

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 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, 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 3, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 31, 2005.

Sam Reed
Secretary of State

NEW SECTION

WAC 434-379-005 Filing of an initiative—Fee—Required documents. A person desiring to file with the secretary of state a petition to enact a proposed measure to the legislature or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, may do so by filing the following documents:

- (1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;
- (2) A notarized affidavit that the sponsor is a legal voter;
- (3) A filing fee of five dollars for each measure submitted.

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NEW SECTION

WAC 434-379-007 Certificate of review. After filing the documents listed in WAC 434-379-005, a copy of the documents is sent to the code reviser. The code reviser shall issue a certificate of review certifying that he or she has reviewed the measure and that any recommendations have been communicated to the sponsor. Within fifteen working days after the date that the secretary of state submits the proposed measure to the code reviser's office, the sponsor shall file the measure and the certificate of review with the secretary of state for assignment of a serial number. The secretary of state shall refuse to make such assignment unless the measure is accompanied by a certificate of review that has substantially the same topic as the measure.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-379-010 Random sampling procedure. In the verification of signatures on initiative and referendum petitions, under RCW 29A.72.230, the following statistical test may be employed:

(1) Take ~~((n))~~ a minimum three percent unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the number of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of the number of signatures required by Article II, Section 1A of the Washington state constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the

sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legislature as provided in RCW 29A.72.230 or to the county auditors as provided in RCW 29A.72.250.

NEW SECTION

WAC 434-379-020 Signature verification standard.

A signature on a petition sheet will be matched to the signature on file in the voter registration records. A signature is considered a match if at least three of the following criteria are met:

- (1) The capital letters match;
- (2) Letters tail off alike;
- (3) Letter spacing is the same;
- (4) The space between the signature and the line is the same;
- (5) The beginning and ending of the signature and the slant are consistent;
- (6) Unique letters in the signature match;
- (7) The overall appearances match.

In determining whether a signature matches the signature in the registration file, the age of the voter and the date of the signature on the registration file may also be considered.

WSR 05-12-119

PERMANENT RULES

FOREST PRACTICES BOARD

[Filed May 31, 2005, 4:08 p.m., effective July 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: (1) Facilitate protection and management of cultural resources as they relate to forest practices and (2) amend Title 222 WAC to correct typographical errors, clarify language without changing the effect of existing rules, and incorporate amendments to chapter 76.09 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 222-08-160, 222-10-030, 222-10-040, 222-12-010, 222-12-040, 222-12-045, 222-12-046, 222-12-080, 222-12-090, 222-16-010, 222-16-030, 222-16-031, 222-16-050, 222-16-070, 222-16-080, 222-20-010, 222-20-020, 222-20-040, 222-20-050, 222-20-060, 222-21-030, 222-22-010, 222-22-020, 222-22-050, 222-22-060, 222-22-070, 222-22-080, 222-22-090, 222-23-020, 222-23-025, 222-24-010, 222-24-051, 222-30-020, 222-30-021, 222-30-022, 222-30-023, 222-30-025, 222-30-050, 222-30-110, 222-34-010, and 222-34-020.

Statutory Authority for Adoption: RCW 76.09.040.

Adopted under notice filed as WSR 05-08-085 on April 1, 2005, and 05-06-096 on March 1, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 222-22-050(1), 222-22-060(1), and 222-22-070(1) are modified. A sentence has been added (the same sentence to each WAC) that refers the reader to the introduction of the cultural resources module of Forest Practices Board Manual Section 11. This provides guidance on maximizing tribal participation in a watershed analysis.

A final cost-benefit analysis is available by contacting Gretchen Robinson, P.O. Box 47012, Olympia 98504-7012,

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phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@wadnr.gov (for rules pertaining to protection and management of cultural resources).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 41, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 17, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2, Amended 41, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 11, 2005.

Pat McElroy
Chair

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-08-160 Continuing review of forest practices rules. *(1) Annual evaluations. The department, after consulting with affected state agencies, Indian tribes, forest landowners, fish and wildlife, natural resources, and environmental interest groups, shall ~~((beginning July 1, 1988,))~~ report annually to the forest practices board. This reporting will be an assessment of how the rules and voluntary processes, including the Cultural Resources Protection and Management Plan, as committed in the 1999 Forests and Fish Report, Appendix O (O.3), are working.

*(2) Adaptive management program. The adaptive management program will be used to determine the effectiveness of forest practices rules in aiding the state's salmon recovery effort and provide recommendations to the board on proposed changes to forest practices rules to meet timber industry viability and salmon recovery. The program provides assurances that rules and guidance not meeting aquatic resource objectives will be modified in a streamlined and timely manner. The board may also use this program to adjust other forest practice rules and guidance in order to further the purposes of chapter 76.09 RCW. The specific components of the adaptive management program are set forth in WAC 222-12-045.

(3) Resource management plans. The department is directed to develop a method for cooperative voluntary resource management planning among forest landowners, governmental agencies, affected Indian tribes, and environmental groups which would result in the development of plans which might be used as an alternative to the forest practice rules in achieving the purposes and policies set forth in the act. This should be done through pilot projects, at least one of which should be located on the east side of the Cascade summit and one on the west side of the Cascade summit.

(4) Compliance monitoring. The department shall conduct compliance monitoring that addresses the following key question: "Are forest practices being conducted in compliance with the rules?" The department shall provide statistically sound, biennial compliance audits and monitoring reports to the board for consideration and support of rule and guidance analysis. Compliance monitoring shall determine whether forest practices rules are being implemented on the ground. An infrastructure to support compliance will include adequate compliance monitoring, enforcement, training, education and budget.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-10-030 *SEPA policies for potentially unstable slopes and landforms. In addition to SEPA policies established elsewhere in this chapter, the following policies apply to forest practices described in WAC 222-16-050 (1)(d) relating to construction or harvest on potentially unstable slopes or landforms.

(1) In order to determine whether such forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit the following additional information, prepared by a qualified expert. The expert must describe the potentially unstable landforms in and around the application site(;) and analyze:

(a) The likelihood that the proposed forest practices will cause movement on the potentially unstable slopes or landforms, or contribute to further movement of a potentially unstable slope or landform;

(b) The likelihood of delivery of sediment or debris to any public resources, or in a manner that would threaten public safety; and

(c) Any possible mitigation for the identified hazards and risks.

(2) The department's threshold determination will include an evaluation of whether the proposed forest practices:

(a) Are likely to increase the probability of a mass movement on or near the site;

(b) Would deliver sediment or debris to a public resource or would deliver sediment or debris in a manner that would threaten public safety; and

(c) Such movement and delivery are likely to cause significant adverse impacts.

If the department determines that (a), (b) and (c) of this subsection are likely to occur, then the forest practice is likely to have a probable significant adverse impact.

(3) The department will evaluate the proposal, using appropriate expertise and in consultation with other affected agencies and Indian tribes.

(4) Specific mitigation measures or conditions must be designed to avoid accelerating rates and magnitudes of mass wasting that could deliver sediment or debris to a public resource or could deliver sediment or debris in a manner that would threaten public safety.

(5) Qualified expert for the purposes of this section means a person licensed under chapter 18.220 RCW as either

an engineering geologist or as a hydrogeologist (if the site warrants hydrologist expertise), with ((a master's degree in geology or geomorphology or a related field or a significant amount of postgraduate course or thesis work or other training in geomorphology or mass movement and, in either case, an additional)) 3 years of field experience in the evaluation of relevant problems in forested lands.

AMENDATORY SECTION (Amending WSR 02-11-075, filed 5/13/02, effective 6/13/02)

WAC 222-10-040 Class IV-Special threatened and endangered species SEPA policies. In addition to the SEPA policies established elsewhere in this chapter, the following policies shall apply to Class IV-Special forest practices involving threatened or endangered species.

(1) The department shall consult with the department of fish and wildlife, other agencies with expertise, affected landowners, affected Indian tribes, and others with expertise when evaluating the impacts of forest practices. If the department does not follow the recommendations of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(2) In order to determine whether forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the department shall evaluate whether the forest practices reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of the survival or recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(3) Specific mitigation measures or conditions shall be designed to reduce any probable significant adverse impacts identified in subsection (2) of this section.

(4) The department shall consider the species-specific policies in WAC 222-10-041 and 222-10-042 when reviewing and evaluating SEPA documents and the impacts of forest practices.

(5) The SEPA policies in this section and the species specific SEPA policies for threatened and endangered species do not apply to forest practices that are consistent with a wildlife conservation agreement listed in WAC 222-16-080(6) for species covered by these agreements, that has received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq., ((the Endangered Species Act, 16 U.S.C. section 1531 et seq.)) or the State Environmental Policy Act, chapter 43.21C RCW.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-12-010 Authority. These forest practices rules are adopted pursuant to chapter 76.09 RCW, RCW 76.13.100 through 76.13.130, and RCW 77.85.180 through 77.85.190. Where necessary to accomplish the purposes and policies stated in the act, the board is authorized to promulgate forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in the act. These rules establish minimum standards for forest practices, provide procedures for the voluntary development of

resource management plans, set forth necessary administrative provisions, establish procedures for the collection and administration of forest practice fees, allow for the development of watershed analyses, foster cooperative relationships and agreements with affected tribes, and establish the riparian open space program. The board also establishes which forest practices will be included within each class and is authorized to adopt rules under RCW 76.09.055, 76.09.370, and 76.13.120(9).

Promulgation of all forest practices rules shall be accomplished so that compliance with such forest practices rules will achieve compliance with the water quality laws.

Those rules marked with an asterisk (*) pertain to water quality protection; pursuant to RCW 76.09.040 they can be amended only by agreement between the board and the department of ecology.

Forest practices rules shall be administered and enforced by the department except as otherwise provided in the act. Such rules shall be administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-12-040 *Alternate plans—Policy. All forest practice operations must comply with both the act and the rules promulgated pursuant to the act, unless an alternate plan has been approved by the department.

(1) The alternate plan process can be used as a tool to deal with a variety of situations, including where the cumulative impacts of regulations disproportionately impact a landowner. In some instances an alternate plan may be used to make minor on-the-ground modifications, which result in significant operation efficiencies. The alternate plan process may be used to address circumstances where a landowner has an economically inaccessible unit. The alternate plan process may also be used to facilitate voluntary landscape, riparian or stream restoration. In all cases, the alternate planning process will result in a plan that provides protection to public resources at least equal in overall effectiveness as provided by the act and rules while seeking to minimize constraints to the management of the affected lands.

(2) The legislature has found in RCW 76.13.100(2) that small forest landowners should also have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources. These alternate plans are intended to provide flexibility to small forest landowners that will still provide protection of riparian functions based on specific field conditions or stream conditions on the landowner's property.

(3) Alternate plans do not replace other rules that recognize different types of landowner plans. For examples, see ((e.g.,)) WAC ((222-08-035)) 222-08-160(3), 222-12-041, 222-16-080(6), 222-16-100(1), and 222-16-105.

(4) Landowners are encouraged to communicate with the departments of ecology, fish and wildlife, affected Indian tribes, the National Marine Fisheries Service, the United States Fish and Wildlife Service and other interested parties prior to submission of an application accompanied by an alternate plan.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-12-045 *Adaptive management program.

***Adaptive management program.** In order to further the purposes of chapter 76.09 RCW, the board has adopted and will manage a formal science-based program, as set forth in WAC (~~(222-08-035)~~) 222-08-160(2). Refer to board manual section 22 for program guidance and further information.

(1) **Purpose:** The purpose of the program is to provide science-based recommendations and technical information to assist the board in determining if and when it is necessary or advisable to adjust rules and guidance for aquatic resources to achieve resource goals and objectives. The board may also use this program to adjust other rules and guidance. The goal of the program is to affect change when it is necessary or advisable to adjust rules and guidance to achieve the goals of the forests and fish report or other goals identified by the board. There are three desired outcomes: Certainty of change as needed to protect targeted resources; predictability and stability of the process of change so that landowners, regulators and interested members of the public can anticipate and prepare for change; and application of quality controls to study design and execution and to the interpreted results.

(2) **Program elements:** By this rule, the board establishes an active, ongoing program composed of the following initial elements, but not to exclude other program elements as needed:

(a) **Key questions and resource objectives:** Upon receiving recommendations from the TFW policy committee, or similar collaborative forum, the board will establish key questions and resource objectives and prioritize them.

(i) Projects designed to address the key questions shall be established in the order and subject to the priorities identified by the board.

(ii) Resource objectives are intended to ensure that forest practices, either singularly or cumulatively, will not significantly impair the capacity of aquatic habitat to:

(A) Support harvestable levels of salmonids;

(B) Support the long-term viability of other covered species; or

(C) Meet or exceed water quality standards (protection of beneficial uses, narrative and numeric criteria, and anti-degradation).

(iii) Resource objectives consist of functional objectives and performance targets. Functional objectives are broad statements regarding the major watershed functions potentially affected by forest practices. Performance targets are the measurable criteria defining specific, attainable target forest conditions and processes.

(iv) Resource objectives are intended for use in adaptive management, rather than in the regulatory process. Best management practices, as defined in the rules and manual, apply to all forest practices regardless of whether or not resource objectives are met at a given site.

(b) **Participants:** The board will manage the program and has empowered the following entities to participate in the program: The cooperative monitoring evaluation and research committee (CMER), the TFW policy committee (or similar collaborative forum), the adaptive management program administrator, and other participants as directed to con-

duct the independent scientific peer review process. The program will strive to use a consensus-based approach to make decisions at all stages of the process. Specific consensus-decision stages will be established by CMER and approved by the board. Ground rules will follow those established by the TFW process as defined in the board manual.

(i) **CMER.** By this rule, the board establishes a cooperative monitoring evaluation and research (CMER) committee to impose accountability and formality of process, and to conduct research and validation and effectiveness monitoring to facilitate achieving the resource objectives. The purpose of CMER is to advance the science needed to support adaptive management. CMER also has ongoing responsibility to continue research and education in terrestrial resource issues. CMER will be made up of members that have expertise in a scientific discipline that will enable them to be most effective in addressing forestry, fish, wildlife, and landscape process issues. Members will represent timber landowners, environmental interests, state agencies, county governments, federal agencies and tribal governments from a scientific standpoint, not a policy view. CMER members will be approved by the board. This will not preclude others from participating in and contributing to the CMER process or its subcommittees. CMER shall also develop and manage as appropriate:

(A) Scientific advisory groups and subgroups;

(B) Research and monitoring programs;

(C) A set of protocols and standards to define and guide execution of the process including, but not limited to, research and monitoring data, watershed analysis reports, interdisciplinary team evaluations and reports, literature reviews, and quality control/quality assurance processes;

(D) A baseline data set used to monitor change; and

(E) A process for policy approval of research, monitoring, and assessment projects and use of external information, including the questions to be answered and the timelines.

(ii) **TFW policy committee (policy).** TFW, or a similar collaborative forum, is managed by a policy committee (hereafter referred to in this section as "policy"). Policy membership is self-selecting, and at a minimum should include representatives of the following caucuses: Timber landowners (industrial and nonindustrial private landowners); environmental community; tribal governments; county governments; state departments (including fish and wildlife, ecology, and natural resources); and federal agencies (including National Marine Fisheries Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and U.S. Forest Service). Policy members will participate without compensation or per diem.

(iii) **Adaptive management program administrator (program administrator).** The department will employ a full-time independent program administrator to oversee the program and support CMER. The program administrator will have credentials as a program manager, scientist, and researcher. The program administrator will make reports to the board and have other responsibilities as defined in the board manual.

(c) **Independent scientific peer review process.** By this rule, the board establishes an independent scientific peer review process to determine if the scientific studies that address program issues are scientifically sound and techni-

cally reliable; and provide advice on the scientific basis or reliability of CMER's reports. Products that must be reviewed include final reports of CMER funded studies, certain CMER recommendations, and pertinent studies not published in a CMER-approved, peer-reviewed journal. Other products that may require review include, but are not limited to, external information, work plans, requests for proposal, subsequent study proposals, the final study plan, and progress reports.

(d) **Process:** The following stages will be used to affect change for managing adaptive management proposals and approved projects. If consensus cannot be reached by participants at any stage, the issue will be addressed within the dispute resolution process.

(i) **Proposal initiation:** Adaptive management proposals can be initiated at this stage by any of the participants listed in (2)(b) of this subsection to the program administrator, or initiation may be proposed by the general public at board meetings. Proposals must provide the minimum information as outlined in the board manual and demonstrate how results of the proposal will address key questions and resource objectives or other program rule and/or guidance issues. The board may initiate proposals or research questions in the course of fulfilling their duties according to statute.

(ii) **Proposal approval and prioritization:** The program administrator will manage the proposal approval and prioritization process at this stage and consult with CMER on the program workplan. CMER proposals will be forwarded by the program administrator to policy and then to the board. The board will make the final determination regarding proposal approvals and prioritization. The board will act on proposal approval and prioritization in a timely manner.

(iii) **CMER implementation of proposal:** Board approved proposals are systematically implemented through CMER at this stage by the program administrator.

(iv) **Independent scientific peer review:** An independent scientific peer review process will be used at identified points within this stage of implementation depending upon the study and will be used on specified final studies or at the direction of the board.

(v) **CMER committee technical recommendations:** Upon completion, final CMER reports and information will be forwarded at this stage by the program administrator to policy in the form of a report that includes technical recommendations and a discussion of rule and/or guidance implications.

(vi) **Policy petitions for amendment:** Upon receipt of the CMER report, policy will prepare program rule amendments and/or guidance recommendations in the form of petitions for amendment. When completed, the petitions and the original CMER report and/or other information as applicable will be forwarded by the program administrator to the board for review and action. Policy recommendations to the board will be accompanied by formal petitions for rule making (RCW 34.05.330). Policy will use the CMER results to make specific petitions to the board for amending:

(A) The regulatory scheme of forest practices management (Title 222 WAC rules and board manual);

(B) Voluntary, incentive-based, and training programs affecting forestry;

(C) The resource objectives; and

(D) CMER itself, adaptive management procedures, or other mechanisms implementing the recommendations contained in the most current forests and fish report.

(vii) **Board action to adopt petitions for amendment:** Upon receiving a formal petition for amendment to rules and/or guidance, the board will take appropriate and timely action. There will be a public review of all petitions as applicable. The board will make the final determination.

(e) **Biennial fiscal and performance audits.** The board shall require biennial fiscal and performance audits of the program by the department or other appropriate and accepting independent state agency.

(f) **CMER five-year peer review process.** Every five years the board will establish a peer review process to review all work of CMER and other available, relevant data, including recommendations from the CMER staff. There will be a specified, but limited, period for public review and comment.

(g) **Funding.** Funding is essential to implement the adaptive management program, which is dependent on quality and relevant data. The department shall request biennial budgets to support the program priority projects and basic infrastructure needs including funding to staff the adaptive management program administrator position. A stable, long-term funding source is needed for these activities.

(h) **Dispute resolution process.** If consensus cannot be reached through the adaptive management program process, participants will have their issues addressed by this dispute resolution process. Potential failures include, but are not limited to: The inability of policy to agree on research priorities, program direction, or recommendations to the board for uses of monitoring and/or research after receiving a report from CMER; the inability of CMER to produce a report and recommendation on schedule; and the failure of participants to act on policy recommendations on a specified schedule. Key attributes of the dispute resolution process are:

(i) Specific substantive and benchmark (schedule) triggers will be established by the board for each monitoring and research project for invoking dispute resolution;

(ii) The dispute resolution process will be staged in three parts and may be applied at any level of the adaptive management process. Any participant, or the board, may invoke each succeeding stage, if agreement is not reached by the previous stage, within the specified time (or if agreements are not substantially implemented) as follows:

(A) Stage one will be an attempt by CMER and policy to reach consensus. On technical issues, CMER shall have up to six months to reach a consensus unless otherwise agreed upon by policy. Parties may move the process to stage two after an issue has been before policy for six months unless otherwise agreed. The time periods commence from referral of technical issues to CMER, report by CMER to policy, or the raising of a nontechnical issue (or matter not otherwise referable to CMER) directly at policy.

(B) Stage two will be either informal mediation or formal arbitration. Within one month, one or the other will be picked, with the default being formal unless otherwise agreed. Stage two will be completed within three months (including the one month to select the process) unless otherwise agreed.

(C) If stage two does not result in consensus, stage three will be action by the board. The board will consider policy and CMER reports, and majority and minority thinking regarding the results and uses of the results can be brought forward to the board. The board will make the final determination regarding dispute resolution.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-12-046 Cumulative effects. The purpose of this section is to identify how the forest practices rules address changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices. This interaction is referred to as "cumulative effects." The following approaches have been taken:

(1) Title 222 WAC establishes minimum standards for all forest practices, regardless of the class of forest practices application.

(2) Forest practices which have a potential for a substantial impact on the environment are classified as Class IV-Special or Class IV-General by WAC 222-16-050 and receive an evaluation as to whether or not a detailed statement must be prepared pursuant to chapter 43.21C RCW.

(3) Certain rules are designed to focus on specific aspects of cumulative effects of forest practices. For example:

(a) WAC ~~((222-08-035))~~ 222-08-160 requires continuing review of the forest practices rules and voluntary processes and adopts the concept of adaptive management. WAC 222-12-045 also adopts adaptive management.

(b) WAC 222-12-040 allows alternate plans that provide protection to public resources at least equal in overall effectiveness to the protection provided in the Forest Practices Act and rules.

(c) WAC 222-24-051 allows the department to require road maintenance and abandonment plans.

(d) WAC 222-30-025 addresses harvest unit size and separation requirements.

(e) Chapter 222-22 WAC addresses cumulative effects of forest practices on, at a minimum, the public resources of fish, water, and capital improvements of the state or its political subdivisions.

(f) Chapter 222-46 WAC establishes the enforcement policy for forest practices.

(4) The board shall continue consultation with the departments of ecology, fish and wildlife, natural resources, and archaeology and historic preservation, forest landowners, and ~~((federally recognized))~~ affected tribes to further protect cultural resources and wildlife resource issues.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-080 Administrative and judicial appeals. ~~((Forest landowners, timber owners, operators, counties and any aggrieved parties as defined by the Forest Practices Act may appeal to the forest practices appeals board certain actions and omissions of the department, including: Approval or disapproval of an application; any conditions~~

~~attached to approval of an application, notices to comply, stop work orders, civil penalties assessed or notices of violation. Provided, That no notices to comply may be appealed to the appeals board unless first appealed to the department under RCW 76.09.090. The))~~ (1) Certain decisions of the department may be appealed to the forest practices appeals board under chapter 76.09 RCW except that notices to comply may not be appealed to the forest practices appeals board unless first appealed to the department under RCW 76.09.090. Proceedings at the forest practices appeals board are governed by the Administrative Procedure Act, chapter 34.05 RCW, and Title 223 WAC.

(2) Forest practices applications and notifications related to qualifying projects under chapter 43.21L RCW may be appealed to the environmental and land use hearings board. Proceedings at the environmental and land use hearings board are governed by chapter 43.21L RCW and chapter 199-08 WAC.

(3) A petition for judicial review of a decision of the appeals boards may be ((appealed to the superior court)) filed in accordance with the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW. In addition, RCW 43.21L.140 governs judicial review of a final decision of the environmental and land use hearings board.

AMENDATORY SECTION (Amending WSR 01-12-042 [04-05-087], filed 5/30/01 [2/17/04], effective 7/1/01 [3/19/04])

WAC 222-12-090 Forest practices board manual. When approved by the board the manual serves as an advisory technical supplement to these forest practices rules. The department, in cooperation with the departments of fish and wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.

(2) Standards for identifying channel migration zones and bankfull channel features.

(3) **Guidelines** for forest roads.

(4) **Guidelines** for clearing slash and debris from Type Np and Ns Waters.

(5) **Guidelines** for landing location and construction.

(6) **Guidelines** for determining acceptable stocking levels.

(7) **Guidelines** for riparian management zones.

(8) **Guidelines** for wetland delineation.

(9) **Guidelines** for wetland replacement or substitution.

(10) A list of nonnative wetland plant species.

(11) The standard methodology ~~((, which))~~ for conducting watershed analysis shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC. The methodology shall also include a cultural resource module that shall specify the quantitative and qualitative methods, indices of resource conditions, and guidelines for developing

voluntary management strategies for cultural resources. Except for cultural resources, the department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.

(12) **Guidelines** for forest chemicals.

(a) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).

(b) Guidelines for aerial applications of pesticides and other forest chemicals under chapter 222-38 WAC.

(13) **Guidelines** for determining fish use for the purpose of typing waters under WAC 222-16-031.

(14) **Survey protocol for marbled murrelets.** The Pacific Seabird survey protocol dated January 6, 2003, and formally filed *on methods for surveying marbled murrelets in Forests: A Revised Protocol for Land Management and Research*, shall be used when surveying for marbled murrelets in a stand. Surveys are valid if they were conducted in compliance with the board recognized Pacific Seabird Group survey protocols in effect at the beginning of the season in which the surveys were conducted.

(15) The department shall, in consultation with the department of fish and wildlife, develop **platform protocols** for use by applicants in estimating the number of platforms, and by the department in reviewing and classifying forest practices under WAC 222-16-050. These protocols shall include:

(a) A sampling method to determine platforms per acre in the field;

(b) A method to predict the number of platforms per acre based on information measurable from typical forest inventories. The method shall be derived from regression models or other accepted statistical methodology, and incorporate the best available data; and

(c) Other methods determined to be reliable by the department, in consultation with the department of fish and wildlife.

(16) **Guidelines** for evaluating potentially unstable slopes and landforms.

(17) **Guidelines** for the small forest landowner forestry riparian easement program.

(18) **Guidelines** for riparian open space program.

(19) **Guidelines** for hardwood conversion.

(20) **Guidelines** for financial assurances.

(21) **Guidelines** for alternate plans.

(22) **Guidelines** for adaptive management program.

(23) **Guidelines** for field protocol to locate mapped divisions between stream types and perennial stream identification.

(24) **Guidelines** for interim modification of bull trout habitat overlay.

(25) **Guidelines** for bull trout presence survey protocol.

(26) **Guidelines** for placement strategy for woody debris in streams.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending WSR 04-05-087, filed 2/17/04, effective 3/19/04)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these rules:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Alluvial fan**" see "sensitive sites" definition.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Aquatic resources**" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*) and their respective habitats.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Bankfull depth**" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section. (See board manual section 2.)

"**Bankfull width**" means:

(a) For streams - the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross-section (see board manual section 2).

(b) For lakes, ponds, and impoundments - line of mean high water.

(c) For tidal water - line of mean high tide.

(d) For periodically inundated areas of associated wetlands - line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

"**Basal area**" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"**Bedrock hollows**" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchanneled valleys on hillslopes. (See board manual section 16 for identification criteria.)

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically

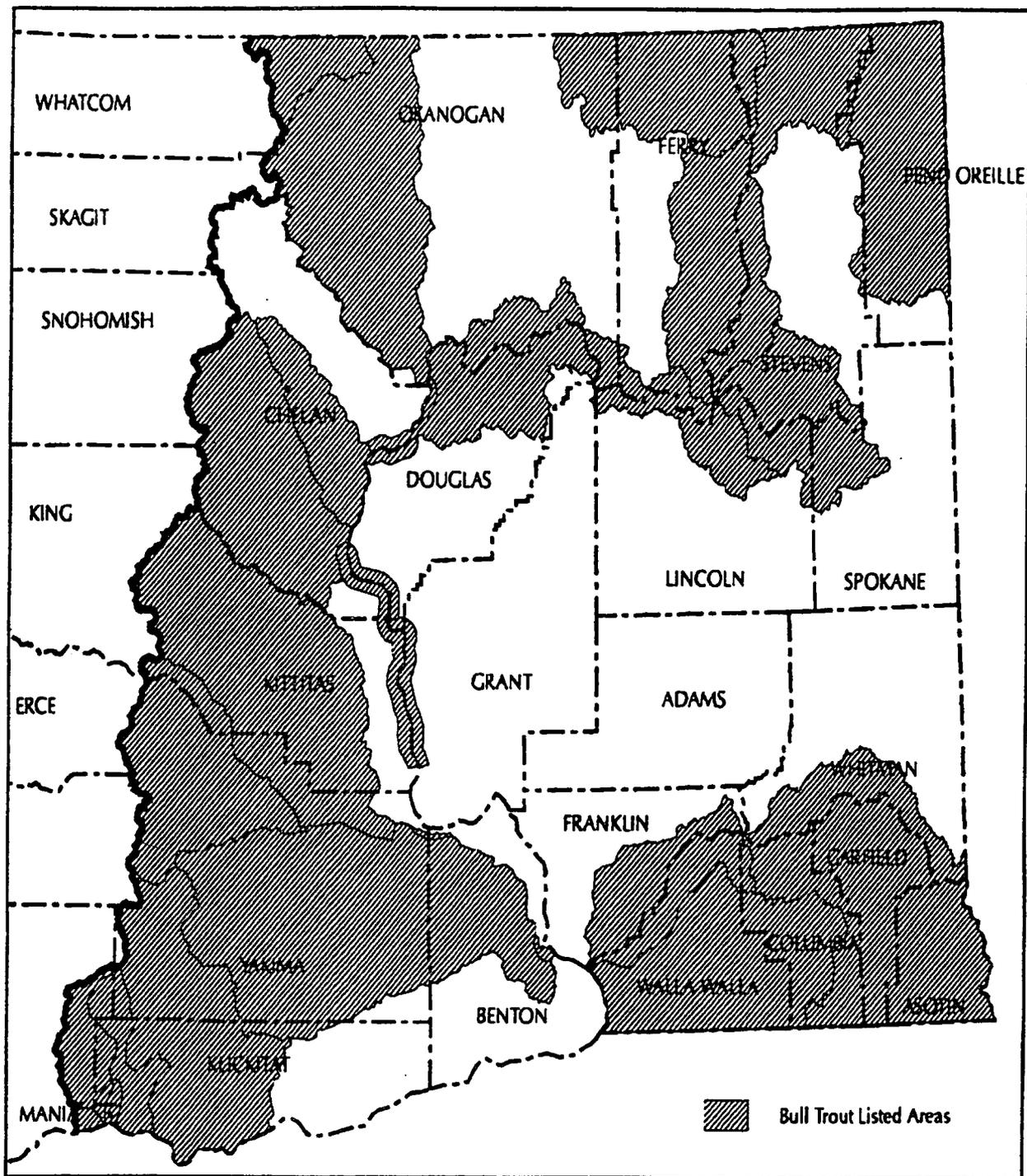
16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, Labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western hemlock, lodgepole pine, western red cedar, ((whitepine,)) western white pine, Oregon crabapple, or quaking aspen, and may be associated with open water. This includes nutrient-poor fens. (See board manual section 8.)

"Borrow pit" ((shall)) means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Bull trout habitat overlay" means those portions of Eastern Washington streams containing bull trout habitat as identified on the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol and the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally-based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources, fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is discovered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

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Bull Trout Overlay Map



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"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream ((See the board manual section 2 for descriptions and illustrations of CMZs, delineation guidelines)), except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See board manual

section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation.

Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means tear-drop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are broadly concave both longitudinally and across the slope, but

may contain sharp ridges separating the headwater channels. (See board manual section 16 for identification criteria.)

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local ((government)) governmental entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" ((shah)) means a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practices activities which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 16 for identification criteria.)

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" is a reference point on a pathway and not an endpoint for stands. DFC means the stand conditions of a mature riparian forest at 140 years of age, the midpoint between 80 and 200 years. Where basal area is the only stand attribute used to describe 140-year old stands, these are referred to as the "Target Basal Area."

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of

higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"Drainage structure" means a construction technique or feature that is built to relieve surface runoff and/or intercepted ground water from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: Cross drains, relief culverts,

ditch diversions, water bars, or other such structures demonstrated to be equally effective.

"Eastern Washington" means the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.

Eastern Washington Definition Map



"Eastern Washington timber habitat types" means elevation ranges associated with tree species assigned for the purpose of riparian management according to the following:

Timber Habitat Types	Elevation Ranges
ponderosa pine	0 - 2500 feet
mixed conifer	2501 - 5000 feet
high elevation	above 5000 feet

"Edge" of any water means the outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Equipment limitation zone" means a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water. It applies to all perennial and seasonal nonfish bearing streams.

"Erodible soils" means those soils that, when exposed or displaced by a forest practices operation, would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

- Clearcuts;
 - Seed tree harvests in which twenty or fewer trees per acre remain after harvest;
 - Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;
 - Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;
 - Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;
 - Partial cutting in which fewer than fifty trees per acre remain after harvest;
 - Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and
 - Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.
- Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting

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green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities.

"**Fish**" means for purposes of these rules, species of the vertebrate taxonomic groups of *Cephalospidomorphi* and *Osteichthyes*.

"**Fish habitat**" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.

"**Flood level - 100 year((+))**" ~~((s))~~ means a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

Flow information from gauging stations;

Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual section 2.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"**Forest land**" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"**Forest land owner**" ~~((shall))~~ means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: Provided, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"**Forest practice**" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;
Harvesting, final and intermediate;
Precommercial thinning;
Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"**Forest road**" means ways, lanes, roads, or driveways on forest land used since 1974 for forest practices or forest management activities such as fire control. "Forest roads" does not include skid trails, highways, or county roads except where the county is a forest landowner or operator.

"**Forest trees**" ~~((excludes))~~ does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than ((ten)) 15 years ~~((-- Provided, That Christmas trees are forest trees and: Provided further, That this exclusion applies only to))~~ if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"**Full bench road**" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"**Green recruitment trees**" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"**Ground water recharge areas for glacial deep-seated slides**" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 16 for identification criteria.)

"**Headwater spring**" means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

"**Herbicide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"**Historic site**" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"**Horizontal distance**" means the distance between two points measured at a 0% slope.

"**Hyporheic**" means an area adjacent to and below channels where interstitial water is exchanged with channel

water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. (See board manual section 16 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practices activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

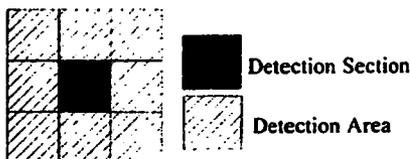
"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local ((government)) governmental entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.



"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than two years but no longer than five years.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

(a) A nest is located; or

(b) Downy chicks or eggs or egg shells are found; or

(c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or

(d) Birds calling from a stationary location within the area; or

(e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) and (2) above, the sites will be presumed to be occupied based upon observation of circling described in (1)(e), unless a two-year survey following the 2003 Pacific Seabird Group (PSG) protocol has been completed and an additional third-year of survey following a method listed below is completed and none of the behaviors or conditions listed in (1)(a) through (d) of this definition are observed. The landowner may choose one of the following methods for the third-year survey:

(a) Conduct a third-year survey with a minimum of nine visits conducted in compliance with 2003 PSG protocol. If one or more marbled murrelets are detected during any of these nine visits, three additional visits conducted in compliance with the protocol of the first nine visits shall be added to the third-year survey. Department of fish and wildlife shall be consulted prior to initiating third-year surveys; or

(b) Conduct a third-year survey designed in consultation with the department of fish and wildlife to meet site specific conditions.

(4) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(5) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(6) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines

or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" ((shall)) means any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide, but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

Ponderosa pine habitat type
all hardwoods
ponderosa pine
western larch
Douglas-fir
western red cedar

Mixed conifer habitat type
all hardwoods
western larch
ponderosa pine
western red cedar
western white pine
Douglas-fir
lodgepole pine

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"Public resources" means water, fish, and wildlife and in addition ((shall)) means capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian function" includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

"Riparian management zone (RMZ)" means:

(1) For Western Washington

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Western Washington Total RMZ Width
I	200'
II	170'
III	140'
IV	110'
V	90'

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-021(2).)

(2) For Eastern Washington

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Eastern Washington Total RMZ Width
I	130'
II	110'

Site Class	Eastern Washington Total RMZ Width
III	90' or 100*
IV	75' or 100*
V	75' or 100*

* Dependent upon stream size. (See WAC 222-30-022.)

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-022(2).)

(3) For exempt 20 acre parcels, a specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"RMZ core zone" means:

(1) For Western Washington, the 50 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021.)

(2) For Eastern Washington, the 30 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) For Western Washington, the area measured horizontally from the outer boundary of the core zone of a Type S or F Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) For Eastern Washington, the area measured horizontally from the outer boundary of the core zone 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the outer boundary of the core zone. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer boundary of the inner zone and the RMZ width as specified in the riparian management zone definition above. RMZ width is measured from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means the establishment of any new sub-grade including widening, realignment, or modification of an existing road prism, with the exception of replacing or installing drainage structures, for the purposes of managing forest land under Title 222 WAC.

"Road maintenance" means any road work specifically related to maintaining water control or road safety and visibility (such as; grading, spot rocking, resurfacing, roadside vegetation control, water barring, ditch clean out, replacing or installing relief culverts, cleaning culvert inlets and outlets) on existing forest roads.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of

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the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Sensitive sites" are areas near or adjacent to Type Np Water and have one or more of the following:

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type Np Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and/or fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type Np Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock, excluding muck with perennial water at or near the surface throughout the year. Water delivery to the Type Np channel is visible by someone standing in or near the stream.

(3) **Type Np intersection** is the intersection of two or more Type Np Waters.

(4) **Headwater spring** means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

(5) **Alluvial fan** means ~~((an erosional))~~ a depositional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a higher order channel; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site class" means a grouping of site indices that are used to determine the 50-year or 100-year site class. In order to determine site class, the landowner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021 and 222-30-022.)

(1) For Western Washington

Site class	50-year site index range (state soil survey)
I	137+
II	119-136
III	97-118
IV	76-96
V	<75

(2) For Eastern Washington

Site class	100-year site index range (state soil survey)	50-year site index range (state soil survey)
I	120+	86+
II	101-120	72-85
III	81-100	58-71
IV	61-80	44-57
V	≤60	<44

(3) For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, (soil survey) and detailed in the associated forest soil summary sheets. If the soil survey does not report a site index for the location or indicates noncommercial or marginal forest land, or the major species table indicates red alder, the following apply:

(a) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

(b) In Western Washington, if no site index is reported in the soil survey, use the site class for conifer in the most physiographically similar adjacent soil polygon.

(c) In Eastern Washington, if no site index is reported in the soil survey, assume site class III, unless site specific information indicates otherwise.

(d) If the site index is noncommercial or marginally commercial, then use site class V.

See also section 7 of the board manual.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practices activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

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"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads (including associated right of way clearing) in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream for more than 250 feet on either side of the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Temporary road" means a forest road that is constructed and intended for use during the life of an approved forest practices application/notification. All temporary roads must be abandoned in accordance to WAC 222-24-052(3).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"Timber" ((~~shall~~)) means forest trees, standing or down, of a commercial species, including Christmas trees. However, timber does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Unconfined avulsing stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"**Yarding corridor**" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"**Young forest marginal habitat**" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-16-030 Water typing system. Until the fish habitat water type maps described below are adopted by the board, the Interim Water Typing System established in WAC 222-16-031 will continue to be used. The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes will classify streams, lakes and ponds. The department will prepare water type maps showing the location of Type S, F, and N (Np and Ns) Waters within the forested areas of the state. The maps will be based on a multiparameter, field-verified geographic information system (GIS) logistic regression model. The multiparameter model will be designed to identify fish habitat by using geomorphic parameters such as basin size, gradient, elevation and other indicators. The modeling process shall be designed to achieve a level of statistical accuracy of 95% in separating fish habitat streams and non-fish habitat streams. Furthermore, the demarcation of fish and nonfish habitat waters shall be equally likely to over and under estimate the presence of fish habitat. These maps shall be referred to as "fish habitat water typing maps" and shall, when completed, be available for public inspection at region offices of the department.

Fish habitat water type maps will be updated every five years where necessary to better reflect observed, in-field conditions. Except for these periodic revisions of the maps, on-the-ground observations of fish or habitat characteristics will generally not be used to adjust mapped water types. However, if an on-site interdisciplinary team using nonlethal methods identifies fish, or finds that habitat is not accessible due to naturally occurring conditions and no fish reside above the blockage, then the water type will be immediately changed to reflect the findings of the interdisciplinary team. The finding will be documented on a water type update form provided by the department and the fish habitat water type map will be updated as soon as practicable. If a dispute arises concerning a water type the department shall make available informal conferences, as established in WAC 222-46-020 which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types.

The waters will be classified using the following criteria:

***(1) "Type S Water"** means all waters, within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

***(2) "Type F Water"** means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands avail-

able for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish.

(3) **"Type Np Water"** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual((:)) section 23), then Type Np Waters begin at a point along the channel where the contributing basin area is:

(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(b) At least 52 acres in other locations in Western Washington; or

(c) At least 300 acres in Eastern Washington.

(4) **"Type Ns Water"** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

* (5) For purposes of this section:

(a) **"Residential unit"** means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) **"Camping unit"** means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) **"Public accommodation facility"** means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) **"Natural waters"** only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) **"Seasonal low flow"** and **"seasonal low water"** mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) **"Channel width and gradient"** means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negli-

gible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps (see board manual section 23).

(g) **"Intermittent streams"** means those segments of streams that normally go dry.

(h) **"Fish habitat"** means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-16-031 Interim water typing system. Until the fish habitat water type maps mentioned above are available, waters will be classified according to the interim water typing system described below. If a dispute arises concerning a water type, the department shall make available informal conferences, which shall include the departments of fish and wildlife, ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

For the purposes of this interim water typing system see the following table:

Water Type Conversion Table

Permanent Water Typing	Interim Water Typing
Type "S"	Type 1 Water
Type "F"	Type 2 and 3 Water
Type "Np"	Type 4 Water
Type "Ns"	Type 5 Water

* (1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

* (2) **"Type 2 Water"** means segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and only considered Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided by the department of fish and wildlife,

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department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Are within a federal, state, local or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit.

(d) Are used by fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater within the bankfull width and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

(e) Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish bearing stream and be accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish through a drainage with less than a 5% gradient.

***(3) "Type 3 Water"** means segments of natural waters which are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife, ~~(and)~~ or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by fish for spawning, rearing or migration. The requirements for determining fish use are described in the board manual section 13. If fish use has not been determined:

(i) Waters having any of the following characteristics are presumed to have fish use:

(A) Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater in width in Eastern Washington; and having a gradient of 16 percent or less(-);

(B) Stream segments having a defined channel ~~(of)~~ of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater within the bankfull width in Eastern Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size in Western Washington or

greater than 175 acres contributing basin size in Eastern Washington, based on hydrographic boundaries;

(C) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

(D) Ponds of impoundments having a surface area greater than 0.5 acre at seasonal low water.

(ii) The department shall waive or modify the characteristics in (i) of this subsection where:

(A) Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting fish;

(B) Snowmelt streams have short flow cycles that do not support successful life history phases of fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

(C) Sufficient information about a geomorphic region is available to support a departure from the characteristics in (i) of this subsection, as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

***(4) "Type 4 Water"** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type 4 Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual, section 23), then Type 4 Waters begin at a point along the channel where the contributing basin area is:

(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(b) At least 52 acres in other locations in Western Washington;

(c) At least 300 acres in Eastern Washington.

***(5) "Type 5 Waters"** means all segments of natural waters within the bankfull width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water. Type 5 Waters must be physically connected by an above-ground channel system to Type 1, 2, 3, or 4 Waters.

***(6) For purposes of this section:**

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps. (See board manual section 23.)

AMENDATORY SECTION (Amending WSR 02-17-099, filed 8/20/02, effective 9/20/02)

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 holms 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))~~ as provided in chapter 58.17 RCW;

~~(b) Forest practices (other than those in Class I) on lands that have been or are being converted to another use((-));~~

~~((b)) (c) 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((-)); or~~

~~(d) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except where the forest landowner provides one of the following:~~

~~(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest products operations for ten years accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or~~

~~(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.~~

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 the State Environmental Policy Act.

(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))~~ forest 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))~~ 77.55.100) 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, as provided in chapter 58.17 RCW, or on lands that have been or are being converted to another use. No forest practice enumerated below involving timber harvest or road construction may be conducted as a "Class II" if it takes place within urban growth areas designated pursuant to chapter 37.70A RCW. 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 practices 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) 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) 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))~~ 77.55.100).

* (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.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-16-070 Pesticide uses with the potential for a substantial impact on the environment. *To identify forest practices involving pesticide uses that have the potential for a substantial impact on the environment, the department shall apply the process prescribed in this section. See WAC 222-16-050 (1)(a).

(1) Pesticide list - The department shall maintain a list of all pesticides registered under chapter 15.58 RCW for use in forest practices. The department shall conduct, in consultation with the departments of ecology, health, agriculture, and fish and wildlife, an annual review of the list for the purpose of including new pesticides and/or removing those pesticides which have been prohibited from use. The list shall be available to the public at each of the department's offices. A list of the department's offices and their addresses appears at WAC 332-10-030. In preparing the pesticide list, the department shall include information on the following characteristics:

(a) Active ingredients, name brand or trade mark, labeled uses, pesticide type, EPA-registration number;

(b) Toxicity of the pesticide based on the Environmental Protection Agency (EPA) label warning under 40 C.F.R. 156.10 (h)(1), listed as "caution," "warning," "danger," or "danger - poison" except as modified to consider aquatic or mammalian toxicity; and

(c) Whether the pesticide is a state restricted use pesticide for the protection of ground water under WAC ((16-228-164(1))) 16-228-1231.

(2) Key for evaluating applications. To determine whether aerial application of a pesticide has the potential for a substantial impact on the environment, the department shall apply the following analysis:

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED PESTICIDES

Question	Question	Resp	Action
1 (a)	Is the pesticide on the pesticide list (WAC 222-16-070(1))?	Yes No	go to 2 go to 1(b)
1 (b)	Is the pesticide being used under a Dept of Agriculture Experimental Use Permit (WAC ((16-228-125)) 16-228-1450)?	Yes No	Class III Class IV Sp
2	Is the toxicity rating for the pesticide to be used "Danger - Poison" as designated in the pesticide list (WAC 222-16-070 (1)(b))?	Yes No	Class IV Sp go to 3(a)
3 (a)	Is <i>Bacillus thuringiensis</i> (BT) the only pesticide being used on this application?	Yes No	go to 3(b) go to 4(a)
3 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area that is susceptible to the BT strain being used?	Yes No	Class IV Sp Class III

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED PESTICIDES

Question	Question	Resp	Action
4 (a)	Is this operation occurring over ground water with a high susceptibility to contamination as specified in EPA 910/ ((9-87-189)) 9-87-169 or in documentation provided by the department of ecology?	Yes No	go to 4(b) go to 5(a)
4 (b)	Is this pesticide a state restricted use pesticide for the protection of ground water under WAC ((16-228-164(1))) 16-228-1231?	Yes No	Class IV Sp go to 5(a)
5 (a)	Is the operation adjacent (within 100 ft.) of surface water?	Yes No	go to 5(b) go to 5(e)
5 (b)	Determine the toxicity rating from the pesticide list: *Is the toxicity rating "Caution" or "Warning"? *Is the toxicity rating "Danger"?	Yes Yes	go to 5(c) go to 5(d)
5 (c)	Is there a Group A or B water surface water system (WAC 246-290-020) intake OR a fish hatchery intake within one half mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (d)	Is there a Group A or B water surface system intake OR a fish hatchery intake within 1 mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (e)	Is the operation within 200 feet of the intake of a Group A or B spring water system?	Yes No	Class IV Sp go to 5(f)
5 (f)	Is the operation applying a pesticide in a Type A or B wetland?	Yes No	Class IV Sp go to 6(a)
6 (a)	Does any portion of the planned operation cover 240 or more contiguous acres? Pesticide treatment units will be considered contiguous if they are separated by less than 300 feet or treatment dates of adjacent units are less than 90 days apart.	Yes No	Class IV Sp go to 6(b)
6 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area?	Yes No	Class IV Sp go to 6(c)
6 (c)	If there is a special concern identified for this pesticide in the Board manual, does it apply to this application?	Yes No	Class IV Sp Class III

(3) Special concerns (see WAC 222-16-070 (2)6(c)) shall be evaluated by the department of agriculture. Information regarding special concerns shall be presented to the board for review. Approved special concerns shall be included in the board manual. Special concerns shall include situations where use of pesticides has the potential for a substantial impact on the environment, beyond those covered specifically in the key in subsection (2) of this section.

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AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-16-080 Critical habitats (state) of threatened and endangered species. (1) Critical habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle (*Haliaeetus leucocephalus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf (*Canis lupus*) - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear (*Ursus arctos*) - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain (woodland) caribou (*Rangifer tarandus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

(e) Oregon silverspot butterfly (*Speyeria zerene hippolyta*) - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of fish and wildlife.

(f) Peregrine falcon (*Falco peregrinus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane (*Grus canadensis*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of fish and wildlife.

(h) Northern spotted owl((-)) (*Strix occidentalis caurina*)

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable

spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical habitat (state) for northern spotted owls.

(i) Western pond turtle (*Clemmys marmorata*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet((-)) (*Brachyramphus marmoratus*)

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior or Commerce, or specific forest practices within those habitats, have been determined to have the potential for a substantial impact on

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the environment and therefore are designated as critical habitats (state) of threatened or endangered species.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior or Commerce, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical habitats (state) of threatened or endangered species. This list shall be submitted to the board within 30 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior or Commerce which have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for inclusion in Class IV - Special forest practices. The department shall submit the list to the board within 30 days of the date the United States Secretary of the Interior or Commerce publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats included by the board in Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical habitats (state) of threatened and endangered species and specific forest practices designated in subsections (1) and (2) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission and by the United States Secretary of Interior or Commerce.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical habitat (state) (WAC 222-16-080 WAC 222-16-050 (1)(b)) for a species, if the forest practices are consistent with one or more of the following:

(a) Documents addressing the needs of the affected species provided such documents have received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.:

(i) A habitat conservation plan and incidental take permit; or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. § 1536(b) or 1539(a); or

(ii) An "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or

(iii) Other conservation agreement entered into with a federal agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species; or

(iv) A rule adopted by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service for the conservation of an affected species pursuant to 16 U.S.C. section 1533(d); or

(b) Documents addressing the needs of the affected species so long as they have been reviewed under the State Environmental Policy Act;

(i) A landscape management plan; or

(ii) Another cooperative or conservation agreement entered into with a state resource agency pursuant to its statutory authority for fish and wildlife protection;

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1);

(f) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105; or

(g) A take avoidance plan issued by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service prior to March 20, 2000.

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical habitat (state) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-010 Applications and notifications—Policy. (1) No Class II, III or IV forest practices shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) The department shall prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) Except as provided in subpart (4) below, applications and notifications shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)).

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) Where an application for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) Transfer of the approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the

landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) Applications and notifications must be delivered to the department at the appropriate region office. Delivery should be in person or by registered or certified mail.

(8) Applications and notifications shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the CRGNSA special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within 45 days. An environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications. A local ((government)) governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that have been or will be converted to a use other than commercial timber production or on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW, if the local ((government)) governmental entity has jurisdiction and has an ordinance requiring such permit. If a notification or application is delivered in person to the department by the operator or the operator's authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

(9) An operator's name, if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within 48 hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(10) Financial assurances may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-020 Application time limits. (1) A properly completed application shall be approved, conditioned or disapproved within 30 calendar days for Class III and Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For "Class IV" applications when the department or the lead agency has determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within 60 days, unless the commissioner of public lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least 10 days before promulgation of such an order extending the time, the applicant shall be given written notice that the department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the commissioner of public lands or obtain an informal conference with the department regarding the proposed extension.

(c) When they involve lands (~~platted after January 1, 1960, or lands to be converted~~) described in (c)(i) through (iv) of this subsection, the applicable time limit shall be no less than 14 business days from transmittal to the (~~county~~) local governmental entity unless the (~~county~~) local governmental entity has waived its right to object or has consented to approval of the application:

(i) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(ii) Lands that have been or are being converted to another use;

(iii) Lands which are not to be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-24-050); or

(iv) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW.

(2) Unless the (~~county~~) local governmental entity has waived its rights under the act or consents to approval, the department shall not approve an application involving lands platted after January 1, 1960, (~~in the process of being platted or proposed to be~~) as provided in chapter 58.17 RCW, or lands that have been or are being converted to another use until at least 14 business days from the date of transmittal to the (~~county~~) local governmental entity.

(3) **Where a notification** is submitted for operations which the department determines involve Class III or IV forest practices, the department shall issue a stop work order or take other appropriate action. If the operations were otherwise in compliance with the act and forest practices rules, no penalty should be imposed for those operations which occurred prior to the enforcement action: Provided, That no damage to a public resource resulted from such operations, and the operations commenced more than 5 days from receipt by the department of the notification.

(4) **If the department** fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the oper-

ation may commence (~~if provided~~) except that this provision shall not apply where:

(a) The (~~county~~) local governmental entity objects and the application involves lands platted after January 1, 1960, as provided in chapter 58.17 RCW, or lands (~~to be~~) that have been or are being converted where the county's right of objection is 14 business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

(c) Compliance with the State Environmental Policy Act requires additional time.

(5) **If seasonal field** conditions prevent the department from being able to properly evaluate the application, the department may disapprove the application until field conditions allow for an on-site review.

(6) An application for a multiyear permit must be approved, conditioned or disapproved by the department within 45 days of receiving a complete application.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-040 Approval conditions. (1) **Whenever an approved** application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department 2 business days before the commencement of actual operations.

(2) **All approvals are** subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

(3) **Local (~~government~~) governmental** entity conditions.

(a) RCW 76.09.240(~~(4)~~) (4) allows a local (~~government~~) governmental entity to exercise limited land use planning or zoning authority on certain types of forest practices. This subsection is designed to ensure that local (~~government~~) governmental entities exercise this authority consistent with chapter 76.09 RCW and the rules in Title 222 WAC. The system provided for in this subsection is optional.

(b) This subsection only applies to Class IV general applications on lands that (~~will be~~) have been or are being converted to a use other than commercial timber production or to Class IV general applications on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW.

(c) The department shall transmit the applications to the appropriate local (~~government~~) governmental entity within two business days from the date the department receives the application.

(d) The department shall condition the application consistent with the request of the local (~~government~~) governmental entity if:

(i) The local (~~government~~) governmental entity has adopted a clearing and/or grading ordinance that addresses the items listed in (e) of this subsection and requires a permit;

(ii) The local ((government)) governmental entity has issued a permit under the ordinance in (i) that contains the requested conditions; and

(iii) The local ((government)) governmental entity has entered into an interagency agreement with the department consistent with WAC 222-50-030 addressing enforcement of forest practices.

(e) The local ((government)) governmental entity conditions may only cover:

(i) The location and character of open space and/or vegetative buffers;

(ii) The location and design of roads;

(iii) The retention of trees for bank stabilization, erosion prevention, and/or storm water management; or

(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.

(f) Local ((government)) governmental entity conditions shall be filed with the department within twenty-nine days of the filing of the application with the department or within fourteen business days of the transmittal of the application to the local ((government)) governmental entity or one day before the department acts on the application, whichever is later.

(g) The department shall incorporate local ((government)) governmental entity conditions consistent with this subsection as conditions of the forest practices approval.

(h) Any exercise of local ((government)) governmental entity authority consistent with this subsection shall be considered consistent with the forest practices rules in this chapter.

(4) Lead agency mitigation measures.

(a) This subsection is designed to specify procedures for a mitigated DNS process that are consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-11 WAC.

(b) This subsection applies to all Class IV applications in which the department is not the lead agency under SEPA. (See WAC 197-11-758.)

(c) The department shall transmit the application to the lead agency within two business days from the date the department receives the application.

(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.

(e) The lead agency threshold determination and any mitigation measures must be filed with the department within the later of (i) twenty-nine days of the receipt of the application by the department, (ii) fourteen business days of the transmittal of the application to the lead agency if the lead agency is a local ((government)) governmental entity; or (iii) one day before the department acts on the application.

(f) Unless the applicant clarifies or changes the application to include mitigation measures specified by the lead agency, the department must deny the application or require an EIS. (See WAC 197-11-738.)

(g) If the department does not receive a threshold determination from the lead agency by the time it must act on the application, the department shall deny the application.

(5) CRGNSA special management area.

(a) **Policy.** The states of Oregon and Washington have entered into a Compact preauthorized by Congress to imple-

ment the CRGNSA Act, 16 U.S.C. §§ 544, et seq. chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

(i) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(ii) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1). 16 U.S.C. § 544a.

The forest practices rules addressing forest practices in the CRGNSA special management area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and the intent of the Washington state legislature in the Forest Practices Act. These rules are designed to recognize the public interest in sound natural resource protection provided by the Act and the Compact, including the protection to public resources, recreation, and scenic beauty. These rules are designed to achieve a comprehensive system of laws and rules for forest practices in the CRGNSA special management area which avoids unnecessary duplication, provides for interagency input and intergovernmental and tribal coordination and cooperation, considers reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

(b) The CRGNSA special management area guidelines shall apply to all forest practices within the CRGNSA special management area. Other forest practices rules also apply to these forest practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive requirements controls. To the extent there is an incompatibility between the guidelines and another rule, the guidelines control. Copies of the guidelines can be obtained from the department Southeast and Southwest regional offices and Olympia office, as well as from the Columbia River Gorge commission and the U.S. Forest Service.

(c) The department shall review and consider the U.S. Forest Service review statement and shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making any determination on an application or notification within the CRGNSA special management area.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-050 Conversion to nonforest use. (1) If an application to harvest signed by the landowner indicates that within 3 years after completion, the forest land will be converted to a specified active use which is incompatible with timber growing, the reforestation requirements of these rules shall not apply and the information relating to reforestation on the application form need not be supplied. However, if such specified active use is not initiated within 3 years after such harvest is completed, the reforestation requirements (see chapter 222-34 WAC) shall apply and such reforestation shall be completed within 1 additional year.

(2) For Class II, III, and IV special forest practices, if a landowner wishes to maintain the option for conversion to a

use other than commercial timber operation the landowner may request the appropriate local ((government)) governmental entity to approve a conversion option harvest plan. This plan, if approved by the local ((government)) governmental entity and followed by the landowner, shall release the landowner from the six-year moratorium on future development, but does not create any other rights. The conversion option harvest plan shall be attached to the application or notification as a condition. Violation of the conversion option harvest plan will result in the reinstatement of the local ((government)) governmental entity's right to the six-year moratorium. Reforestation requirements will not be waived in the conversion option harvest plan. Reforestation rules shall apply at the completion of the harvest operation as required in chapter 222-34 WAC. Nothing herein shall preclude the local ((government)) governmental entity from charging a fee to approve such a plan. (See RCW 76.09.060 (3)(b)(i).)

(3) If the application or notification does not state that any land covered by the application or notification will be or is intended to be converted to a specified active use incompatible with commercial timber operations ~~((and except as provided in subsection (2) of this section, the local government entity may, for six years after the date of the application, refuse to accept, process, or approve any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land subject to the application. (See)), or if the forest practice takes place without a required application or notification, then the provisions of RCW 76.09.060 (3)(b)(i)((-)))~~ regarding the six-year moratorium apply.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-20-060 Deviation from prior application or notification. Substantial deviation from a notification or an approved application requires a revised notification or application. Other deviations may be authorized by a supplemental directive, notice to comply or stop work order. The department shall notify the departments of fish and wildlife, and ecology, and affected Indian tribes and the appropriate ((county)) local governmental entity of any supplemental directive, notice to comply or stop work order involving a deviation from a prior notification or approved application, except where such notice has been waived.

(This version assumes ownership of land and trees)

FORESTRY RIPARIAN EASEMENT

THIS GRANT OF A FORESTRY RIPARIAN EASEMENT is made on this _____ day of _____, 20____, by _____ [a _____ corporation, limited liability company, partnership, limited partnership, limited liability partnership] [husband and wife] [individual][or others as appropriate] having an address at _____ ("Grantor"), to and in favor of the State of Washington, acting by and through the Department of Natural Resources ("Grantee").

NEW SECTION

WAC *222-20-075 Exotic forest insect or disease outbreaks. Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the state department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(1) For the purposes of this section, exotic forest insect or disease has the same meaning as defined in RCW 76.06-020.

(2) In order to minimize adverse impacts to public resources, control measures must be based in integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(3) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(4) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands has declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

(5) Nothing under this section relieves agencies conducting or directing control efforts from requirements of the federal Clean Water Act as administered by the department of ecology under RCW 98.48.260.

AMENDATORY SECTION (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

WAC 222-21-030 Document standards. (1) **Riparian easement.** The riparian easement document must be substantially in the following form, but may be modified by the small forest landowner office wherever necessary to accomplish the purposes of RCW 76.13.120.

PERMANENT

1.0 RECITALS AND PURPOSE

1.1 This Easement is intended to implement the goals of the Forest Practices Salmon Recovery Act, ESHB 2091, sections 501 through 504, chapter 4, Laws of 1999 ("Salmon Recovery Act"). The goals include avoiding the further erosion of the small forest landowners' economic viability and willingness or ability to keep the lands in forestry use which would reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, through the establishment of a forestry riparian easement program to acquire easements from small forest landowners along riparian and other areas of value to the state for protection of aquatic resources.

1.2 This Easement is intended to protect the Qualifying Timber and riparian functions associated with the qualifying timber located on the Easement Premises as provided by the terms of this Easement as set forth in Exhibit B while preserving all lawful uses of the Easement Premises by Grantor consistent with the Easement objectives, and to provide Grantee with the ability to enforce the terms thereof.

1.3 The Easement Premises and Qualifying Timber are located, as described in Exhibit A; that the encumbrances, if any, are as set forth in Exhibit A, that all Exhibits referenced herein and attachments thereto are incorporated into this Easement as part of this Easement; and that the Grantor wishes to execute this Forestry Riparian Easement.

2.0 CONVEYANCE AND CONSIDERATION

2.1 In consideration of the mutual covenants contained herein, including without limitation the monetary consideration set forth in subsection 2.2 below, the Grantor does hereby voluntarily warrant and convey to the Grantee a Forestry Riparian Easement under the Salmon Recovery Act, which Easement shall remain in full force and effect from the date hereof until it expires on (month, date, year) *[50 years from the date the complete and accurate forest practices application is submitted]*, which Easement shall consist of the rights and restrictions expressly set forth herein.

2.2 In consideration of this Easement, Grantee shall pay to Grantor the sum of _____ dollars (\$____.00).

IN WITNESS WHEREOF Grantor and Grantee have executed this instrument on the day and year written.

GRANTOR:

Date: _____

By: _____

GRANTEE:

State of Washington

By and Through the Department of Natural Resources

Date: _____

(Title)

PERMANENT

(insert form of acknowledgement, as appropriate)

EXHIBIT A

A1 DESCRIPTION AND LOCATION OF QUALIFYING TIMBER

The Qualifying Timber includes the following categories of trees located within the Easement Premises:

[List the categories relevant to particular Easement, i.e., Permanent, Reserve, Replacement, Uneconomic, or Other Qualifying Timber.] The Qualifying Timber is located as shown in the documentation attached hereto as Attachment A-1.

A2 DESCRIPTION AND LOCATION OF EASEMENT PREMISES

The Easement Premises is [insert description using the standards developed under Section 504(9)(b) of the Salmon Recovery Act including the categories relevant to particular Easement, i.e., Riparian Area and Other Easement Premises] as shown in the documentation attached hereto as Attachment A-2 and is located in [insert legal subdivision/lot, etc., in which the Easement Premises exists.]

A3 BASELINE IDENTIFICATION, DESCRIPTION AND DOCUMENTATION OF PROPERTY, EASEMENT PREMISES AND QUALIFYING TIMBER

The parties agree that the current use, condition of the Easement Premises and the condition of the Qualifying Timber are documented in the inventory of their relevant features and identified in Attachment A-3 ("Baseline Documentation"), and that this documentation provides, collectively, an accurate representation at the time of this grant and is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

EXHIBIT B

FORESTRY RIPARIAN EASEMENT TERMS AND CONDITIONS

B1 DEFINITIONS

The terms used in this Easement, including without limitation the following, are defined by the forest practices rules incorporated in Attachment B-1 to this Exhibit.

- "Danger Tree"
- "Easement Premises"
- "Qualifying Timber"
- "Hazard Substances"
- "Riparian Areas"
- "Riparian Function"

B2 RIGHTS OF GRANTEE ****[Subsection B2.4 should be included only for multiple entry Easements.]****

To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement:

B2.1 To enforce the terms of this Easement as provided in subsection **B9**.

PERMANENT

B2.2 To enter upon the Easement Premises, or to allow Grantee's agents or any experts consulted by Grantee in exercising its rights under this Easement to enter upon the Easement Premises in order to evaluate Grantor's compliance with this Easement, and to otherwise enforce the terms of this Easement.

B2.3 To convey, assign, or otherwise transfer Grantee's interests herein to another agency of the State of Washington, as provided for and limited by Section 504 of the Salmon Recovery Act.

B2.4 Where harvest of Reserve Qualifying Timber is allowed during the term of this Easement, to approve Replacement Qualifying Timber that will be protected by this Easement as provided in subsection **B3.5**.

B3 RESTRICTIONS ON GRANTOR ***[Subsection B3.6 should be included only for multiple entry Easements.]***

B3.1 Inconsistent Uses of Riparian Easement Premises

Any use of, or activity on, the Easement Premises inconsistent with the purposes and terms of this Easement, including without limitation converting to a use incompatible with growing timber, is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in, or permit any such use or activity.

B3.2 Property Outside the Easement Premises

Grantor may change its use of the property on which the Easement lies to any lawful use. Grantor shall provide Grantee sixty (60) days notice prior to changing the use of the property as a courtesy to Grantee.

B3.3 Qualifying Timber

Grantor shall not engage in any activity which would result in the cutting of Qualifying Timber or the removal of that timber from the Easement Premises, except as provided in this Easement. The parties further agree that use, harvest, and treatment of the Qualifying Timber are restricted according to the forest practices rules in Attachment B-1.

B3.4 Danger Trees and Salvage

Grantor may cut a Danger Tree, which shall be left in place within the Easement Premises or moved by Grantor inside the Easement Premises. Grantor shall notify DNR within seven (7) days that a Danger Tree has been felled. Grantor shall not engage in any activities pertaining to salvage of Qualifying Timber including without limitation blowdown except as provided for in the forest practices rules.

B3.5 Harvest of Reserve Qualifying Timber and Designation of Replacement Qualifying Timber on Riparian Area Easement Premises

Grantor shall not, during the term of this Easement, harvest or remove any Reserve Qualifying Timber except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of Reserve Qualifying Timber, except that where a permit or approval is required from any governmental entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark Reserve Qualifying Timber and Replacement Qualifying Timber, where Replacement Qualifying Timber is required, for review by Grantee. Grantor's thirty (30) days written notice to Grantee is effective only after both Reserve Qualifying Timber and Replacement Qualifying Timber (if required) are marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest and remove the Reserve Qualifying Timber. If Grantee does object and gives Grantor written notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest or remove Reserve Qualifying Timber until the objection is resolved. If Reserve Qualifying Timber is to be removed but Replacement Qualifying Timber is required to be left standing for the balance of the term of this Easement, then

Grantor shall mark the Replacement Qualifying Timber and, if approved by Grantee, such Timber shall be considered Qualifying Timber under this Easement. A new Exhibit A shall be prepared along with a supplement to this Easement, executed by Grantor and Grantee, and recorded.

B3.6 Multiple Entry Easements

Grantor shall not, during the term of this Easement, make multiple entry harvests except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of timber, except that where a permit or approval is required from any government entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark timber to be removed for review by Grantee. Grantor's thirty (30) day written notice to Grantee is effective only after the timber to be removed is marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest. If Grantee does object and gives Grantor notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest until the objection is resolved.

B4 RESERVED RIGHTS

Other than specifically provided herein, Grantor is not restricted in its use of the Easement Premises.

B5 PUBLIC ACCESS

No right of public access to or across, or any public use of, the Easement Premises or the property on which it lies is conveyed by this Easement.

B6 COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION

B6.1 Costs, Legal Requirements, and General Liabilities

Except as is expressly placed on Grantee herein, Grantor retains full responsibility for the Qualifying Timber and Easement Premises. Grantor shall keep the Qualifying Timber and Easement Premises free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor. Grantor remains responsible for obtaining all permits required by law.

B6.2 Taxes and Obligations

Grantor shall remain responsible for payment of taxes or other assessments imposed on the Easement Premises or the Qualifying Timber. Grantor shall furnish Grantee with satisfactory evidence of payment upon request.

B6.3 Hold Harmless

B6.3.a Grantor

To the extent permitted by law, Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantor; (b) a breach by Grantor of its obligations under subsection **B3**; (c) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law or requirement by Grantor in any way affecting, involving, or relating to the Easement Premises or the Qualifying

Timber; (d) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantor.

B6.3.b Grantee

To the extent permitted by law, Grantee hereby releases and agrees to hold harmless, indemnify and defend Grantor and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantee; or (b) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantee.

B7 SUBSEQUENT TRANSFERS

B7.1 Grantee

Grantee may assign, convey, or otherwise transfer its interest as evidenced in this Easement, but only to another agency of the State of Washington under any circumstances in which it determines, in its sole discretion, that such transfer is in the best interests of the state. Grantee shall give written notice to Grantor of the same within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.2 Grantor

Grantor may assign, convey, or otherwise transfer without restriction its interest in the Easement Premises or the Qualifying Timber identified in Exhibit A hereto. Grantor agrees to incorporate the restrictions of the Easement in any deed or other legal instrument by which Grantor divests itself of all or a portion of its interests in the Easement Premises or Qualifying Timber. Grantor shall give written notice to the Grantee of the assignment, conveyance, or other transfer of all or a portion of its interest in the Easement Premises or the Qualifying Timber within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.3 Termination of Grantor's Rights and Obligations

The Grantor's personal rights and obligations under this Easement terminate upon transfer of the Grantor's interest in the property on which the Easement lies or the Qualifying Timber, except that liability under the Easement for acts or omissions occurring prior to transfer shall survive transfer.

B8 DISPUTE RESOLUTION

The parties may at any time by mutual agreement use any nonbinding alternative dispute resolution mechanism with a qualified third party acceptable to Grantor and Grantee. Grantor and Grantee shall share equally the costs charged by the third party. The existence of a dispute between the parties with respect to this Easement, including without limitation the belief by one party that the other party is in breach of its obligations hereunder, shall not excuse either party from continuing to fully perform its obligations under this Easement. The dispute resolution provided for in this subsection is optional, not obligatory, and shall not be required as a condition precedent to any remedies for enforcement of this Easement.

B9 ENFORCEMENT**B9.1 Remedies**

Either party may bring any action in law or in equity in the superior court for the county in which the Easement Premises are located or in Thurston County (subject to venue change under law) to enforce any provision of this Easement, including without limitation, injunctive relief (permanent, temporary, or ex parte, as appropriate) to prohibit a breach of this Easement, enforce the rights and obligations of this Easement, restore Qualifying Timber cut or removed in violation of this Easement or for damages. Grantee may elect to pursue some or all of the remedies provided herein.

B9.1.a Damages and Restoration

If Grantor cuts or removes (or causes another to cut or remove) Qualifying Timber from the Easement Premises in violation of this Easement, Grantee shall be entitled to damages, or restoration. Damages for the cutting of Qualifying Timber or the removal of Qualifying Timber from the Easement Premises in violation of the terms of this Easement may be up to triple stumpage value times the proportion of the original compensation. The maximum amount of damages shall be calculated according to the following formula:

Where:

S_v = The stumpage value of the Qualifying Timber that is cut or removed from the Easement Premises at the time the damage was done;

C = The compensation paid by the state to the Grantor at the time the Easement became effective;

V_q = The original value of Qualifying Timber at the time the Easement became effective as calculated in WAC 222-21-050.

$$\text{Maximum Damages} = 3 * S_v * (C / V_q)$$

In addition the Grantor shall pay interest on the amount of the damages at the maximum interest rate allowable by law.

Grantee's rights to damages under this section shall survive termination. Restoration of Qualifying Timber may include either replanting or replacing trees or both, as determined by Grantee, in its sole discretion, to be appropriate. Replanting shall be by nursery transplant seedlings approved by Grantee with subsequent silvicultural treatment including without limitation weed control and fertilization approved by Grantee. Replacing trees shall be accomplished by designation of replacement trees of the size and species acceptable to Grantee. If replacement trees are designated to replace the Qualifying Timber cut or removed in violation of the terms of this Easement, the designated trees shall be thereafter treated as Qualifying Timber under this Easement.

B9.1.b Injunctive Relief. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate and that Grantee may be entitled to injunctive relief, both prohibitive and mandatory, in addition to other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies.

B9.1.c Relationship to Remedies in Other Laws. The remedies provided for in this section are in addition to whatever other remedies the state may have under other laws including without limitation the Forest Practices Act. Nothing in this Easement shall be construed to enlarge, diminish or otherwise alter the authority of the state to administer state law.

B9.2 Costs of Enforcement

The costs, including reasonable attorneys' fees, of enforcing this Easement shall be borne by Grantee unless Grantee prevails in a judicial action to enforce the terms of this Easement, in which case costs shall be borne by Grantor, provided that nothing herein shall make Grantor liable for costs incurred by Grantee in taking enforcement actions pursuant to other state laws.

B9.3 Forbearance/Waiver

Enforcement of this Easement against the Grantor is at the sole discretion of the Grantee, and vice versa. Any forbearance by either party to exercise its rights hereunder in the event of a breach by the other party shall not be deemed a waiver by the forbearing party of the term being breached or of a subsequent breach of that term or any other term or of any other of the forbearing party's rights under this Easement.

B9.4 Waiver of Certain Defenses

Grantor hereby waives any defense of laches, estoppel, or prescription.

B9.5 Acts Beyond Grantor's Control

Nothing herein shall be construed to entitle Grantee to bring any action or claim against Grantor on account of any change in the condition of the Easement Premises or of the Qualifying Timber that was not within Grantor's control, including without limitation fire, flood, storms, insect and disease outbreaks, earth movement, or acts of trespassers, that Grantor could not reasonably have anticipated and prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Premises or Qualifying Timber resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantor could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

B10 CONSTRUCTION AND INTERPRETATION**B10.1 Controlling Law**

Interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B10.2 Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The parties acknowledge that each has had an opportunity to have this Easement reviewed by an attorney and agree that the terms shall not be presumptively construed against either party.

B10.3 Captions

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

B11 AMENDMENT

This Easement may be jointly amended. The amendments shall be in writing and signed by authorized representatives. Grantee shall record any such amendments in a timely fashion in the official records of ___ County, Washington. All amendments shall be consistent with the purposes of this Easement.

B12 TERMINATION

Grantee may unilaterally terminate this Easement if it determines, in its sole discretion, that termination is in the best interest of the State of Washington. Grantee shall provide thirty (30) days written notice to Grantor of such termination.

B13 EXTINGUISHMENT

If circumstances arise that render the purpose of this Easement impossible to accomplish, this Easement can only be extinguished, in whole or in part, by mutual agreement of the parties or through judicial proceedings brought by one of the parties. Grantee shall be entitled to the value of the Easement as such value is determined pursuant to forest practices rules governing extinguishment or eminent domain, if no rule for extinguishment exists.

B14 CONDEMNATION

If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantee shall be entitled to compensation in accordance with the forest practices rules.

B15 NOTICE

Notices given pursuant or in relation to this Easement shall be in writing and delivered personally or by first class mail (postage prepaid), addressed as follows:

(a) If to Grantor:

(b) If to Grantee:

Washington State Department of Natural Resources
Small Forest Landowner Office
DNR-Forest Practices Division
P.O. Box 47012
Olympia, WA 98504-7012

If either party's address changes during the term of this Easement, that party shall notify the other party of the change.

PERMANENT

Any notice required to be given hereunder is considered as being received: (i) If delivery in person, upon personal receipt by the person to whom it is being given; or (ii) if delivered by first class U.S. mail and properly addressed, three (3) days after deposit into the U.S. mail; or (iii) if sent by U.S. mail registered or certified, upon the date receipt is acknowledged by the recipient.

B16 RECORDATION

Grantee shall record this instrument in timely fashion in the official records of County, Washington and may rerecord it at any time as may be required to preserve its rights in this Easement.

B17 GENERAL PROVISIONS

B17.1 Severability

If any provision in this Easement, or the application hereof to any person or circumstance, is found to be invalid, the remainder of this Easement, or the application hereof to other persons or circumstances shall not be affected thereby and shall remain in full force and effect.

B17.2 Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Easement. This instrument supercedes all other and prior discussions, negotiations, understandings, or agreements of the parties. No alteration or variation of this instrument shall be binding unless set forth in an amendment to this instrument consistent with subsection **B11**.

B17.3 Successors and Assigns

The covenants, terms, conditions, and restrictions of this Easement shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective successors and assigns and shall continue as a servitude running with the property on which the Easement lies for the term of this Easement set forth in subsection **2.1**.

B17.4 No Forfeiture

Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

B17.5 Counterparts

The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original as against the party that has signed it. In the event of any disparity between counterparts produced, the recorded counterpart shall be controlling.

B17.6 References to Statutes and Rules

Except as otherwise specifically provided, any references in this Easement to any statute or rule shall be deemed to be a reference to such statute or rule in existence at the time the action is taken or the event occurs.

B17.7 Adherence to Applicable Law

Any activity pertaining to or use of the Easement Premises or Qualifying Timber shall be consistent with applicable federal, state, or local law including chapter 76.09 RCW, the Forest Practices Act, chapter 36.70A RCW, the Growth Management Act, chapter 90.58 RCW, the Shoreline Management Act, chapter ~~((75.20))~~ 77.55 RCW, Construction Projects in State Waters Act ("Hydraulics Code"), the Endangered Species Act (16 U.S.C. Sec. 1531, et seq.), and the Clean Water Act (33 U.S.C. Sec. 1251, et seq.), and rules adopted pursuant to these statutes (including all rules adopted under Section 4(d) of the Endangered Species Act).

(2) **Forestry riparian easement application.** The following items are required for a complete forestry riparian easement application:

(a) A certification by the small forest landowner that he or she meets the qualifications of a small forest landowner;

~~((b))~~ ~~((The small forest landowners' timber tax identification number and permission to access harvest information at the department of revenue;~~

~~((c))~~ All forest practices application numbers for the commercially reasonable harvest units and the associated qualifying timber on the property;

~~((d))~~ ~~((c))~~ The dates and areas of all planned future harvest entries on the easement premises;

~~((e))~~ ~~((d))~~ A preliminary litigation guarantee or similar report from a title company for the tax parcels that contain the easement premises;

~~((f))~~ ~~((e))~~ A description of past and current uses of the easement premises;

~~((g))~~ ~~((f))~~ Any information not specifically listed that the small forest landowner office needs to evaluate the easement and eligibility of the small forest landowner.

(3) **Baseline documentation.** The baseline documentation must describe the features and current uses on the easement premises and the qualifying timber. The information provided by the small forest landowner in subsection (2) of this section is considered part of the baseline documentation. In addition, the department will provide documentation that includes, but is not limited to:

(a) Cruise information consistent with the standards and methods in WAC 222-21-040;

(b) An assessment to determine site condition and potential liabilities associated with the proposed riparian easement (see the board manual section 17 for procedures for conducting assessment); and

(c) A description of the easement consistent with WAC 222-21-035.

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

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-22-010 Policy. *(1) Public resources may be adversely affected by the interaction of two or more forest practices. The purpose of this rule is to address these cumulative effects of forest practices on the public resources of fish, water, and capital improvements of the state or its political subdivisions.

(2) Cultural resources may also be adversely affected by the interaction of two or more forest practices. The purpose of this rule is also to achieve management and protection of

these cultural resources by fostering cooperative relationships and agreements between landowners and tribes.

*~~((3))~~ (3) The long-term objective of this rule is to protect and restore these public and cultural resources and the productive capacity of fish habitat adversely affected by forest practices while maintaining a viable forest products industry. For public resources, the board intends that this be accomplished through prescriptions designed to protect and allow the recovery of fish, water, and capital improvements of the state or its political subdivisions, through enforcement against noncompliance of the forest practices rules in this Title 222 WAC, and through voluntary mitigation measures. For cultural resources, with the exception of sites registered on the department of archaeology and historic preservation's archaeological and historic sites data base and all resources that require mandatory protection under chapters 27.44 and 27.53 RCW, the board intends that this be accomplished through voluntary management strategies. This system also allows for monitoring, subsequent watershed analysis, and adaptive management.

*~~((2))~~ (4) Adaptive management in a watershed analysis process requires advances in technology and cooperation among resource managers. The board finds that it is appropriate to promulgate rules to address certain cumulative effects by means of the watershed analysis system, while recognizing the pioneering nature of this system and the need to monitor its success in predicting and preventing adverse change to fish, water, and capital improvements of the state and its political subdivisions. The board supports the use of voluntary, cooperative approaches to address impacts to cultural resources. If voluntary approaches are shown to be ineffective, the board may find it appropriate to seek additional protection to prevent adverse impacts to cultural resources.

*~~((3))~~ (5) Many factors other than forest practices can have a significant effect on the condition of fish, water, ~~((and))~~ capital improvements of the state or its political subdivisions, and cultural resources. Nonforest practice contributions to cumulative effects should be addressed by the appropriate jurisdictional authorities. When a watershed analysis identifies a potential adverse effect on fish, water, ~~((and))~~ capital improvements of the state or its political subdivisions, or cultural resources from activities that are not regulated under chapter 76.09 RCW, the department should notify any governmental agency or Indian tribe having jurisdiction over those activities.

*~~((4))~~ (6) The rules in this chapter set forth a system for identifying the probability of change and the likelihood of this change adversely affecting specific characteristics of fish, water, and capital improvements of the state or its political subdivisions, and for using forest management prescriptions to avoid or minimize significant adverse effects from forest practices. In addition, the rules in this chapter set forth

a system for identifying the likelihood of adverse change affecting cultural resources and for developing voluntary management strategies to avoid or minimize significant adverse impacts to cultural resources. The rules in this chapter are in addition to, and do not take the place of, the other forest practices rules in this Title 222 WAC or laws for the protection of cultural resources including chapters 27.44 and 27.53 RCW.

*~~((5))~~ (7) These rules are intended to be applied and should be construed in such a manner as to minimize the delay associated with the review of individual forest practices applications and notifications by increasing the predictability of the process and the appropriate management response.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-22-020 Watershed administrative units.

*~~(1)~~ For purposes of this chapter, the state is divided into areas known as watershed administrative units (WAUs). The department shall, in cooperation with the departments of ecology, fish and wildlife, ~~((federally recognized))~~ affected Indian tribes, local government entities, forest land owners, and the public, define WAUs throughout the state. The department shall identify WAUs on a map.

*~~(2)~~ WAUs should generally be between 10,000 to 50,000 acres in size and should be discrete hydrologic units. The board recognizes, however, that identified watershed processes and potential effects on resource characteristics differ, and require different spatial scales of analysis, and the department's determination of the WAUs should recognize these differences. The board further recognizes that mixed land uses will affect the ability of a watershed analysis to predict probabilities and identify causation as required under this chapter, and the department's conduct and approval of a watershed analysis under this chapter shall take this effect into account.

*~~(3)~~ The department is directed to conduct periodic reviews of the WAUs adopted under this chapter to determine whether revisions are needed to more efficiently assess potential cumulative effects. The department shall consult the departments of ecology, fish and wildlife, affected Indian tribes, forest land owners, local government entities, and the public. From time to time and as appropriate, the department shall make recommendations to the board regarding revision of watershed administrative units.

NEW SECTION

WAC 222-22-045 Cultural resources. (1) Any watershed analysis initiated after July 1, 2005, is not complete unless the analysis includes a completed cultural resource module. Cultural resources module completeness is detailed in Appendix II of the module and includes affected tribe(s) participation, appropriate team qualification, required maps and forms, assessment of tribal and nontribal cultural resources, peer review of assessment, management strategies based on causal mechanism reports from synthesis, and agreement on the management strategies by affected tribes, landowners and land managers on the field managers team

and, where applicable, the department of archaeology and historic preservation.

(2) When conducting watershed analysis revisions pursuant to WAC 222-22-090(4), the cultural resources module is not required if the watershed analysis was approved by the department prior to the date in subsection (1) of this section. However, the board encourages use of the cultural resources module upon such review.

(3) The department does not review or approve cultural resources management strategies because their implementation is voluntary. The department of archaeology and historic preservation must be consulted and agree on all management strategies involving sites registered on the department of archaeology and historic preservation's archaeological and historic sites data base and all resources that require mandatory protection under chapters 27.44 and 27.53 RCW.

(4) The cultural resources module may be conducted as a stand-alone method separate from a watershed analysis to identify, protect, and manage cultural resources. When used as a stand-alone methodology:

(a) Selected components of the methodology may be used as the participants deem necessary or the module may be used in its entirety.

(b) The methodology may be used at a variety of geographic scales and may be initiated by tribes, land managers or landowners. Landowner or land manager initiation is not limited by the minimum ownership threshold requirements in this chapter. Nothing in this rule grants any person or organization initiating the cultural resources module as a stand-alone method any right of entry onto private property.

(c) Watershed analysis notice requirements to the department do not apply.

(d) Participants are encouraged to engage people that meet the minimum qualifications to conduct the module as set by this chapter.

(e) In order for a stand-alone module to be incorporated into a watershed analysis, the module must have been conducted in accordance with the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 97-24-091, filed 12/3/97, effective 1/3/98)

WAC 222-22-050 Level 1 watershed resource assessment. *(1) To begin a watershed resource analysis on a WAU, the department shall assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1). A forest land owner or owners acting under WAC 222-22-040(3) may assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1) or, at its option, may begin the analysis under WAC 222-22-060. Each level 1 team shall include persons qualified in the disciplines indicated as necessary in the methodology, and should generally include a person or persons qualified in the following:

- (a) Forestry;
- (b) Forest hydrology;
- (c) Forest soil science or geology;
- (d) Fisheries science; ~~((and))~~
- (e) Geomorphology;
- (f) Cultural anthropology; and

(g) Archaeology.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense. The cultural resources module must include the participation of the affected Indian tribe(s). See board manual section 11, J. Cultural Resources Module, Introduction, 1) Using this methodology in formal watershed analysis.

*(2) The level 1 team shall perform an inventory of the WAU utilizing the methodology, indices of resource condition, and checklists set forth in the manual in accordance with the following:

(a) The team shall survey the WAU for fish, water, and capital improvements of the state or its political subdivisions, and ((shall display their location on a map of the WAU)) conduct an assessment for cultural resources.

(b) The team shall display the location of these resources on a map of the WAU, except mapping of tribal cultural resources sites must be approved by the affected tribe. The location of archaeological sites shall be on a separate map that will be exempt from public disclosure per RCW 42.17.310 (1)(k).

(c) For public resources (fish, water, and capital improvements of the state or its political subdivisions):

(i) The team shall determine the current condition of the resource characteristics of these resources, shall classify their condition as "good," "fair," or "poor," and shall display this information on the map of the WAU. The criteria used to determine current resource conditions shall include indices of resource condition, in addition to such other criteria as may be included in the manual. The indices will include two levels, which will distinguish between good, fair, and poor conditions.

((b)) (ii) The team shall assess the likelihood that identified watershed processes in a given physical location will be adversely changed by one forest practice or by cumulative effects and that, as a result, a material amount of water, wood, sediment, or energy (e.g., affecting temperature) will be delivered to fish, water, or capital improvements of the state or its political subdivisions. (This process is referred to in this chapter as "adverse change and deliverability.") (For example, the team will address the likelihood that road construction will result in mass wasting and a slide that will in turn reach a stream.) The team shall rate this likelihood of adverse change and deliverability as "high," "medium," "low," or "indeterminate." Those likelihoods rated high, medium, or indeterminate shall be displayed on the map of the WAU.

((e)) (iii) For each instance of high, medium, or indeterminate likelihood of adverse change and deliverability identified under ((b)) (c)(ii) of this subsection, the team shall assess the vulnerability of potentially affected resource characteristics. Criteria for resource vulnerability shall include indices of resource condition as described in ((a)) (c)(i) of this subsection and quantitative means to assess the likelihood of material adverse effects to resource characteristics caused by forest practices. (For example, the team will assess the potential damage that increased sediment caused by a slide reaching a stream will cause to salmon spawning habitat that is already in fair or poor condition.) The team

shall rate this vulnerability "high," "medium," "low," or "indeterminate" and shall display those vulnerabilities on the map of the WAU. If there are no other criteria in the manual to assess vulnerability at the time of the assessment, current resource condition shall be used, with good condition equivalent to low vulnerability, fair condition equivalent to medium vulnerability, and poor condition equivalent to high vulnerability.

((d)) (iv) The team shall identify as areas of resource sensitivity, as provided in table 1 of this section, the locations in which a management response is required under WAC 222-22-070(3) because, as a result of one forest practice or of cumulative effects, there is a combination of a high, medium, or indeterminate likelihood of adverse change and deliverability under ((b)) (c)(ii) of this subsection and a low, medium, high, or indeterminate vulnerability of resource characteristics under (c)(iii) of this subsection:

Table 1
Areas of Resource Sensitivity and Management Response

<i>Likelihood of Adverse Change and Deliverability</i>			
	Low	Medium	High
Low	Standard rules	Standard rules	Response: Prevent or avoid
Medium	Standard rules	Response: Minimize	Response: Prevent or avoid
High	Standard rules	Response: Prevent or avoid	Response: Prevent or avoid

Vulnerability

The team shall display the areas of resource sensitivity on the map of the WAU.

((e)) (v) The decision criteria used to determine low, medium, and high likelihood of adverse change and deliverability shall be as set forth in the manual. A low designation generally means there is minimal likelihood that there will be adverse change and deliverability. A medium designation generally means there is a significant likelihood that there will be adverse change and deliverability. A high designation generally means that adverse change and deliverability is more likely than not with a reasonable degree of confidence. Any areas identified as indeterminate in the level 1 assessment shall be classified for the purposes of the level 1 assessment as medium until a level 2 assessment is done on the WAU under WAC 222-22-060, during which the uncertainties shall be resolved.

((f)) (d) For cultural resources, the team shall follow the methodology outlined in the cultural resources module to determine the risk call for cultural resources based upon resource vulnerability and resource importance.

(e) The team shall prepare a causal mechanism report regarding the relationships of each process identified in ((b) and) (c) and (d) of this subsection. The report shall demonstrate that the team's determinations were made in accordance with the manual. If, in the course of conducting a level 1 assessment, the team identifies areas in which voluntary corrective action will significantly reduce the likelihood of material, adverse effects to the condition of a resource characteristic, the team shall include this information in the

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report, and the department shall convey this information to the applicable land owner.

* (3) Within 21 days of mailing notice under WAC 222-22-040(4), the level 1 team shall submit to the department its draft level 1 assessment, which shall consist of the map of the WAU marked as set forth in this section and the causal mechanism report proposed under subsection (2)((~~f~~))(e) of this section. If the level 1 team is unable to agree as to one or more resource sensitivities or potential resource sensitivities, or the causal mechanism report, alternative designations, and an explanation therefor shall be included in the draft assessment. Where the draft level 1 assessment delivered to the department contains alternative designations, the department shall within 21 days of the receipt of the draft level 1 assessment make its best determination and approve that option which it concludes most accurately reflects the proper application of the methodologies, indices of resource condition, and checklists set forth in the manual.

* (4) If the level 1 assessment contains any areas in which the likelihood of adverse change and deliverability or resource vulnerability are identified as indeterminate under this section or if the level 1 methodology recommends it, the department shall assemble a level 2 assessment team under WAC 222-22-060 to resolve the uncertainties in the assessment, unless a forest land owner acting under WAC 222-22-040(3) has conducted a level 2 assessment on the WAU.

* (5) Pending the completion of the level 2 assessment, if any, on the WAU, the department shall select interim prescriptions using the process and standards described in WAC 222-22-070 (1), (2), and (3) and 222-22-080(3) and shall apply them to applications and notifications as provided in WAC 222-22-090 (1) and (2). Before submitting recommended interim prescriptions to the department, the field managers' team under WAC 222-22-070(1) shall review the recommended prescriptions with available representatives of the jurisdictional management authorities of the fish, water, ~~(and)~~ capital improvements of the state or its political subdivisions, and cultural resources in the WAU, including, but not limited to, the departments of fish and wildlife, ecology, and affected Indian tribes.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-22-060 Level 2 watershed resource assessment. * (1) The department, or forest land owner acting under WAC 222-22-040(3), may assemble a level 2 assessment team either, in the case of a forest land owner, to begin a watershed analysis or to review the level 1 assessment on a WAU. The level 2 team shall consist of specialists qualified under WAC 222-22-030(1). Each level 2 team shall include persons qualified in the disciplines indicated as necessary in the methodology, and should generally include a person or persons qualified in the following:

- (a) Forestry;
- (b) Forest hydrology;
- (c) Forest soil science or geology;
- (d) Fisheries science; ~~(and)~~
- (e) Geomorphology;
- (f) Cultural anthropology; and

(g) Archaeology.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to designate one qualified member of the team at its own expense. The cultural resources module must include the participation of the affected Indian tribe(s). See board manual section 11, J. Cultural Resources Module, Introduction, 1) Using this methodology in formal watershed analysis.

* (2) The level 2 team shall perform an assessment of the WAU utilizing the methodology, indices of resource condition, and checklist set forth in the manual in accordance with the following:

(a) If a level 1 assessment has not been conducted under WAC 222-22-050, the assessment team shall complete the tasks required under WAC 222-22-050(2), except that the level 2 team shall not rate any likelihood of adverse change and deliverability or resource vulnerability as indeterminate.

(b) If the level 2 team has been assembled to review a level 1 assessment, the level 2 team shall, notwithstanding its optional review of all or part of the level 1 assessment, review each likelihood of adverse change and deliverability and resource vulnerability rated as indeterminate and shall revise each indeterminate rating to low, medium, or high and shall revise the map of the WAU accordingly.

* (3) Within 60 days of mailing notice under WAC 222-22-040(4) where a watershed analysis begins with a level 2 assessment or within 60 days of beginning a level 2 assessment after completion of a level 1 assessment, the level 2 team shall submit to the department its draft level 2 assessment, which shall consist of the map of the WAU and the causal mechanism report.

* (4) The level 2 team shall endeavor to produce a consensus report. If the level 2 team is unable to agree as to one or more areas of resource sensitivity or the casual mechanism report, alternative designations and an explanation therefor shall be included in the draft assessment. Where the draft level 2 assessment delivered to the department contains alternative designations or reports, the department shall within 30 days of the receipt of the draft level 2 assessment make its best determination and approve that option which it concludes most accurately reflects the proper application of the methodologies, indices of resource condition, and checklists set forth in the manual.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-22-070 Prescriptions (~~recommendation~~) and management strategies. * (1) For each WAU for which a watershed analysis is undertaken, the department, or forest land owner acting under WAC 222-22-040(3), shall assemble a team of field managers qualified under WAC 222-22-030(1). The team shall include persons qualified in the disciplines indicated as necessary in watershed analysis methods, and shall generally include a person or persons qualified in the following:

- (a) Forest resource management;
- (b) Forest harvest and road systems engineering;
- (c) Forest hydrology; ~~(and)~~

(d) Fisheries science or management;

(e) Cultural anthropology and/or archaeology, depending on the cultural resources identified in the assessment.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense. The cultural resources module must include the participation of the affected Indian tribe(s). See board manual section 11, J. Cultural Resources Module, Introduction, 1) Using this methodology in formal watershed analysis.

* (2) Each forest land owner in a WAU shall have the right to submit to the department or the forest land owner conducting the watershed analysis prescriptions for areas of resource sensitivity on its land. If these prescriptions are received within the time period described in subsection (4) of this section, they shall be considered for inclusion in the watershed analysis.

* (3) For each identified area of resource sensitivity, the field managers^(?) team shall, in consultation with the level 1 and level 2 teams, if any, select and recommend to the department prescriptions. These prescriptions shall be reasonably designed to minimize, or to prevent or avoid, as set forth in table 1 in WAC 222-22-050 (2)~~((4))~~(c)(iv), the likelihood of adverse change and deliverability that has the potential to cause a material, adverse effect to resource characteristics in accordance with the following:

(a) The prescriptions shall be designed to provide forest land owners and operators with as much flexibility as is reasonably possible while addressing the area of resource sensitivity. The prescriptions should, where appropriate, include, but not be limited to, plans for road abandonment, orphaned roads, and road maintenance and plans for applying prescriptions to recognized land features identified in the WAU as areas of resource sensitivity but not fully mapped;

(b) Restoration opportunities may be included as voluntary prescriptions where appropriate;

(c) Each set of prescriptions shall provide for an option for an alternate plan under WAC 222-12-040, which the applicant shows meets or exceeds the protection provided by the other prescriptions approved for a given area of resource sensitivity; ~~((and))~~

(d) The rules of forest practices and cumulative effects under this chapter shall not require mitigation for activities or events not regulated under chapter 76.09 RCW. Any hazardous condition subject to forest practices identified in a watershed analysis requiring corrective action shall be referred to the department for consideration under RCW 76.09.300 et seq.; and

(e) The forests and fish riparian permanent rules, when effective, supersede all existing watershed analysis riparian prescriptions with the exception of riparian management zones for exempt 20-acre parcels, when watershed analysis prescriptions were in effect before January 1, 1999. (See WAC 222-30-021, 222-30-022, and 222-30-023.) No new riparian prescriptions will be written after completion of the riparian management zone assessment report during a watershed analysis.

* (4) For each identified cultural resource area of resource sensitivity, the field managers team shall develop

cultural resources management strategies in consultation with the assessment team and affected tribe(s).

(a) If a management strategy involves a site registered on the department of archaeology and historic preservation's archaeological and historic sites data base, data recovery at an archaeological site, or any resource that requires mandatory protection under chapters 27.44 and 27.53 RCW, the field managers team shall submit the management strategy to the department of archaeology and historic preservation for agreement.

(b) The management strategies should be reasonably designed to protect or allow the recovery of resources by measures that minimize or prevent or avoid risks identified in the assessment.

(c) Management strategies resulting from conducting a cultural resources module are voluntary, not mandatory prescriptions, whether the module is conducted as part of a watershed analysis or as a stand-alone method separate from watershed analysis. However, the mandatory protections of resources under chapters 27.44 and 27.53 RCW still apply.

(5) The field managers^(?) team shall submit the recommended prescriptions, monitoring recommendations and cultural resources management strategies to the department within 30 days of the submission to the department of the level 2 assessment under WAC 222-22-060 or within 21 days of the submission to the department of the level 1 assessment under WAC 222-22-050.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-22-080 *Approval of watershed analysis.

(1) Upon receipt of the recommended prescriptions and management strategies resulting from a level 2 assessment under WAC 222-22-060 or a level 1 assessment under WAC 222-22-050 where a level 2 assessment will not be conducted, the department shall select prescriptions. The department shall circulate the draft watershed analysis to the departments of ecology, fish and wildlife, affected Indian tribes, local government entities, forest land owners in the WAU, and the public for review and comment. The prescriptions recommended by the field managers' team shall be given substantial weight. Within thirty days of receipt of the prescriptions and management strategies, the department shall review comments, revise the watershed analysis as appropriate, and approve or disapprove the watershed analysis for the WAU.

* (2) The department should notify any governmental agency or Indian tribe having jurisdiction over activities which are not regulated under chapter 76.09 RCW but which are identified in the draft analysis as having a potential for an adverse impact on identified fish, water, ~~((and))~~ capital improvements of the state or its political subdivisions, and cultural resources.

* (3) The department shall approve the draft watershed analysis unless it finds:

(a) For any level 1 assessment or level 2 assessment, that:

(i) The team failed in a material respect to apply the methodology, indices of resource condition, or checklists set forth in the manual; or

(ii) A team meeting the criteria promulgated by the department and using the defined methodologies, indices of resource conditions, and checklists set forth in the manual could not reasonably have come to the conclusions identified in the draft level 1 or level 2 assessment; and

(b) For the prescriptions, that they will not accomplish the purposes and policies of this chapter and of the Forest Practices Act, chapter 76.09 RCW.

(c) In making its findings under this subsection, the department shall take into account its ability to revise assessments under WAC 222-22-090(3).

* (4) If the department does not approve the draft watershed analysis, it shall set forth in writing a detailed explanation of the reasons for its disapproval.

(5) All watershed analyses must be reviewed under SEPA on a nonproject basis. SEPA review may take place concurrently with the public review in subsection (1) of this section. (See WAC 222-10-035.)

(6) The department will not review or approve cultural resource management strategies because their implementation is voluntary.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-22-090 Use and review of watershed analysis. *(1) Where a watershed analysis has been completed for a WAU under this chapter:

(a) Any landowner within the WAU may apply for a watershed permit to conduct forest practices according to the watershed analysis prescriptions. This permit is not renewable if a five-year review is found necessary by the department and has not been completed.

(b) Nonmultiyear forest practices applications and notifications submitted to the department shall indicate whether an area of resource sensitivity will be affected and, if so, which prescription the operator, timber owner, or forest land owner shall use in conducting the forest practice in the area of resource sensitivity;

(c) The department shall assist operators, timber owners, and forest land owners in obtaining governmental permits required for the prescription (see WAC 222-50-020 and 222-50-030);

(d) The department shall confirm that the prescription selected under ~~((a))~~ (b) of this subsection was one of the prescriptions approved for the area of resource sensitivity under WAC 222-22-080 and shall require the use of the prescription; and

(e) The department shall not further condition forest practices applications and notifications in an area of resource sensitivity in a WAU where the applicant will use a prescription contained in the watershed analysis nor shall the department further condition forest practices applications and notifications outside an area of resource sensitivity in a WAU, except for reasons other than the watershed processes and fish, water, and capital improvements of the state or its political subdivisions analyzed in the watershed analysis in the WAU, and except to correct mapping errors, misidentification of soils, landforms, vegetation, or stream features, or other similar factual errors.

* (2) Pending completion of a watershed analysis for a WAU, the department shall process forest practices notifications and applications in accordance with the other chapters of this title, except that applications and notifications received for forest practices on a WAU after the date notice is mailed under WAC 222-22-040(4) commencing a watershed analysis on the WAU shall be conditioned to require compliance with interim, draft, and final prescriptions, as available.

Processing and approval of applications and notifications shall not be delayed by reason of review, approval, or appeal of a watershed analysis.

* (3) The board encourages cooperative and voluntary monitoring. Evaluation of resource conditions may be conducted by qualified specialists, analysts, and field managers as determined under WAC 222-22-030. Subsequent watershed analysis and ~~((management strategies))~~ monitoring recommendations in response to areas where recovery is not occurring shall be conducted in accordance with this chapter.

* (4) Where the condition of resource characteristics in a WAU are fair or poor, the department shall evaluate the effectiveness of the prescriptions applied under this chapter to the WAU in providing for the protection and recovery of the resource characteristic. If the department finds that the prescriptions are not providing for such protection and recovery over a period of 3 years, the department shall repeat the watershed analysis in the WAU. Aside from the foregoing, once a watershed analysis is completed on a WAU, it shall be revised in whole or in part upon the earliest of the following to occur:

(a) Five years after the date the watershed analysis is final, if necessary;

(b) The occurrence of a natural disaster having a material adverse effect on the resource characteristics of the WAU;

(c) Deterioration in the condition of a resource characteristic in the WAU measured over a 12-month period or no improvement in a resource characteristic in fair or poor condition in the WAU measured over a 12-month period unless the department determines, in cooperation with the departments of ecology, fish and wildlife, affected Indian tribes, forest land owners, and the public, that a longer period is reasonably necessary to allow the prescriptions selected to produce improvement; or

(d) The request of an owner of forest land in the WAU, which wishes to conduct a watershed analysis at its own expense.

Revision of an approved watershed analysis shall be conducted in accordance with the processes, methods, and standards set forth in this chapter, except that the revised watershed analysis shall be conducted only on the areas affected in the case of revisions under (b) or (c) of this subsection, and may be conducted on areas smaller than the entire WAU in the case of revisions under (a) and (d) of this subsection. The areas on which the watershed analysis revision is to be conducted shall be determined by the department and clearly delineated on a map before beginning the assessment revision. Forest practices shall be conditioned under the current watershed analysis pending the completion of any revisions.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-23-020 Submitting and processing of applications for the riparian open space program. (1) Qualifying CMZ land(s). Lands that qualify for the riparian open space program are those lands located within an unconfined avulsing channel migration zone and are, as of the date an application is submitted to the department under this section, identified in records of the applicable county assessor as being classified or designated as forest land under chapter 84.33 RCW or as being subject to current use taxation as forest land under chapter 84.34 RCW. Qualifying CMZ lands may be placed in the riparian open space program whether they represent all or just a portion of the lands within the channel migration zone along a particular stream segment. That is, the lands to be placed in the program may include all of a landowner's lands located within the channel migration zone up to the boundary between that zone and the RMZ core area, or lands to be included may include only a portion of a landowner's lands within an unconfined avulsing channel migration zone of a given stream segment. Likewise, where more than one landowner owns land within the channel migration zone of a given stream segment, any landowner may elect to participate in the riparian open space program without regard to participation of neighboring landowners.

Land does not qualify for the riparian open space program where the department has determined that:

(a) The lack of legal access to the land is likely to materially impair the department's ability to administer the riparian open space program with respect to the land;

(b) All persons having an interest of any description in the land, including, but not limited to, joint tenancy, tenancy in common, holder of easement, or holder of lien or security interest, have not agreed to convey or subordinate such interests to the state to the extent deemed necessary by the state to transfer the fee or easement free of or superior to any such interest;

(c) The land is subject to unacceptable liabilities as defined in WAC ((~~222-23-20(4)~~ ~~{222-23-020(4)}~~) 222-23-020(4)); or

(d) There is any other circumstance making the land unsuitable for fisheries enhancement or ecological protection.

(2) **Application.** An owner or owners of qualifying CMZ lands may apply to the department to place the lands within the riparian open space program. Applications for the riparian open space program may, at the landowners' option, be submitted at the same time as a forest practices application for adjoining or nearby forestlands, or may be submitted separately (and without reference to or the requirement of a current forest practices application). The application for the riparian open space program shall be in writing on a form provided by the department and shall contain the following information:

(a) Name, address, and telephone number of applicant(s);

(b) Contact name and telephone number for questions concerning the application;

(c) Location and description of the land proposed for inclusion in the program, including estimated acreage, a

description of the methods used by the landowner to determine that the land is qualifying CMZ land and a map showing the approximate boundary between the channel migration zone and the adjoining RMZ core area (and in situations where the latter is not applicable, a description of the process the landowner used to determine that the qualifying CMZ land is within an unconfined avulsing stream channel migration zone);

(d) Tax parcel identification number(s) that contain the qualifying CMZ land;

(e) List of all persons having any right or interest in the land covered by the application for the riparian open space program and a description of such right or interest;

(f) The stumpage value area and hauling zone in which the qualifying lands lie (see map at WAC 458-40-640).

(g) A map of the qualifying CMZ land;

(h) A statement indicating the landowner's desire to place the land covered by the application within the riparian open space program and whether the landowner wishes to convey the qualifying land in fee or convey only a conservation easement;

(i) Whether the landowner wishes to receive the statutory compensation for the conveyance or wishes to donate the qualifying CMZ land;

(j) Whether the landowner representative submitting the application is aware of the presence of any hazardous substances on the lands;

(k) Description and documentation of the legal and physical access to the land being acquired;

(l) The type of boundary description proposed by landowner (survey or other description); and

(m) Any other information DNR determines is necessary to assess whether the land qualifies for the riparian open space program.

(3) Review and processing of application. Within ninety days of receipt of a complete and accurate application for the riparian open space program, the department shall preliminarily determine (and advise the applicant) whether lands proposed for the riparian open space program appear to meet the requirements of this chapter and of RCW 76.09.040 (3) and (4), and, if so, whether there is funding available for the purchase. This determination is subject to subsequent confirmation of all information required for the program and eligibility of the land as qualifying for the program. If the preliminary determination is that the land qualifies for the program and if funding is available for the proposed purchase, then the following shall occur within the ninety days following notice to the landowner of the preliminary determination:

(a) The landowner, in cooperation with the department, shall delineate on the ground the boundary line between the CMZ and the RMZ core area; following which,

(b) The department shall verify the appropriateness of that delineation, determine the standards for the boundary description (i.e., a survey or other), make a final determination whether there are any unacceptable liabilities on the lands proposed for inclusion in the program, and communicate the foregoing to the landowner.

If the department determines there are no unacceptable liabilities on the lands, the landowner shall mark the bound-

ary (as verified) using tree tags or other long-term boundary marking methods specified by the department.

(4) **Unacceptable liabilities.** As used in this section, unacceptable liabilities are created by the presence of hazardous substances on the qualifying CMZ lands or by other condition that creates such a liability to the department that may jeopardize the department's ability to maintain fisheries enhancement or the ecological protection of the qualifying CMZ lands, and with respect to which liability the applicant is unwilling or unable to provide reasonable indemnification to the department. If the department finds unacceptable liabilities with respect to qualifying CMZ lands, the department may reject the landowner's application.

(5) **Preparation of conveyance documents.** Within ninety days following placement in the field of the long-term boundary between the CMZ and the RMZ core area as provided for in subsection (3) of this section, the following shall occur:

(a) The landowner shall:

(i) Traverse the boundary to determine the acreage of the qualifying lands;

(ii) Either perform a legal land survey or otherwise document the boundaries consistent with the requirements of WAC 222-23-030(3), as applicable; and

(iii) Prepare a map of the qualifying CMZ lands suitable for recording.

(b) The department shall:

(i) Conduct and finalize a cruise of the timber on the qualifying CMZ lands;

(ii) Determine the statutory compensation to be paid to the landowner;

(iii) Prepare conveyance documents consistent with this chapter; and

(iv) Prepare any other documents necessary for closing and recording the conveyance, including without limitation a real estate excise tax affidavit.

(6) **Timber cruise.** The timber cruise will be conducted by the department using a cruiser acceptable to the department and the landowner and using generally accepted cruise methodology and sampling intensity acceptable to both parties. The timber cruise shall measure all trees within the lands to be conveyed that contain measurable log volume and develop all information (species and grade) with respect to those trees necessary to apply the stumpage tables developed by the department of revenue pursuant to RCW 84.33.091; this includes volume by species and grade sufficient to apply the department of revenue stumpage tables in WAC 458-40-640, 458-40-650 and 458-40-660 (1) and (2). The department will provide the cruise data to the landowner; within thirty days thereafter, the landowner shall advise the department whether the cruise results are acceptable. The landowner or the department may, at their option, perform a check cruise.

(7) **Compensation for conveyances.** RCW 76.09.040 (3) specifies the compensation the department shall pay for purchases of qualifying CMZ lands, unless the landowner chooses to donate the property in fee or donate a conservation easement.

(a) **Fee interests.** For conveyances of fee interests, the department shall pay for both the land value and the timber value, as determined in this subsection. The land value com-

ponent shall be the acreage of qualifying CMZ lands to be conveyed multiplied by the average per acre value of all commercial forest land in Western Washington or the average for Eastern Washington, whichever average is applicable to the qualifying CMZ lands. The department shall determine the Western and Eastern Washington averages based on the land value tables established by RCW 84.33.120 and revised annually by the department of revenue (see WAC 458-40-540). The timber value component of the compensation shall be based on the cruise volume multiplied by the appropriate department of revenue stumpage values from the stumpage value table for the applicable stumpage value area and hauling distance zone. The stumpage value tables to be applied are those found in WAC 458-40-660(2). Except as provided in (c) of this subsection, the tables applied shall be those in effect as of the date the application under this section is submitted to the department by the landowner.

(b) **Conservation easements.** Conservation easements shall be perpetual and not for a term of years. For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation shall only include the timber value component, determined as set forth in subsection (7)(a) of this section. For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation shall include the timber value component plus such portion of the land value component as determined just and equitable by the department.

(c) **Adjustment in compensation.** Where the department does not complete its duties as required in subsections (3) through (5) of this section within the required time period or the department is unable to complete the acquisition because of a lack of funds or other reason, the landowner has the option to require that the department recompute the compensation based on the most recently published land value and stumpage value tables.

(8) ~~(Alternative)~~ **Management options.** In any circumstance where qualifying CMZ lands are not acquired by the department in fee or through a conservation easement, the landowner may elect to develop ~~(an alternative)~~ a management option for the lands in cooperation with the department, other agencies and affected Indian tribes.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-23-025 Priorities for conveyances—Use of lands conveyed. (1) Priorities for conveyances. The legislature recognized, in RCW 77.85.180(4), that the adoption of forest practices rules consistent with the forests and fish report will impose substantial burdens on forest landowners. The purpose of this program, which will be administered by the department, is to compensate landowners and provide for ecological protection and fisheries enhancement. The department shall prioritize applications under this section based on the following criteria (not in priority order): Order of receipt, ecological value (including importance to salmonids, water quality benefits, quality of habitat, site significance, etc.), and immediacy of need. If funding is or becomes unavailable to consummate a conveyance with respect to otherwise qualify-

ing CMZ lands, the application may (at the landowner's option) be kept on file at the department pending the future availability of funding. The department will consult with representatives of affected Indian tribes, department of fish and wildlife, and department of ecology as necessary for technical expertise. The board will include, in its reports to the legislature required in RCW 76.09.380, a review of this program with recommended amendments, as necessary, to accomplish the goals of this program.

(2) Use and management of lands and easement interests acquired under riparian open space program. Subject to the exceptions set forth in this subsection (or as otherwise provided in the conveyance or easement documents), the lands conveyed or subject to the conservation easements under this chapter shall be managed by the department only in a manner necessary for ecological protection or fisheries enhancement. The conveyance of lands under the riparian open space program shall not create a right of public access to the conveyed lands across adjoining or other lands owned by the landowner conveying property or an easement under the riparian open space program.

(3) Transfer of fee or easement interest or management responsibility. After acquisition of a fee or easement interest in qualifying CMZ lands, the department may transfer its interest in such lands by a recorded instrument to another state agency, a local ((government)) governmental entity within which the lands lie, or a private nonprofit nature ((conservation)) conservancy corporation (as defined in RCW 64.04.130). Alternatively, the department may contract with one or more of the foregoing entities to exercise the department's management authority over the qualifying CMZ lands. Any such contract will include provisions fully advising the contracting party of the rights of the landowner under this chapter and the conveyance instrument. The department shall notify the landowner of any transfer of its interest in the qualifying CMZ lands or any transfer of management responsibilities over those lands, provided that failure to so notify the landowner shall not affect the validity of the transfer.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-24-010 Policy. *(1) A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife and essential functions in the protection of water quality. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems.

*(2) To protect water quality and riparian habitat, roads must be constructed and maintained in a manner that will prevent potential or actual damage to public resources. This will be accomplished by constructing and maintaining roads so as not to result in the delivery of sediment and surface water to any typed water in amounts, at times or by means, that preclude achieving desired fish habitat and water quality by:

- Providing for fish passage at all life stages (see Washington state department of fish and wildlife hydraulic code Title 220 WAC);
- Preventing mass wasting;
- Limiting delivery of sediment and surface runoff to all typed waters; ((and))
- Avoiding capture and redirection of surface or ground water. This includes retaining streams in their natural drainages and routing subsurface flow captured by roads and road ditches back onto the forest floor;
- ((Divert)) Diverting most road runoff to the forest floor;
- ((Provide)) Providing for the passage of some woody debris;
- ((Protect)) Protecting stream bank stability;
- Minimizing the construction of new roads; and
- ((Assure)) Assuring that there is no net loss of wetland function.

The road construction and maintenance rules in this chapter must be applied in achieving these goals. Additional guidance is identified in the board manual((s)) section 3. If these goals are not achieved using the rules and the applied guidance, additional management strategies must be employed.

* (3) Extra protection is required during road construction and maintenance to protect public resources and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate in the development of road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction.

* (4) This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges, stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.

(Note: Other laws and rules and/or permit requirements may apply. See chapter 222-50 WAC.)

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC *222-24-051 Road maintenance schedule. All forest roads must be covered under an approved road maintenance and abandonment plan within 5 years of the effective date of this rule or by December 31, 2005. This includes all roads that were constructed or used for forest practices after 1974. Inventory and assessment of orphan roads must be included in the road maintenance and abandonment plans as specified in WAC 222-24-052(4).

* (1) Landowners with 500 acres or more of forest land in a DNR region must maintain a schedule of submitting plans to the department that cover 20% of their roads or land base each year.

* (2) Landowners with less than 500 acres of forest land in a DNR region must submit with their first forest practices application or notification a road maintenance and abandonment plan covering the roads that will be used by the application. Within one year of the date of submittal of the first for-

est practices application or notification or before the end of 2005, whichever comes first, the landowner must submit a road maintenance and abandonment plan for the rest of their ownership in that region. Once the plan is approved, the landowner must attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications.

(3) For those portions of their ownership that fall within a watershed administrative unit covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the watershed administrative unit-road maintenance plan, providing the roads they own are covered by the plan. A proposal to update the road plan to meet the current road maintenance standards must be submitted to the department for review on or before the next scheduled road maintenance plan review. If annual reviews are not required as part of the watershed analysis road plan, the plan must be updated by October 1, 2005. All roads in the planning area must be in compliance with the current rules by the end of calendar year 2015. See the board manual section 3 for road maintenance and abandonment plan outline.

* (4) Plans will be submitted by landowners on a priority basis. Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefit to the public resource are the highest priority. Based upon a "worst first" principle, work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

* (5) Based upon a "worst first" principle, road maintenance and abandonment plans must pay particular attention to:

- (a) Roads that block fish passage;
- (b) Roads that deliver sediment to typed water;
- (c) Roads with evidence of existing or potential instability that could adversely affect public resources;
- (d) Roads or ditchlines that intercept ground water; and
- (e) Roads or ditches that deliver surface water to any typed waters.

* (6) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads; planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream adjacent parallel roads and an inventory of the existing condition; and

(b) Detailed description of the first years work with a schedule to complete the entire plan within fifteen years; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) The landowner or landowner representative's signature.

* (7) Priorities for road maintenance work within plans are:

(a) Removing blockages to fish passage beginning on roads affecting the most habitat first, generally starting at the bottom of the basin and working upstream;

(b) Preventing or limiting sediment delivery (areas where sediment delivery or mass wasting will most likely affect bull trout habitat will be given the highest priority);

(c) Correcting drainage or unstable sidecast in areas where mass wasting could deliver to public resources or threaten public safety;

(d) Disconnecting road drainage from typed waters;

(e) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(f) Improving hydrologic connectivity by minimizing the interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(g) Repair or maintenance work which can be undertaken with the maximum operational efficiency.

* (8) Initial plans for landowners with 500 acres or more of forest land in a DNR region must be submitted to the department during the year 2001 as scheduled by the department.

* (9) Each year on the anniversary date of the plan's submittal, landowners must report work accomplished for the previous year and submit to the department a detailed description of the upcoming year's work including modifications to the existing work schedule.

The department's review and approval will be conducted in consultation with the department of ecology, the department of fish and wildlife, affected tribes and interested parties. The department will:

(a) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(b) The plan will be reviewed by the department and approved or returned to the applicant with concerns that need to be addressed within forty-five days of the plan's submittal.

(c) Additional plans will be signed by the landowner or the landowner's representative.

* (10) The department will facilitate an annual water resource inventory area (WRIA) meeting with landowners, the department of fish and wildlife, the department of ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(a) Suggest priorities for road maintenance and abandonment planning; and

(b) Exchange information on road maintenance and stream restoration projects.

*(11) A forest practices application with a detailed one to five year work plan associated with a submitted road maintenance and abandonment plan will be treated as a multiyear permit. The application will be reviewed, approved, conditioned and/or disapproved within 45 days of acceptance. The application will be reviewed in consultation with the department of ecology, department of fish and wildlife, affected tribes and interested parties.

*(12) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that prevents potential or actual damage to public resources. If the department determines that log haul on such a road will cause or has the potential to cause material damage to a public resource, the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

*(13) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment plan and the department determines that this work is necessary to prevent potential or actual damage to public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit a revised maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the revised maintenance plan provides protection of the public resource and maintains the overall schedule of maintenance of the road system or basin.

*(14) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC *222-30-020 Harvest unit planning and design.

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so that yarding or skidding can be economically accomplished and achieve the ecological goals of WAC 222-30-010 (2), (3) and (4) in compliance with these rules.

*(2) **Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

*(3) **Western Washington riparian management zones.** (See WAC 222-30-021 and 222-30-023.)

*(4) **Eastern Washington riparian management zones.** (See WAC 222-30-022 and 222-30-023.)

*(5) **Riparian leave tree areas.** (See WAC 222-30-021, 222-30-022, and 222-30-023.)

*(6) **Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) Where riparian associated wetlands are present in the outer zone of a RMZ, trees may be left in the zone to maximize wetland function. See WAC 222-30-021 *(1)(c)(ii).

(d) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(e) Approximate determination of the boundaries of forested wetlands greater than 3 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(f) The department shall consult with the department of fish and wildlife and affected Indian tribes about site specific impacts of forest practices on wetland-sensitive species in forested wetlands.

*(7) **Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual section 8, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

*(a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

Wetland Management Zones

Wetland Type	Acres of Nonforested Wetland*	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A (including bogs)	Greater than 5	200 feet	100 feet	50 feet
A (including bogs)	0.5 to 5	100 feet	50 feet	25 feet

Wetland Type	Acres of Nonforested Wetland*	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A (bogs only)	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ required	No WMZ required	

*For bogs, both forested and nonforested acres are included.

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

*(e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

*(f) When 10% or more of a harvest unit lies within a wetland management zone and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

*(8) **Type A or B Wetlands.** Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(d) Harvest shall not be allowed within a Type A Wetland which meets the definition of a bog.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of fish and wildlife to identify critical habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to ~~((insure))~~ ensure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) For the purposes of this subsection the following defines eastern and western Washington boundaries for wildlife reserve tree management. Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

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Thence south along range line between R. 14E. and R. 15E. to the SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to the SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to the SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest boundary,

Thence south along forest boundary to the SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to the SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington.

(b) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree, which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

(12) Channel migration zones. No harvest, construction or salvage will be permitted within the boundaries of a channel migration zone except for the construction and maintenance of road crossings in accordance with applicable rules and the creation and use of yarding corridors consistent with WAC 222-24-020(6), 222-30-060(1), 222-30-045(2), and chapter 220-110 WAC (Hydraulic code rules).

(13) Bankfull width. No harvest or construction will be permitted within the bankfull width of any Type S or F Water or any buffered length of Type Np Water, except for the construction and maintenance of road crossings in accordance with applicable rules and creation and use of yarding corridors consistent with WAC 222-30-020 *(5)(a), 222-24-060(1), and chapter 220-110 WAC (Hydraulic code rules). No salvage may take place within the bankfull width of any typed water (see WAC 222-30-045).

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC *222-30-021 Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of

the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	285 sq. ft.
II	275 sq. ft.
III	258 sq. ft.
IV	224 sq. ft.
V	190 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet ((above)) upstream and ((below)) 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet ((above)) upstream and ((below)) 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);
- ((The landowner has performed post-harvest treatment to the satisfaction of the department on previously converted hardwood-dominated stands-)) If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

• Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

• Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:

◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

• Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

• Conifer trees larger than 20 inches dbh shall not be harvested;

• Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

• The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all resid-

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ual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with conifer tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimiz-

ing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.

- Thinning cannot decrease the proportion of conifer in the stand.

- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.

- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) Option 2. Leaving trees closest to the water. Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;
- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason.

- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.

- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance		minimum floor distance		
			(measured from outer edge of core zone)					
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) Where the basal area components of the stand requirement cannot be met within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the

same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large

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woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "Outer zone riparian leave trees" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;

(V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).

(VI) Archeological or historical sites registered with the Washington state office of archeology and historic preservation. See WAC 222-16-050 (1)(g); or

(VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bank-full width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential

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material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

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AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-022 *Eastern Washington riparian management zones. For eastside forests, riparian management is intended to provide stand conditions that vary over time. It is designed to mimic eastside disturbance regimes within a range that meets functional conditions and maintains general forest health. These desired future conditions are a reference point on the pathway to restoration of riparian functions, not an end point of riparian stand development. These rules apply to all typed waters on forest land in Eastern Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in the following section.

Eastern Washington RMZ for streams with bankfull width of less than or equal to 15 feet wide

Site Class	Total RMZ Width	Core Zone Width From outer edge of bankfull width or outer edge of CMZ, whichever is greater	Inner Zone Width	Outer Zone Width
I	130'	30'	45'	55'
II	110'	30'	45'	35'
III	90'	30'	45'	15'
IV	75'	30'	45'	0'
V	75'	30'	45'	0'

Eastern Washington RMZ for streams with bankfull width of greater than 15 feet wide

Site Class	Total RMZ Width	Core Zone Width From outer edge of bankfull width or outer edge of CMZ, whichever is greater	Inner Zone Width	Outer Zone Width
I	130'	30'	70'	30'
II	110'	30'	70'	10'
III	100'	30'	70'	0'
IV	100'	30'	70'	0'
V	100'	30'	70'	0'

***(1) Eastern Washington RMZs on Type S and F Waters** have three zones: The core zone is nearest to the edge of the bankfull width or outer edge of the CMZ, whichever is greater. The inner zone is the middle zone, and the outer zone is furthest from the water. Permitted forest practices vary by timber habitat type and site class.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in accordance with WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in accordance with WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual, section 1.

(a) **Core zones.** The core zone extends 30 feet measured horizontally from the edge of the bankfull width or outer edge of the CMZ, whichever is greater, for all timber habitat types. No harvest or construction is allowed in the core zone except as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors must be left on site. Any trees cut as a result of road construction to cross a stream may be removed from the site unless used as part of a large woody debris replacement strategy.

(b) **Inner zones.** Width and leave tree requirements of the inner zone vary by timber habitat type as outlined below.

(i) **Ponderosa pine timber habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest is allowed in the inner zone except as described in (b)(i)(C) or (D) ~~((below))~~ of this subsection, and as allowed for stream crossings and yarding corridors as described above in subsection (1).

(C) **Stands with a high basal area:** Harvest is permitted in the inner zone if the basal area in the inner zone is greater than 110 square feet per acre for conifer and hardwood trees equal to or greater than 6 inches dbh. The harvest must leave at least 50 trees per acre AND subject to ~~((subclause))~~ (b)(i)(C)(III) ~~((below))~~ of this subsection, a minimum leave tree basal area of at least 60 square feet per acre. The trees to be left shall be selected as follows:

(I) The 21 largest trees per acre must be left; and

(II) An additional 29 trees per acre that are 10-inch dbh or greater must be left. If there are less than 29 10-inch dbh or greater trees per acre, leave the 29 largest trees. If there are more than 29 10-inch dbh or greater trees per acre, leave 29 10-inch dbh or greater trees per acre based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010;
- Trees that are evenly distributed across the inner zone.

(III) If more than 50 trees per acre are needed to meet the minimum leave tree basal area of 60 square feet per acre, then ~~((all))~~ additional trees greater than 6-inch dbh must be left. ~~((The minimum basal area to be left in the inner zone will be 60 square feet per acre provided that))~~ If the minimum basal area cannot be met with fewer than 100 trees of at least 6 inches dbh, then no more than 100 trees per acre of the largest remaining trees will be required to be left regardless of the basal area.

(D) **Stands with low basal areas and high density:** Thinning is permitted if the basal area of all species is less than 60 square feet per acre AND there are more than 100 trees per acre. The thinning must leave a minimum of 100 trees per acre. The trees to be left must be selected as follows:

(I) The 50 largest trees per acre must be left; and

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(II) An additional 50 trees per acre that are greater than 6 inches dbh must be left. If there are not 50 6-inch dbh or greater trees per acre, then all 6-inch dbh or greater trees per acre must be left plus the largest remaining trees to equal 50 trees per acre. Select the additional 50 trees based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010;
- Trees that are evenly distributed across the inner zone.

(E) To the extent down wood is available on site prior to harvest, at least twelve tons of down wood per acre must be left following harvest as follows:

(I) Six pieces greater than 16 inches diameter and 20 feet in length; and

(II) Four pieces greater than 6 inches in diameter and 20 feet in length.

(III) Landowner/operator is not required to create down wood.

(F) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a stream-adjacent parallel road in this zone.

(ii) **Mixed conifer timber habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest is allowed in the inner zone except as described in (b)(ii)(C) or ~~((F) below)~~ (D) of this subsection, and as allowed for stream crossings and yarding corridors as described above in subsection (1).

(C) **Stands with a high basal area:**

(I) Harvest is permitted in the inner zone if the combined conifer and hardwood basal area for trees greater than 6 inches dbh is:

~~((H))~~ \geq Greater than 110 square feet per acre on low site indexes (site index less than 90); or

~~((H))~~ \geq Greater than 130 square feet per acre on medium site indexes (site index between 90 and 110); or

~~((H))~~ \geq Greater than 150 square feet per acre on high site indexes (site index greater than 110).

~~((H))~~ (II) The harvest must leave at least 50 trees per acre AND a minimum leave tree basal area of at least:

~~((H))~~ \geq 70 square feet per acre on low site indexes; or

~~((H))~~ \geq 90 square feet per acre on medium site indexes;

or

~~((H))~~ \geq 110 square feet per acre on high site indexes.

~~((E))~~ (III) The trees to be left shall be selected as follows:

~~((H))~~ \geq The 21 largest trees per acre must be left; and

~~((H))~~ \geq An additional 29 trees per acre that are 10-inch dbh or greater must be left. If there are less than 29 10-inch dbh or greater trees per acre, leave the 29 largest trees. If there are more than 29 10-inch dbh or greater trees per acre, leave 29 10-inch dbh trees per acre based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;

• Trees of the preferred species, as defined in WAC 222-16-010; or

• Trees that are evenly distributed across the inner zone.

~~((H))~~ \geq If more than 50 trees per acre are needed to meet the minimum leave tree basal area for the site index in (b)(ii)(C)(II) of this subsection, then ~~((H))~~ additional trees greater than 6 inches dbh must be left. ~~((The minimum basal area to be left in the inner zone will be 60 square feet per acre provided, that))~~ If the minimum basal area cannot be met with fewer than 100 trees at least 6 inches dbh, then no more than 100 trees per acre of the largest remaining trees will be required to be left regardless of the basal area.

~~((F))~~ (D) **Stands with low basal areas and high density:** Thinning is permitted if the basal area of all species is less than the minimum requirements for the site index in (b)(ii)(C)(II) of this subsection AND there are more than 120 trees per acre. The thinning must leave a minimum of 120 trees per acre. The trees to be left shall be selected as follows:

(I) The 50 largest trees per acre must be left; and

(II) An additional 70 trees per acre greater than 6 inches dbh must be left. If there are not 70 6-inch dbh or greater trees per acre, then all 6-inch dbh or greater trees per acre must be left plus the largest remaining trees to equal 70 trees per acre. Select the additional 70 trees based on the following priority order:

• Trees that provide shade to water;

• Trees that lean towards the water;

• Trees of the preferred species, as defined in WAC 222-16-010; or

• Trees that are evenly distributed across the inner zone.

~~((G))~~ (E) To the extent down wood is available on site prior to harvest, 20 tons of down wood per acre is required to be left following harvest as follows:

(I) 8 pieces greater than 16 inches diameter and 20 feet in length; and

(II) 8 pieces greater than 6 inches in diameter and 20 feet in length.

(III) Landowner/operator is not required to create down wood.

~~((H))~~ (F) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iii) **High elevation timber habitat type.**

(A) The width of the inner zone is 45 feet measured horizontally from the outer edge of the core zone on streams equal to or less than 15 feet bankfull width or 70 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of greater than 15 feet.

(B) Follow stand requirements for Western Washington riparian management zones, WAC 222-30-021 (1)(b).

Note: Option 2 is not permitted for eastside use, because of the minimum floor (100') constraint..

(C) To the extent down wood is available prior to harvest, 30 tons per acre of down wood per acre must be left following harvest as follows:

(I) 8 pieces greater than 16 inches diameter and 20 feet in length; and

(II) 8 pieces greater than 6 inches in diameter and 20 feet in length.

(III) Landowner/operator is not required to create down wood.

(D) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iv) **Stream-adjacent parallel roads for all timber habitat types in the inner zone.** The shade rule, WAC 222-30-040, must be met whether or not the inner zone includes a stream-adjacent parallel road. Where a stream-adjacent parallel road exists in the inner zone and the minimum required basal area cannot be met due to the presence of the road, then the location of the road determines the allowable operations as follows:

(A) For streams with a bankfull width that is greater than 15 feet:

(I) If the edge of the road closest to the stream is 75 feet or more from the outer edge of bankfull width of the stream or outer edge of CMZ, whichever is greater, **no harvest is permitted in the inner zone.** This includes trees within the inner zone on the uphill side of the road.

(II) No harvest is permitted within the inner zone on the streamside of the road. If the edge of the road closest to the stream is less than 75 feet from the outer edge of bankfull width of the stream or outer edge of CMZ, whichever is greater then:

- Additional leave trees equal in total basal area to the trees lost due to the road must be left near the streams in or adjacent to the unit to be harvested; (See the board manual section 7.)

- Where the additional leave trees providing fish habitat for water quality function are determined to be not available or not practical by the department, landowners and operators (~~may alternatively~~) will employ site specific management activities to replace lost riparian functions that may include placement of large woody debris in streams. (See the board manual section 7.)

(B) For streams with a bankfull width less than 15 feet:

(I) If the edge of the road closest to the stream is 50 feet or more from the outer edge of bankfull width or outer edge of CMZ, whichever is greater, no harvest is permitted in the inner zone. This includes trees within the inner zone on the uphill side of the road.

(II) No harvest is permitted within the inner zone on the stream side of the road. If the edge of the road closest to the stream is less than 50 feet from the bankfull width or CMZ, whichever is greater then:

- Additional leave trees equal in total basal area to the trees lost due to the road must be left near the streams in or adjacent to the unit to be harvested. (See the board manual section 7.)

- Where the additional leave trees providing fish habitat for water quality function are determined to be not available or not practical by the department, landowners and operators (~~may alternatively~~) will employ site specific management activities to replace lost riparian functions that may include placement of large woody debris in streams. (See the board manual section 7.)

(C) **Wildlife reserve trees.** Leave all wildlife reserve trees within the inner zone of the riparian management zone where operations in the vicinity do not violate the safety reg-

ulations (chapter 296-54 WAC and chapter 49-17 RCW administered by the department of labor and industries, safety division). Live wildlife reserve trees will contribute to the basal area requirements for inner zone leave trees and to leave tree counts if they are among the 21 largest trees per acre; or meet the requirement of an additional 29 leave trees per acre as per (E) above.

(c) **Outer zones.** This zone has three categories based on timber habitat type: Ponderosa pine, mixed conifer and high elevation. The width of this zone is 0 to 55 feet measured horizontally from the outer edge of the inner zone depending on the site class and stream width. (See WAC 222-16-010 definition of "RMZ outer zone.")

(i) Tree counts that must be left per acre, regardless of the presence of an existing stream-adjacent parallel road in the zone, are:

(A) Ponderosa pine habitat type - 10 dominant or codominant trees.

(B) Mixed conifer habitat type - 15 dominant or codominant trees.

(C) High elevation habitat type - See requirements for Western Washington RMZs in WAC 222-30-021 (1)(c).

(ii) Outer zone leave tree requirements in section (i) above may be reduced to 5 trees per acre in the ponderosa pine zone, 8 trees per acre in the mixed forest habitat type and 10 trees per acre in the high elevation habitat type, if the landowner voluntarily implements a LWD placement plan consistent with board manual section 26. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW-approved hydraulics project approval (HPA) permit.

***(2) Eastern Washington protection along Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of bankfull width of a Type Np or Ns Water where equipment is limited. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil more than 10% of the surface area of the zone:

(A) Ground based equipment;

(B) Skid trails;

(C) Stream crossings (other than existing roads); or

(D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions, especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Type Np Waters.**

Within 50 horizontal feet of the outer edge of bankfull width of the stream, the landowner must identify either a partial cut and/or clearcut strategy for each unit to be harvested:

Once approved by the department, the selected strategy will remain in effect until July 1, 2051. If a landowner transfers title of the harvest unit, the landowner must provide writ-

ten notice of this continuing obligation to the new owner and send a copy to the department. See WAC 222-20-055.

(i) For partial cuts:

(A) Basal areas requirements are the same as those specified for the timber habitat type in the Eastern Washington RMZ inner zone.

(B) Where a stream-adjacent parallel road exists, the basal area required in (A) of this subsection is required to be left. (See stream-adjacent parallel roads for Type Np Waters in (c) below.)

(C) The trees to be included in the basal area determination and left after harvest must include:

(I) The 10 largest trees per acre;

(II) Up to an additional 40 trees per acre greater than or equal to 10 inches dbh must be left. If all or some of the trees are not at least 10 inches dbh, then the largest of the remaining trees must be left. Select trees based on the following priority order:

- Provide streambank stability;
- Provide shade to water;
- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010; or
- Evenly distributed; and

If the basal area target has not been met with the trees required above, up to an additional 50 trees are required greater than 6 inches in dbh based on the above priority order.

(D) Side slope seeps must be protected with a 50-foot partial cut buffer that meets the basal area and leave tree requirements of (A), (B), and (C) above. The buffer shall be measured from the outer perimeter of the perennially saturated soil zone.

(ii) For clearcuts:

When the clearcut strategy in this subsection is selected, the landowner must simultaneously designate a 2-sided no-harvest 50-foot buffer along the stream reach in the harvest unit that:

(A) Is equal in total length to the clearcut portion of the stream reach in the harvest unit; and

(B) Meets the upper end of basal area requirements for each respective timber habitat type in the Eastern Washington RMZ inner zone. See WAC 222-30-022 (1)(b)(i), (ii) or (iii).

(C) The streamside boundary of all clearcuts must:

(I) Not exceed in total 30% of the length of the stream reach in the harvest unit;

(II) Not exceed 300 continuous feet in length;

(III) Not be located within 500 feet of the intersection of a Type S or F Water; and

(IV) Not occur within 50 feet of the following sensitive sites as defined in WAC 222-16-010:

- The outer perimeter of a soil zone perennially saturated from a headwall seep;
- The outer perimeter of a soil zone perennially saturated from a side-slope seep;
- The center of a headwater spring;
- An alluvial fan;
- The center point of intersection of two or more Type Np Waters.

(c) **Stream-adjacent parallel roads for Type Np Waters.** If a road exists in a Type Np RMZ and the basal

area required to be left cannot be met within 50 feet of the outer edge of bankfull width of the stream measured horizontally due to the presence of the road, then the distance of the road to the stream determines the allowable operations as follows:

(i) A road that is within 30 to 49 feet measured horizontally from the outer edge of bankfull width of the stream requires:

(A) A total of 100 feet of riparian management zone measured horizontally (both sides of the stream count towards the total) must be left in a manner to provide maximum functions for nonfish use streams. If harvest is taking place on only one side of the stream, then 50 feet of RMZ width must be left, regardless of presence of a stream-adjacent parallel road. The width of the road is not counted as part of the total width of the RMZ.

(B) The location of the riparian management zone required in (A) of this subsection shall be based on the following priority order:

(I) Preferred: The area between the stream and the stream side edge of the road.

(II) The area that provides the most shade to the channel.

(III) The area that is most likely to deliver large woody debris to the channel.

(ii) A road that is within less than 30 feet from the outer edge of bankfull width of the stream measured horizontally requires, in addition to (c)(i)(A) and (B) of this subsection, that all trees between the stream and the streamside edge of the road must be left.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-023 Riparian management zones for exempt 20-acre parcels.

Note: Compliance with this section does not ~~((insure))~~ ensure compliance with the federal Endangered Species Act or the Clean Water Act.

On parcels of 20 contiguous acres or less, landowners with total parcel ownership of less than 80 forested acres shall not be required to leave the riparian buffers described in WAC 222-30-021 and 222-30-022. ~~((As required by RCW 76.13-130.))~~ These landowners are ~~((subject to the permanent riparian management zone rules and))~~ required to follow applicable watershed analysis riparian prescriptions in effect as of January 1, 1999, ~~((plus an additional fifteen percent volume requirement where))~~ or if there are no watershed analysis riparian prescriptions ~~((are not))~~ in effect these landowners are required to follow the riparian management zone rules below.

***(1) Western Washington RMZs for exempt 20-acre parcels.** Riparian management zones are measured horizontally from the outer edge of bankfull width of a Type S or F Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but must not be less than 29 feet in width nor more than the maximum widths described in ~~((e))~~ (f) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian

management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

~~((e)) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.~~

Western Washington Riparian Leave Tree Requirements
For exempt 20-acre parcels

Water Type/Average Width	RMZ Maximum Width	Ratio of Conifer to Deciduous/ Minimum Size Leave Trees	# Trees/1000 ft. each side	
			Gravel/Cobble <10" Diameter	Boulder/Bedrock
S or F Water 75' & over	115'	representative of stand	58 trees	29 trees
S or F Water under 75'	86'	representative of stand	115 trees	60 trees
F Water 5' & over	58'	2 to 1/12" or next largest available*	86 trees	29 trees
F Water less than 5'	29'	1 to 1/6" or next largest available*	29 trees	29 trees

* "Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified.

Ponds or lakes which are Type S or F Waters shall have the same leave tree requirements as boulder/bedrock streams.

~~(d))~~ (c) Landowners must meet the following shade requirements in effect January 1, 1999, ~~((WAC 222-30-040))~~ to maintain stream temperature.

*(i) Determination of adequate shade. The temperature prediction method in (c)(ii) and (iii) of this subsection shall be used to determine appropriate shade levels for flowing Type S and F Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

*(ii) Temperature prediction method. In addition to the riparian management zone requirements described in (f) of this subsection, leave trees shall be retained within the maximum riparian management zones on flowing Type S and F Waters as provided by the method described in the board manual which includes the following considerations:

- (A) Minimum shade retention requirements; and
- (B) Regional water temperature characteristics; and
- (C) Elevation; and
- (D) Temperature criteria defined for stream classes in chapter 173-201A WAC.

*(iii) Leave tree requirements for shade. The method described in (c)(ii) of this subsection shall be used to establish the minimum shade cover based on site-specific characteristics. When site-specific data indicate that preharvest conditions do not meet the minimums established by the

method, no additional shade removal from riparian management zones will be allowed.

(iv) Waivers. The department may waive or modify the shade requirements where:

(A) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or

(B) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(C) The temperature method indicates that additional shade will not affect stream temperature.

~~((e))~~ (d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

~~((f))~~ (e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is a clearcutting of 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

(f) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees

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shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of

the water type within the harvest unit. Trees left according to (c) of this subsection may be included in the number of required leave trees in this subsection.

**Western Washington Riparian Leave Tree Requirements
For exempt 20-acre parcels**

<u>Water Type/Average Bankfull Width</u>	<u>RMZ Maximum Width</u>	<u>Ratio of Conifer to Deciduous/ Minimum Size Leave Trees</u>	<u># Trees/1000 ft. each side</u>	
			<u>Gravel/Cobble <10" Diameter</u>	<u>Boulder/Bedrock</u>
<u>S or F Water greater than or equal to 75'</u>	<u>115'</u>	<u>representative of stand</u>	<u>58 trees</u>	<u>29 trees</u>
<u>S Water less than 75' and F Water less than 75' and greater than or equal to 10'</u>	<u>86'</u>	<u>representative of stand</u>	<u>115 trees</u>	<u>60 trees</u>
<u>F Water less than 10' and greater than or equal to 5'</u>	<u>58'</u>	<u>2 to 1/12" or next largest available¹</u>	<u>86 trees</u>	<u>29 trees</u>
<u>F Water less than 5'</u>	<u>29'</u>	<u>1 to 1/6" or next largest available¹</u>	<u>29 trees</u>	<u>29 trees</u>

¹ "Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the size specified.

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Ponds or lakes which are Type S or F Waters shall have the same leave tree requirements as boulder/bedrock streams.

*(2) Eastern Washington riparian management zones for exempt 20-acre parcels. These zones shall be measured horizontally from the outer edge of bankfull width of Type S or F Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 35 feet to a maximum of 58 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 58 feet in width on each side of the stream with a minimum width of 35 feet and a maximum of 345 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type S or F Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 18 live conifer trees per acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 4 live conifer trees per acre 20 inches dbh or larger and the 2 largest live deciduous trees per acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees per acre 20 inches or larger do not exist, substitute 2 live conifer trees per acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees per acre; and

(E) Leave 3 live deciduous trees per acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type S or F Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees per acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 155 trees per acre 4 inches dbh or larger.

(C) On lakes or ponds, the minimum leave tree requirement shall be 86 trees per acre 4 inches dbh or larger.

Note: See the board manual for guidelines for calculating trees per acre and average RMZ widths.

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

* (3) Riparian leave tree areas for exempt 20-acre parcels. The department will require trees to be left along Type Np Waters where such practices are necessary to protect public resources. Where such practices are necessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 29 feet of the stream. The leave trees may be arranged to accommodate the operation.

(4) For the purposes of this section RMZ means: A specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-025 Even-aged harvest—Size and timing. Except as provided in WAC 222-30-110, unit size and timing of timber harvesting by even-aged harvest methods is subject to the following requirements:

(1) Timber harvest which would result in an area larger than one hundred twenty acres and smaller than or equal to two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be reviewed by an interdisciplinary team, if the department determines that review is necessary. The area harvested by even-aged harvest methods, for the purposes of this subsection, shall be determined in accordance with subsection (3) of this section.

(2) Timber harvest which would result in an area larger than two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be prohibited. The area harvested by even-aged harvest method for the purposes of this subsection shall be determined in accordance with subsection (3) of this section.

(3) In calculating areas harvested by even-aged harvest methods, the area harvested by even-aged harvest methods shall include the acreage of that harvest unit and, all contiguous acreage harvested by even-aged harvest methods which is owned or controlled by the same landowner, except that acreage harvested by even-aged harvest methods sharing

10% or less of the common perimeter with the harvest unit under consideration shall not be considered contiguous for the purposes of this section.

(4) Harvest units shall be designed so that each harvest unit meets at least one of the following criteria:

(a) At least thirty percent of the unit's perimeter is in stands of trees that are thirty years of age or older;

(b) At least sixty percent of the unit's perimeter is in stands of trees that are fifteen years of age or older; or

(c) At least ninety percent of the unit's perimeter is in stands of trees that have survived on site a minimum of five growing seasons or, if not, have reached an average height of four feet.

Evaluation of unit perimeters is subject to the conditions specified in subsection (6) of this section.

(5) The requirements of subsections (2), (3), and (4) of this section shall apply only to timber harvest by even-aged harvest methods and shall not apply to timber harvest to salvage timber damaged by wind, disease, insects, fire, or other natural causes or to forest practices involving the clearing of land of brush or understocked hardwoods to convert to managed hardwoods or conifers.

(6) In evaluating the perimeters of harvest units pursuant to subsection (4) of this section, the following conditions shall apply:

(a) The following shall be treated as fully stocked, mature stands that will not be counted as contiguous acreage harvested by even-aged methods for the purposes of subsections (1) and (2) of this section and which will be counted as thirty-year-old stands for the purposes of subsection (4) of this section:

(i) In Western Washington, a wetland management zone that is twice the width required by WAC 222-30-021 and 222-30-023(1) along Type S or F Waters;

(ii) In Eastern Washington, wetland management zone that is the width required by WAC 222-30-022 and 222-30-023(2);

(iii) Designated upland management areas;

(iv) Lands in a shoreline of statewide significance where harvest is limited under RCW 90.58.150;

(v) The portions of a perimeter consisting of land in uses other than forest land, such as land in agricultural or residential use and natural openings, and land not owned or controlled by the landowner who has proposed the harvest unit subject to the application under consideration;

* (vi) Along Type S and F Waters, a continuous buffer meeting the requirements of WAC 222-30-021 and 222-30-022;

* (vii) Along Type Np Waters, a continuous 50-foot wide no-harvest, no-salvage buffer.

(b) A stand of trees other than those described in (a) of this subsection shall be treated as a certain age class only if the stand is at least three hundred feet wide;

(c) Timber harvest units subject to an approved application or a notification for timber harvesting shall be treated as if the timber harvesting operation proposed in the application or notification were completed and regeneration not yet established.

~~((7) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal~~

~~of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.)~~

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-050 Felling and bucking. *(1) ~~((Felling))~~ **Felling along water.**

(a) No trees will be felled into Type S and F Waters RMZ core zones, sensitive sites, or Type A or B Wetlands except trees which cannot practically and safely be felled outside these areas using techniques in general use.

Such felling and removing in Type S or F Waters shall comply with the hydraulic project approval of the department of fish and wildlife.

(b) Within RMZ inner and outer zones, and wetland management zones, ~~((fall))~~ **fell** trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional ~~((falling))~~ **felling**, lining, jacking and staged ~~((falling))~~ **felling** techniques are required.

(c) Trees may be felled into Type Np Water if logs are removed as soon thereafter as practical. See forest practices board manual section 4 guidelines for clearing slash and debris from Type Np and Ns Water.

***(2) Bucking or limbing along water.**

No bucking or limbing shall be done on trees or portions thereof lying within the bankfull width of Type S, F or Np Waters, in the RMZ core zones, in sensitive sites, or in open water areas of Type A Wetlands. Such bucking or limbing in Type S or F Waters shall comply with the hydraulic project approval of the department of fish and wildlife.

***(3) ~~((Felling))~~ Felling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

~~((Felling))~~ **Felling in selective and partial cuts.** Reasonable care shall be taken to ~~((fall))~~ **fell** trees in directions that minimize damage to residual trees.

(5) Disturbance avoidance for northern spotted owls. Felling and bucking within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(6) Disturbance avoidance for marbled murrelets. Felling and bucking shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-110 Timber harvesting on islands. On an island:

(1) A landowner shall not harvest by clearcut so that more than forty contiguous acres of that landowner's forest land are in a clearcut condition;

(2) Forest land harvested by clearcut remains in the clearcut condition until it has reached canopy closure or it has been reforested for at least ten years;

(3) Clearcut harvest units are contiguous unless separated by a buffer at least two hundred feet wide that has reached canopy closure, has been reforested for at least ten years, or is in a land use other than timber production.

(4) Within two hundred feet of the bankfull width of salt-water timber harvest shall be by selective harvest only, so that no more than thirty percent of the merchantable trees are harvested in any ten-year period: Provided, That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silvicultural practices necessary for regeneration render selective harvest ecologically detrimental: Provided further, That harvest by clearcut on lands being converted to another use may be approved.

(5) The requirements of this section shall not apply to timber harvest or salvage timber damaged by wind, disease, insects, fire, or other natural causes.

~~(((6) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.))~~

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-34-010 Required reforestation—West of Cascades Summit. (1) **Reforestation - where required.**

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban uses, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

(i) Clearcutting; or

(ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

(i) Individual dead, dying, down or windthrown trees are salvaged; or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes; for example, removal of individual trees from lands used for farming or grazing; or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or

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(iv) ~~((A minimum))~~ An average of 190 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested ((and not more than 20 percent of the harvested area has from 150 to 190)) (up to 20 percent of the harvested area may contain fewer than 190 seedlings per acre, but no acre of the harvested area with timber growing capacity may contain less than 150 seedlings per acre); or

(v) A minimum of 100 vigorous, undamaged, well-distributed saplings or merchantable trees per acre of a commercial species or combinations thereof, remain on the area harvested.

(2) ~~((Acceptable stocking. Stocking levels are acceptable if a minimum of 190 well-distributed,))~~ Reforestation standards. A harvested area is reforested when that area contains an average of 190 or more vigorous, undamaged commercial species seedlings per acre ((of commercial tree species or such lesser number as the department determines)) that have survived on the site for at least 1 growing season. Up to 20 percent of the harvested area may contain fewer than 190 seedlings per acre, but no portion of the harvested area with timber growing capacity may contain less than 150 seedlings per acre. The department may determine that less than an average of 190 seedlings per acre is acceptable if fewer seedlings will reasonably utilize the timber growing capacity of the site ((, have survived on the site at least 1 growing season. "Well-distributed" means that not more than 20 percent of the harvested area contains less than a minimum of 150 seedlings per acre as determined by the department)).

(3) **Competing vegetation.** Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(4) **Artificial regeneration standards.**

(a) **Satisfactory reforestation - clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest, or a period of from 1 to 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: Provided, That regeneration failures from causes beyond the applicant's control will not result in violation of this section, but supplemental planting or reforestation may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest land owner's control require delay in planting or seeding.

(i) **Reforestation species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(A) Site data indicates better potential production for the proposed species than the existing species.

(B) Control of forest insects or diseases.

(C) Greater economic return.

(ii) **Seedling or seeding standards.** Except as approved by the department to qualify as acceptable reforestation, the seedlings or seeds must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) **Satisfactory reforestation - partial cuts.** Where reforestation is required in connection with a partial cut, the harvest application shall include a plan for stocking improvement. The plan shall be approved unless the department determines that it will not reasonably utilize the timber growing capacity of the site.

(5) **Natural regeneration standards.** A natural regeneration plan may be approved as acceptable reforestation if:

(a) A seed source of well formed trees of commercial tree species, capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan, or until issuance of a satisfactory reforestation inspection report.

(c) The seed source must consist of:

(i) Seed blocks of sizes and locations shown on the plan and satisfactory to the department; or

(ii) An average of at least 8 individually marked, well-distributed, undamaged, vigorous, windfirm seed trees per acre of plantable area and no inadequately stocked area is more than 400 feet from the nearest seed tree; and

(iii) Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(6) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to 10 years.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-34-020 Required reforestation—East of Cascades Summit. (1) Reforestation - where required.

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban use, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

(i) Clearcutting; or

(ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

(i) Individual dead, dying, down or windthrown trees are salvaged; or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes, for example, removal of individual trees from lands used exclusively for farming or cultivated pasture; or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or

(iv) ~~((A minimum))~~ An average of 150 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested ~~((and not more than 20 percent of the harvested area has from 120 to 150))~~ (up to 20 percent of the harvested area may contain fewer than 150 seedlings per acre, but no acre of the harvested area with timber growing capacity may contain less than 120 seedlings per acre); or

(v) A minimum of 100 vigorous, undamaged, well-distributed advanced regeneration, saplings or merchantable trees per acre of a commercial tree species or combinations thereof, remain on the area harvested.

~~(2) ((Acceptable stocking. Stocking levels are acceptable if a minimum of 150 well distributed,))~~ **Reforestation standards.** A harvest area is reforested when that area contains an average of 150 or more vigorous, undamaged commercial species seedlings per acre ~~((of commercial tree species or such lesser number as the department determines))~~ that have survived on the site for at least 1 growing season. Up to 20 percent of the harvested area may contain fewer than 150 seedlings per acre, but no portion of the harvested area with timber growing capacity may contain less than 120 seedlings per acre. The department may determine that less than an average of 150 seedlings per acre is acceptable if fewer seedlings will reasonably utilize the timber growing capacity of the site ((have survived on the site at least 1 growing season. "Well distributed" means that not more than 20 percent of the harvested area contains less than a minimum of 120 trees per acre as determined by the department)).

(3) **Competing vegetation.** Competing vegetation shall be controlled to the extent necessary to allow establishment survival and growth by commercial species.

(4) **Artificial regeneration standards.**

(a) **Satisfactory reforestation - clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest or a period of from 1 to 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: Provided, That regeneration failures from causes beyond the applicant's control will not result in a violation of this section, but supplemental planting may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting or seeding.

(i) **Reforestation species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(A) Site data indicates better potential production for the proposed species than the existing species.

(B) Control of forest insects or diseases.

(C) Greater economic return.

(ii) **Seedling and seed standards.** Except as approved by the department to qualify as acceptable reforestation, the

seedlings and seed must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) **Satisfactory reforestation - partial cuts.** Partial cuts not meeting the specifications of subsection (1)(b)(iv) or (v) of this section shall have a seed source as required in subsection (5)(c)(ii) of this section.

(5) **Natural regeneration standards.** A natural regeneration plan may be approved by the department as acceptable reforestation if:

(a) A seed source of well-formed, vigorous trees of commercial tree species capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan or until issuance of a satisfactory reforestation inspection report.

(c) The seed source consists of one of the following, or combinations thereof:

(i) Seed blocks which total a minimum of 5 percent of the area of each 40 acre subdivision or portion thereof harvested: Provided, That the seed block should be reasonably windfirm, at least 1/2 acre in size, and reserved in locations shown on the plan and approved by the department; or

(ii) A minimum of 4 undamaged seed trees per acre, well distributed over each 40 acre subdivision or portion thereof harvested: Provided, That the distance from seed trees of harvested areas that are not adequately stocked should not be more than 200 feet. Seed trees shall be of commercial tree species, vigorous and of seed-bearing age and size.

(6) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to 10 years.

WSR 05-12-130

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 1, 2005, 10:47 a.m., effective July 2, 2005]

Effective Date of Rule: July 2, 2005.

Purpose: The purpose of these rules is to clarify the entire application and eligibility determination process used by the Division of Developmental Disabilities (DDD). This new chapter, chapter 388-823 WAC, Division of Developmental Disabilities Intake and Determination of Developmental Disabilities:

- Describes how to apply for a determination of a developmental disability;
- Defines the conditions required to be considered a person with a developmental disability, defines how these conditions may meet substantial limitations to adaptive functioning and defines the evidence required to substantiate adaptive functioning limitations;
- Defines how the age of an individual affects the eligibility determination process;
- Describes the inventory for client and agency planning (ICAP);

- Defines the expiration of eligibility, reviews and reapplication; and
- Describes an individual's rights as a client of DDD.

When effective, these rules replace the emergency rules filed as WSR 05-07-081.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-030, 388-825-035, and 388-825-040.

Statutory Authority for Adoption: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, and 71A.16.050.

Other Authority: Chapters 71A.10, 71A.12, and 71A.16 RCW.

Adopted under notice filed as WSR 05-04-057 on January 28, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-823-0420 (1)(d), in the table under "Qualifying Score," a cross reference to WAC 388-823-0900 was added for clarity. Other changes are editing only.

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 63, Amended 0, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 63, Amended 0, Repealed 3.

Date Adopted: June 1, 2005.

Andy Fernando, 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 05-13 issue of the Register.

WSR 05-12-132
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 1, 2005, 10:49 a.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The earlier effective date is necessary because of imminent peril to the public health, safety, or welfare. The federal government will eliminate intergovernmental transfers (IGT) in the near future which will create an estimated budget gap of \$160,000,000 for the state. This will lead to reductions in department programs, which will in turn have a direct nega-

tive impact on public health unless the rule is effective on July 1, 2005.

Purpose: The amended rules allow the department to reimburse certain public hospitals through the "full cost" public hospital certified public expenditure (CPE) payment program. The department is also updating, amending, and repealing other applicable sections. Clarifying language is being added to explain how high cost outliers are paid for state administered program claims. The verbiage, "medically indigent (MI) costs or charges" is being replaced with "charity costs or charges."

Citation of Existing Rules Affected by this Order: Repealing WAC 388-550-5100, 388-550-5250, 388-550-5300, 388-550-5350 and 388-550-6900; and amending WAC 388-550-330, 388-550-4300, 388-550-4600, 388-550-4650, 388-550-4800, 388-550-4900, 388-550-5210, 388-550-5220, 388-550-5400, and 388-550-6800.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Adopted under notice filed as WSR 05-09-085 and 05-09-086 on April 19, 2005.

A final cost-benefit analysis is available by contacting Kathy Sayre, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1342, fax (360) 586-9727, e-mail sayrek@dshs.wa.gov. No changes were made to the preliminary analysis, which will be final.

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 10, Repealed 5.

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 10, Repealed 5.

Date Adopted: June 1, 2005.

Andy Fernando, 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 05-13 issue of the Register.

WSR 05-12-135
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed June 1, 2005, 10:51 a.m., effective July 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Division of Child Support (DCS) is amending WAC 388-14A-8100 to remove subsection (2).

Are there special rules for setting child support for children in foster care? Under prior statutes, DCS was prohibited from enforcing child support obligations for children with developmental disabilities when the children were in foster care. Statutory changes now allow for enforcement of support obligations for those children under certain circumstances. DCS must remove the blanket statement in its rules to allow us to comply with the statutory changes from the 2004 legislative session which amended RCW 13.34.160, 14.34.270 [13.34.-270], 74.13.031, 74.13.350, and 74.20A.030.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-8100.

Statutory Authority for Adoption: RCW 13.34.160(3), 13.34.270(7), 74.08.090, 74.13.031(11), 74.13.350, 74.20A.-030(4), and 74.20A.310.

Adopted under notice filed as WSR 05-09-081 on April 19, 2005.

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.

Date Adopted: May 26, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-8100 Are there special rules for setting child support for children in foster care? ((+)) Child support obligations for children in foster care are set under chapter 26.19 RCW, just like any other support obligation.

((2) The division of child support does not establish or enforce support obligations for children in foster care who have been certified as eligible for DDD services.))

WSR 05-12-136

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 1, 2005, 10:52 a.m., effective July 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Division of Child Support is amending WAC 388-14A-3102 and 388-14A-3120 to correct a date ref-

erence to clarify when, under the Uniform Parentage Act, chapter 26.26 RCW, an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-3102 and 388-14A-3120.

Statutory Authority for Adoption: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310.

Adopted under notice filed as WSR 05-09-082 on April 19, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: May 26, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-17-013, filed 8/12/03, effective 9/12/03)

WAC 388-14A-3102 When the parents have signed an acknowledgment or affidavit of paternity, which support establishment notice does the division of child support serve on the noncustodial parent? (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For affidavits or acknowledgments filed on or before ((August 14, 1997)) July 1, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For affidavits or acknowledgments filed after ((August 14, 1997)) July 1, 1997 with the center for health statistics in the state of Washington, DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115, because the affidavit or acknowledgment has become a conclusive presumption of paternity under RCW 26.26.320.

(4) For acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.



WSR 05-12-136
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 1, 2005, 10:52 a.m., effective July 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Division of Child Support is amending WAC 388-14A-3102 and 388-14A-3120 to correct a date reference to clarify when, under the Uniform Parentage Act, chapter 26.26 RCW, an affidavit acknowledging paternity was sufficient to establish a binding determination of paternity.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-14A-3102 and 388-14A-3120.

Statutory Authority for Adoption: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310.

Adopted under notice filed as WSR 05-09-082 on April 19, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

Date Adopted: May 26, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

SHS-3511.1

AMENDATORY SECTION (Amending WSR 03-17-013, filed 8/12/03, effective 9/12/03)

WAC 388-14A-3102 When the parents have signed an acknowledgment or affidavit of paternity, which support establishment notice does the division of child support serve on the noncustodial parent? (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed,

in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For affidavits or acknowledgments filed on or before (~~August 14, 1997~~) July 1, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For affidavits or acknowledgments filed after (~~August 14, 1997~~) July 1, 1997 with the center for health statistics in the state of Washington, DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115, because the affidavit or acknowledgment has become a conclusive presumption of paternity under RCW 26.26.320.

(4) For acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on the acknowledgment or affidavit, even if the mother or father were not yet eighteen years of age at the time they signed or filed the acknowledgment or affidavit, as provided in RCW 26.26.315(4).

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed and filed a denial of paternity within ten days of the child's birth.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

[Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.056, 74.20A.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 74.20A.055, 2002 c 302, and 2002 c 199. 03-17-013, § 388-14A-3102, filed 8/12/03, effective 9/12/03. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056. 00-15-016 and 00-20-022, § 388-14A-3102, filed 7/10/00 and 9/25/00, effective 11/6/00.]

AMENDATORY SECTION (Amending WSR 03-17-013, filed 8/12/03, effective 9/12/03)

WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity. (1) A notice

and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.056.

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR) (see WAC 388-14A-3115) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before (~~August 14, 1997~~) July 1, 1997; or

(b) An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by RCW 26.23.050, 74.20A.055, and 74.20A.056.

(7) The NFPR includes the noncustodial parent's health insurance obligation, pursuant to RCW 26.18.170 and 26.23.050.

(8) The NFPR may include an obligation to provide support for day care expenses or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the noncustodial parent hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by 388-14A-3375.

(12) DCS may take immediate wage withholding action and

enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFPR is a final order. See WAC 388-14A-3110 for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-14A-3810 describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the noncustodial parent, or the mother, if she is also the custodial parent, may request genetic tests. A mother who is not the custodial parent may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC 388-14A-3110 for time limits. DCS does not refund any money collected under the notice if the noncustodial parent is later:

- (a) Excluded from being the father by genetic tests; or
- (b) Found not to be the father by a court of competent jurisdiction.

(16) If the noncustodial parent requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

- (a) A hearing on the NFPR.
- (b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(17) If the noncustodial parent was not excluded as the father, the mother, if she is also the custodial parent, may within twenty days of the date of service of the genetic tests request:

- (a) A hearing on the NFPR; or
- (b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(18) If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

(19) A hearing on a NFPR is for the limited purpose of resolving the accrued support debt, current support obligation and reimbursement to DCS for paternity-related costs. The NCP has the burden of proving any defenses to liability.

[Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.056, 74.20A.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 74.20A.055, 2002 c 302, and 2002 c 199. 03-17-013, § 388-14A-3120, filed 8/12/03, effective 9/12/03. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056. 00-15-016 and 00-20-022, § 388-14A-3120, filed 7/10/00 and 9/25/00, effective 11/6/00. Formerly WAC 388-11-290.]

WSR 05-12-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-100—Filed May 18, 2005, 3:20 p.m., effective May 18, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-03000V and 220-33-03000W; and
 amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Opens the Area 2S shad fishery. The spring chinook run size has been upgraded and impacts in this fishery are minor. Harvestable numbers of shad are expected in 2005. Incidental impacts to nontarget species are small. This rule is consistent with actions of the Columbia River compact hearing of January 28, May 10, and May 17, 2005, and is consistent with requirements of the ESA. 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 18, 2005.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-33-03000W Commercial shad—Columbia River. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad taken for commercial purposes except as provided for in this section:

Area: **Area 2S.** True north/south line through Light #50 near the mouth of the Sandy River upstream to the commercial fishing boundary near Beacon Rock.

Dates: Daily, 3:00 p.m. to 10:00 p.m. from:

May 23 - May 27, 2005

May 31 - June 3, 2005

June 6 - June 10, 2005

June 13 - June 17, 2005

June 20 - June 24, 2005

Gear: Single-wall, unslackened, floater gill net, with breaking strength of less than 10 pounds.

Mesh size: 5 3/8 inches to 6 1/4 inches. The net may not exceed 150 fathoms in length nor 40 meshes in depth.

Allowable Sale: During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

Area: **Washougal Reef.** Waters of Zone 4-5 inside a line commencing at the white six-second equal-interval light approximately 3/4 miles east of the Washougal Woolen Mill pipeline and projected westerly to the Washougal blinker light, thence to the four-second blinker light on the east end of Lady Island, thence easterly and along the shoreline of Lady Island to the State Highway 14 Bridge, thence easterly across the State Highway 14 Bridge to the mainland.

Dates: Daily, 8:00 p.m. to 12:00 a.m. from:

Immediately through May 19, 2005

May 22 - May 26, 2005

May 29 - June 2, 2005

June 5 - June 9, 2005

June 12 - June 16, 2005

June 19 - June 23, 2005

Gear: Single-wall, unslackened, floater gill net, with breaking strength of less than 30 pounds.

Mesh size: 5 inches to 6 1/4 inches.

Allowable Sale: During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-03000V Commercial shad—Columbia River. (05-91)

The following section of the Washington Administrative Code is repealed effective 10:00 p.m. June 24, 2005:

WAC 220-33-03000W Commercial shad—Columbia River.

WSR 05-12-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-101—Filed May 18, 2005, 3:21 p.m., effective May 18, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-56-31000W, 220-56-31500D, 220-56-33000S and 220-56-33000T; and amending WAC 220-56-310, 220-56-315, and 220-56-330.

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 adjust the crab seasons and limits consistent with rules adopted May 14, 2005, and are interim until the permanent rules take effect in mid-June. All Puget Sound areas except 4 east of the Bonilla-Tatoosh line, 5 and 13 will open on or after 7:00 a.m. July 1, 2005, so self repealing these rules at 6:59 a.m. July 1, 2005, will have the permanent rules become effective for the openings in the rest of Puget Sound. Order 05-51 is repealed as Area 7 closed by permanent rule on April 15 and the emergency rule is not needed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 4.

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.

Date Adopted: May 18, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-31000W Shellfish—Daily limits. Notwithstanding the provisions of WAC 220-56-310, effective June 18 through June 30, 2005 the Dungeness crab daily limit in Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Areas 5 and 13 is five male crab.

NEW SECTION

WAC 220-56-31500D Crabs, shrimp, crawfish—Unlawful acts. Notwithstanding the provisions of WAC 220-56-315, effective immediately through June 30, 2005, in waters open only on certain days or certain hours during the day, except for the night closure set out in WAC 220-56-315(10), it is unlawful to fail to remove gear from the water when fishing for shellfish is not allowed, and it is unlawful to fail to remove gear from the water by one hour after sunset if fishing is not allowed on the next calendar day. In waters that are open continuously except for the night closure set out in WAC 220-56-315(10), gear may be left in the water during the night closure.

NEW SECTION

WAC 220-56-33000T Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, the following areas are closed to fishing for crab during the periods indicated:

- (1) Area 4 east of the Bonilla-Tatoosh line and Areas 5 and 13 - Closed June 1 through 6:59 a.m. June 18, 2005.
- (2) Areas 6, 7, 8-1, 8-2, 9, 10, 11, and 12 - Closed June 1 through 6:59 a.m. July 1, 2005.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000S Crab—Areas and seasons. (05-51)

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. June 30, 2005:

WAC 220-56-31000W Shellfish—Daily limits. (05-101)

WAC 220-56-31500D Crabs, shrimp, crawfish—Unlawful acts. (05-101)

WAC 220-56-33000T Crab—Areas and seasons. (05-101)

**WSR 05-12-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-104—Filed May 19, 2005, 4:32 p.m., effective May 19, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500A; and amending WAC 220-56-325.

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 regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. There is sufficient quota remaining in Hood Canal to open for one more day of shrimping. 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.

EMERGENCY

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.

Date Adopted: May 19, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500B Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Hood Canal Shrimp District, except as provided for in this section.

a. Effective 9:00 a.m. to 1:00 p.m., May 25, 2005, all waters of the Hood Canal Shrimp District are open to the harvest of all shrimp species.

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Discovery Bay Shrimp District.

3) Effective 3:00 p.m. May 21, 2005, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 8.

4) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 9, 10 and 11.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500A Shrimp—Areas and season (05-96)

**WSR 05-12-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-103—Filed May 20, 2005, 1:26 p.m., effective May 20, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-44-035.

Statutory Authority for Adoption: RCW 77.12.240.

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 complements recently passed federal rules for fishing for highly migratory species, which rules are already in effect. The agency is undertaking permanent rule making, and this emergency rule is needed until the permanent rule takes 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 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.

Date Adopted: May 19, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-44-03500A Highly migratory species fisheries—Species, gear and areas. Notwithstanding the provisions of WAC 220-44-035, effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port highly migratory species taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in violation of any species, gear, season, area, handling or landing requirements, established by the Pacific Fishery Management Council and published in the Federal Register, Volume 69, No. 67, published April 7, 2004. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

**WSR 05-12-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-106—Filed May 20, 2005, 3:21 p.m., effective May 20, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000U; 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: This regulation is necessary for the utilization of the commercial chinook allocation in the North of Falcon troll fishery in a manner that maximizes the economic value to the commercial fishery industry and the state of Washington. These rules are adopted at the recommendation of the Pacific Fisheries Management Council. 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.

Date Adopted: May 20, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-24-04000V 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:

Immediately through May 26, 2005.

(2) The Cape Flattery and Columbia River Control Zones are closed.

(3) Landing and possession limit of 125 chinook per boat per entire open period.

Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(4) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(5) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section,

and vessels fishing north of Leadbetter Point must land and deliver their fish within the area and North of Leadbetter point. Vessels fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(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 trollfishtickets@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.

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 220-24-04000U All-citizen commercial salmon troll. (05-78)

WSR 05-12-026**EMERGENCY RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed May 23, 2005, 4:16 p.m., effective May 23, 2005]

Effective Date of Rule: Immediately.

Purpose: The Division of Developmental Disabilities has received initial approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replace the current community alternatives program (CAP) waiver.

These rules will clarify eligibility, service array, utilization, provider qualifications, client appeal rights and access to services. This filing includes a new chapter 388-845 WAC.

These rules extend the emergency rules filed as WSR 05-04-020 while the division awaits final approval from CMS necessary to file the proposed rules for adoption on a permanent basis.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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 initial approval of the HCBS waivers by CMS required the department to implement new rules by April 1, 2004, to protect the health and welfare of eligible clients by ensuring no interruption in services to current participants in the CAP waiver occurs, and to ensure a continuation of federal matching funds under 42 C.F.R. 441, Subpart G - Home and Community Based Services - Waiver Requirements. Emergency rules were originally filed as WSR 04-08-020, and were extended as WSR 04-16-019, 04-20-018, and 05-04-020. The department has filed a notice of intent to adopt permanent rules as WSR 03-20-103. Ongoing negotiations with CMS have delayed the filing of proposed rules for adoption on a permanent basis until the negotiations are completed and CMS grants final approval.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 131, 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 131, 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 131, Amended 0, Repealed 0.

Date Adopted: May 19, 2005.

Andy Fernando, 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 05-13 issue of the Register.

WSR 05-12-027**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-105—Filed May 23, 2005, 4:51 p.m., effective May 28, 2005]

Effective Date of Rule: May 28, 2005.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Y; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.240.

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: In-season run analyses predict that 5,500 salmon are currently enroute to the Icicle River. Although upper Columbia spring chinook have been listed as endangered under the Endangered Species Act, the salmon returning to the Icicle River are Carson River stock that are not listed as endangered. About 1,000 salmon are needed to meet hatchery broodstock needs. The quantity of salmon returning in 2005 ensures that the hatchery will meet their escapement needs; the remaining fish will be available for harvest. 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.

EMERGENCY

Date Adopted: May 23, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900Y Exceptions to statewide rules—Icicle River (Chelan Co.) Notwithstanding the provisions of WAC 232-28-619, effective May 28, 2005 through July 31, 2005 it is lawful to fish for salmon in those waters of the Icicle River from 500 feet downstream of the Leavenworth National Fish Hatchery Rack downstream to a point 400 feet upstream of the mouth of the Icicle River. Daily limit two salmon minimum size is 12 inches. Night closure and non-buoyant lure restrictions in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective one hour after sunset on July 31, 2005:

WAC 232-28-61900Y Exceptions to statewide rules—Icicle River (Chelan Co.)

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.

Date Adopted: May 24, 2004 [2005].

J. P. Koenings
Director

NEW SECTION

WAC 220-56-25500U Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open until further notice. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2:

(i) Those waters south of the Queets River, north of 47° N., and east of 124°40' W. - Open until further notice.

(ii) All other waters in Area 2 - Open until further notice, except closed to fishing for halibut 12:01 a.m. of each Friday through 11:59 p.m. of each Saturday.

(c) Catch Record Card Areas 3 and 4 - Open Thursday June 16 and Saturday June 18 only. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W., thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(d) Catch Record Card Area 5 - Open May 26 through July 31, 2005, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Areas 6 through 11 and Catch Record Card Area 13 - Open through June 20, except closed 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

EMERGENCY

**WSR 05-12-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-107—Filed May 25, 2005, 10:39 a.m., effective May 25, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500T; and amending WAC 220-56-255.

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: There is sufficient quota to reopen the fishery for two days on June 16 and June 18 in Catch Record Card Areas 3 and 4. This regulation is necessary to implement federal rules on halibut seasons. The adoption of state rules is required to provide consistency to state and federal rules regarding halibut fishing. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500T Halibut—Seasons daily and possession limits. (05-99)

**WSR 05-12-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-108—Filed May 25, 2005, 10:41 a.m., effective May 25, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500B; and amending WAC 220-56-325.

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 regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. There is sufficient quota remaining in Marine Area 8 to open for one more day of spot shrimping. 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.

Date Adopted: May 24, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500C Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

1) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use

in all waters of the Hood Canal Shrimp District and Marine Area 8, except as provided for in this section.

a) Effective 9:00 a.m. to 1:00 p.m., May 25, 2005, all waters of the Hood Canal Shrimp District are open to the harvest of all shrimp species.

b) Effective 7:00 a.m. to 3:00 p.m., May 28, 2005, all waters of Marine Area 8 are open to the harvest of all shrimp species.

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Discovery Bay Shrimp District and Marine Areas 9, 10 and 11.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-32500B Shrimp—Areas and season (05-104)

**WSR 05-12-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-109—Filed May 27, 2005, 9:42 a.m., effective May 27, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88D-01000A.

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 establishes a trial emerging commercial fishery for hagfish. This open entry fishery is established to test the market for Washington-origin Pacific hagfish, and is being enacted on an emergency basis to meet market conditions. Permanent rules are being promulgated. Notification to the legislature has been given.

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 4, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 26, 2004 [2005].

J. P. Koenings
Director

NEW SECTION

WAC 220-88D-01000B Designation of the hagfish pot fishery as an emerging commercial fishery. The director designates the hagfish pot fishery as an emerging commercial fishery for which use of a vessel is required. It is unlawful to fish for, possess, or deliver hagfish taken for commercial purposes unless the fisher has a valid emerging commercial fishery license and a hagfish pot trial fishery permit.

NEW SECTION

WAC 220-88D-02000A Emerging commercial fishery—Eligibility for trial fishery permits—Incidental catch. (1) An individual may not hold more than one Washington hagfish pot trial permit.

(2) Hagfish pot trial fishery permits are not transferable. Only the vessel designated on the emerging commercial fishery license and hagfish pot trial fishery permit may be used to fish for or deliver hagfish.

(3) A hagfish trial fishery permit will be issued only to a natural person who has a valid emerging commercial fishery license.

(4) Incidental catch:

(a) It is unlawful to retain any species other than hagfish.

(b) All species other than hagfish must be carefully handled and returned to the water promptly.

NEW SECTION

WAC 220-88D-03000A Hagfish pot trial fishery—Season and gear. It is unlawful to fish for hagfish for commercial purposes except as provided in this section:

(1) Season - Open year round to hagfish pot gear only.

(2) Area - Open only in Pacific Ocean waters greater than 50 fathoms in depth.

(3) Gear restrictions:

(a) Maximum of 50 hagfish pots per permit. Pots may be fished individually or on a common ground line.

(b) Hagfish pot gear requirements:

(i) Maximum entrance tunnel size of eleven square inches. Entrance tunnels may be of any shape.

(ii) Each pot is required to have at least one escape exit of at least nine and one half square inches in opening and which must be constructed of 120 thread size or smaller untreated cotton twine.

(c) Buoy requirements: Hag fish pot gear must be buoyed. Marker buoys must be floating and visible on the surface of the water, equipped with a pole, flag, radar reflector and operating light, and marked with the clear identification of the permittee. If ground lines are used, ground line end marker buoys must display the number of pots on the ground line.

NEW SECTION

WAC 220-88D-04000A Hagfish pot trial fishery—Logbook required. It is unlawful for a participant in the hagfish pot trial fishery to fail to complete the department-supplied logbook with all indicated entries. Log book information is required to be submitted quarterly, and it is unlawful to fail to remit the information by April 15, July 15, October 15 or January 15 for the previous quarter, whether or not fishing activity occurred during that quarter. Failure to submit log book information may result in revocation of the trial fishery permit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-88D-01000A Designation of the hagfish pot fishery as an emerging commercial fishery. (05-74)

**WSR 05-12-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-110—Filed May 27, 2005, 9:43 a.m., effective May 30, 2005, 11:59 p.m.]

Effective Date of Rule: May 30, 2005, 11:59 p.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500U; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of halibut will have been taken in Catch Record Card Area 2. This regulation is necessary to implement federal rules on halibut seasons. The adoption of state rules is required to provide consistency to state and federal rules regarding halibut fishing. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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.

Date Adopted: May 26, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-25500V Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Open until further notice. By-catch restriction: It is unlawful during any vessel trip to bring into port or land bottomfish except sablefish if the vessel has brought halibut into port or landed halibut.

(b) Catch Record Card Area 2 - Closed effective 11:59 p.m. May 30, 2005.

(c) Catch Record Card Areas 3 and 4 - Open Thursday June 16 and Saturday June 18 only. The following area southwest of Cape Flattery is closed to fishing for halibut at all times:

Beginning at 48°18' N., 125°18' W.; thence to 48°18'N., 124°59'W.; thence to 48°11'N., 124°59'W.; thence to 48°11'N., 125°11'W.; thence to 48°04'N., 125°11'W.; thence to 48°04'N., 124°59'W.; thence to 48°N., 124°59'W.; thence to 48°N., 125°18'W.; thence to point of origin.

(d) Catch Record Card Area 5 - Open through July 31, 2005, except closed to fishing for halibut 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(e) Catch Record Card Areas 6 through 11 and Catch Record Card Area 13 - Open through June 20, except closed 12:01 a.m. of each Tuesday through 11:59 p.m. of each Wednesday.

(2) Daily limit one halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. May 30, 2005:

WAC 220-56-25500U Halibut—Seasons daily and possession limits. (05-107)

WSR 05-12-102

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed May 27, 2005, 11:40 a.m., effective May 27, 2005]

Effective Date of Rule: Immediately.

Purpose: New section WAC 458-16-1000, this rule describes the property tax exemption that may be claimed by a federally recognized Indian tribe for property exclusively used for essential government services in accordance with the 2004 changes to RCW 84.36.010. The rule explains the parameters of the exemption, how the exemption may be obtained, how a tribe may appeal a denial of the exemption, how essential government services is defined, and provides applicable examples.

Statutory Authority for Adoption: RCW 84.36.010 and 84.36.865.

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 amendments to RCW 84.36.010 are effective for assessment year 2004. This rule was previously adopted on an emergency basis effective October 1, 2004 (WSR 04-20-062) and January 27, 2005 (WSR 05-04-047). A CR-101 public meeting was conducted on September 2, 2004, and a CR-102 public hearing on March 31, 2005, for the purpose of adopting a permanent WAC 458-16-1000. The department has also filed notice with the code reviser for a second CR-102 public hearing for July 12, 2005. A third emergency adoption of this rule is necessary in order to provide interim guidance before the adoption of a permanent rule. There have been no changes to the rule being adopted with this filing. Adoption of this rule will continue to provide tax information to taxpayers, department staff, and local officials to use in determining the application of this property tax exemption.

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 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.

Date Adopted: May 27, 2005.

Janis P. Bianchi, Manager
Interpretations and Technical Advice Unit

NEW SECTION

WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights. (1) **Introduction.** This section implements Substitute House Bill 1322 (SHB 1322) as passed by the 2004 legislature and published in the 2004 regular session laws as Chapter 236. SHB 1322 amends RCW 84.36.010 to exempt "all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services." This section explains the exemption, how the exemption may be obtained, how essential government services is defined, and how a tribe or an assessor may appeal an exemption determination.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

(c) "Declaration" means the exemption declaration filed by an Indian tribe with the Department to claim the property tax exemption authorized in RCW 84.36.010.

(d) "Department" means the department of revenue, property tax division.

(e) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. See Subsections (4) and (5) below that outline more complete and detailed examples of "essential government services" for the purposes of this section.

(f) "Federally recognized Indian tribe," "Indian tribe," or "tribe" means any Indian nation, tribe, band, community, or other entity that is recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federally recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe." See WAC 458-20-192 for more explicit information regarding these defined terms.

(g) "State" means the state of Washington.

(3) **Exemption.** To qualify for the exemption set forth in SHB 1322, real and personal property located in the state must: (1) belong exclusively to a federally recognized Indian tribe; and (2) be used exclusively for essential government services. Property owned by the United States government and held in trust for a federally recognized Indian tribe is exempt from property tax.

(a) **When do the amendments to RCW 84.36.010 take effect?** The effective date of the amendments is June 10, 2004. After that date an Indian tribe may file an exemption declaration for the property granted exemption under RCW 84.36.010 as amended by Chapter 236. Such a declaration must be filed with the department. This exemption is first applicable to taxes due in 2005.

(b) **How a tribe may claim this exemption - exemption declaration required.**

(i) **Declaration form - how it may be obtained.** An Indian tribe claiming the property tax exemption described in this section must submit an exemption declaration and sup-

porting documentation regarding the ownership and use of the property to the department. The declaration must be on a form prescribed by the department and signed by an authorized agent of the tribe. This information will be used to determine whether the property qualifies for exemption. An exemption declaration may be obtained from the department or downloaded from the state's internet site under the agency index for Revenue at <http://dor.wa.gov/>.

(ii) **Exemption declaration.** Declarations must be filed with the department to exempt property for taxes due the following year. A tribe may submit one exemption declaration for all real and personal property that it owns exclusively if the property is used exclusively for an essential government service. If real property is owned in part and/or used in part by another individual or entity, a separate exemption declaration must be submitted for each parcel.

(iii) **Other documentation a Tribe may be required to submit with exemption declaration to determine eligibility.** In addition to the exemption declaration, a tribe may be asked to submit the following information regarding the real or personal property for which exemption is sought to determine the amount of and eligibility for the exemption:

(A) An accurate description of the real and personal property including the county tax parcel number(s), and a copy of the current deed(s);

(B) An accurate map identifying by dimension the use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and floor plans of the buildings. This map or floor plan will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the area;

(C) If the property is rented or loaned to another party, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

(I) What property is rented or loaned;

(II) The name of the party to whom the property is rented or loaned; and

(III) How the property is being used.

(iv) **Department's review of exemption declaration and notice of exemption determination.** Upon receipt of the exemption declaration the department will review the declaration and all supporting documentation. The department may physically inspect the property in order to verify exempt use. Additional information may be requested about the ownership and use of the property, if the department needs this information to determine whether the property qualifies for exemption. An exemption declaration is not considered complete until the department receives all required information. The department shall then determine the taxable status of the property. The burden is upon the tribe to demonstrate exempt use and ownership. The department may deny the exemption declaration, in whole or in part, if it believes the property does not qualify for exemption. If the exemption declaration is denied for any portion of the property, the department must clearly state the reason(s) for denial in the written determination. A denial may be appealed, as explained in subsection (12) of this section.

(v) **When will the property be exempt from payment of taxes?** If an exemption declaration is approved, the prop-

erty is exempt from property taxes due the year immediately following the year in which the declaration is submitted and for all subsequent years unless the property is sold or transferred or the tribe ceases to use the property exclusively for essential government services (see subsection 10).

(4) **Essential government services as defined in RCW 84.36.010.** For the purposes of this section, "essential government services" mean services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Property used for essential government services includes property:

(a) Providing access to water or land where treaty rights are exercised by a tribe or tribal members;

(b) Used for the protection and stewardship of forest land, shoreline, watershed, or other environmentally sensitive areas;

(c) Used for the preservation of historically or culturally significant sites; and

(d) Used by a utility company providing services to residents of Indian country, as defined in WAC 458-20-192. The property of a utility company that provides services to an area extending outside of Indian country does not qualify for exemption.

(5) **Examples regarding essential government services.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide and are not to be used to determine eligibility for exemption. All examples assume exclusive ownership of property located in the state by a federally recognized tribe.

(a) A tribe uses property for a courthouse, police station, fire station, hospital, library, and public schoolhouse. Each of these uses is a use for essential government services.

(b) A tribe acquires off-reservation land along the headwaters of a stream flowing into the reservation. The land is maintained as a conservation zone, limiting pollution and protecting water quality. The property is used for essential government services.

(c) A tribe operates a fish hatchery as part of its fisheries program. The property is used for essential government services.

(d) A tribe operates a fish cannery and processing center. The property is used for a commercial activity and is not used for essential government services.

(e) A tribe maintains and operates a parking lot or garage that is adjacent to its tribal administration building and courthouse. The parking lot or garage is integrally related to the essential government services provided in close proximity to its location. The property is used for essential government services. However, if the parking lot or garage is also used for ineligible purposes, it is taxable.

(f) A tribe operates a sawmill and log yard used to process and store timber or logs removed from its forest lands. Both the sawmill and log yard are commercial activities. The property is not used for essential government services.

(6) **Property jointly owned by an Indian tribe and another individual or entity used exclusively for essential government services - Eligibility for exemption.** The percentage of the property owned exclusively by a tribe and used

exclusively for essential government services is eligible for exemption.

(7) **Property used for qualifying and non-qualifying purposes - Mixed use of property - Eligibility for exemption.** If property belongs exclusively to an Indian tribe and is used for qualifying and non-qualifying purposes and if the two uses are physically separate on the real property, the department shall administratively segregate the portion of the property that is used exclusively for essential government services and exempt that portion of the property from property tax. The portion of the property that is used for non-qualifying uses is subject to taxation.

(a) An administrative segregation occurs when the department separates the exempt value from the taxable value. The assessor may create a new tax parcel number that exists solely for property tax purposes.

(b) Example: a tribal administrative office may be located in the same building as a convenience store run as a commercial enterprise. The portion of the building used for tribal administration offices is exempt and the portion of the building used as a convenience store is taxable.

(c) If the property is used at times for exempt or qualifying services and at other times for nonexempt purposes, the "exclusively used" standard is not met and the property is taxable.

(8) **Property owned by an Indian tribe that is leased - Eligibility for exemption.** If property belonging exclusively to an Indian tribe is leased to an individual, a for-profit or nonprofit entity, a tribal member, or another governmental entity, the tenant's or lessee's activities will determine whether the property qualifies for exemption.

(9) **Property used for commercial or enterprise activities - Ineligible for exemption.** Property used for commercial or enterprise activities does not qualify for exemption. For purposes of this section, a "commercial or enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The burden is upon the tribe to prove that the property is not used for commercial or enterprise activities. The collection of a fee, such as a fee for the use of the picnic area in a park, does not make an activity a commercial or enterprise activity. Property used for a commercial or enterprise activity will not qualify for the exemption when funds received from the activity are used to provide essential government services. For example, if a tribe owns exclusively property on which it operates a gas station and the profits from the gas station are used to pay for essential government services, the property does not qualify for the exemption.

(10) **Sale, transfer, or cessation of use of exempt property.** If a tribe sells or transfers property or ceases to use real property for an essential government service as required under RCW 84.36.010, the exemption will be cancelled as of the date the property was sold or transferred or the exempt use of the property ceased. Real property that no longer retains its exempt status will be assessed a pro rata portion of the taxes allocable to the property for the remaining portion of the tax year after the date the property lost its exempt status. If only a portion of the property has lost its exempt status, only that portion of the property is subject to tax. See RCW 84.40.350 through 84.40.390 for a more complete

explanation of what occurs when the status of real property changes from exempt to taxable.

(a) **Duty to notify department.** A tribe must notify the department of any change in the ownership or use of the property that might affect its exempt status within a reasonable amount of time. If any portion of the exempt property is loaned or rented, the tribe is required to report this change to the department because the loan or rental may affect the taxable status of the property. Any other person who knows or has information regarding a change in ownership or use of exempt property may notify the department of any such change. Upon receipt of change notice, the department will determine whether the property retains its exempt status.

(b) **Notice to tribe.** The department must notify the tribal owner of the exempt property if the exemption is being removed, in whole or in part. The tribe may appeal the removal of the exemption to the BTA. At the same time, the tribe may provide additional information to the department for reconsideration of the determination.

(11) **Can the exemption be claimed for prior years - Refunds?** A tribe may submit an exemption declaration for previous years, up to a maximum of three years from the date taxes were paid on the property, if the taxpayer provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years. If the exemption is granted, the tribe must submit a refund claim to the county treasurer. RCW 84.69.020(2) and 84.69.030. However, no exemption can be claimed for any time period prior to 2004, the first assessment year affected by RCW 84.36.010 as amended by Chapter 236.

(12) **Administrative appeal rights - Board of Tax Appeals.** The tribe or assessor may appeal an exemption determination made by the department to the BTA under RCW 82.03.130 (1)(c). A notice of appeal can be obtained from the department or the BTA, or downloaded from the BTA internet site, <http://bta.state.wa.us/>.

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

WSR 05-12-103

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Order 05-09—Filed May 27, 2005, 2:39 p.m., effective May 27, 2005]

Effective Date of Rule: Immediately.

Purpose: The new emergency rules are to establish criteria under which ecology would disburse funds appropriated for drought relief. The proposed rule establishes four general categories for funding: Public agricultural water supplies, drinking water supplies, fish and wildlife resources, and leases and purchases of water rights to mitigate for the impacts of emergency ground water permits and transfers on fisheries resources in the Yakima River basin.

Statutory Authority for Adoption: Section 947 of the 2005-07 capital budget bill, ESSB 6094, requires that ecology establish general criteria for the distribution of \$8,200,000 in funds appropriated for drought relief. Ecology has rule-making authority for all drought-related activities,

including funding, under RCW 43.83B.400 and [43.83B.]420.

Other Authority: Ecology has general rule-making authority under RCW 43.21A.080 and 43.27A.090.

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 establish criteria for the disbursement of funds for emergency drought relief. The needs for funding are immediate and to employ the standard rule-making process would prevent the funds from becoming available to those in need in time for the water-short summer months.

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 31, 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 31, 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.

Date Adopted: May 26, 2005.

Jay J. Manning
Director

Chapter 173-167 WAC

EMERGENCY DROUGHT FUNDING

PART I

DROUGHT FUNDING—GENERAL CRITERIA

NEW SECTION

WAC 173-167-010 Funding availability to public bodies. Ecology may provide funding to public bodies in connection with projects and measures designed to alleviate drought conditions which may affect public health and safety, including, but not limited to, conditions affecting drinking water supplies, agricultural activities, and survival of fish and wildlife.

NEW SECTION

WAC 173-167-020 Funding amounts. Funding is available in the following amounts for the following general categories of activities:

(1) \$3,350,000 is available for use to alleviate drought conditions for public agricultural water supplies.

(2) \$2,350,000 is available for use to alleviate drought conditions affecting drinking water supply facilities and utilities.

(3) \$1,000,000 is available for use to alleviate the effects of drought conditions on the state's fish and wildlife resources.

(4) \$1,500,000 is available for use to lease and purchase water rights to mitigate for the impacts of emergency ground water permits and transfers on fisheries resources in the Yakima basin.

(5) Funding will be made available to meet both immediate and future needs.

(6) Ecology will periodically reassess, and if necessary redistribute, the amount of funds available in each of the above categories to assure that the most pressing needs are effectively addressed.

NEW SECTION

WAC 173-167-030 Qualifying public bodies. These include the state of Washington, or any federal, state, or local agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington.

NEW SECTION

WAC 173-167-040 Eligibility for funding. To be eligible for funding, a public body, water system, water source, or water body which is connected with a project or measure must be receiving, or have been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for entities or for fish or wildlife that depend on the water supply. Funding or compensation must be in connection with the leasing or acquisition of water, or acquisition, construction, rehabilitation, and/or improvement of water supply distribution or delivery facilities, or in connection with other appropriate measures to assure the:

(1) Adequate provision of drinking water to the citizens of the state;

(2) Continuation of irrigated agriculture in the state; or

(3) Survival of the state's fish and wildlife resources, with particular emphasis on fish stocks or wildlife species which have been identified as threatened or endangered by the state department of fish and wildlife, the federal National Marine Fisheries Service, or the federal Fish and Wildlife Service.

PART II

FUNDING FOR AGRICULTURAL PROJECTS

NEW SECTION

WAC 173-167-100 Funding conditions. Eligibility conditions for each proposed project or measure to alleviate drought conditions for public agricultural water supplies are:

(1) The proposed project or measure must be for a beneficial use of water involving a previously established activity or purpose.

(2) The proposed project or measure must assist in alleviating a water shortage.

(3) A public body eligible for funding shall initially be entitled to a grant of no more than ten percent of funds available for that general category of activities listed under WAC 173-167-020(1).

(4) A public body receiving a grant may receive additional funding in the form of a loan in the amount of no more than an additional ten percent of funds available for that general category of activities listed under WAC 173-167-020(1).

(5) A public body receiving a grant or loan must satisfy ecology as to its ability to complete the project or measure in a timely manner.

(6) A public body receiving a loan must satisfy ecology as to its ability to repay the loan in a timely manner.

(7) Priority will be given to a project or measure that provides matching funds from other state, local, or federal sources.

(8) Water derived from the project or measure must be put to beneficial use as a substitute for water not available because of a drought.

(9) Water derived from the project or measure must not be used to irrigate new lands.

(10) The proposed project or measure must not adversely impair existing rights, including both instream and out-of-stream rights.

(11) All required permits and approvals for the proposed project or measure must be obtained by the applicant prior to a loan or grant agreement being signed.

NEW SECTION

WAC 173-167-110 Eligible measures. Eligible measures that may be funded include, but are not limited to, the means for implementing water conservation procedures, acquiring alternate water sources, or temporarily transferring water rights, provided that the proposed measure represents an additional cost to the applicant as the result of drought conditions, and is not a substitute for normal water supply costs. Types of eligible measures for implementing water conservation procedures include, but are not limited to:

(1) Irrigation scheduling programs and activities, including the necessary personnel to accomplish such activities;

(2) Implementation of water reduction programs and activities, including the necessary personnel to accomplish such activities;

(3) Implementation of regional water conservation programs by multiple entities;

(4) Education programs.

Types of eligible measures for acquiring alternate water sources or temporarily transferring water rights include, but are not limited to:

(a) Water purchase or leasing costs;

(b) Repair or replacement costs;

(c) Power costs.

NEW SECTION

WAC 173-167-120 Priority for funding. Priority will be given to proposed projects that need additional water supplies. Need will be measured by:

(1) The short-term and long-term effects, in the absence of drought relief, that the water shortage would have on agricultural crops or livestock operations.

(2) The capability and reliability of the proposed project to provide an emergency water supply to the applicant.

(3) The percent of water shortage experienced or forecast for each applicant.

Priority will also be given to proposed measures which:

(a) Are the most effective in achieving long-term reductions (conservation) in water requirements, represent the more efficient use of available supplies, and will address shortages that pose the greatest economic hardship.

(b) Present no, or minimal, overall environmental impacts, including any detrimental effects to wetlands. Any such impacts should be identified to the best extent possible by the applicant at the time of application.

NEW SECTION

WAC 173-167-130 Preferences. Preference will be given to public bodies which are implementing activities in response to drought conditions which are in addition to the activities to be conducted with funding applied for under this chapter; such activities may include, but are not limited to, water conservation plans, water system efficiency improvements, and other drought contingency actions.

NEW SECTION

WAC 173-167-140 Related permits to be processed expeditiously. In keeping with the emergency nature of these provisions, ecology and all other state and local agencies with authority to issue permits or other authorizations for the proposed project or measure, will process the respective application(s) expeditiously and provide a decision(s) to the applicant within fifteen calendar days.

NEW SECTION

WAC 173-167-150 Waiver. To expedite the implementation of drought relief projects and measures, ecology can approve funding or compensation under this chapter without compliance with requirements for:

- (1) Notice of publication;
- (2) The State Environmental Policy Act; and
- (3) Competitive bidding requirements.

NEW SECTION

WAC 173-167-160 Irrigation and stock water supply projects. Potential projects that may be funded for irrigated agriculture or stock water supply projects include, but are not limited to, the following, provided that their construction would provide immediate drought relief:

- (1) Pumps and accessories.
- (2) Discharge lines.

- (3) Pipelines.
- (4) Canals and laterals with control structures.
- (5) Lining of leaky canals.
- (6) Diversion structures.
- (7) Reregulating reservoirs.
- (8) Measuring devices.
- (9) Modifying an existing source or deepening an existing well.
- (10) Developing an emergency or alternate water source.
- (11) Replacement water sources, including purchasing or leasing water or water rights to be used during the drought period.

NEW SECTION

WAC 173-167-170 Local improvement districts. Local improvement districts (LIDs) may be formed to allow funding of irrigated agriculture or stock water supply projects, provided those projects will provide immediate drought relief.

NEW SECTION

WAC 173-167-180 Applications and assistance. Applications for funding assistance under this section or any questions about funding assistance under this section should be directed to:

Ray Newkirk
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-407-6630
mew461@ecy.wa.gov

PART III**FUNDING FOR DRINKING WATER SUPPLY PROJECTS**NEW SECTION

WAC 173-167-200 Funding conditions. Eligibility conditions for each proposed project or measure to alleviate drought conditions for drinking water supplies are:

(1) The body applying for funding must be a public body as defined in WAC 173-167-010(3). The proposed project or measure must be for a beneficial use of water involving a previously established activity or purpose.

(2) The proposed project or measure must assist in alleviating a water shortage.

(3) A public body eligible for funding shall initially be entitled to a grant of no more than ten percent of funds available for that general category of activities listed under WAC 173-167-020(2).

(4) A public body receiving a grant may receive additional funding in the form of a loan in the amount of no more than an additional ten percent of funds available for that general category of activities listed under WAC 173-167-020(2).

(5) A public body receiving a grant or loan must satisfy ecology as to its ability to complete the project or measure in a timely manner.

(6) A public body receiving a loan must satisfy ecology as to its ability to repay the loan in a timely manner.

(7) Priority will be given to a project or measure that provides matching funds from other state, local, or federal sources.

(8) Water derived from the project or measure must be put to beneficial use as a substitute for water not available because of a drought.

(9) The proposed project or measure must not adversely impair existing rights, including both instream and out-of-stream rights.

(10) All required permits and approvals for the proposed project or measure must be obtained by the applicant prior to a loan or grant agreement being signed.

NEW SECTION

WAC 173-167-210 Eligible measures. Eligible measures that may be funded include, but are not limited to, the means for implementing drought-related water conservation procedures, acquiring alternate water sources, or temporarily transferring water rights, provided that the proposed measure represents an additional cost to the applicant as the result of drought conditions, and is not a substitute for normal water supply costs. Types of eligible measures for implementing drought-related water conservation procedures include, but are not limited to:

(1) Implementation of water reduction programs and activities, including the necessary personnel to accomplish such activities.

(2) Implementation of regional drought-related water conservation programs by multiple entities.

(3) Drought-related education programs.

Types of eligible measures for acquiring alternate water sources or temporarily transferring water rights include, but are not limited to:

(a) Water purchase or leasing costs.

(b) Repair or replacement costs.

(c) Power costs.

NEW SECTION

WAC 173-167-220 Priority for funding. Priority will be given to proposed projects which need additional water supplies. Need will be measured by:

(1) The short-term and long-term effects, in the absence of drought relief, that the water shortage would have on a municipality's or utility's ability to provide drinking water in its service area, or on the survival of fish or wildlife populations.

(2) The capability and reliability of the proposed project to provide an emergency water supply to the applicant.

(3) The percent of water shortage experienced or forecast for each applicant for funding assistance.

Priority will also be given to proposed measures which:

(a) Are the most effective in achieving long-term reductions (conservation) in water use and/or which promote the more efficient use of available supplies.

(b) Present no, or minimal, overall environmental impacts, including any detrimental effects to wetlands. Any

such impacts should be identified to the best extent possible by the applicant at the time of application.

NEW SECTION

WAC 173-167-230 Preferences. Preference will be given to public bodies which are implementing activities in response to drought conditions which are in addition to the activities to be conducted with funding applied for under this chapter; such activities may include, but are not limited to, water conservation plans, water system efficiency improvements, and other drought contingency actions.

Any water system requesting funding under this section must have developed and be following a water shortage response plan or must develop a plan concurrently with the implementation of the funded project.

NEW SECTION

WAC 173-167-240 Related permits to be processed expeditiously. In keeping with the emergency nature of these provisions, ecology and all other state and local agencies with authority to issue permits or other authorizations for the proposed project or measure, will process the respective application(s) expeditiously and provide a decision(s) to the applicant within fifteen calendar days.

NEW SECTION

WAC 173-167-250 Waiver. To expedite the implementation of drought relief projects and measures, ecology can approve funding or compensation under this chapter without compliance with requirements for:

(1) Notice of publication;

(2) The State Environmental Policy Act; and

(3) Competitive bidding requirements.

NEW SECTION

WAC 173-167-260 Drinking water supply projects. Eligible projects that may be funded for drought relief for drinking water supplies include, but are not limited to:

(1) Modifying an existing source or deepening an existing well.

(2) Developing an emergency or alternate water source.

(3) Replacement water sources, including purchasing or leasing water or water rights to be used during the drought period.

(4) Constructing an emergency intertie to another approved public water supply.

(5) Transmission pipelines.

(6) Diversion structures.

(7) Pumps and accessories.

(8) Source meters.

(9) Leak detection and repair.

NEW SECTION

WAC 173-167-270 Local improvement districts. Local improvement districts (LIDs) may be formed to allow funding of drought-related water conservation projects, pro-

vided those projects will provide immediate drought relief. Funding may also be provided to LIDs to support coordinated responses to water supply emergencies, such as emergency interties, development of centralized watering points, and consolidation of small systems to larger central supplies.

NEW SECTION

WAC 173-167-280 Applications and assistance. Applications for funding assistance under this section or any questions about funding assistance under this section should be directed to:

Ray Newkirk
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-407-6630
rnew461@ecy.wa.gov

PART IV FUNDING FOR FISH AND WILDLIFE PROJECTS

NEW SECTION

WAC 173-167-300 Funding conditions. Agreements to provide funding assistance for fish and wildlife projects to alleviate drought conditions may be made for one hundred percent of total eligible project costs.

NEW SECTION

WAC 173-167-310 Fish hatchery and rearing facilities. Eligible fish hatchery or other fish rearing facility projects that may be funded for protection from drought conditions include, but are not limited to:

- (1) Purchase and installation of water-reuse pumps;
- (2) Modifying hatchery intake and outlet structures;
- (3) Modifying stream channels adjacent to a hatchery to assure passage to the facility;
- (4) Provision and maintenance of oxygen levels in on-site and off-site ponds by purchase and installation of bottled gas (using air stones), or oxygen generation systems, or mechanical aeration;
- (5) Modification to existing wells and aeration towers;
- (6) Costs associated with emergency well operations (e.g., pumping, installation, maintenance);
- (7) Drilling new wells; and
- (8) Costs associated with fish releases or fish transfers to protect fish growth, health, and survival.

NEW SECTION

WAC 173-167-320 Fish habitat protection. Eligible projects that may be funded to protect fish habitat and assist in fish survival during drought conditions include, but are not limited to:

- (1) Augmentation of instream flows through temporary transfers of diversionary surface and ground water rights.
- (2) Augmentation of instream flows through temporary withdrawals of ground waters.

(3) Stream channel modification such as trenching, sand-bagging, or berming to protect spawning gravels or to provide migratory channels for fish passage.

(4) Capture and relocation of stranded fish.

(5) Installation, operation, and removal of temporary fish collection facilities (weirs, existing fish-ways, etc.) and relocation of collected fish in up or downstream areas.

NEW SECTION

WAC 173-167-330 Aquatic and upland wildlife protection. Eligible projects that may be funded to protect aquatic and/or upland wildlife species and assist in wildlife survival during drought conditions include, but are not limited to:

(1) Temporary diversion of streamflow to critical bird nesting habitat or wetland habitat populated by priority species, as identified by the state department of fish and wildlife.

(2) Temporary impoundment of water in existing wetland habitat populated by priority species, as identified by the state department of fish and wildlife.

(3) Temporary diversion of streamflow to upland watering devices.

(4) Any diversion or impoundment of water described in subsections (1) through (3) of this section shall be done in a manner that does not detrimentally affect fish populations listed under the federal Endangered Species Act.

NEW SECTION

WAC 173-167-340 Affected tribes to be consulted. The department of fish and wildlife and any potentially affected Indian tribes will be consulted to verify eligibility, needs, and nature of all proposed fish-related projects and measures.

NEW SECTION

WAC 173-167-350 Applications and assistance. Applications for funding assistance under this section or questions about funding assistance under this section should be directed to:

Dave Burdick
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
360-407-6094
dbur461@ecy.wa.gov

PART V FUNDING FOR BUYING OR LEASING WATER FOR FISH

NEW SECTION

WAC 173-167-400 Funding conditions. Funding assistance for water right lease, purchase, and mitigation agreements to alleviate drought conditions will be provided under the following conditions:

(1) Agreements may be made for one hundred percent of total eligible project costs.

(2) Lease and purchase agreements will be made at a negotiated market price between ecology and willing sellers.

(3) Mitigation agreements will be made at agreed-upon rates negotiated by ecology and other affected entities for the impacts of emergency ground water permits and water transfers. The purpose for the agreements will be to secure water leases or purchases that may be used for in-place, in-time mitigation or, where water is not reasonably available, alternatives to acquire water that will provide equal or greater upstream ecological benefits.

NEW SECTION

WAC 173-167-410 Leasing and purchasing water rights. Ecology may lease or purchase valid water rights to alleviate drought conditions affecting the state's fish resources. Water rights which are leased or purchased under the authority of this rule must be located in an area receiving, or having been forecast to receive, less than seventy-five percent of its normal seasonal water supplies.

NEW SECTION

WAC 173-167-420 Terms of priority. Priority consideration for purchasing and leasing water rights will be given to water rights identified as being most likely to contribute to the survival of threatened or endangered fish stocks by the Washington department of fish and wildlife, potentially affected Indian tribes, and the federal National Marine Fisheries and Fish and Wildlife Services. To the fullest possible extent, purchasing and leasing water rights will also be based on consideration of the following priorities:

The water right to be purchased or leased:

- (1) Has sufficient documentation to allow ecology to make a tentative determination as to its extent and validity;
- (2) Has a sufficiently early priority date to ensure it will provide a benefit for restoring and protecting fish;
- (3) Was put to use in the previous year;
- (4) Will provide the relatively greatest benefit for restoring and protecting fish;
- (5) Will provide benefits in addition to restoring and protecting fish, such as meeting water quality requirements; and
- (6) Is reasonably priced within the context of the local market for water.

Lease or purchase of the water right would:

- (a) Receive a broad level of support among interested parties;
- (b) Be accomplished with partial funding from other sources;
- (c) Require minimal administrative costs; and
- (d) Would provide the longest possible period of benefit for fish.

NEW SECTION

WAC 173-167-430 Leasing and purchasing exceptions. Ecology will not purchase or lease:

(1) Water rights for water which cannot be used to increase streamflow in the year 2005, unless otherwise specified in other mitigation agreements;

(2) Water rights which are subject to regulation to protect minimum flows established under chapters 90.22 RCW and 173-500 WAC during the period for which ecology is seeking to enhance fish benefits.

NEW SECTION

WAC 173-167-440 Applications and assistance. Applications for funding assistance under this section or questions about funding assistance under this section should be directed to:

Dave Burdick
 Washington State Department of Ecology
 P.O. Box 47600
 Olympia, WA 98504-7600
 360-407-6094
 dbur461@ecy.wa.gov

WSR 05-12-104

**EMERGENCY RULES
 DEPARTMENT OF
 FISH AND WILDLIFE**

[Order 05-111—Filed May 27, 2005, 3:06 p.m., effective May 28, 2005, 7:00 a.m.]

Effective Date of Rule: May 28, 2005, 7:00 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500C; and amending WAC 220-56-325.

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 regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. There is sufficient quota remaining in Marine Area 8 to open for one more day of spot shrimping. The state recreational share of spot prawns will be taken in Port Angeles shrimp district by May 28, 2005. 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.

EMERGENCY

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.

Date Adopted: May 27, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-32500D Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325:

Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Discovery Bay Shrimp District and Marine Areas 8, 9, 10, 11 and 12, except as provided for in this section.

a) Effective 7:00 a.m. to 3:00 p.m., May 28, 2005, all waters of Marine Area 8 are open to the harvest of all shrimp species.

b) Effective 7:00 a.m., June 1, 2005, until further notice, all waters south of a line from Tukey Point to Contractors Point in the Discovery Bay Shrimp District will open, on a daily basis, to the harvest of all shrimp species, except Spot shrimp. All Spot shrimp caught must be returned to the water immediately.

c) Effective 7:00 a.m., June 1, 2005, until further notice, all waters south of a line from Walan Point to Kala Point in the Port Townsend Bay Shrimp District will open, on a daily basis, to the harvest of all shrimp species, except Spot shrimp. All Spot shrimp caught must be returned to the water immediately.

d) Effective 7:00 a.m., June 1, 2005, until further notice, all waters equal to or less than 150 feet in depth found in Marine Areas 8, 9 (excluding the Port Townsend Shrimp District), and Marine Area 11 will open daily to the harvest of all shrimp species, except Spot shrimp. All Spot shrimp caught must be returned to the water unharmed.

e) Effective 3:00 p.m., May 28, 2005 the Port Angeles Shrimp District will close to the harvest of all shrimp species.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. May 28, 2005:

WAC 220-56-32500C Shrimp—Areas and season
(05-108)

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Z; 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: Washington Department of Fish and Wildlife personnel are continuing a three-year bio-telemetry study on habitat use and behavior of tiger muskie in Newman Lake. Prohibiting harvest of tiger muskie from May 31 through July 29 will facilitate FDA compliance with regulations for fish that are anesthetized during capture and tagging activities scheduled for the last week in May. 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.

Date Adopted: May 27, 2004 [2005].

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900Z Exceptions to statewide rules—Newman Lake (Spokane Co.) Notwithstanding the provisions of WAC 232-28-619, effective May 31, through July 29, 2005, it is unlawful to retain Tiger Muskie in those waters of Newman Lake.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 30, 2005:

WAC 232-28-61900Z Exceptions to statewide rules—Newman Lake (Spokane Co.)

**WSR 05-12-105
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-112—Filed May 27, 2005, 3:07 p.m., effective May 31, 2005]

Effective Date of Rule: May 31, 2005.

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 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 11, 2005.

Larry Davis
Executive Director

AMENDATORY SECTION (Amending WSR 04-22-059, filed 10/29/04, effective 11/29/04)

WAC 180-57-070 Mandatory high school transcript contents—Items—Timelines. (1)(a) The standardized high school transcript shall contain only the information listed in subsection (2) of this section in order to meet the statutory requirements under RCW 28A.305.220 for a statewide standardized transcript.

(b) Any other information the district or school may desire to include may be stapled to the transcript or otherwise provided with the transcript. Information that is not listed below shall not be included on the state standardized transcript:

(2)(a) Authorized and required transcript information effective now:

(i) The student's legal name (last name, first name, and middle name(s) or middle initial(s)), and other or former names used;

(ii) The name(s) of parent(s) or guardian(s);

(iii) The student's birthdate (mm/dd/yyyy);

(iv) The student's school district identification number (if applicable);

(v) The school name, address, phone number, and name of the school district issuing the transcript;

(vi) A list of previous schools attended where credit was attempted (school name, city, state, and month and year of entrance and exit);

(vii) The student's academic history for all high school level courses attempted, including courses taken under RCW 28A.230.090(4) and including those courses where a student has withdrawn, and listed by report period for the grade level (month and year), course code and description, marks/grades earned as defined in WAC 180-57-050 (a mark/grade of "W" will be used to indicate a withdrawal from a course), credits attempted and earned as defined in WAC 180-57-040, grade point average as defined in WAC 180-57-055, and a report period and cumulative summary of the student's high school level academic history.

(viii) Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation, except that credits attempted for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. For the purpose of this subsection, districts and schools shall not convert letter grades to grades/marks not used in the grade point average calculation.

(b) Authorized and required additional transcript information effective beginning with the graduating class of 2006:

(i) The following courses, for which college credit can be earned, shall be designated on the transcript with the designation coding indicated. Courses completed and credits earned through running start shall be noted with an "R" designation. Courses completed and credits earned through advanced placement shall be noted with an "A" designation. Courses completed and credits earned through college in the high school shall be noted with a "C" designation. Courses completed and credits earned through an international baccalaureate program shall be noted with an "I" designation. Courses completed which earn college credit through techprep and/or the corresponding credits or certification earned shall be noted with a "T" designation. Courses that meet or satisfy higher education coordinating board core course requirements shall be noted with a "B" designation. Courses completed and credits earned through an honors option shall be noted with an "H" designation;

(ii)(A) Notation of the student's actual highest scale score and level achieved for each content area on the Washington assessment of student learning (noting month and year);

(B) Notation ~~((that))~~ of "no score" if the Washington assessment of student learning was not taken ~~((if the Washington assessment of student learning was not taken))~~;

(C) Notation of the student's actual highest level achieved on the Washington alternate assessment system (WAAS) that has been taken by a student eligible to take the WAAS (noting month and year);

(c) Authorized and required additional transcript information effective beginning with the graduating class of 2008:

(i) Notation that the high school and beyond plan graduation requirement was met (noting month and year) or not met by the student;

(ii) Notation that the culminating project graduation requirement was met (noting month and year) or not met by the student; and

(iii) Notation that the certificate of academic achievement graduation requirement was met (noting month and year) or not met by the student in one of the following ways:

(A) Based on the student's actual highest scale score and level achieved for each content area of the Washington assessment of student learning.

A "scholar designation" shall be noted on the transcript when a student achieves level four on each content area on the Washington assessment of student learning on the first attempt at taking each content area assessment.

(B) Based in whole or in part on the student's results on an alternative assessment approved by the legislature under

section 101(7), chapter 19, Laws of 2004, including the student's actual highest earned performance rating on the alternate assessment (noting month and year);

(C) Notation that the certificate of individual achievement graduation requirement was met (noting month and year) or not met by the student based on the student's results on an assessment of the objectives in the student's individual education plan using the Washington alternate assessment system (WAAS).

(3) Each issuance of the transcript shall include a report date (mm/dd/yyyy), graduation date (noting month and year), end of transcript record (signifying no more authorized data), office of superintendent of public instruction (OSPI) transcript form version number, and page number ('x' of 'y').

(4) The signature of the authorized school official (name, title, and date) and seal of the district, if available. The signature of the authorized school official may be affixed electronically, subject to a written district policy that addresses signature security and assures that the authorized school official acknowledges, in writing, that affixing their signature electronically to the transcript is a legal and binding action.

EMERGENCY



WSR 05-12-010
NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE

[Memorandum—May 17, 2005]

The board of trustees of Bates Technical College has rescheduled their regular meeting of May 18, 2005. The rescheduled meeting will be held on May 27, 2005, from 1:30 p.m. to approximately 4:00 p.m. in the Clyde Hupp Board Room, 1101 South Yakima Avenue, Tacoma.

WSR 05-12-011
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed May 20, 2005, 11:10 a.m.]

Title of Policy or Interpretative Statement: Drinking Water State Revolving Fund Guidelines (DWSRF) 2005.

Issuing Entity: Washington State Department of Health, Division of Environmental Health, Office of Drinking Water.

Description: The document provides guidelines for the DWSRF 2005 application cycle. The DWSRF provides funding for systems to make drinking water infrastructure improvements. The DWSRF program guidelines have been jointly revised by the Department of Health, Office of Drinking Water; the Public Works Board and its administrative agent; the Department of Community, Trade and Economic Development, to reflect procedural and timeline revisions.

Division Contact: Chris Gagnon, DWSRF Program Manager, Department of Health, Office of Drinking Water, 7171 Cleanwater Lane, Building 3, P.O. Box 47822, Olympia, WA 98504-7822.

Effective Date: January 27, 2005.

Denise Clifford
 Director

WSR 05-12-017
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD

[Memorandum—May 19, 2005]

On October 5, 2004, the Workforce Training and Education Coordinating Board approved the 2005 meeting schedule. Following is a revised copy of the meeting dates.

Please fee free to contact Darlene Bartlett, (360) 753-5677 or dbartlett@wtb.wa.gov, if you have any questions.

2005 MEETING SCHEDULE

Thursday, January 27, 2005 - Meeting
 South Puget Sound Community College-Percival
 Room
 Olympia

Thursday, March 31, 2005 - Meeting
 State Investment Board-Board Room
 Olympia

Thursday, May 12, 2005 - Meeting
 State Investment Board-Board Room
 Olympia

Wednesday, July 6, 2005 - Dinner
 Thursday, July 7, 2005 - Meeting
 WorkSource Everett
 Everett

July 27-28, 2005 - Retreat
 Icicle Inn
 Leavenworth

Wednesday, September 21, 2005 - Dinner
 Thursday, September 22, 2005 - Meeting
 T.B.A.
 Yakima

Wednesday, November 16, 2005 - Dinner
 Thursday, November 17, 2005 - Meeting
 T.B.A.
 Vancouver

WSR 05-12-024
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—May 23, 2005]

NOTICE OF SPECIAL MEETING

BOARD OF TRUSTEES
COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE
 2405 East College Way
 Mount Vernon, WA 98273

Monday, May 23, 2005
 4:00 p.m.
 Board Room

Chairperson, Tom Moser, has called a special meeting of the board of trustees for Monday, May 23, 2005, 4:00 p.m., 2405 East College Way, Mount Vernon, WA. This meeting is being held as a study session for the board of trustees to discuss and review the proposed 2005-06 operating budget and the proposed 2005-06 services and activities budget.

MISC.

WSR 05-12-025
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—May 18, 2005]

The board of trustees of Eastern Washington University will hold meetings at the Cheney campus on Thursday and Friday, May 19-20, 2005. At 7:35 a.m. on May 20 the board will convene in executive session according to RCW 42.30.110 (1)(g) to evaluate the qualifications of an applicant for public employment and/or to review the performance of a public employee. At 12:30 p.m. the board will again convene in executive session according to RCW 42.30.110 (1)(g) to evaluate the qualifications of an applicant for public employment and/or to review the performance of a public employee, and RCW 42.30.110 (1)(i) to discuss with legal counsel pending and/or potential litigation. No action will be taken during either of these executive sessions.

Meeting Schedule
May 19-20, 2005

Thursday, May 19, 2005

- 5:30 - 6:00 p.m. Student Affairs Committee Meeting (PUB 261)
- 6:00 - 8:00 p.m. Joint Academic Affairs and Student Affairs Committee Meeting (PUB 263-5-7)

Friday, May 20, 2005

- 7:30 - 8:30 a.m. Executive Session (TAW 202)
- 8:30 - 12:30 Committee of the Whole (TAW 215)
- 12:30 - 1:30 Executive Session (PUB 261)
- 1:30 - 3:30 Board of Trustees Meeting (TAW 215)
- 3:30 - 5:00 Reception for faculty receiving tenure and/or promotion and those retiring (Tawanka Atrium)
- 5:30 p.m. Trustee Dinner at the University House

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

WSR 05-12-040
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE
 [Filed May 25, 2005, 1:50 p.m.]

ISSUANCE OF INTERPRETIVE STATEMENT

This announcement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue issued or revised the following Excise Tax Advisory:

ETA 2009-3S.32 BTA Nonacquiescence. This is the third supplement to ETA 2009, and identifies one BTA decision to which the department does not acquiesce. This ETA explains the application of BTA decisions and when the department will announce a statement regarding adverse BTA decisions via an ETA or ETA supplement. ETA 2009 and all its supplements should be retained.

A copy of this document is available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx> or a request for copies may be directed to Roseanna Hodson, Interpretation and Technical Advice Unit, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 586-5543.

Alan R. Lynn
 Rules Coordinator

WSR 05-12-044
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE
 (Salmon Recovery Funding Board)
 [Memorandum—May 24, 2005]

June 9 and 10, 2005
 SRFB Meeting
 Information

The meeting will be held in the Columbia Room of the legislative building. The meeting is scheduled to begin at 9:30 a.m. on Thursday, June 9.

To change or add internet addresses on this list, please e-mail Tammyo@iac.wa.gov.

If you need special accommodations to participate in this meeting, please notify us by June 1, 2005, at (360) 902-2636 or TDD (360) 902-1996.

WSR 05-12-045
RULES COORDINATOR
EXECUTIVE ETHICS BOARD
 [Filed May 25, 2005, 4:39 p.m.]

Please remove from your list of rules coordinators Meg Grimaldi. As executive director of the Executive Ethics Board, I ask that you add my name to the list: Susan Harris, P.O. Box 40149, Olympia, WA 98504-0149, phone (360) 664-0871, fax (360) 586-3955, susanh4@atg.wa.gov.

Susan Harris
 Executive Director

MISC.

WSR 05-12-056
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 26, 2005, 2:32 p.m.]

As per RCW 39.12.015, 39.12.020 and WAC 296-127-011 the Department of Labor and Industries (L&I) has determined that the prevailing rate of wage published on February

1, 2005, (WSR 05-04-076) for the iron worker classification in Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman counties was incorrectly adjusted. For any public works contracts let on or after May 27, 2005, the prevailing rate of wage for this classification in these counties is as follows:

Prevailing Wage Category	Prevailing Wage	Overtime Code	Holiday Code	Note Code
Iron Worker - Journey Level	\$40.17	1B	5A	N/A

Prevailing Wage Category	Stage of Progression	Prevailing Wage	Overtime Code	Holiday Code	Note Code
Iron Worker - Apprentice	1: 1st Period 65.00%	\$23.77	1B	5A	N/A
	2: 2nd Period 70.00%	\$25.11	1B	5A	N/A
	3: 3rd Period 75.00%	\$33.45	1B	5A	N/A
	4: 4th Period 80.00%	\$34.80	1B	5A	N/A
	5: 5th Period 90.00%	\$37.48	1B	5A	N/A
	6: 6th Period 90.00%	\$37.48	1B	5A	N/A
	7: 7th Period 95.00%	\$38.83	1B	5A	N/A
	8: 8th Period 95.00%	\$38.83	1B	5A	N/A

L&I has determined that these changes are necessary to correct an error that was made in adjusting these wages. Absent these changes, L&I will be enforcing incorrect prevailing wages, which irreparably harms contractors, workers and the people of the state of Washington. Contractors rely on L&I's determination of prevailing wages, and they will be adversely impacted by utilizing incorrect prevailing wage rates to complete their contract with an awarding agency. These incorrect wages do not afford contractors the necessary certainty in bidding projects and in the wages that they pay their workers.

The establishment of wages that are inaccurate not only adversely impacts potential public works contracts, but also may lead to distrust in the established wages leading to the erosion of local wage standards. This erosion has the potential of an economic harm to the general public and workers, which L&I is responsible for protecting. The director has determined that the readjustments to these wages are necessary to ensure for the correct application of prevailing wages and the general welfare and shall take effect immediately upon publication.

For more information on prevailing wage please visit our web site at www.lni.wa.gov/prevailingwage or call (360) 902-5335.

The Department of Revenue has cancelled the following excise tax advisory (ETA):

540.04.22.252 Special Hazardous Substance Tax Applications. This advisory is being cancelled because it provides out-of-date information that is no longer needed. The ETA was written to explain the department's interpretation of law (chapter 82.22 RCW) that was repealed and replaced with new law (chapter 82.21 RCW) a number of years ago. The ETA refers to provisions of WAC 458-20-252 that do not exist in the current version of the rule. Issues addressed in this document that are pertinent under current law are addressed in the rule. There is also no need for the list of examples of products that result from a crude oil refinery process. This list is seventeen years old, and such information could be found via internet research.

A copy of the cancelled document is available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx>, or a request for copies may be directed to Roseanna Hodson, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-5543.

Alan R. Lynn
 Rules Coordinator

WSR 05-12-118
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE
 [Filed May 31, 2005, 2:17 p.m.]

CANCELLATION OF INTERPRETIVE STATEMENT

This announcement of the cancellation of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

WSR 05-12-121
AGENDA
DEPARTMENT OF LICENSING
 [Filed June 1, 2005, 8:26 a.m.]

Following is the rule-making agenda for the Department of Licensing. This agenda is sent to you as a requirement of RCW 34.05.314.

Feel free to contact Walt Fahrer if you need any assistance concerning this matter at 902-3640.

DEPARTMENT OF LICENSING
RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JULY 2005

CR-101	CR-102	PROGRAM	SUBJECT
97-11-002		Driver Responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be an habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
97-15-037		Vehicle Dealers	Change in vehicle dealer temporary permit requirements.
99-12-018		Master Licensing	Chapter 308-87 WAC, Limousine carrier businesses.
99-18-126		Title and Registration	Chapter 308-57 WAC, Motor vehicle excise tax.
99-18-010		Fuel Tax	Chapter 308-97 WAC, Trip permits.
00-08-067		Master Licensing	Chapter 308-300 WAC, Consolidated licensing system; specifically WAC 308-300-010 through 308-300-200.
00-10-029		Master Licensing	Chapter 308-320 WAC, Commercial telephone solicitation.
01-14-089		Cosmetology	Chapter 308-20 WAC, Cosmetology.
01-20-101		Timeshare	Update to chapter 308-127 WAC.
01-22-061		Professional Athletics	Fee adjustment, chapters 36-12, 36-13, 36-14 WAC.
01-24-057		Landscape Architects	WAC 308-13-150 Landscape architects fee adjustment.
02-12-124		Prorate	Chapter 308-91 WAC, Reciprocity and proration.
02-20-086	02-23-059	Private Investigator	Aliens to provide proof of firearms license.
03-01-006		Title and Registration	Chapter 308-96A WAC, to include but not limited to WAC 308-96A-530.
02-24-074		Auctioneers	Update to chapter 308-11 WAC.
03-03-111		Waste Water	Revision to chapter 196-30 WAC.
03-12-018		Title and Registration	Chapter 308-57 WAC, Motor vehicle excise tax, to include but not limited to WAC 308-57-030.
03-14-024	03-16-113	Land Surveying	Amending chapter 196-27A WAC.
03-15-108		UCC	Possible adjustments to fees changed by the program, WAC 308-30-100.
03-17-026		Cosmetology	Fee adjustment to chapter 308-20 WAC, regulating cosmetologist, barber, manicurist, and esthetician professions.
03-17-029		Camping Resorts	Fee adjustment to chapter 308-420 WAC, regulating camping resorts.
03-17-036		Dealers	Filing fee to be submitted by a licensed motorcycle dealer when initiating a protest against the manufacturer for violations of chapter 46.94 RCW.
03-20-065		Bail Bond Agent	Change fees for ail [bail] bond agents and bail bond agency company application and renewal fees.
03-22-043		Title and Registration	WAC 308-56A-450, [308-56A-]150.
03-22-059		Employment Agency	Possible adjustments to fees charged by the employment agency program.
04-01-121	04-05-097	Camping Resorts	Update to chapter 308-420 WAC.
04-01-122	04-05-098	Timeshares	Update to chapter 308-127 WAC.
04-01-161		Title and Registration	Chapter 308-56A WAC, to include but not limited to WAC 308-56A-525.
04-03-002		Title and Registration	Chapter 308-96A WAC, to include but not limited to WAC 308-96A-005.
04-07-054		Title and Registration	Chapter 308-93 WAC, to include but not limited to WAC 308-93-030, [308-93-]050.
04-09-031		Title and Registration	Chapter 308-96A WAC, to include but not limited to a new rule in WAC 308-96A-077.

MISC.

CR-101	CR-102	PROGRAM	SUBJECT
04-10-011		Engineers	Chapter 196-23 WAC, Stamping and seals, chapter 196-26A WAC, Registered engineer and land surveyor fees.
04-12-010		Title and Registration	Chapter 308-61 WAC, Wreckers, to include but not limited to WAC 308-61-135.
04-11-104	05-01-227	Dealers	Chapter 308-63 WAC, Wreckers.
04-11-106	05-01-226	Dealers	WAC 308-56A-405, [308-56A-]410, [308-56A-]415, [308-56A-]420.
04-15-050		Waste Water	Chapter 196-09 WAC.
04-15-079		Engineers	Chapter 196-26A WAC.
04-16-116		Cosmetology	Update to chapter 308-20 WAC due to chapter 51, Laws of 2004.
03-09-032	04-24-001	Engineers	Chapter 196-25 WAC, Business practices.
04-24-003		Security Guard	Fee increase for security guard program.
05-01-143		Wastewater	Title 196 WAC.
04-17-064		Title and Registration	WAC 308-56A-500, [308-56A-]530.
05-04-106		Funeral	WAC 308-48-810, [308-48-]820, [308-48-]830.
05-04-102		Cemeteries	Title 98 WAC new, brief adjudicative proceedings.
05-07-044		Dealers	WAC 308-66-110, [308-66-]155, [308-66-]157, [308-66-]190.
05-07-070		Dealers	WAC 308-90-120.
05-07-071		Dealers	WAC 308-66-180.
05-08-096		Title	WAC 308-96A-026 (expedited).
05-07-128	05-11-099	Commercial Driving Schools	Chapter 308-108 WAC.
05-09-017		Landscape Architect	WAC 308-13-150 Fees.
05-08-001		Dealers	Chapter 308-08 WAC, Brief adjudicative proceedings.
05-08-004		Dealers	WAC 308-66-160 Dealers and manufacturers license plates.
	05-09-028	Notary	WAC 308-30-100 Fees.
05-10-067		Title	Chapter 308-56A WAC.
05-10-077		Title	Chapters 308-96A and [308-]56A WAC.
05-11-012		Landscape Architect	WAC 308-13-020, [308-13-]024, [308-13-]100.
05-11-104		Title	Chapters 308-56A, 308-96A WAC, Implementing 2SSB 5916.
05-11-105		Title	Chapters 308-56A, 308-96A WAC, Implementing ESSB 6103.

Walt Fahrer
Rules Coordinator

WSR 05-12-122
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE
[Memorandum—May 27, 2005]

The regular June 2005 meeting of the Skagit Valley College board of trustees will be changed from meeting at 11:00 a.m. on June 9, 2005, at the San Juan Center, Friday Harbor, to meeting at 4:30 p.m. on June 14, 2005, at the Mount Vernon campus, Board Room.

WSR 05-12-123
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
[Memorandum—May 31, 2005]

Following is the revised 2005 Public Employees Benefits Board (PEBB) meeting information.

Please contact Lynn Kennedy at (360) 923-2829, if you have any questions regarding the meeting schedule or need further information.

2005 PEBB Board Meeting Schedule

All meetings are held on Tuesdays and begin at 1:30 p.m. unless otherwise noted.

1.	March 8, 2005 1:30-4:30 p.m. Location: Lacey Community Center 6729 Pacific Avenue S.E. Lacey, WA
2.	April 12, 2005 TELEPHONE(CHANGE) 1:30-2:30 p.m. Location: Health Care Authority 676 Woodland Square Loop S.E. Lacey, WA
3.	May 17, 2005 2:00-4:30 p.m. Location: Prime Hotel 18118 International Boulevard SeaTac, WA
4.	June 28, 2005 CANCELLED 1:30-4:30 p.m.
5.	July 12, 2005 1:30-4:30 p.m. Location: DIS Boardroom (2nd floor) 605 East 11th Olympia, WA
6.	July 26, 2005 (tentative) 1:30-4:30 p.m. Location: DIS Classroom (1st floor) 605 East 11th Olympia, WA
7.	August 2, 2005 (tentative) 1:30-4:30 p.m. Location: TBD
8.	October 18, 2005 (planning session retreat) 8:30-4:00 p.m. Location: TBD
9.	November 22, 2005 (via telephone) 1:30-4:30 p.m.

MISC.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- 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.

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3-20-300	REP-W	05-07-126	16-228-1010	PREP	05-11-034	16-239-077	REP-P	05-07-120
3-20-300	REP-P	05-07-127	16-229-010	AMD	05-05-036	16-239-077	REP	05-11-058
3-20-300	REP	05-11-046	16-230-860	PREP-W	05-06-097	16-239-078	REP-P	05-07-120
3-20-390	NEW-P	05-05-100	16-237-195	AMD	05-07-080	16-239-078	REP	05-11-058
3-20-390	NEW-W	05-07-126	16-239	PREP	05-04-078	16-239-079	REP-P	05-07-120
3-20-390	NEW-P	05-07-127	16-239-010	REP-P	05-07-120	16-239-079	REP	05-11-058
3-20-390	NEW	05-11-046	16-239-010	REP	05-11-058	16-239-080	REP-P	05-07-120
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3-20-400	NEW	05-11-046	16-239-030	REP	05-11-058	16-239-0802	REP-P	05-07-120
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4-25-530	AMD	05-10-046	16-239-060	REP	05-11-058	16-239-0805	REP-P	05-07-120
10-20-010	NEW	05-03-003	16-239-061	REP-P	05-07-120	16-239-0805	REP	05-11-058
10-20-020	NEW	05-03-003	16-239-061	REP	05-11-058	16-239-0806	REP-P	05-07-120
10-20-030	NEW	05-03-003	16-239-062	REP-P	05-07-120	16-239-0806	REP	05-11-058
16-54	PREP	05-07-051	16-239-062	REP	05-11-058	16-239-0807	REP-P	05-07-120
16-54	PREP	05-11-093	16-239-063	REP-P	05-07-120	16-239-0807	REP	05-11-058
16-54-030	AMD-E	05-10-040	16-239-063	REP	05-11-058	16-239-0808	REP-P	05-07-120
16-54-082	AMD-E	05-07-050	16-239-064	REP-P	05-07-120	16-239-0808	REP	05-11-058
16-54-082	PREP	05-07-051	16-239-064	REP	05-11-058	16-239-0809	REP-P	05-07-120
16-54-082	AMD-E	05-10-025	16-239-065	REP-P	05-07-120	16-239-0809	REP	05-11-058
16-54-082	AMD-P	05-11-094	16-239-065	REP	05-11-058	16-239-0810	REP-P	05-07-120
16-218-010	REP-P	05-04-111	16-239-070	REP-P	05-07-120	16-239-0810	REP	05-11-058
16-218-010	REP	05-07-150	16-239-070	REP	05-11-058	16-239-0811	REP-P	05-07-120
16-218-015	NEW-P	05-04-111	16-239-071	REP-P	05-07-120	16-239-0811	REP	05-11-058
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16-218-02001	REP-P	05-04-111	16-239-072	REP-P	05-07-120	16-239-0812	REP	05-11-058
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16-218-025	NEW-P	05-04-111	16-239-073	REP-P	05-07-120	16-239-0813	REP	05-11-058
16-218-025	NEW	05-07-150	16-239-073	REP	05-11-058	16-239-090	REP-P	05-07-120
16-218-030	REP-P	05-04-111	16-239-074	REP-P	05-07-120	16-239-090	REP	05-11-058
16-218-030	REP	05-07-150	16-239-074	REP	05-11-058	16-239-0901	REP-P	05-07-120
16-218-035	NEW-P	05-04-111	16-239-075	REP-P	05-07-120	16-239-0901	REP	05-11-058
16-218-035	NEW	05-07-150	16-239-075	REP	05-11-058	16-239-0902	REP-P	05-07-120
16-218-040	NEW-P	05-04-111	16-239-076	REP-P	05-07-120	16-239-0902	REP	05-11-058

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-239-0903	REP-P	05-07-120	16-240-070	NEW	05-11-058	16-404-070	REP-X	05-06-100
16-239-0903	REP	05-11-058	16-240-080	NEW-P	05-07-120	16-404-070	REP	05-10-091
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16-239-0904	REP	05-11-058	16-240-090	NEW-P	05-07-120	16-406	AMD	05-12-036
16-239-0905	REP-P	05-07-120	16-240-090	NEW	05-11-058	16-406-005	NEW-X	05-07-153
16-239-0905	REP	05-11-058	16-303-020	PREP	05-05-050	16-406-005	NEW	05-12-036
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16-730-030	NEW-E	05-11-028	67- 25-077	AMD	05-08-097	67- 25-408	AMD	05-08-097
16-730-030	NEW-P	05-11-098	67- 25-080	REP-P	05-03-116	67- 25-412	AMD-P	05-03-116
16-730-035	NEW-E	05-03-032	67- 25-080	REP	05-08-097	67- 25-412	AMD	05-08-097
16-730-035	NEW-E	05-11-028	67- 25-085	REP-P	05-03-116	67- 25-416	AMD-P	05-03-116
16-730-035	NEW-P	05-11-098	67- 25-085	REP	05-08-097	67- 25-416	AMD	05-08-097
16-730-040	NEW-E	05-03-032	67- 25-090	REP-P	05-03-116	67- 25-418	AMD-P	05-03-116
16-730-040	NEW-E	05-11-028	67- 25-090	REP	05-08-097	67- 25-418	AMD	05-08-097
16-730-040	NEW-P	05-11-098	67- 25-095	REP-P	05-03-116	67- 25-432	AMD-P	05-03-116
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67- 25-444	AMD	05-08-097	106- 72-460	REP	05-05-057	132C-120-210	AMD	05-10-052
67- 25-446	AMD-P	05-03-116	106- 72-470	REP	05-05-057	132C-120-215	AMD-P	05-06-029
67- 25-446	AMD	05-08-097	106- 72-480	REP	05-05-057	132C-120-215	AMD	05-10-052
67- 25-448	AMD-P	05-03-116	106- 72-490	REP	05-05-057	132C-120-220	AMD-P	05-06-029
67- 25-448	AMD	05-08-097	106- 72-500	REP	05-05-057	132C-120-220	AMD	05-10-052
67- 25-452	AMD-P	05-03-116	106- 72-510	REP	05-05-057	132C-120-225	AMD-P	05-06-029
67- 25-452	AMD	05-08-097	106- 72-520	REP	05-05-057	132C-120-225	AMD	05-10-052
67- 25-460	AMD-P	05-03-116	106- 72-530	REP	05-05-057	132C-120-230	AMD-P	05-06-029
67- 25-460	AMD	05-08-097	106- 72-540	REP	05-05-057	132C-120-230	AMD	05-10-052
67- 25-470	REP-P	05-03-116	106- 72-550	REP	05-05-057	132H-120	PREP	05-09-044
67- 25-470	REP	05-08-097	106- 72-560	REP	05-05-057	132H-136	PREP	05-05-096
67- 25-480	REP-P	05-03-116	106- 72-570	REP	05-05-057	132H-136-010	AMD-P	05-09-064
67- 25-480	REP	05-08-097	106- 72-580	REP	05-05-057	132H-136-015	NEW-P	05-09-064
67- 25-540	AMD-P	05-03-116	106- 72-590	REP	05-05-057	132H-136-020	AMD-P	05-09-064
67- 25-540	AMD	05-08-097	106- 72-600	REP	05-05-057	132H-136-025	NEW-P	05-09-064
67- 25-545	AMD-P	05-03-116	106- 72-610	REP	05-05-057	132H-136-030	AMD-P	05-09-064
67- 25-545	AMD	05-08-097	131	PREP	05-05-018	132H-136-035	REP-P	05-09-064
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67- 25-550	AMD	05-08-097	131- 28-026	AMD-P	05-09-018	132H-140-010	AMD-P	05-04-061
67- 25-560	REP-P	05-03-116	132A-156	PREP	05-07-015	132H-140-010	AMD	05-07-069
67- 25-560	REP	05-08-097	132A-156-006	REP-P	05-11-041	132H-140-020	AMD-P	05-04-061
67- 25-570	AMD-P	05-03-116	132A-156-011	REP-P	05-11-041	132H-140-020	AMD	05-07-069
67- 25-570	AMD	05-08-097	132A-156-016	REP-P	05-11-041	132H-140-025	NEW-P	05-04-061
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67- 25-590	AMD	05-08-097	132A-350-015	AMD-P	05-11-041	132H-140-030	AMD-P	05-04-061
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82- 50-021	AMD	05-11-038	132C-120-015	AMD	05-10-052	132H-140-050	AMD-P	05-04-061
82- 60-010	RECOD	05-04-072	132C-120-030	REP-P	05-06-029	132H-140-050	AMD	05-07-069
82- 60-020	RECOD	05-04-072	132C-120-030	REP	05-10-052	132H-140-065	AMD-P	05-04-061
82- 60-030	RECOD	05-04-072	132C-120-040	AMD-P	05-06-029	132H-140-065	AMD	05-07-069
82- 60-031	RECOD	05-04-072	132C-120-040	AMD	05-10-052	132H-142-010	NEW-P	05-04-061
82- 60-032	RECOD	05-04-072	132C-120-050	AMD-P	05-06-029	132H-142-010	NEW	05-07-069
82- 60-033	RECOD	05-04-072	132C-120-050	AMD	05-10-052	132H-142-015	NEW-P	05-04-061
82- 60-034	RECOD	05-04-072	132C-120-060	AMD-P	05-06-029	132H-142-015	NEW	05-07-069
82- 60-035	RECOD	05-04-072	132C-120-060	AMD	05-10-052	132H-142-020	NEW-P	05-04-061
82- 60-036	RECOD	05-04-072	132C-120-065	AMD-P	05-06-029	132H-142-020	NEW	05-07-069
82- 60-037	RECOD	05-04-072	132C-120-065	AMD	05-10-052	132H-142-030	NEW-P	05-04-061
82- 60-038	RECOD	05-04-072	132C-120-071	NEW-P	05-06-029	132H-142-030	NEW	05-07-069
82- 60-039	NEW	05-04-072	132C-120-071	NEW	05-10-052	132H-142-040	NEW-P	05-04-061
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82- 60-050	RECOD	05-04-072	132C-120-076	NEW	05-10-052	132H-142-050	NEW-P	05-04-061
82- 60-060	RECOD	05-04-072	132C-120-100	AMD-P	05-06-029	132H-142-050	NEW	05-07-069
82- 60-070	RECOD	05-04-072	132C-120-100	AMD	05-10-052	132H-142-060	NEW-P	05-04-061
82- 60-080	RECOD	05-04-072	132C-120-110	AMD-P	05-06-029	132H-142-060	NEW	05-07-069
82- 60-100	RECOD	05-04-072	132C-120-110	AMD	05-10-052	132H-142-070	NEW-P	05-04-061
82- 60-200	RECOD	05-04-072	132C-120-115	AMD-P	05-06-029	132H-142-070	NEW	05-07-069
82- 60-210	RECOD	05-04-072	132C-120-115	AMD	05-10-052	132H-142-080	NEW-P	05-04-061
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106- 72-025	AMD	05-05-057	132C-120-130	AMD-P	05-06-029	132Z-108-040	AMD	05-06-003
106- 72-130	AMD	05-05-057	132C-120-130	AMD	05-10-052	132Z-112-010	AMD	05-06-003
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106- 72-200	REP	05-05-057	132C-120-135	AMD	05-10-052	132Z-112-030	AMD	05-06-003
106- 72-220	REP	05-05-057	132C-120-140	AMD-P	05-06-029	132Z-112-040	AMD	05-06-003
106- 72-400	AMD	05-05-057	132C-120-140	AMD	05-10-052	132Z-112-050	AMD	05-06-003
106- 72-410	REP	05-05-057	132C-120-145	AMD-P	05-06-029	132Z-112-060	NEW	05-06-003
106- 72-420	REP	05-05-057	132C-120-145	AMD	05-10-052	132Z-112-070	NEW	05-06-003
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132Z-112-120	NEW	05-06-003	139- 03-050	REP	05-07-049	173-322-050	AMD	05-07-104
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132Z-115-130	AMD	05-06-003	139- 05-240	PREP	05-05-012	173-333-110	NEW-P	05-11-095
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132Z-115-190	AMD	05-06-003	139- 10-235	PREP	05-05-013	173-333-310	NEW-P	05-11-095
132Z-115-200	AMD	05-06-003	139- 10-235	AMD-P	05-08-075	173-333-320	NEW-P	05-11-095
132Z-115-240	NEW	05-06-003	139- 10-530	PREP	05-05-014	173-333-330	NEW-P	05-11-095
132Z-133-010	AMD	05-06-003	139- 10-530	NEW-P	05-08-076	173-333-340	NEW-P	05-11-095
132Z-134-010	AMD	05-06-003	139- 10-540	PREP	05-05-015	173-333-400	NEW-P	05-11-095
132Z-276-030	AMD	05-06-003	139- 10-540	NEW-P	05-08-077	173-333-410	NEW-P	05-11-095
132Z-276-070	AMD	05-06-003	139- 10-550	PREP	05-12-062	173-333-420	NEW-P	05-11-095
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136- 28-010	AMD	05-11-037	173-167-020	NEW-E	05-12-103	173-400-035	AMD-W	05-09-051
136- 28-020	AMD-P	05-07-022	173-167-030	NEW-E	05-12-103	173-400-040	AMD	05-03-033
136- 28-020	AMD	05-11-037	173-167-040	NEW-E	05-12-103	173-400-050	AMD	05-03-033
136- 28-030	AMD-P	05-07-022	173-167-100	NEW-E	05-12-103	173-400-060	AMD	05-03-033
136- 28-030	AMD	05-11-037	173-167-110	NEW-E	05-12-103	173-400-070	AMD	05-03-033
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137- 59-020	NEW-W	05-05-071	173-167-150	NEW-E	05-12-103	173-400-102	AMD	05-03-033
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137- 59-040	NEW-W	05-05-071	173-167-170	NEW-E	05-12-103	173-400-105	AMD	05-03-033
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139- 02-090	AMD-P	05-03-025	173-167-310	NEW-E	05-12-103	173-400-141	REP	05-03-033
139- 02-100	REP-P	05-03-025	173-167-320	NEW-E	05-12-103	173-400-151	AMD	05-03-033
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139- 02-120	NEW-P	05-03-025	173-167-340	NEW-E	05-12-103	173-400-175	NEW	05-03-033
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139- 03-020	AMD	05-07-049	173-167-430	NEW-E	05-12-103	173-400-720	NEW	05-03-033
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173-423	PREP	05-12-129	180- 20-101	AMD-E	05-04-014	180- 57	PREP	05-12-159
173-481	PREP	05-08-141	180- 20-101	AMD-P	05-04-018	180- 57-070	AMD-E	05-12-144
173-503	PREP-W	05-05-075	180- 20-101	AMD	05-08-014	180- 72	PREP	05-12-160
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173-503-060	AMD-P	05-04-108	180- 27	PREP	05-12-154	180- 78A-100	AMD	05-04-056
173-503-071	NEW-P	05-04-108	180- 29	PREP	05-12-154	180- 78A-100	AMD-P	05-08-037
173-503-073	NEW-P	05-04-108	180- 31	PREP	05-12-154	180- 78A-100	AMD-E	05-08-049
173-503-074	NEW-P	05-04-108	180- 32	PREP	05-12-154	180- 78A-100	AMD-C	05-10-012
173-503-075	NEW-P	05-04-108	180- 33	PREP	05-12-154	180- 78A-319	AMD-P	05-08-038
173-503-080	REP-P	05-04-108	180- 34	PREP	05-12-154	180- 78A-319	AMD-P	05-10-019
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173-503-090	AMD-P	05-04-108	180- 37	PREP	05-12-155	180- 78A-505	AMD-C	05-10-020
173-503-100	AMD-P	05-04-108	180- 38	PREP	05-12-155	180- 78A-535	AMD-P	05-08-040
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173-503-120	NEW-P	05-04-108	180- 40	PREP	05-12-155	180- 78A-535	AMD-C	05-10-013
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173-505-050	NEW-P	05-05-094	180- 46-010	REP	05-08-013	180- 79A-130	AMD-C	05-10-015
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173-505-080	NEW-P	05-05-094	180- 46-020	AMD-P	05-04-017	180- 79A-145	AMD-C	05-10-016
173-505-090	NEW-P	05-05-094	180- 46-020	AMD	05-08-013	180- 79A-250	AMD-P	05-08-036
173-505-100	NEW-P	05-05-094	180- 46-025	AMD-P	05-04-017	180- 79A-250	AMD-E	05-08-053
173-505-110	NEW-P	05-05-094	180- 46-025	AMD	05-08-013	180- 79A-250	AMD-C	05-10-017
173-505-120	NEW-P	05-05-094	180- 46-030	REP-P	05-04-017	180- 79A-257	AMD	05-04-054
173-505-130	NEW-P	05-05-094	180- 46-030	REP	05-08-013	180- 81	PREP	05-12-162
173-505-140	NEW-P	05-05-094	180- 46-035	REP-P	05-04-017	180- 82	PREP	05-12-162
173-505-150	NEW-P	05-05-094	180- 46-035	REP	05-08-013	180- 82-105	AMD-P	05-04-015
173-505-160	NEW-P	05-05-094	180- 46-040	REP-P	05-04-017	180- 82-105	AMD-W	05-08-069
173-505-170	NEW-P	05-05-094	180- 46-040	REP	05-08-013	180- 82A	PREP	05-12-162
173-505-180	NEW-P	05-05-094	180- 46-045	REP-P	05-04-017	180- 83	PREP	05-12-163
173-525	PREP	05-06-113	180- 46-045	REP	05-08-013	180- 85	PREP	05-12-149
173-526	PREP	05-06-114	180- 46-050	REP-P	05-04-017	180- 85-025	AMD-P	05-08-047
173-527	PREP	05-06-115	180- 46-050	REP	05-08-013	180- 85-025	AMD-C	05-10-023
173-528	PREP	05-06-116	180- 46-055	AMD-P	05-04-017	180- 85-033	AMD-P	05-08-046
173-546-010	NEW-P	05-06-117	180- 46-055	AMD	05-08-013	180- 85-033	AMD-C	05-10-022
173-546-020	NEW-P	05-06-117	180- 46-065	REP-P	05-04-017	180- 85-034	NEW-P	05-08-044
173-546-030	NEW-P	05-06-117	180- 46-065	REP	05-08-013	180- 85-034	NEW-C	05-10-021
173-546-040	NEW-P	05-06-117	180- 50	PREP	05-12-159	180- 85-075	AMD-P	05-08-045
173-546-050	NEW-P	05-06-117	180- 51	PREP	05-12-159	180- 85-075	AMD-C	05-10-010
173-546-060	NEW-P	05-06-117	180- 51-035	AMD-E	05-08-011	180- 86	PREP	05-12-149
173-546-070	NEW-P	05-06-117	180- 51-035	AMD-P	05-08-012	180- 87	PREP	05-12-149
173-546-080	NEW-P	05-06-117	180- 51-035	AMD-C	05-10-011	180- 88	PREP	05-12-149
173-546-090	NEW-P	05-06-117	180- 52	PREP	05-12-159	180- 90	PREP	05-12-150
173-546-100	NEW-P	05-06-117	180- 55	PREP	05-12-159	180- 95	PREP	05-12-151
173-546-110	NEW-P	05-06-117	180- 55-005	AMD-P	05-04-075	180- 96	PREP	05-12-152
173-546-120	NEW-P	05-06-117	180- 55-005	AMD	05-08-015	180- 97	PREP	05-12-153
173-546-130	NEW-P	05-06-117	180- 55-015	AMD-P	05-04-075	181- 01	PREP	05-12-115
173-546-140	NEW-P	05-06-117	180- 55-015	AMD	05-08-015	181- 01-004	NEW	05-04-024
173-546-150	NEW-P	05-06-117	180- 55-017	NEW-P	05-04-075	182- 08-120	AMD-W	05-02-060
180- 08	PREP	05-12-145	180- 55-017	NEW	05-08-015	182- 08-196	AMD-P	05-12-050

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182-08-198	NEW-P	05-12-050	192-320-060	REP-E	05-11-017	204-41-080	NEW-P	05-12-048
182-12-115	AMD-E	05-10-083	196-25-002	AMD-P	05-07-142	204-50	PREP	05-08-116
182-12-116	NEW-P	05-12-050	196-25-040	AMD-P	05-07-142	204-50-030	AMD-P	05-12-049
182-12-148	AMD-P	05-12-050	199-08-300	NEW	05-07-045	204-50-040	AMD-P	05-12-049
182-12-171	AMD-P	05-12-050	199-08-305	NEW	05-07-045	204-50-050	AMD-P	05-12-049
182-12-175	NEW-P	05-12-050	199-08-310	NEW	05-07-045	204-50-070	AMD-P	05-12-049
182-12-205	AMD-P	05-12-050	199-08-315	NEW	05-07-045	204-50-080	AMD-P	05-12-049
182-12-260	AMD-P	05-12-050	199-08-320	NEW	05-07-045	204-50-090	AMD-P	05-12-049
182-12-265	AMD-P	05-12-050	199-08-325	NEW	05-07-045	204-50-110	AMD-P	05-12-049
182-12-270	AMD-P	05-12-050	199-08-330	NEW	05-07-045	204-50-120	AMD-P	05-12-049
182-16-040	AMD-W	05-02-060	199-08-335	NEW	05-07-045	204-50-130	AMD-P	05-12-049
182-16-040	PREP	05-07-158	199-08-340	NEW	05-07-045	208-680A-040	AMD	05-03-038
182-16-040	AMD-P	05-12-050	199-08-345	NEW	05-07-045	208-680E-025	NEW	05-03-038
182-16-050	AMD-W	05-02-060	199-08-350	NEW	05-07-045	208-680F-020	AMD	05-03-038
182-16-050	PREP	05-07-158	199-08-355	NEW	05-07-045	208-680G-050	AMD	05-03-037
182-16-050	AMD-P	05-12-050	199-08-360	NEW	05-07-045	212-17-025	AMD-P	05-07-102
192-32-010	REP-X	05-07-143	199-08-365	NEW	05-07-045	212-17-025	AMD	05-12-033
192-32-035	REP-X	05-07-143	199-08-370	NEW	05-07-045	212-17-030	AMD-P	05-07-102
192-32-050	REP-X	05-07-143	199-08-375	NEW	05-07-045	212-17-030	AMD	05-12-033
192-32-085	REP-X	05-07-143	199-08-380	NEW	05-07-045	212-17-032	NEW-P	05-07-102
192-32-095	REP-X	05-07-143	199-08-385	NEW	05-07-045	212-17-032	NEW	05-12-033
192-32-100	REP-X	05-07-143	199-08-390	NEW	05-07-045	212-17-035	AMD-P	05-07-102
192-32-115	REP-X	05-07-143	199-08-395	NEW	05-07-045	212-17-035	AMD	05-12-033
192-32-130	REP-X	05-07-143	199-08-400	NEW	05-07-045	212-17-040	AMD-P	05-07-102
192-32-135	REP-X	05-07-143	199-08-405	NEW-W	05-07-079	212-17-040	AMD	05-12-033
192-35-010	NEW	05-02-094	199-08-410	NEW-W	05-07-079	212-17-042	NEW-P	05-07-102
192-35-020	NEW	05-02-094	199-08-415	NEW-W	05-07-079	212-17-042	NEW	05-12-033
192-35-030	NEW	05-02-094	199-08-420	NEW-W	05-07-079	212-17-050	AMD-P	05-07-102
192-35-040	NEW	05-02-094	199-08-425	NEW	05-07-045	212-17-050	AMD	05-12-033
192-35-050	NEW	05-02-094	199-08-426	NEW-W	05-07-079	212-17-055	AMD-P	05-07-102
192-35-060	NEW	05-02-094	199-08-427	NEW-W	05-07-079	212-17-055	AMD	05-12-033
192-35-070	NEW	05-02-094	199-08-428	NEW-W	05-07-079	212-17-060	AMD-P	05-07-102
192-35-080	NEW	05-02-094	199-08-429	NEW-W	05-07-079	212-17-060	AMD	05-12-033
192-35-090	NEW	05-02-094	199-08-430	NEW	05-07-045	212-17-070	AMD-P	05-07-102
192-35-100	NEW	05-02-094	199-08-435	NEW	05-07-045	212-17-085	AMD-P	05-07-102
192-35-110	NEW	05-02-094	199-08-440	NEW	05-07-045	212-17-085	AMD	05-12-033
192-35-120	NEW	05-02-094	199-08-445	NEW	05-07-045	212-17-125	AMD-P	05-07-102
192-110-015	AMD-E	05-03-011	199-08-450	NEW	05-07-045	212-17-170	AMD-P	05-07-102
192-110-015	AMD-E	05-11-017	199-08-455	NEW	05-07-045	212-17-185	AMD-P	05-07-102
192-110-017	NEW-E	05-03-011	199-08-460	NEW	05-07-045	212-17-185	AMD	05-12-033
192-110-017	NEW-E	05-11-017	199-08-465	NEW	05-07-045	212-17-198	AMD-P	05-07-102
192-150-112	NEW-P	05-07-144	199-08-470	NEW	05-07-045	212-17-198	AMD	05-12-033
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192-170-060	NEW-E	05-03-011	199-08-480	NEW	05-07-045	212-17-21503	AMD	05-12-033
192-170-060	NEW-P	05-07-144	199-08-485	NEW	05-07-045	212-17-21505	AMD-P	05-07-102
192-170-060	NEW-E	05-11-017	199-08-490	NEW	05-07-045	212-17-21505	AMD	05-12-033
192-180-013	NEW-E	05-03-011	199-08-495	NEW	05-07-045	212-17-21507	AMD-P	05-07-102
192-180-013	NEW-E	05-11-017	199-08-500	NEW	05-07-045	212-17-21507	AMD	05-12-033
192-180-014	NEW-P	05-07-144	199-08-505	NEW	05-07-045	212-17-21509	AMD-P	05-07-102
192-300-050	AMD-E	05-03-011	199-08-510	NEW	05-07-045	212-17-21509	AMD	05-12-033
192-300-050	AMD-E	05-11-017	199-08-515	NEW	05-07-045	212-17-21511	AMD-P	05-07-102
192-310-010	AMD-E	05-11-017	199-08-520	NEW	05-07-045	212-17-21511	AMD	05-12-033
192-310-030	AMD-E	05-03-011	199-08-525	NEW	05-07-045	212-17-21513	AMD-P	05-07-102
192-310-030	AMD-E	05-11-017	199-08-535	NEW-W	05-07-079	212-17-21513	AMD	05-12-033
192-320-005	NEW-E	05-03-011	199-08-540	NEW	05-07-045	212-17-21515	AMD-P	05-07-102
192-320-005	NEW-E	05-11-017	199-08-545	NEW	05-07-045	212-17-21515	AMD	05-12-033
192-320-010	NEW-E	05-03-011	199-08-550	NEW	05-07-045	212-17-21517	AMD-P	05-07-102
192-320-010	NEW-E	05-11-017	199-08-555	NEW	05-07-045	212-17-21517	AMD	05-12-033
192-320-020	NEW-E	05-03-011	199-08-565	NEW	05-07-045	212-17-21519	AMD-P	05-07-102
192-320-020	NEW-E	05-11-017	199-08-570	NEW	05-07-045	212-17-21519	AMD	05-12-033
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212- 17-220	AMD	05-12-033	212- 17-410	NEW	05-12-033	212- 80-033	RECOD	05-05-006
212- 17-230	AMD-P	05-07-102	212- 17-415	NEW-P	05-07-102	212- 80-035	AMD	05-05-006
212- 17-230	AMD	05-12-033	212- 17-415	NEW	05-12-033	212- 80-035	DECOD	05-05-006
212- 17-235	AMD-P	05-07-102	212- 17-420	NEW-P	05-07-102	212- 80-038	RECOD	05-05-006
212- 17-235	AMD	05-12-033	212- 17-420	NEW	05-12-033	212- 80-038	AMD-P	05-11-107
212- 17-250	AMD-P	05-07-102	212- 17-425	NEW-P	05-07-102	212- 80-040	AMD	05-05-006
212- 17-250	AMD	05-12-033	212- 17-425	NEW	05-12-033	212- 80-040	DECOD	05-05-006
212- 17-255	AMD-P	05-07-102	212- 17-430	NEW-P	05-07-102	212- 80-043	RECOD	05-05-006
212- 17-255	AMD	05-12-033	212- 17-430	NEW	05-12-033	212- 80-043	AMD-P	05-11-107
212- 17-260	AMD-P	05-07-102	212- 17-435	NEW-P	05-07-102	212- 80-045	AMD	05-05-006
212- 17-260	AMD	05-12-033	212- 17-435	NEW	05-12-033	212- 80-045	DECOD	05-05-006
212- 17-265	REP-P	05-07-102	212- 17-440	NEW-P	05-07-102	212- 80-048	NEW	05-05-006
212- 17-265	REP	05-12-033	212- 17-440	NEW	05-12-033	212- 80-050	AMD	05-05-006
212- 17-270	AMD-P	05-07-102	212- 17-445	NEW-P	05-07-102	212- 80-050	DECOD	05-05-006
212- 17-270	AMD	05-12-033	212- 17-445	NEW	05-12-033	212- 80-053	RECOD	05-05-006
212- 17-275	AMD-P	05-07-102	212- 17-450	NEW-P	05-07-102	212- 80-053	AMD-P	05-11-107
212- 17-275	AMD	05-12-033	212- 17-450	NEW	05-12-033	212- 80-055	AMD	05-05-006
212- 17-280	AMD-P	05-07-102	212- 17-455	NEW-P	05-07-102	212- 80-055	DECOD	05-05-006
212- 17-280	AMD	05-12-033	212- 17-455	NEW	05-12-033	212- 80-058	RECOD	05-05-006
212- 17-285	AMD-P	05-07-102	212- 17-460	NEW-P	05-07-102	212- 80-060	AMD	05-05-006
212- 17-285	AMD	05-12-033	212- 17-460	NEW	05-12-033	212- 80-060	DECOD	05-05-006
212- 17-290	AMD-P	05-07-102	212- 17-465	NEW-P	05-07-102	212- 80-063	RECOD	05-05-006
212- 17-290	AMD	05-12-033	212- 17-465	NEW	05-12-033	212- 80-065	AMD	05-05-006
212- 17-295	AMD-P	05-07-102	212- 17-470	NEW-P	05-07-102	212- 80-065	DECOD	05-05-006
212- 17-295	AMD	05-12-033	212- 17-470	NEW	05-12-033	212- 80-068	RECOD	05-05-006
212- 17-300	AMD-P	05-07-102	212- 17-475	NEW-P	05-07-102	212- 80-070	AMD	05-05-006
212- 17-300	AMD	05-12-033	212- 17-475	NEW	05-12-033	212- 80-070	DECOD	05-05-006
212- 17-310	AMD-P	05-07-102	212- 17-480	NEW-P	05-07-102	212- 80-073	RECOD	05-05-006
212- 17-310	AMD	05-12-033	212- 17-480	NEW	05-12-033	212- 80-075	AMD	05-05-006
212- 17-317	AMD-P	05-07-102	212- 17-485	NEW-P	05-07-102	212- 80-075	DECOD	05-05-006
212- 17-317	AMD	05-12-033	212- 17-485	NEW	05-12-033	212- 80-078	RECOD	05-05-006
212- 17-335	AMD-P	05-07-102	212- 17-490	NEW-P	05-07-102	212- 80-078	AMD-P	05-11-107
212- 17-335	AMD	05-12-033	212- 17-490	NEW	05-12-033	212- 80-080	AMD	05-05-006
212- 17-342	NEW-P	05-07-102	212- 17-495	NEW-P	05-07-102	212- 80-080	DECOD	05-05-006
212- 17-345	AMD-P	05-07-102	212- 17-495	NEW	05-12-033	212- 80-083	RECOD	05-05-006
212- 17-345	AMD	05-12-033	212- 17-500	NEW-P	05-07-102	212- 80-083	AMD-P	05-11-107
212- 17-350	AMD-P	05-07-102	212- 17-500	NEW	05-12-033	212- 80-085	AMD	05-05-006
212- 17-350	AMD	05-12-033	212- 17-505	NEW-P	05-07-102	212- 80-085	DECOD	05-05-006
212- 17-352	AMD-P	05-07-102	212- 17-505	NEW	05-12-033	212- 80-088	RECOD	05-05-006
212- 17-355	AMD-P	05-07-102	212- 17-510	NEW-P	05-07-102	212- 80-090	AMD	05-05-006
212- 17-355	AMD	05-12-033	212- 17-510	NEW	05-12-033	212- 80-090	DECOD	05-05-006
212- 17-360	AMD-P	05-07-102	212- 17-515	NEW-P	05-07-102	212- 80-093	RECOD	05-05-006
212- 17-360	AMD	05-12-033	212- 17-515	NEW	05-12-033	212- 80-093	AMD-P	05-11-107
212- 17-365	NEW-P	05-07-102	212- 17-900	AMD-P	05-07-102	212- 80-095	AMD	05-05-006
212- 17-365	NEW	05-12-033	212- 17-900	AMD	05-12-033	212- 80-095	DECOD	05-05-006
212- 17-370	NEW-P	05-07-102	212- 80	PREP	05-07-101	212- 80-098	RECOD	05-05-006
212- 17-370	NEW	05-12-033	212- 80-001	AMD	05-05-006	212- 80-100	DECOD	05-05-006
212- 17-375	NEW-P	05-07-102	212- 80-005	AMD	05-05-006	212- 80-103	RECOD	05-05-006
212- 17-375	NEW	05-12-033	212- 80-010	AMD	05-05-006	212- 80-105	AMD	05-05-006
212- 17-380	NEW-P	05-07-102	212- 80-010	AMD-P	05-11-107	212- 80-105	DECOD	05-05-006
212- 17-380	NEW	05-12-033	212- 80-015	AMD	05-05-006	212- 80-108	RECOD	05-05-006
212- 17-385	NEW-P	05-07-102	212- 80-015	AMD-P	05-11-107	212- 80-110	AMD	05-05-006
212- 17-385	NEW	05-12-033	212- 80-018	NEW	05-05-006	212- 80-110	DECOD	05-05-006
212- 17-390	NEW-P	05-07-102	212- 80-018	AMD-P	05-11-107	212- 80-113	RECOD	05-05-006
212- 17-390	NEW	05-12-033	212- 80-020	AMD-P	05-11-107	212- 80-113	AMD-P	05-11-107
212- 17-395	NEW-P	05-07-102	212- 80-023	RECOD	05-05-006	212- 80-115	AMD	05-05-006
212- 17-395	NEW	05-12-033	212- 80-025	AMD	05-05-006	212- 80-115	DECOD	05-05-006
212- 17-400	NEW-P	05-07-102	212- 80-025	DECOD	05-05-006	212- 80-118	RECOD	05-05-006
212- 17-400	NEW	05-12-033	212- 80-028	RECOD	05-05-006	212- 80-120	AMD	05-05-006
212- 17-405	NEW-P	05-07-102	212- 80-028	AMD-P	05-11-107	212- 80-120	DECOD	05-05-006
212- 17-405	NEW	05-12-033	212- 80-030	AMD	05-05-006	212- 80-123	RECOD	05-05-006
212- 17-410	NEW-P	05-07-102	212- 80-030	DECOD	05-05-006	212- 80-125	AMD	05-05-006

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212- 80-128	RECOD	05-05-006	220- 33-01000A	NEW-E	05-08-073	220- 52-04600B	NEW-E	05-07-060
212- 80-130	AMD	05-05-006	220- 33-01000A	REP-E	05-09-098	220- 52-04600R	REP-E	05-03-063
212- 80-130	DECOD	05-05-006	220- 33-01000B	NEW-E	05-11-005	220- 52-04600T	REP-E	05-04-065
212- 80-133	NEW-P	05-11-107	220- 33-01000B	REP-E	05-11-005	220- 52-04600W	REP-E	05-02-048
212- 80-135	AMD	05-05-006	220- 33-01000C	NEW-E	05-11-032	220- 52-04600X	NEW-E	05-03-063
212- 80-135	DECOD	05-05-006	220- 33-01000C	REP-E	05-11-032	220- 52-04600X	REP-E	05-05-041
212- 80-138	NEW-P	05-11-107	220- 33-01000S	NEW-E	05-05-091	220- 52-04600Y	NEW-E	05-04-065
212- 80-140	NEW-P	05-11-107	220- 33-01000S	REP-E	05-06-010	220- 52-04600Z	NEW-E	05-05-041
212- 80-145	NEW-P	05-11-107	220- 33-01000T	NEW-E	05-06-010	220- 52-04600Z	REP-E	05-06-034
212- 80-150	NEW-P	05-11-107	220- 33-01000T	REP-E	05-06-072	220- 52-05100K	NEW-E	05-09-039
212- 80-155	NEW-P	05-11-107	220- 33-01000U	NEW-E	05-06-072	220- 52-05100K	REP-E	05-10-049
212- 80-160	NEW-P	05-11-107	220- 33-01000U	REP-E	05-07-005	220- 52-05100L	NEW-E	05-10-049
212- 80-165	NEW-P	05-11-107	220- 33-01000V	NEW-E	05-07-005	220- 52-05100L	REP-E	05-11-091
212- 80-170	NEW-P	05-11-107	220- 33-01000V	REP-E	05-07-026	220- 52-05100M	NEW-E	05-11-091
212- 80-175	NEW-P	05-11-107	220- 33-01000W	NEW-E	05-07-026	220- 52-07100L	NEW-E	05-05-040
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232-28-341	AMD	05-11-022	236-22-020	DECOD	05-04-072	246-101-505	AMD	05-11-110
232-28-351	AMD-P	05-06-106	236-22-030	AMD	05-04-072	246-101-520	AMD-P	05-06-123
232-28-351	AMD	05-11-022	236-22-030	DECOD	05-04-072	246-101-520	AMD	05-11-110
232-28-352	AMD-P	05-06-107	236-22-031	AMD	05-04-072	246-130	PREP	05-06-119
232-28-352	AMD	05-11-024	236-22-031	DECOD	05-04-072	246-140-001	NEW	05-04-112
232-28-619	AMD	05-03-005	236-22-032	DECOD	05-04-072	246-140-010	NEW	05-04-112
232-28-619	AMD	05-05-035	236-22-033	DECOD	05-04-072	246-140-020	NEW	05-04-112
232-28-619	AMD-X	05-10-107	236-22-034	AMD	05-04-072	246-203-120	PREP	05-10-096
232-28-61900B	NEW-E	05-03-062	236-22-034	DECOD	05-04-072	246-247	PREP	05-12-140
232-28-61900B	REP-E	05-07-061	236-22-035	DECOD	05-04-072	246-247-035	NEW-P	05-08-019
232-28-61900C	NEW-E	05-04-003	236-22-036	AMD	05-04-072	246-247-035	NEW	05-12-059
232-28-61900D	NEW-E	05-05-002	236-22-036	DECOD	05-04-072	246-260-031	AMD-X	05-03-057

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246-260-041	AMD	05-09-004	246-272A-0135	NEW-S	05-11-109	246-272A-0450	NEW-S	05-11-109
246-260-061	AMD-X	05-03-057	246-272A-0140	NEW-P	05-02-082	246-272A-990	NEW-P	05-02-082
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246-260-131	AMD-X	05-03-057	246-272A-0150	NEW-P	05-02-082	246-292-085	AMD	05-06-122
246-260-131	AMD	05-09-004	246-272A-0150	NEW-S	05-11-109	246-292-090	AMD	05-06-122
246-260-171	AMD-X	05-03-057	246-272A-0170	NEW-P	05-02-082	246-292-100	AMD	05-06-122
246-260-171	AMD	05-09-004	246-272A-0170	NEW-S	05-11-109	246-323-010	REP-P	05-10-063
246-272-00101	REP-P	05-02-082	246-272A-0175	NEW-P	05-02-082	246-323-020	REP-P	05-10-063
246-272-00501	REP-P	05-02-082	246-272A-0175	NEW-S	05-11-109	246-323-022	REP-P	05-10-063
246-272-01001	REP-P	05-02-082	246-272A-0200	NEW-P	05-02-082	246-323-030	REP-P	05-10-063
246-272-02001	REP-P	05-02-082	246-272A-0200	NEW-S	05-11-109	246-323-040	REP-P	05-10-063
246-272-03001	REP-P	05-02-082	246-272A-0210	NEW-P	05-02-082	246-323-050	REP-P	05-10-063
246-272-04001	REP-P	05-02-082	246-272A-0210	NEW-S	05-11-109	246-323-060	REP-P	05-10-063
246-272-05001	REP-P	05-02-082	246-272A-0220	NEW-P	05-02-082	246-323-070	REP-P	05-10-063
246-272-07001	REP-P	05-02-082	246-272A-0220	NEW-S	05-11-109	246-323-080	REP-P	05-10-063
246-272-08001	REP-P	05-02-082	246-272A-0230	NEW-P	05-02-082	246-323-090	REP-P	05-10-063
246-272-09001	REP-P	05-02-082	246-272A-0230	NEW-S	05-11-109	246-323-990	REP-P	05-10-063
246-272-09501	REP-P	05-02-082	246-272A-0232	NEW-P	05-02-082	246-325-010	REP-P	05-10-063
246-272-11001	REP-P	05-02-082	246-272A-0232	NEW-S	05-11-109	246-325-012	REP-P	05-10-063
246-272-12501	REP-P	05-02-082	246-272A-0234	NEW-P	05-02-082	246-325-015	REP-P	05-10-063
246-272-13501	REP-P	05-02-082	246-272A-0234	NEW-S	05-11-109	246-325-020	REP-P	05-10-063
246-272-14501	REP-P	05-02-082	246-272A-0238	NEW-P	05-02-082	246-325-022	REP-P	05-10-063
246-272-15501	REP-P	05-02-082	246-272A-0238	NEW-S	05-11-109	246-325-025	REP-P	05-10-063
246-272-16501	REP-P	05-02-082	246-272A-0240	NEW-P	05-02-082	246-325-030	REP-P	05-10-063
246-272-17501	REP-P	05-02-082	246-272A-0240	NEW-S	05-11-109	246-325-035	REP-P	05-10-063
246-272-18501	REP-P	05-02-082	246-272A-0250	NEW-P	05-02-082	246-325-040	REP-P	05-10-063
246-272-19501	REP-P	05-02-082	246-272A-0250	NEW-S	05-11-109	246-325-045	REP-P	05-10-063
246-272-20501	REP-P	05-02-082	246-272A-0260	NEW-P	05-02-082	246-325-050	REP-P	05-10-063
246-272-21501	REP-P	05-02-082	246-272A-0260	NEW-S	05-11-109	246-325-060	REP-P	05-10-063
246-272-22501	REP-P	05-02-082	246-272A-0265	NEW-P	05-02-082	246-325-070	REP-P	05-10-063
246-272-23501	REP-P	05-02-082	246-272A-0265	NEW-S	05-11-109	246-325-100	REP-P	05-10-063
246-272-24001	REP-P	05-02-082	246-272A-0270	NEW-P	05-02-082	246-325-120	REP-P	05-10-063
246-272-25001	REP-P	05-02-082	246-272A-0270	NEW-S	05-11-109	246-325-990	REP-P	05-10-063
246-272-26001	REP-P	05-02-082	246-272A-0275	NEW-P	05-02-082	246-326-010	REP-P	05-10-063
246-272-27001	REP-P	05-02-082	246-272A-0275	NEW-S	05-11-109	246-326-020	REP-P	05-10-063
246-272-28001	REP-P	05-02-082	246-272A-0280	NEW-P	05-02-082	246-326-030	REP-P	05-10-063
246-272A	AMD-C	05-09-002	246-272A-0280	NEW-S	05-11-109	246-326-035	REP-P	05-10-063
246-272A-0001	NEW-P	05-02-082	246-272A-0290	NEW-P	05-02-082	246-326-040	REP-P	05-10-063
246-272A-0001	NEW-S	05-11-109	246-272A-0290	NEW-S	05-11-109	246-326-050	REP-P	05-10-063
246-272A-0005	NEW-P	05-02-082	246-272A-0300	NEW-P	05-02-082	246-326-060	REP-P	05-10-063
246-272A-0005	NEW-S	05-11-109	246-272A-0300	NEW-S	05-11-109	246-326-070	REP-P	05-10-063
246-272A-0010	NEW-P	05-02-082	246-272A-0310	NEW-P	05-02-082	246-326-080	REP-P	05-10-063
246-272A-0010	NEW-S	05-11-109	246-272A-0310	NEW-S	05-11-109	246-326-090	REP-P	05-10-063
246-272A-0015	NEW-P	05-02-082	246-272A-0320	NEW-P	05-02-082	246-326-100	REP-P	05-10-063
246-272A-0015	NEW-S	05-11-109	246-272A-0320	NEW-S	05-11-109	246-326-990	REP-P	05-10-063
246-272A-0020	NEW-P	05-02-082	246-272A-0340	NEW-P	05-02-082	246-329-990	AMD-P	05-10-064
246-272A-0020	NEW-S	05-11-109	246-272A-0340	NEW-S	05-11-109	246-337-001	NEW-P	05-10-063
246-272A-0025	NEW-P	05-02-082	246-272A-0400	NEW-P	05-02-082	246-337-005	NEW-P	05-10-063
246-272A-0025	NEW-S	05-11-109	246-272A-0400	NEW-S	05-11-109	246-337-010	NEW-P	05-10-063
246-272A-0100	NEW-P	05-02-082	246-272A-0410	NEW-P	05-02-082	246-337-015	NEW-P	05-10-063
246-272A-0100	NEW-S	05-11-109	246-272A-0410	NEW-S	05-11-109	246-337-020	NEW-P	05-10-063
246-272A-0110	NEW-P	05-02-082	246-272A-0420	NEW-P	05-02-082	246-337-025	NEW-P	05-10-063
246-272A-0110	NEW-S	05-11-109	246-272A-0420	NEW-S	05-11-109	246-337-030	NEW-P	05-10-063
246-272A-0120	NEW-P	05-02-082	246-272A-0425	NEW-P	05-02-082	246-337-035	NEW-P	05-10-063
246-272A-0120	NEW-S	05-11-109	246-272A-0425	NEW-S	05-11-109	246-337-040	NEW-P	05-10-063
246-272A-0125	NEW-P	05-02-082	246-272A-0430	NEW-P	05-02-082	246-337-045	NEW-P	05-10-063
246-272A-0125	NEW-S	05-11-109	246-272A-0430	NEW-S	05-11-109	246-337-050	NEW-P	05-10-063
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246-337-070	NEW-P	05-10-063	246-817-750	PREP	05-09-001	246-851-990	AMD-P	05-07-109
246-337-075	NEW-P	05-10-063	246-817-760	PREP	05-09-001	246-851-990	AMD	05-12-012
246-337-080	NEW-P	05-10-063	246-817-770	PREP	05-09-001	246-853-990	AMD-P	05-07-109
246-337-085	NEW-P	05-10-063	246-817-780	PREP	05-09-001	246-853-990	AMD	05-12-012
246-337-090	NEW-P	05-10-063	246-817-990	AMD-P	05-07-109	246-869-095	REP	05-07-108
246-337-095	NEW-P	05-10-063	246-817-990	AMD	05-12-012	246-907-030	AMD-P	05-07-109
246-337-100	NEW-P	05-10-063	246-822-990	AMD-P	05-07-109	246-907-030	AMD	05-12-012
246-337-105	NEW-P	05-10-063	246-822-990	AMD	05-12-012	246-907-995	REP-P	05-07-109
246-337-110	NEW-P	05-10-063	246-824-990	AMD-P	05-07-109	246-907-995	REP	05-12-012
246-337-115	NEW-P	05-10-063	246-824-990	AMD	05-12-012	246-915-040	AMD	05-06-022
246-337-120	NEW-P	05-10-063	246-824-995	REP-P	05-07-109	246-915-050	AMD	05-03-009
246-337-125	NEW-P	05-10-063	246-824-995	REP	05-12-012	246-915-100	AMD	05-06-020
246-337-130	NEW-P	05-10-063	246-826-990	AMD-P	05-07-109	246-915-105	NEW	05-06-021
246-337-135	NEW-P	05-10-063	246-826-990	AMD	05-12-012	246-915-150	REP	05-09-046
246-337-140	NEW-P	05-10-063	246-826-990	AMD	05-12-012	246-915-170	REP	05-09-046
246-337-145	NEW-P	05-10-063	246-828-990	AMD-P	05-07-109	246-915-180	AMD	05-06-023
246-337-150	NEW-P	05-10-063	246-828-990	AMD	05-12-012	246-915-180	AMD	05-06-023
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246-337-990	NEW-P	05-10-063	246-830-990	AMD	05-12-012	246-915-350	NEW	05-09-003
246-338-010	AMD	05-04-040	246-834-250	AMD	05-06-118	246-915-990	AMD-P	05-03-008
246-338-028	AMD	05-04-040	246-834-990	AMD-P	05-07-109	246-915-990	AMD-P	05-07-109
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246-338-050	AMD	05-04-040	246-834-990	AMD	05-12-012	246-915-990	AMD	05-12-012
246-338-060	AMD	05-04-040	246-836-990	AMD-P	05-07-109	246-918-990	AMD-P	05-07-109
246-338-070	AMD	05-04-040	246-836-990	AMD	05-12-012	246-918-990	AMD	05-12-012
246-338-080	AMD	05-04-040	246-840-505	AMD	05-12-058	246-918-990	AMD	05-12-012
246-338-090	AMD	05-04-040	246-840-510	AMD	05-12-058	246-919-330	AMD	05-07-024
246-360-990	AMD	05-05-072	246-840-510	NEW	05-12-058	246-919-600	REP	05-10-065
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246-380-990	AMD-P	05-10-064	246-840-520	AMD	05-12-058	246-919-990	AMD	05-12-012
246-562	PREP	05-03-010	246-840-525	AMD	05-12-058	246-922-990	AMD-P	05-07-109
246-564-001	NEW-P	05-03-007	246-840-530	AMD	05-12-058	246-922-990	AMD	05-12-012
246-564-001	NEW	05-10-094	246-840-535	AMD	05-12-058	246-922-995	REP-P	05-07-109
246-564-010	NEW-P	05-03-007	246-840-545	AMD	05-12-058	246-922-995	REP	05-12-012
246-564-010	NEW	05-10-094	246-840-548	NEW	05-12-058	246-924-990	AMD-P	05-07-109
246-650	PREP	05-06-030	246-840-550	AMD	05-12-058	246-924-990	AMD	05-12-012
246-790	PREP	05-03-056	246-840-555	AMD	05-12-058	246-926-990	AMD-P	05-07-109
246-802-060	AMD-P	05-06-120	246-840-560	AMD	05-12-058	246-926-990	AMD	05-12-012
246-802-130	AMD-P	05-06-120	246-840-565	AMD	05-12-058	246-926-990	AMD	05-12-012
246-802-990	AMD-P	05-07-109	246-840-570	AMD	05-12-058	246-927-990	AMD-P	05-07-109
246-802-990	AMD	05-12-012	246-840-575	AMD	05-12-058	246-927-990	AMD	05-12-012
246-808-510	PREP	05-10-062	246-840-840	PREP-W	05-10-095	246-927-990	AMD	05-12-012
246-808-990	AMD-P	05-07-109	246-840-840	PREP-W	05-10-095	246-928-990	AMD-P	05-07-109
246-808-990	AMD	05-12-012	246-840-850	PREP-W	05-10-095	246-928-990	AMD	05-12-012
246-809	PREP-W	05-10-095	246-840-860	PREP-W	05-10-095	246-930-020	AMD	05-12-014
246-809-990	AMD-P	05-07-109	246-840-870	PREP-W	05-10-095	246-930-200	AMD	05-12-014
246-809-990	AMD	05-12-012	246-840-880	PREP-W	05-10-095	246-930-220	AMD	05-12-014
246-810-990	AMD-P	05-07-109	246-840-880	PREP-W	05-10-095	246-930-301	AMD	05-12-014
246-810-990	AMD	05-12-012	246-840-890	PREP-W	05-10-095	246-930-431	AMD	05-12-014
246-811-990	AMD-P	05-07-109	246-840-890	AMD-P	05-07-109	246-930-490	AMD	05-12-014
246-811-990	AMD	05-12-012	246-840-990	PREP-W	05-10-095	246-930-990	AMD-P	05-07-109
246-812-990	AMD-P	05-07-109	246-840-990	AMD	05-12-012	246-930-990	AMD	05-12-012
246-812-990	AMD	05-12-012	246-841-990	AMD-P	05-07-109	246-930-990	AMD	05-12-014
246-812-995	REP-P	05-07-109	246-841-990	AMD	05-12-012	246-930-995	REP-P	05-07-109
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246-815-990	AMD-P	05-07-109	246-843-990	AMD	05-12-012	246-933-590	AMD	05-12-012
246-815-990	AMD	05-12-012	246-845-990	AMD-P	05-07-109	246-933-990	AMD-P	05-07-109
246-817-701	PREP	05-09-001	246-845-990	AMD	05-12-012	246-933-990	AMD	05-12-012
246-817-710	PREP	05-09-001	246-847-990	AMD-P	05-07-109	246-935-990	AMD-P	05-07-109
246-817-720	PREP	05-09-001	246-847-990	AMD	05-12-012	246-935-990	AMD	05-12-012
			246-847-990	AMD	05-12-012	246-937-990	AMD-P	05-07-109
			246-849-990	AMD-P	05-07-109	246-937-990	AMD	05-12-012
			246-849-995	AMD	05-12-012	246-939-990	AMD-P	05-07-109
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246-976-840	PREP	05-12-015	251-01-105	REP	05-12-067	251-01-255	REP	05-12-067
246-976-850	PREP	05-12-015	251-01-110	REP-P	05-09-099	251-01-258	REP-P	05-09-099
246-976-860	PREP	05-12-015	251-01-110	REP	05-12-067	251-01-258	REP	05-12-067
246-976-881	PREP	05-12-015	251-01-115	REP-P	05-09-099	251-01-260	REP-P	05-09-099
247-02-050	AMD-X	05-06-045	251-01-115	REP	05-12-067	251-01-260	REP	05-12-067
247-02-050	AMD	05-11-048	251-01-120	REP-P	05-09-099	251-01-265	REP-P	05-09-099
250-83-010	NEW-P	05-05-073	251-01-120	REP	05-12-067	251-01-265	REP	05-12-067
250-83-020	NEW-P	05-05-073	251-01-125	REP-P	05-09-099	251-01-268	REP-P	05-09-099
250-83-030	NEW-P	05-05-073	251-01-125	REP	05-12-067	251-01-268	REP	05-12-067
250-83-040	NEW-P	05-05-073	251-01-129	REP-P	05-09-099	251-01-270	REP-P	05-09-099
250-83-050	NEW-P	05-05-073	251-01-129	REP	05-12-067	251-01-270	REP	05-12-067
250-83-060	NEW-P	05-05-073	251-01-130	REP-P	05-09-099	251-01-275	REP-P	05-09-099
250-83-070	NEW-P	05-05-073	251-01-130	REP	05-12-067	251-01-275	REP	05-12-067
251-01-005	REP-P	05-09-099	251-01-135	REP-P	05-09-099	251-01-280	REP-P	05-09-099
251-01-005	REP	05-12-067	251-01-135	REP	05-12-067	251-01-280	REP	05-12-067
251-01-014	REP-P	05-09-099	251-01-140	REP-P	05-09-099	251-01-285	REP-P	05-09-099
251-01-014	REP	05-12-067	251-01-140	REP	05-12-067	251-01-285	REP	05-12-067
251-01-015	REP-P	05-09-099	251-01-145	REP-P	05-09-099	251-01-290	REP-P	05-09-099
251-01-015	REP	05-12-067	251-01-145	REP	05-12-067	251-01-290	REP	05-12-067
251-01-018	REP-P	05-09-099	251-01-147	REP-P	05-09-099	251-01-295	REP-P	05-09-099
251-01-018	REP	05-12-067	251-01-147	REP	05-12-067	251-01-295	REP	05-12-067
251-01-020	REP-P	05-09-099	251-01-150	REP-P	05-09-099	251-01-300	REP-P	05-09-099
251-01-020	REP	05-12-067	251-01-150	REP	05-12-067	251-01-300	REP	05-12-067
251-01-025	REP-P	05-09-099	251-01-160	REP-P	05-09-099	251-01-305	REP-P	05-09-099
251-01-025	REP	05-12-067	251-01-160	REP	05-12-067	251-01-305	REP	05-12-067
251-01-028	REP-P	05-09-099	251-01-165	REP-P	05-09-099	251-01-310	REP-P	05-09-099
251-01-028	REP	05-12-067	251-01-165	REP	05-12-067	251-01-310	REP	05-12-067
251-01-030	REP-P	05-09-099	251-01-170	REP-P	05-09-099	251-01-315	REP-P	05-09-099
251-01-030	REP	05-12-067	251-01-170	REP	05-12-067	251-01-315	REP	05-12-067
251-01-035	REP-P	05-09-099	251-01-172	REP-P	05-09-099	251-01-325	REP-P	05-09-099
251-01-035	REP	05-12-067	251-01-172	REP	05-12-067	251-01-325	REP	05-12-067
251-01-040	REP-P	05-09-099	251-01-175	REP-P	05-09-099	251-01-335	REP-P	05-09-099
251-01-040	REP	05-12-067	251-01-175	REP	05-12-067	251-01-335	REP	05-12-067
251-01-045	REP-P	05-09-099	251-01-185	REP-P	05-09-099	251-01-340	REP-P	05-09-099
251-01-045	REP	05-12-067	251-01-185	REP	05-12-067	251-01-340	REP	05-12-067
251-01-050	REP-P	05-09-099	251-01-190	REP-P	05-09-099	251-01-345	REP-P	05-09-099
251-01-050	REP	05-12-067	251-01-190	REP	05-12-067	251-01-345	REP	05-12-067
251-01-055	REP-P	05-09-099	251-01-195	REP-P	05-09-099	251-01-350	REP-P	05-09-099
251-01-055	REP	05-12-067	251-01-195	REP	05-12-067	251-01-350	REP	05-12-067
251-01-056	REP-P	05-09-099	251-01-200	REP-P	05-09-099	251-01-355	REP-P	05-09-099
251-01-056	REP	05-12-067	251-01-200	REP	05-12-067	251-01-355	REP	05-12-067
251-01-057	REP-P	05-09-099	251-01-201	REP-P	05-09-099	251-01-360	REP-P	05-09-099
251-01-057	REP	05-12-067	251-01-201	REP	05-12-067	251-01-360	REP	05-12-067
251-01-060	REP-P	05-09-099	251-01-210	REP-P	05-09-099	251-01-365	REP-P	05-09-099
251-01-060	REP	05-12-067	251-01-210	REP	05-12-067	251-01-365	REP	05-12-067
251-01-065	REP-P	05-09-099	251-01-215	REP-P	05-09-099	251-01-367	REP-P	05-09-099
251-01-065	REP	05-12-067	251-01-215	REP	05-12-067	251-01-367	REP	05-12-067
251-01-070	REP-P	05-09-099	251-01-220	REP-P	05-09-099	251-01-370	REP-P	05-09-099
251-01-070	REP	05-12-067	251-01-220	REP	05-12-067	251-01-370	REP	05-12-067
251-01-072	REP-P	05-09-099	251-01-225	REP-P	05-09-099	251-01-375	REP-P	05-09-099
251-01-072	REP	05-12-067	251-01-225	REP	05-12-067	251-01-375	REP	05-12-067
251-01-075	REP-P	05-09-099	251-01-230	REP-P	05-09-099	251-01-380	REP-P	05-09-099
251-01-075	REP	05-12-067	251-01-230	REP	05-12-067	251-01-380	REP	05-12-067
251-01-077	REP-P	05-09-099	251-01-235	REP-P	05-09-099	251-01-382	REP-P	05-09-099
251-01-077	REP	05-12-067	251-01-235	REP	05-12-067	251-01-382	REP	05-12-067
251-01-080	REP-P	05-09-099	251-01-240	REP-P	05-09-099	251-01-385	REP-P	05-09-099
251-01-080	REP	05-12-067	251-01-240	REP	05-12-067	251-01-385	REP	05-12-067
251-01-085	REP-P	05-09-099	251-01-245	REP-P	05-09-099	251-01-390	REP-P	05-09-099
251-01-085	REP	05-12-067	251-01-245	REP	05-12-067	251-01-390	REP	05-12-067
251-01-100	REP-P	05-09-099	251-01-250	REP-P	05-09-099	251-01-392	REP-P	05-09-099
251-01-100	REP	05-12-067	251-01-250	REP	05-12-067	251-01-392	REP	05-12-067

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251-01-395	REP-P	05-09-099	251-06-030	REP-P	05-09-099	251-08-150	REP-P	05-09-099
251-01-395	REP	05-12-067	251-06-030	REP	05-12-067	251-08-150	REP	05-12-067
251-01-400	REP-P	05-09-099	251-06-050	REP-P	05-09-099	251-08-160	REP-P	05-09-099
251-01-400	REP	05-12-067	251-06-050	REP	05-12-067	251-08-160	REP	05-12-067
251-01-405	REP-P	05-09-099	251-06-060	REP-P	05-09-099	251-09-010	REP-P	05-09-099
251-01-405	REP	05-12-067	251-06-060	REP	05-12-067	251-09-010	REP	05-12-067
251-01-410	REP-P	05-09-099	251-06-065	REP-P	05-09-099	251-09-020	REP-P	05-09-099
251-01-410	REP	05-12-067	251-06-065	REP	05-12-067	251-09-020	REP	05-12-067
251-01-415	REP-P	05-09-099	251-06-070	AMD	05-04-042	251-09-025	REP-P	05-09-099
251-01-415	REP	05-12-067	251-06-070	REP-P	05-09-099	251-09-025	REP	05-12-067
251-01-425	REP-P	05-09-099	251-06-070	REP	05-12-067	251-09-030	REP-P	05-09-099
251-01-425	REP	05-12-067	251-06-072	NEW	05-04-042	251-09-030	REP	05-12-067
251-01-430	REP-P	05-09-099	251-06-072	REP-P	05-09-099	251-09-035	REP-P	05-09-099
251-01-430	REP	05-12-067	251-06-072	REP	05-12-067	251-09-035	REP	05-12-067
251-01-435	REP-P	05-09-099	251-06-080	REP-P	05-09-099	251-09-040	REP-P	05-09-099
251-01-435	REP	05-12-067	251-06-080	REP	05-12-067	251-09-040	REP	05-12-067
251-01-440	REP-P	05-09-099	251-06-090	REP-P	05-09-099	251-09-060	REP-P	05-09-099
251-01-440	REP	05-12-067	251-06-090	REP	05-12-067	251-09-060	REP	05-12-067
251-01-445	REP-P	05-09-099	251-06-091	REP-P	05-09-099	251-09-070	REP-P	05-09-099
251-01-445	REP	05-12-067	251-06-091	REP	05-12-067	251-09-070	REP	05-12-067
251-01-450	REP-P	05-09-099	251-07-010	REP-P	05-09-099	251-09-080	REP-P	05-09-099
251-01-450	REP	05-12-067	251-07-010	REP	05-12-067	251-09-080	REP	05-12-067
251-01-460	REP-P	05-09-099	251-07-020	REP-P	05-09-099	251-09-090	REP-P	05-09-099
251-01-460	REP	05-12-067	251-07-020	REP	05-12-067	251-09-090	REP	05-12-067
251-04-010	REP-P	05-09-099	251-07-030	REP-P	05-09-099	251-09-092	REP-P	05-09-099
251-04-010	REP	05-12-067	251-07-030	REP	05-12-067	251-09-092	REP	05-12-067
251-04-030	REP-P	05-09-099	251-07-040	REP-P	05-09-099	251-09-094	REP-P	05-09-099
251-04-030	REP	05-12-067	251-07-040	REP	05-12-067	251-09-094	REP	05-12-067
251-04-035	REP-P	05-09-099	251-07-050	REP-P	05-09-099	251-09-100	REP-P	05-09-099
251-04-035	REP	05-12-067	251-07-050	REP	05-12-067	251-09-100	REP	05-12-067
251-04-060	REP-P	05-09-099	251-07-060	REP-P	05-09-099	251-09-110	REP-P	05-09-099
251-04-060	REP	05-12-067	251-07-060	REP	05-12-067	251-09-110	REP	05-12-067
251-04-070	REP-P	05-09-099	251-07-100	REP-P	05-09-099	251-10-020	REP-P	05-09-099
251-04-070	REP	05-12-067	251-07-100	REP	05-12-067	251-10-020	REP	05-12-067
251-04-100	REP-P	05-09-099	251-08-005	REP-P	05-09-099	251-10-025	REP-P	05-09-099
251-04-100	REP	05-12-067	251-08-005	REP	05-12-067	251-10-025	REP	05-12-067
251-04-105	REP-P	05-09-099	251-08-007	REP-P	05-09-099	251-10-030	REP-P	05-09-099
251-04-105	REP	05-12-067	251-08-007	REP	05-12-067	251-10-030	REP	05-12-067
251-04-110	REP-P	05-09-099	251-08-021	REP-P	05-09-099	251-10-034	REP-P	05-09-099
251-04-110	REP	05-12-067	251-08-021	REP	05-12-067	251-10-034	REP	05-12-067
251-04-160	REP-P	05-09-099	251-08-031	REP-P	05-09-099	251-10-035	REP-P	05-09-099
251-04-160	REP	05-12-067	251-08-031	REP	05-12-067	251-10-035	REP	05-12-067
251-04-170	REP-P	05-09-099	251-08-070	REP-P	05-09-099	251-10-045	REP-P	05-09-099
251-04-170	REP	05-12-067	251-08-070	REP	05-12-067	251-10-045	REP	05-12-067
251-05-010	REP-P	05-09-099	251-08-075	REP-P	05-09-099	251-10-055	REP-P	05-09-099
251-05-010	REP	05-12-067	251-08-075	REP	05-12-067	251-10-055	REP	05-12-067
251-05-030	REP-P	05-09-099	251-08-080	REP-P	05-09-099	251-10-060	REP-P	05-09-099
251-05-030	REP	05-12-067	251-08-080	REP	05-12-067	251-10-060	REP	05-12-067
251-05-040	REP-P	05-09-099	251-08-090	REP-P	05-09-099	251-10-061	REP-P	05-09-099
251-05-040	REP	05-12-067	251-08-090	REP	05-12-067	251-10-061	REP	05-12-067
251-05-050	REP-P	05-09-099	251-08-100	REP-P	05-09-099	251-10-070	REP-P	05-09-099
251-05-050	REP	05-12-067	251-08-100	REP	05-12-067	251-10-070	REP	05-12-067
251-05-060	REP-P	05-09-099	251-08-110	REP-P	05-09-099	251-10-080	REP-P	05-09-099
251-05-060	REP	05-12-067	251-08-110	REP	05-12-067	251-10-080	REP	05-12-067
251-05-070	REP-P	05-09-099	251-08-112	REP-P	05-09-099	251-10-090	REP-P	05-09-099
251-05-070	REP	05-12-067	251-08-112	REP	05-12-067	251-10-090	REP	05-12-067
251-05-080	REP-P	05-09-099	251-08-115	REP-P	05-09-099	251-10-112	REP-P	05-09-099
251-05-080	REP	05-12-067	251-08-115	REP	05-12-067	251-10-112	REP	05-12-067
251-06-010	REP-P	05-09-099	251-08-120	REP-P	05-09-099	251-11-010	REP-P	05-09-099
251-06-010	REP	05-12-067	251-08-120	REP	05-12-067	251-11-010	REP	05-12-067
251-06-020	REP-P	05-09-099	251-08-130	REP-P	05-09-099	251-11-020	REP-P	05-09-099
251-06-020	REP	05-12-067	251-08-130	REP	05-12-067	251-11-020	REP	05-12-067

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251- 11-030	REP-P	05-09-099	251- 12-220	REP-P	05-09-099	251- 17-090	REP-P	05-09-099
251- 11-030	REP	05-12-067	251- 12-220	REP	05-12-067	251- 17-090	REP	05-12-067
251- 11-040	REP-P	05-09-099	251- 12-230	REP-P	05-09-099	251- 17-100	REP-P	05-09-099
251- 11-040	REP	05-12-067	251- 12-230	REP	05-12-067	251- 17-100	REP	05-12-067
251- 11-050	REP-P	05-09-099	251- 12-231	REP-P	05-09-099	251- 17-110	REP-P	05-09-099
251- 11-050	REP	05-12-067	251- 12-231	REP	05-12-067	251- 17-110	REP	05-12-067
251- 11-060	REP-P	05-09-099	251- 12-232	REP-P	05-09-099	251- 17-120	REP-P	05-09-099
251- 11-060	REP	05-12-067	251- 12-232	REP	05-12-067	251- 17-120	REP	05-12-067
251- 11-070	REP-P	05-09-099	251- 12-240	REP-P	05-09-099	251- 17-130	REP-P	05-09-099
251- 11-070	REP	05-12-067	251- 12-240	REP	05-12-067	251- 17-130	REP	05-12-067
251- 11-080	REP-P	05-09-099	251- 12-250	REP-P	05-09-099	251- 17-150	REP-P	05-09-099
251- 11-080	REP	05-12-067	251- 12-250	REP	05-12-067	251- 17-150	REP	05-12-067
251- 11-090	REP-P	05-09-099	251- 12-260	REP-P	05-09-099	251- 17-160	REP-P	05-09-099
251- 11-090	REP	05-12-067	251- 12-260	REP	05-12-067	251- 17-160	REP	05-12-067
251- 11-100	REP-P	05-09-099	251- 12-500	REP-P	05-09-099	251- 17-165	REP-P	05-09-099
251- 11-100	REP	05-12-067	251- 12-500	REP	05-12-067	251- 17-165	REP	05-12-067
251- 11-110	REP-P	05-09-099	251- 12-600	REP-P	05-09-099	251- 17-170	REP-P	05-09-099
251- 11-110	REP	05-12-067	251- 12-600	REP	05-12-067	251- 17-170	REP	05-12-067
251- 11-120	REP-P	05-09-099	251- 14-005	REP-P	05-09-099	251- 17-180	REP-P	05-09-099
251- 11-120	REP	05-12-067	251- 14-005	REP	05-12-067	251- 17-180	REP	05-12-067
251- 11-130	REP-P	05-09-099	251- 14-010	REP-P	05-09-099	251- 17-190	REP-P	05-09-099
251- 11-130	REP	05-12-067	251- 14-010	REP	05-12-067	251- 17-190	REP	05-12-067
251- 12-071	REP-P	05-09-099	251- 14-020	REP-P	05-09-099	251- 17-200	REP-P	05-09-099
251- 12-071	REP	05-12-067	251- 14-020	REP	05-12-067	251- 17-200	REP	05-12-067
251- 12-072	REP-P	05-09-099	251- 14-035	REP-P	05-09-099	251- 18-180	REP-P	05-09-099
251- 12-072	REP	05-12-067	251- 14-035	REP	05-12-067	251- 18-180	REP	05-12-067
251- 12-075	REP-P	05-09-099	251- 14-052	REP-P	05-09-099	251- 18-190	REP-P	05-09-099
251- 12-075	REP	05-12-067	251- 14-052	REP	05-12-067	251- 18-190	REP	05-12-067
251- 12-076	REP-P	05-09-099	251- 14-054	REP-P	05-09-099	251- 18-200	REP-P	05-09-099
251- 12-076	REP	05-12-067	251- 14-054	REP	05-12-067	251- 18-200	REP	05-12-067
251- 12-080	REP-P	05-09-099	251- 14-056	REP-P	05-09-099	251- 18-240	REP-P	05-09-099
251- 12-080	REP	05-12-067	251- 14-056	REP	05-12-067	251- 18-240	REP	05-12-067
251- 12-099	REP-P	05-09-099	251- 14-057	REP-P	05-09-099	251- 18-255	REP-P	05-09-099
251- 12-099	REP	05-12-067	251- 14-057	REP	05-12-067	251- 18-255	REP	05-12-067
251- 12-100	REP-P	05-09-099	251- 14-058	REP-P	05-09-099	251- 18-260	REP-P	05-09-099
251- 12-100	REP	05-12-067	251- 14-058	REP	05-12-067	251- 18-260	REP	05-12-067
251- 12-102	REP-P	05-09-099	251- 14-060	REP-P	05-09-099	251- 18-265	REP-P	05-09-099
251- 12-102	REP	05-12-067	251- 14-060	REP	05-12-067	251- 18-265	REP	05-12-067
251- 12-103	REP-P	05-09-099	251- 14-100	REP-P	05-09-099	251- 18-280	REP-P	05-09-099
251- 12-103	REP	05-12-067	251- 14-100	REP	05-12-067	251- 18-280	REP	05-12-067
251- 12-104	REP-P	05-09-099	251- 14-110	REP-P	05-09-099	251- 18-285	REP-P	05-09-099
251- 12-104	REP	05-12-067	251- 14-110	REP	05-12-067	251- 18-285	REP	05-12-067
251- 12-105	REP-P	05-09-099	251- 14-120	REP-P	05-09-099	251- 19-010	REP-P	05-09-099
251- 12-105	REP	05-12-067	251- 14-120	REP	05-12-067	251- 19-010	REP	05-12-067
251- 12-106	REP-P	05-09-099	251- 14-130	REP-P	05-09-099	251- 19-020	REP-P	05-09-099
251- 12-106	REP	05-12-067	251- 14-130	REP	05-12-067	251- 19-020	REP	05-12-067
251- 12-110	REP-P	05-09-099	251- 17-010	REP-P	05-09-099	251- 19-050	REP-P	05-09-099
251- 12-110	REP	05-12-067	251- 17-010	REP	05-12-067	251- 19-050	REP	05-12-067
251- 12-120	REP-P	05-09-099	251- 17-020	REP-P	05-09-099	251- 19-060	REP-P	05-09-099
251- 12-120	REP	05-12-067	251- 17-020	REP	05-12-067	251- 19-060	REP	05-12-067
251- 12-140	REP-P	05-09-099	251- 17-030	REP-P	05-09-099	251- 19-070	REP-P	05-09-099
251- 12-140	REP	05-12-067	251- 17-030	REP	05-12-067	251- 19-070	REP	05-12-067
251- 12-170	REP-P	05-09-099	251- 17-040	REP-P	05-09-099	251- 19-080	REP-P	05-09-099
251- 12-170	REP	05-12-067	251- 17-040	REP	05-12-067	251- 19-080	REP	05-12-067
251- 12-180	REP-P	05-09-099	251- 17-050	REP-P	05-09-099	251- 19-085	REP-P	05-09-099
251- 12-180	REP	05-12-067	251- 17-050	REP	05-12-067	251- 19-085	REP	05-12-067
251- 12-190	REP-P	05-09-099	251- 17-060	REP-P	05-09-099	251- 19-090	REP-P	05-09-099
251- 12-190	REP	05-12-067	251- 17-060	REP	05-12-067	251- 19-090	REP	05-12-067
251- 12-200	REP-P	05-09-099	251- 17-070	REP-P	05-09-099	251- 19-100	REP-P	05-09-099
251- 12-200	REP	05-12-067	251- 17-070	REP	05-12-067	251- 19-100	REP	05-12-067
251- 12-210	REP-P	05-09-099	251- 17-080	REP-P	05-09-099	251- 19-105	REP-P	05-09-099
251- 12-210	REP	05-12-067	251- 17-080	REP	05-12-067	251- 19-105	REP	05-12-067

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251- 19-110	REP-P	05-09-099	251- 22-110	REP-P	05-09-099	251- 23-060	REP-P	05-09-099
251- 19-110	REP	05-12-067	251- 22-110	REP	05-12-067	251- 23-060	REP	05-12-067
251- 19-120	REP-P	05-09-099	251- 22-111	REP-P	05-09-099	251- 24-010	REP-P	05-09-099
251- 19-120	REP	05-12-067	251- 22-111	REP	05-12-067	251- 24-010	REP	05-12-067
251- 19-122	REP-P	05-09-099	251- 22-112	REP-P	05-09-099	251- 24-030	REP-P	05-09-099
251- 19-122	REP	05-12-067	251- 22-112	REP	05-12-067	251- 24-030	REP	05-12-067
251- 19-130	REP-P	05-09-099	251- 22-116	REP-P	05-09-099	251- 24-035	REP-P	05-09-099
251- 19-130	REP	05-12-067	251- 22-116	REP	05-12-067	251- 24-035	REP	05-12-067
251- 19-140	REP-P	05-09-099	251- 22-117	REP-P	05-09-099	251- 24-050	REP-P	05-09-099
251- 19-140	REP	05-12-067	251- 22-117	REP	05-12-067	251- 24-050	REP	05-12-067
251- 19-150	REP-P	05-09-099	251- 22-124	REP-P	05-09-099	251- 24-200	REP-P	05-09-099
251- 19-150	REP	05-12-067	251- 22-124	REP	05-12-067	251- 24-200	REP	05-12-067
251- 19-154	REP-P	05-09-099	251- 22-125	REP-P	05-09-099	251- 25-010	REP-P	05-09-099
251- 19-154	REP	05-12-067	251- 22-125	REP	05-12-067	251- 25-010	REP	05-12-067
251- 19-155	REP-P	05-09-099	251- 22-127	REP-P	05-09-099	251- 25-020	REP-P	05-09-099
251- 19-155	REP	05-12-067	251- 22-127	REP	05-12-067	251- 25-020	REP	05-12-067
251- 19-156	REP-P	05-09-099	251- 22-165	REP-P	05-09-099	251- 25-030	REP-P	05-09-099
251- 19-156	REP	05-12-067	251- 22-165	REP	05-12-067	251- 25-030	REP	05-12-067
251- 19-157	REP-P	05-09-099	251- 22-167	REP-P	05-09-099	251- 25-040	REP-P	05-09-099
251- 19-157	REP	05-12-067	251- 22-167	REP	05-12-067	251- 25-040	REP	05-12-067
251- 19-158	REP-P	05-09-099	251- 22-170	REP-P	05-09-099	251- 25-050	REP-P	05-09-099
251- 19-158	REP	05-12-067	251- 22-170	REP	05-12-067	251- 25-050	REP	05-12-067
251- 19-160	REP-P	05-09-099	251- 22-180	REP-P	05-09-099	251- 30-010	REP-P	05-09-099
251- 19-160	REP	05-12-067	251- 22-180	REP	05-12-067	251- 30-010	REP	05-12-067
251- 19-180	REP-P	05-09-099	251- 22-190	REP-P	05-09-099	251- 30-020	REP-P	05-09-099
251- 19-180	REP	05-12-067	251- 22-190	REP	05-12-067	251- 30-020	REP	05-12-067
251- 20-010	REP-P	05-09-099	251- 22-195	REP-P	05-09-099	251- 30-030	REP-P	05-09-099
251- 20-010	REP	05-12-067	251- 22-195	REP	05-12-067	251- 30-030	REP	05-12-067
251- 20-020	REP-P	05-09-099	251- 22-200	REP-P	05-09-099	251- 30-032	REP-P	05-09-099
251- 20-020	REP	05-12-067	251- 22-200	REP	05-12-067	251- 30-032	REP	05-12-067
251- 20-030	REP-P	05-09-099	251- 22-210	REP-P	05-09-099	251- 30-034	REP-P	05-09-099
251- 20-030	REP	05-12-067	251- 22-210	REP	05-12-067	251- 30-034	REP	05-12-067
251- 20-040	REP-P	05-09-099	251- 22-220	REP-P	05-09-099	251- 30-055	REP-P	05-09-099
251- 20-040	REP	05-12-067	251- 22-220	REP	05-12-067	251- 30-055	REP	05-12-067
251- 20-050	REP-P	05-09-099	251- 22-240	REP-P	05-09-099	251- 30-057	REP-P	05-09-099
251- 20-050	REP	05-12-067	251- 22-240	REP	05-12-067	251- 30-057	REP	05-12-067
251- 20-060	REP-P	05-09-099	251- 22-245	REP-P	05-09-099	257- 10-020	NEW-P	05-09-126
251- 20-060	REP	05-12-067	251- 22-245	REP	05-12-067	257- 10-040	NEW-P	05-09-126
251- 22-040	REP-P	05-09-099	251- 22-250	REP-P	05-09-099	257- 10-060	NEW-P	05-09-126
251- 22-040	REP	05-12-067	251- 22-250	REP	05-12-067	257- 10-080	NEW-P	05-09-126
251- 22-045	REP-P	05-09-099	251- 22-260	REP-P	05-09-099	257- 10-100	NEW-P	05-09-126
251- 22-045	REP	05-12-067	251- 22-260	REP	05-12-067	257- 10-120	NEW-P	05-09-126
251- 22-048	REP-P	05-09-099	251- 22-270	REP-P	05-09-099	257- 10-140	NEW-P	05-09-126
251- 22-048	REP	05-12-067	251- 22-270	REP	05-12-067	257- 10-160	NEW-P	05-09-126
251- 22-050	REP-P	05-09-099	251- 22-280	REP-P	05-09-099	257- 10-180	NEW-P	05-09-126
251- 22-050	REP	05-12-067	251- 22-280	REP	05-12-067	257- 10-200	NEW-P	05-09-126
251- 22-053	REP-P	05-09-099	251- 22-290	REP-P	05-09-099	257- 10-220	NEW-P	05-09-126
251- 22-053	REP	05-12-067	251- 22-290	REP	05-12-067	257- 10-240	NEW-P	05-09-126
251- 22-056	REP-P	05-09-099	251- 22-300	REP-P	05-09-099	257- 10-260	NEW-P	05-09-126
251- 22-056	REP	05-12-067	251- 22-300	REP	05-12-067	257- 10-280	NEW-P	05-09-126
251- 22-059	REP-P	05-09-099	251- 23-010	REP-P	05-09-099	257- 10-300	NEW-P	05-09-126
251- 22-059	REP	05-12-067	251- 23-010	REP	05-12-067	257- 10-320	NEW-P	05-09-126
251- 22-060	REP-P	05-09-099	251- 23-015	REP-P	05-09-099	257- 10-340	NEW-P	05-09-126
251- 22-060	REP	05-12-067	251- 23-015	REP	05-12-067	257- 10-360	NEW-P	05-09-126
251- 22-070	REP-P	05-09-099	251- 23-020	REP-P	05-09-099	257- 10-380	NEW-P	05-09-126
251- 22-070	REP	05-12-067	251- 23-020	REP	05-12-067	257- 10-400	NEW-P	05-09-126
251- 22-080	REP-P	05-09-099	251- 23-030	REP-P	05-09-099	257- 10-420	NEW-P	05-09-126
251- 22-080	REP	05-12-067	251- 23-030	REP	05-12-067	260	PREP	05-09-007
251- 22-090	REP-P	05-09-099	251- 23-040	REP-P	05-09-099	260- 08-005	AMD	05-05-049
251- 22-090	REP	05-12-067	251- 23-040	REP	05-12-067	260- 08-670	REP	05-05-049
251- 22-100	REP-P	05-09-099	251- 23-050	REP-P	05-09-099	260- 08-671	NEW	05-05-049
251- 22-100	REP	05-12-067	251- 23-050	REP	05-12-067	260- 08-673	NEW	05-05-049

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
260-08-675	NEW	05-05-049	260-34-160	REP	05-07-066	260-70-645	NEW-P	05-04-086
260-08-677	NEW	05-05-049	260-34-170	REP-P	05-04-085	260-70-645	NEW	05-07-067
260-08-680	REP	05-05-049	260-34-170	REP	05-07-066	260-70-645	NEW-E	05-07-068
260-08-690	REP	05-05-049	260-34-180	AMD-P	05-04-085	260-70-650	AMD-P	05-04-086
260-08-700	REP	05-05-049	260-34-180	AMD	05-07-066	260-70-650	AMD	05-07-067
260-08-710	REP	05-05-049	260-34-190	REP-P	05-04-085	260-70-650	AMD-E	05-07-068
260-08-720	REP	05-05-049	260-34-190	REP	05-07-066	260-70-660	AMD-P	05-04-086
260-08-730	REP	05-05-049	260-36	PREP	05-07-093	260-70-660	AMD	05-07-067
260-08-740	REP	05-05-049	260-36-085	AMD-W	05-02-052	260-70-660	AMD-E	05-07-068
260-08-750	REP	05-05-049	260-36-085	PREP	05-05-011	260-70-670	REP-P	05-04-086
260-08-760	REP	05-05-049	260-36-120	AMD	05-05-047	260-70-670	REP	05-07-067
260-08-770	REP	05-05-049	260-36-180	AMD-P	05-02-078	260-70-670	REP-E	05-07-068
260-08-780	REP	05-05-049	260-36-180	AMD	05-05-043	260-70-675	NEW-E	05-09-096
260-08-790	REP	05-05-049	260-36-200	AMD-P	05-05-048	260-70-680	AMD-P	05-04-086
260-08-800	REP	05-05-049	260-36-200	AMD	05-09-045	260-70-680	AMD	05-07-067
260-08-810	REP	05-05-049	260-40	PREP	05-09-006	260-70-680	AMD-E	05-07-068
260-08-820	REP	05-05-049	260-49	PREP	05-11-113	260-70-690	REP-P	05-04-086
260-08-830	REP	05-05-049	260-56-030	REP	05-05-044	260-70-690	REP	05-07-067
260-12-250	PREP	05-07-094	260-60-300	AMD-P	05-03-028	260-70-690	REP-E	05-07-068
260-24-500	AMD-P	05-04-084	260-60-300	AMD	05-07-063	260-70-700	REP-P	05-04-086
260-24-500	AMD	05-07-065	260-60-320	REP-P	05-03-028	260-70-700	REP	05-07-067
260-24-510	AMD-P	05-04-084	260-60-320	REP	05-07-063	260-70-700	REP-E	05-07-068
260-24-510	AMD	05-07-065	260-70	PREP	05-07-035	260-70-720	AMD-P	05-04-086
260-28	PREP	05-09-008	260-70-520	AMD-P	05-04-086	260-70-720	AMD	05-07-067
260-32-160	PREP	05-09-007	260-70-520	AMD	05-07-067	260-70-720	AMD-E	05-07-068
260-34	AMD-P	05-04-085	260-70-520	AMD-E	05-07-068	260-70-730	AMD-P	05-04-086
260-34	AMD	05-07-066	260-70-530	AMD-P	05-04-086	260-70-730	AMD	05-07-067
260-34-010	AMD-P	05-04-085	260-70-530	AMD	05-07-067	260-70-730	AMD-E	05-07-068
260-34-010	AMD	05-07-066	260-70-530	AMD-E	05-07-068	260-72-050	NEW-P	05-02-077
260-34-020	AMD-P	05-04-085	260-70-540	AMD-P	05-04-086	260-72-050	NEW	05-05-045
260-34-020	AMD	05-07-066	260-70-540	AMD	05-07-067	260-75-030	AMD	05-05-042
260-34-030	AMD-P	05-04-085	260-70-540	AMD-E	05-07-068	260-75-040	NEW	05-05-042
260-34-030	AMD	05-07-066	260-70-545	AMD-P	05-04-086	260-84	AMD-P	05-04-083
260-34-035	NEW-P	05-04-085	260-70-545	AMD	05-07-067	260-84	PREP	05-07-035
260-34-035	NEW	05-07-066	260-70-545	AMD-E	05-07-068	260-84	AMD	05-07-064
260-34-040	REP-P	05-04-085	260-70-550	AMD-P	05-04-086	260-84	PREP	05-07-093
260-34-040	REP	05-07-066	260-70-550	AMD	05-07-067	260-84	PREP	05-07-094
260-34-045	NEW-P	05-04-085	260-70-550	AMD-E	05-07-068	260-84-010	REP-P	05-04-083
260-34-045	NEW	05-07-066	260-70-560	AMD-P	05-04-086	260-84-010	REP	05-07-064
260-34-050	REP-P	05-04-085	260-70-560	AMD	05-07-067	260-84-020	REP-P	05-04-083
260-34-050	REP	05-07-066	260-70-560	AMD-E	05-07-068	260-84-020	REP	05-07-064
260-34-060	AMD-P	05-04-085	260-70-570	AMD-P	05-04-086	260-84-030	REP-P	05-04-083
260-34-060	AMD	05-07-066	260-70-570	AMD	05-07-067	260-84-030	REP	05-07-064
260-34-070	AMD-P	05-04-085	260-70-570	AMD-E	05-07-068	260-84-050	AMD-P	05-04-083
260-34-070	AMD	05-07-066	260-70-580	AMD-P	05-04-086	260-84-050	AMD	05-07-064
260-34-080	AMD-P	05-04-085	260-70-580	AMD	05-07-067	260-84-060	AMD-P	05-04-083
260-34-080	AMD	05-07-066	260-70-580	AMD-E	05-07-068	260-84-060	AMD	05-07-064
260-34-090	AMD-P	05-04-085	260-70-600	AMD-P	05-04-086	260-84-070	AMD-P	05-04-083
260-34-090	AMD	05-07-066	260-70-600	AMD	05-07-067	260-84-070	AMD	05-07-064
260-34-100	AMD-P	05-04-085	260-70-600	AMD-E	05-07-068	260-84-090	NEW-P	05-04-083
260-34-100	AMD	05-07-066	260-70-610	AMD-P	05-04-086	260-84-090	NEW	05-07-064
260-34-110	REP-P	05-04-085	260-70-610	AMD	05-07-067	260-84-100	NEW-P	05-04-083
260-34-110	REP	05-07-066	260-70-610	AMD-E	05-07-068	260-84-100	NEW	05-07-064
260-34-120	REP-P	05-04-085	260-70-620	AMD-P	05-04-086	260-84-110	NEW-P	05-04-083
260-34-120	REP	05-07-066	260-70-620	AMD	05-07-067	260-84-110	NEW	05-07-064
260-34-130	REP-P	05-04-085	260-70-620	AMD-E	05-07-068	260-84-120	NEW-P	05-04-083
260-34-130	REP	05-07-066	260-70-630	AMD-P	05-04-086	260-84-120	NEW	05-07-064
260-34-140	REP-P	05-04-085	260-70-630	AMD	05-07-067	260-84-130	NEW-P	05-04-083
260-34-140	REP	05-07-066	260-70-630	AMD-E	05-07-068	260-84-130	NEW	05-07-064
260-34-150	REP-P	05-04-085	260-70-640	AMD-P	05-04-086	260-88-010	REP	05-05-049
260-34-150	REP	05-07-066	260-70-640	AMD	05-07-067	284-13-580	AMD	05-02-075
260-34-160	REP-P	05-04-085	260-70-640	AMD-E	05-07-068	284-17-200	AMD-P	05-03-110

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
284- 17-200	AMD	05-07-091	284- 17-278	NEW	05-07-091	284- 34-210	NEW	05-02-076
284- 17-210	AMD-P	05-03-110	284- 17-280	AMD-P	05-03-110	284- 34-220	NEW	05-02-076
284- 17-210	AMD	05-07-091	284- 17-280	AMD	05-07-091	284- 34-230	NEW	05-02-076
284- 17-220	AMD-P	05-03-110	284- 17-282	NEW-P	05-03-110	284- 34-240	NEW	05-02-076
284- 17-220	AMD	05-07-091	284- 17-282	NEW	05-07-091	284- 34-250	NEW	05-02-076
284- 17-222	NEW-P	05-03-110	284- 17-284	NEW-P	05-03-110	284- 34-260	NEW	05-02-076
284- 17-222	NEW	05-07-091	284- 17-284	NEW	05-07-091	284- 43-900	REP	05-07-006
284- 17-224	NEW-P	05-03-110	284- 17-286	NEW-P	05-03-110	284- 43-905	AMD	05-07-006
284- 17-224	NEW	05-07-091	284- 17-286	NEW	05-07-091	284- 43-910	AMD	05-07-006
284- 17-226	NEW-P	05-03-110	284- 17-288	NEW-P	05-03-110	284- 43-915	AMD	05-07-006
284- 17-226	NEW	05-07-091	284- 17-288	NEW	05-07-091	284- 43-920	AMD	05-07-006
284- 17-228	NEW-P	05-03-110	284- 17-290	AMD-P	05-03-110	284- 43-925	AMD	05-07-006
284- 17-228	NEW	05-07-091	284- 17-290	AMD	05-07-091	284- 43-930	AMD	05-07-006
284- 17-230	AMD-P	05-03-110	284- 17-292	NEW-P	05-03-110	284- 43-935	AMD	05-07-006
284- 17-230	AMD	05-07-091	284- 17-292	NEW	05-07-091	284- 43-940	AMD	05-07-006
284- 17-232	NEW-P	05-03-110	284- 17-294	NEW-P	05-03-110	284- 43-945	AMD	05-07-006
284- 17-232	NEW	05-07-091	284- 17-294	NEW	05-07-091	284- 43-950	AMD	05-07-006
284- 17-234	NEW-P	05-03-110	284- 17-296	NEW-P	05-03-110	284- 43-955	REP	05-07-006
284- 17-234	NEW	05-07-091	284- 17-296	NEW	05-07-091	284- 49-010	AMD	05-02-074
284- 17-235	REP-P	05-03-110	284- 17-298	NEW-P	05-03-110	284- 49-020	REP	05-02-074
284- 17-235	REP	05-07-091	284- 17-298	NEW	05-07-091	284- 49-050	REP	05-02-074
284- 17-236	NEW-P	05-03-110	284- 17-301	NEW-P	05-03-110	284- 49-100	REP	05-02-074
284- 17-236	NEW	05-07-091	284- 17-301	NEW	05-07-091	284- 49-115	REP	05-02-074
284- 17-238	NEW-P	05-03-110	284- 17-302	NEW-P	05-03-110	284- 49-300	REP	05-02-074
284- 17-238	NEW	05-07-091	284- 17-302	NEW	05-07-091	284- 49-330	REP	05-02-074
284- 17-240	AMD-P	05-03-110	284- 17-304	NEW-P	05-03-110	284- 49-500	REP	05-02-074
284- 17-240	AMD	05-07-091	284- 17-304	NEW	05-07-091	284- 49-510	REP	05-02-074
284- 17-242	NEW-P	05-03-110	284- 17-306	NEW-P	05-03-110	284- 49-520	REP	05-02-074
284- 17-242	NEW	05-07-091	284- 17-306	NEW	05-07-091	284- 49-900	REP	05-02-074
284- 17-244	NEW-P	05-03-110	284- 17-308	NEW-P	05-03-110	284- 49-999	REP	05-02-074
284- 17-244	NEW	05-07-091	284- 17-308	NEW	05-07-091	284- 54-750	AMD-X	05-03-111
284- 17-246	NEW-P	05-03-110	284- 17-310	AMD-P	05-03-110	284- 54-750	AMD	05-09-022
284- 17-246	NEW	05-07-091	284- 17-310	AMD	05-07-091	284- 58-260	REP-W	05-11-056
284- 17-248	NEW-P	05-03-110	284- 17-312	NEW-P	05-03-110	286- 26-095	NEW-W	05-09-050
284- 17-248	NEW	05-07-091	284- 17-312	NEW	05-07-091	286- 42-070	NEW-W	05-09-049
284- 17-250	AMD-P	05-03-110	284- 17-320	AMD-P	05-03-110	292-130-030	PREP	05-12-046
284- 17-250	AMD	05-07-091	284- 17-320	AMD	05-07-091	296- 05-303	AMD	05-04-093
284- 17-252	NEW-P	05-03-110	284- 24A-005	AMD-W	05-06-054	296- 05-316	AMD-P	05-04-092
284- 17-252	NEW	05-07-091	284- 24A-010	AMD-W	05-06-054	296- 05-316	AMD	05-10-087
284- 17-254	NEW-P	05-03-110	284- 24A-033	NEW-W	05-06-054	296- 06-010	AMD-P	05-09-058
284- 17-254	NEW	05-07-091	284- 24A-045	AMD-W	05-06-054	296- 06-020	AMD-P	05-09-058
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296-855-20050	NEW-P	05-10-076	308- 19-010	AMD-P	05-04-105	308- 19-455	NEW-P	05-04-105
296-855-20060	NEW-P	05-10-076	308- 19-010	AMD	05-08-027	308- 19-455	NEW	05-08-027
296-855-20070	NEW-P	05-10-076	308- 19-020	AMD-P	05-04-105	308- 19-460	NEW-P	05-04-105
296-855-20080	NEW-P	05-10-076	308- 19-020	AMD	05-08-027	308- 19-460	NEW	05-08-027
296-855-20090	NEW-P	05-10-076	308- 19-030	AMD-P	05-04-105	308- 20-123	NEW	05-04-012
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296-855-30010	NEW-P	05-10-076	308- 19-100	AMD-P	05-04-105	308- 30-100	AMD	05-12-047
296-855-30030	NEW-P	05-10-076	308- 19-100	AMD	05-08-027	308- 48-810	PREP	05-04-106
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296-855-40030	NEW-P	05-10-076	308- 19-102	NEW	05-08-027	308- 56A	PREP	05-11-104
296-855-40040	NEW-P	05-10-076	308- 19-105	AMD-P	05-04-105	308- 56A	PREP	05-11-105
296-855-500	NEW-P	05-10-076	308- 19-105	AMD	05-08-027	308- 56A-090	PREP	05-10-067
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296-865-20010	NEW-P	05-08-112	308- 19-110	AMD	05-08-027	308- 56A-530	AMD-W	05-02-069A
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296-865-300	NEW-P	05-08-112	308- 19-120	AMD	05-08-027	308- 56A-530	AMD	05-07-152
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296-865-30010	NEW-P	05-08-112	308- 19-130	AMD	05-08-027	308- 66-155	PREP	05-07-044
296-865-30015	NEW-P	05-08-112	308- 19-140	AMD-P	05-04-105	308- 66-157	PREP	05-07-044
296-865-30020	NEW-P	05-08-112	308- 19-140	AMD	05-08-027	308- 66-160	PREP	05-08-004
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296-876-300	NEW-P	05-12-030	308- 19-200	AMD-P	05-04-105	308- 93-089	PREP	05-10-067
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308-108-010	NEW-P	05-11-099	314-12-005	REP	05-07-012	315-33A-060	AMD	05-07-100
308-108-020	NEW-W	05-08-106	314-12-020	AMD	05-07-012	315-33A-070	REP-E	05-04-019
308-108-020	NEW-P	05-11-099	314-12-025	REP	05-07-012	315-33A-070	REP-P	05-04-080
308-108-080	NEW-W	05-08-106	314-12-060	REP	05-07-012	315-33A-070	REP	05-07-100
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308-108-090	NEW-W	05-08-106	314-12-100	REP	05-07-012	315-34-010	AMD-P	05-04-081
308-108-090	NEW-P	05-11-099	314-12-110	REP	05-07-012	315-34-010	AMD-C	05-08-095
308-108-100	AMD-W	05-08-106	314-16-190	REP-P	05-12-141	315-34-010	AMD	05-12-005
308-108-100	AMD-P	05-11-099	314-16-195	AMD-P	05-12-141	315-34-020	AMD-E	05-04-010
308-108-110	NEW-W	05-08-106	314-16-196	REP-P	05-12-141	315-34-020	AMD-P	05-04-081
308-108-110	NEW-P	05-11-099	315-06-125	PREP	05-08-066	315-34-020	AMD-C	05-08-095
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308-108-120	NEW-P	05-11-099	315-10-010	AMD-P	05-04-079	315-34-030	AMD-E	05-04-010
308-108-130	NEW-W	05-08-106	315-10-010	AMD-S	05-08-054	315-34-030	AMD-P	05-04-081
308-108-130	NEW-P	05-11-099	315-10-010	AMD	05-11-049	315-34-030	AMD-C	05-08-095
308-108-140	NEW-W	05-08-106	315-10-020	AMD-P	05-04-079	315-34-030	AMD	05-12-005
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308-108-150	NEW-P	05-11-099	315-10-022	AMD-P	05-04-079	315-34-040	AMD-C	05-08-095
308-108-160	NEW-W	05-08-106	315-10-022	AMD-S	05-08-054	315-34-040	AMD-E	05-11-069
308-108-160	NEW-P	05-11-099	315-10-022	AMD	05-11-049	315-34-040	AMD	05-12-005
308-108-170	NEW-W	05-08-106	315-10-023	AMD-P	05-04-079	315-34-050	AMD-E	05-04-010
308-108-170	NEW-P	05-11-099	315-10-023	AMD-S	05-08-054	315-34-050	AMD-P	05-04-081
308-108-180	NEW-W	05-08-106	315-10-023	AMD	05-11-049	315-34-050	AMD-C	05-08-095
308-108-180	NEW-P	05-11-099	315-10-024	AMD-P	05-04-079	315-34-050	AMD	05-12-005
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308-124A-460	AMD-P	05-09-038	315-10-024	AMD	05-11-049	315-34-057	AMD-P	05-04-081
308-124A-460	AMD	05-12-057	315-10-030	AMD-P	05-04-079	315-34-057	AMD-C	05-08-095
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308-125-200	AMD	05-05-097	315-10-030	AMD	05-11-049	315-34-060	AMD-E	05-04-010
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314-02-015	AMD-P	05-12-141	315-10-040	AMD-P	05-04-079	315-34-060	AMD	05-12-005
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314-02-025	AMD-P	05-12-141	315-10-040	AMD	05-11-049	315-34-070	REP-P	05-04-081
314-02-030	AMD-P	05-12-141	315-10-055	AMD-P	05-04-079	315-34-070	REP-C	05-08-095
314-02-033	NEW-P	05-12-141	315-10-055	AMD-S	05-08-054	315-34-070	REP	05-12-005
314-02-035	AMD-P	05-12-141	315-10-055	AMD	05-11-049	315-34-080	REP-E	05-04-010
314-02-045	AMD-P	05-12-141	315-10-070	AMD-P	05-04-079	315-34-080	REP-P	05-04-081
314-02-050	REP-P	05-12-141	315-10-070	AMD-S	05-08-054	315-34-080	REP-C	05-08-095
314-02-055	AMD-P	05-12-141	315-10-070	AMD	05-11-049	315-34-080	REP	05-12-005
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314-07-005	NEW	05-07-012	315-10-075	AMD-S	05-08-054	315-34-090	REP-P	05-04-081
314-07-010	NEW	05-07-012	315-10-075	AMD	05-11-049	315-34-090	REP-C	05-08-095
314-07-015	NEW	05-07-012	315-33A-010	AMD-E	05-04-019	315-34-090	REP	05-12-005
314-07-020	NEW	05-07-012	315-33A-010	AMD-P	05-04-080	315-34-100	REP-E	05-04-010
314-07-035	NEW	05-07-012	315-33A-010	AMD	05-07-100	315-34-100	REP-P	05-04-081
314-07-040	NEW	05-07-012	315-33A-020	AMD-E	05-04-019	315-34-100	REP-C	05-08-095
314-07-045	NEW	05-07-012	315-33A-020	AMD-P	05-04-080	315-34-100	REP	05-12-005
314-07-055	NEW	05-07-012	315-33A-020	AMD	05-07-100	315-36-010	REP-X	05-05-059
314-07-065	NEW	05-07-012	315-33A-030	AMD-E	05-04-019	315-36-020	REP-X	05-05-059
314-07-070	NEW	05-07-012	315-33A-030	AMD-P	05-04-080	315-36-030	REP-X	05-05-059
314-07-080	NEW	05-07-012	315-33A-030	AMD	05-07-100	315-36-040	REP-X	05-05-059
314-07-085	NEW	05-07-012	315-33A-040	AMD-E	05-04-019	315-36-050	REP-X	05-05-059
314-07-090	NEW	05-07-012	315-33A-040	AMD-P	05-04-080	315-36-060	REP-X	05-05-059
314-07-095	NEW	05-07-012	315-33A-040	AMD	05-07-100	315-36-070	REP-X	05-05-059
314-07-100	NEW	05-07-012	315-33A-050	AMD-E	05-04-019	315-36-080	REP-X	05-05-059
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315- 36-120	REP-X	05-05-059	356- 05-040	REP	05-12-066	356- 05-175	REP	05-12-066
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315- 37-090	REP-X	05-03-060	356- 05-070	REP	05-12-066	356- 05-205	REP	05-12-066
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315- 38-010	AMD	05-11-050	356- 05-080	REP	05-12-066	356- 05-211	REP	05-12-066
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315- 38-020	AMD	05-11-050	356- 05-085	REP	05-12-066	356- 05-215	REP	05-12-066
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356- 03-010	REP	05-12-066	356- 05-135	REP	05-12-066	356- 05-245	REP	05-12-066
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356- 05-012	REP	05-12-066	356- 05-148	REP	05-12-066	356- 05-300	REP	05-12-066
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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-05-332	REP	05-12-066	356-05-450	REP	05-12-066	356-07-040	REP	05-12-066
356-05-333	REP-P	05-09-100	356-05-456	REP-P	05-09-100	356-07-050	REP-P	05-09-100
356-05-333	REP	05-12-066	356-05-456	REP	05-12-066	356-07-050	REP	05-12-066
356-05-335	REP-P	05-09-100	356-05-460	REP-P	05-09-100	356-07-055	REP-P	05-09-100
356-05-335	REP	05-12-066	356-05-460	REP	05-12-066	356-07-055	REP	05-12-066
356-05-340	REP-P	05-09-100	356-05-461	REP-P	05-09-100	356-07-060	REP-P	05-09-100
356-05-340	REP	05-12-066	356-05-461	REP	05-12-066	356-07-060	REP	05-12-066
356-05-345	REP-P	05-09-100	356-05-465	REP-P	05-09-100	356-07-070	REP-P	05-09-100
356-05-345	REP	05-12-066	356-05-465	REP	05-12-066	356-07-070	REP	05-12-066
356-05-350	REP-P	05-09-100	356-05-470	REP-P	05-09-100	356-09-010	REP-P	05-09-100
356-05-350	REP	05-12-066	356-05-470	REP	05-12-066	356-09-010	REP	05-12-066
356-05-353	REP-P	05-09-100	356-05-475	REP-P	05-09-100	356-09-020	REP-P	05-09-100
356-05-353	REP	05-12-066	356-05-475	REP	05-12-066	356-09-020	REP	05-12-066
356-05-355	REP-P	05-09-100	356-05-477	REP-P	05-09-100	356-09-030	REP-P	05-09-100
356-05-355	REP	05-12-066	356-05-477	REP	05-12-066	356-09-030	REP	05-12-066
356-05-358	REP-P	05-09-100	356-05-479	REP-P	05-09-100	356-09-040	REP-P	05-09-100
356-05-358	REP	05-12-066	356-05-479	REP	05-12-066	356-09-040	REP	05-12-066
356-05-360	REP-P	05-09-100	356-05-480	REP-P	05-09-100	356-09-050	REP-P	05-09-100
356-05-360	REP	05-12-066	356-05-480	REP	05-12-066	356-09-050	REP	05-12-066
356-05-365	REP-P	05-09-100	356-05-485	REP-P	05-09-100	356-10-010	REP-P	05-09-100
356-05-365	REP	05-12-066	356-05-485	REP	05-12-066	356-10-010	REP	05-12-066
356-05-370	REP-P	05-09-100	356-05-490	REP-P	05-09-100	356-10-020	REP-P	05-09-100
356-05-370	REP	05-12-066	356-05-490	REP	05-12-066	356-10-020	REP	05-12-066
356-05-375	REP-P	05-09-100	356-05-493	REP-P	05-09-100	356-10-030	REP-P	05-09-100
356-05-375	REP	05-12-066	356-05-493	REP	05-12-066	356-10-030	REP	05-12-066
356-05-380	REP-P	05-09-100	356-05-495	REP-P	05-09-100	356-10-040	REP-P	05-09-100
356-05-380	REP	05-12-066	356-05-495	REP	05-12-066	356-10-040	REP	05-12-066
356-05-385	REP-P	05-09-100	356-05-500	REP-P	05-09-100	356-10-045	REP-P	05-09-100
356-05-385	REP	05-12-066	356-05-500	REP	05-12-066	356-10-045	REP	05-12-066
356-05-387	REP-P	05-09-100	356-05-505	REP-P	05-09-100	356-10-050	REP-P	05-09-100
356-05-387	REP	05-12-066	356-05-505	REP	05-12-066	356-10-050	REP	05-12-066
356-05-389	REP-P	05-09-100	356-06-001	REP-P	05-09-100	356-10-060	AMD	05-04-043
356-05-389	REP	05-12-066	356-06-001	REP	05-12-066	356-10-060	REP-P	05-09-100
356-05-390	REP-P	05-09-100	356-06-002	REP-P	05-09-100	356-10-060	REP	05-12-066
356-05-390	REP	05-12-066	356-06-002	REP	05-12-066	356-10-065	NEW	05-04-043
356-05-395	REP-P	05-09-100	356-06-003	REP-P	05-09-100	356-10-065	REP-P	05-09-100
356-05-395	REP	05-12-066	356-06-003	REP	05-12-066	356-10-065	REP	05-12-066
356-05-397	REP-P	05-09-100	356-06-030	REP-P	05-09-100	356-14-010	REP-P	05-09-100
356-05-397	REP	05-12-066	356-06-030	REP	05-12-066	356-14-010	REP	05-12-066
356-05-400	REP-P	05-09-100	356-06-040	REP-P	05-09-100	356-14-026	REP-P	05-09-100
356-05-400	REP	05-12-066	356-06-040	REP	05-12-066	356-14-026	REP	05-12-066
356-05-405	REP-P	05-09-100	356-06-045	REP-P	05-09-100	356-14-031	REP-P	05-09-100
356-05-405	REP	05-12-066	356-06-045	REP	05-12-066	356-14-031	REP	05-12-066
356-05-410	REP-P	05-09-100	356-06-050	REP-P	05-09-100	356-14-045	REP-P	05-09-100
356-05-410	REP	05-12-066	356-06-050	REP	05-12-066	356-14-045	REP	05-12-066
356-05-415	REP-P	05-09-100	356-06-055	REP-P	05-09-100	356-14-062	REP-P	05-09-100
356-05-415	REP	05-12-066	356-06-055	REP	05-12-066	356-14-062	REP	05-12-066
356-05-420	REP-P	05-09-100	356-06-065	REP-P	05-09-100	356-14-065	REP-P	05-09-100
356-05-420	REP	05-12-066	356-06-065	REP	05-12-066	356-14-065	REP	05-12-066
356-05-425	REP-P	05-09-100	356-06-100	REP-P	05-09-100	356-14-067	REP-P	05-09-100
356-05-425	REP	05-12-066	356-06-100	REP	05-12-066	356-14-067	REP	05-12-066
356-05-430	REP-P	05-09-100	356-06-110	REP-P	05-09-100	356-14-070	REP-P	05-09-100
356-05-430	REP	05-12-066	356-06-110	REP	05-12-066	356-14-070	REP	05-12-066
356-05-435	REP-P	05-09-100	356-06-120	REP-P	05-09-100	356-14-075	REP-P	05-09-100
356-05-435	REP	05-12-066	356-06-120	REP	05-12-066	356-14-075	REP	05-12-066
356-05-440	REP-P	05-09-100	356-07-010	REP-P	05-09-100	356-14-080	REP-P	05-09-100
356-05-440	REP	05-12-066	356-07-010	REP	05-12-066	356-14-080	REP	05-12-066
356-05-445	REP-P	05-09-100	356-07-020	REP-P	05-09-100	356-14-085	REP-P	05-09-100
356-05-445	REP	05-12-066	356-07-020	REP	05-12-066	356-14-085	REP	05-12-066
356-05-447	REP-P	05-09-100	356-07-030	REP-P	05-09-100	356-14-090	REP-P	05-09-100
356-05-447	REP	05-12-066	356-07-030	REP	05-12-066	356-14-090	REP	05-12-066
356-05-450	REP-P	05-09-100	356-07-040	REP-P	05-09-100	356-14-100	REP-P	05-09-100

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-14-100	REP	05-12-066	356-15-090	REP	05-12-066	356-22-010	REP	05-12-066
356-14-110	REP-P	05-09-100	356-15-095	REP-P	05-09-100	356-22-020	REP-P	05-09-100
356-14-110	REP	05-12-066	356-15-095	REP	05-12-066	356-22-020	REP	05-12-066
356-14-120	REP-P	05-09-100	356-15-100	REP-P	05-09-100	356-22-030	REP-P	05-09-100
356-14-120	REP	05-12-066	356-15-100	REP	05-12-066	356-22-030	REP	05-12-066
356-14-130	REP-P	05-09-100	356-15-110	REP-P	05-09-100	356-22-035	REP-P	05-09-100
356-14-130	REP	05-12-066	356-15-110	REP	05-12-066	356-22-035	REP	05-12-066
356-14-140	REP-P	05-09-100	356-15-125	REP-P	05-09-100	356-22-036	REP-P	05-09-100
356-14-140	REP	05-12-066	356-15-125	REP	05-12-066	356-22-036	REP	05-12-066
356-14-150	REP-P	05-09-100	356-15-130	REP-P	05-09-100	356-22-040	REP-P	05-09-100
356-14-150	REP	05-12-066	356-15-130	REP	05-12-066	356-22-040	REP	05-12-066
356-14-160	REP-P	05-09-100	356-15-140	REP-P	05-09-100	356-22-050	REP-P	05-09-100
356-14-160	REP	05-12-066	356-15-140	REP	05-12-066	356-22-050	REP	05-12-066
356-14-170	REP-P	05-09-100	356-18-020	REP-P	05-09-100	356-22-060	REP-P	05-09-100
356-14-170	REP	05-12-066	356-18-020	REP	05-12-066	356-22-060	REP	05-12-066
356-14-180	REP-P	05-09-100	356-18-025	REP-P	05-09-100	356-22-070	REP-P	05-09-100
356-14-180	REP	05-12-066	356-18-025	REP	05-12-066	356-22-070	REP	05-12-066
356-14-190	REP-P	05-09-100	356-18-030	REP-P	05-09-100	356-22-080	REP-P	05-09-100
356-14-190	REP	05-12-066	356-18-030	REP	05-12-066	356-22-080	REP	05-12-066
356-14-200	REP-P	05-09-100	356-18-040	REP-P	05-09-100	356-22-090	REP-P	05-09-100
356-14-200	REP	05-12-066	356-18-040	REP	05-12-066	356-22-090	REP	05-12-066
356-14-210	REP-P	05-09-100	356-18-050	REP-P	05-09-100	356-22-100	REP-P	05-09-100
356-14-210	REP	05-12-066	356-18-050	REP	05-12-066	356-22-100	REP	05-12-066
356-14-220	REP-P	05-09-100	356-18-060	REP-P	05-09-100	356-22-111	REP-P	05-09-100
356-14-220	REP	05-12-066	356-18-060	REP	05-12-066	356-22-111	REP	05-12-066
356-14-230	REP-P	05-09-100	356-18-070	REP-P	05-09-100	356-22-120	REP-P	05-09-100
356-14-230	REP	05-12-066	356-18-070	REP	05-12-066	356-22-120	REP	05-12-066
356-14-240	REP-P	05-09-100	356-18-075	REP-P	05-09-100	356-22-125	REP-P	05-09-100
356-14-240	REP	05-12-066	356-18-075	REP	05-12-066	356-22-125	REP	05-12-066
356-14-250	REP-P	05-09-100	356-18-080	REP-P	05-09-100	356-22-130	REP-P	05-09-100
356-14-250	REP	05-12-066	356-18-080	REP	05-12-066	356-22-130	REP	05-12-066
356-14-260	REP-P	05-09-100	356-18-090	REP-P	05-09-100	356-22-132	REP-P	05-09-100
356-14-260	REP	05-12-066	356-18-090	REP	05-12-066	356-22-132	REP	05-12-066
356-14-265	REP-P	05-09-100	356-18-095	REP-P	05-09-100	356-22-135	REP-P	05-09-100
356-14-265	REP	05-12-066	356-18-095	REP	05-12-066	356-22-135	REP	05-12-066
356-14-300	REP-P	05-09-100	356-18-100	REP-P	05-09-100	356-22-140	REP-P	05-09-100
356-14-300	REP	05-12-066	356-18-100	REP	05-12-066	356-22-140	REP	05-12-066
356-15-010	REP-P	05-09-100	356-18-110	REP-P	05-09-100	356-22-150	REP-P	05-09-100
356-15-010	REP	05-12-066	356-18-110	REP	05-12-066	356-22-150	REP	05-12-066
356-15-020	REP-P	05-09-100	356-18-112	REP-P	05-09-100	356-22-160	REP-P	05-09-100
356-15-020	REP	05-12-066	356-18-112	REP	05-12-066	356-22-160	REP	05-12-066
356-15-030	REP-P	05-09-100	356-18-115	REP-P	05-09-100	356-22-180	REP-P	05-09-100
356-15-030	REP	05-12-066	356-18-115	REP	05-12-066	356-22-180	REP	05-12-066
356-15-035	REP-P	05-09-100	356-18-116	REP-P	05-09-100	356-22-190	REP-P	05-09-100
356-15-035	REP	05-12-066	356-18-116	REP	05-12-066	356-22-190	REP	05-12-066
356-15-040	REP-P	05-09-100	356-18-120	REP-P	05-09-100	356-22-200	REP-P	05-09-100
356-15-040	REP	05-12-066	356-18-120	REP	05-12-066	356-22-200	REP	05-12-066
356-15-050	REP-P	05-09-100	356-18-140	REP-P	05-09-100	356-22-210	REP-P	05-09-100
356-15-050	REP	05-12-066	356-18-140	REP	05-12-066	356-22-210	REP	05-12-066
356-15-060	REP-P	05-09-100	356-18-145	REP-P	05-09-100	356-22-220	REP-P	05-09-100
356-15-060	REP	05-12-066	356-18-145	REP	05-12-066	356-22-220	REP	05-12-066
356-15-061	REP-P	05-09-100	356-18-150	REP-P	05-09-100	356-22-230	REP-P	05-09-100
356-15-061	REP	05-12-066	356-18-150	REP	05-12-066	356-22-230	REP	05-12-066
356-15-063	REP-P	05-09-100	356-18-160	REP-P	05-09-100	356-22-240	REP-P	05-09-100
356-15-063	REP	05-12-066	356-18-160	REP	05-12-066	356-22-240	REP	05-12-066
356-15-070	REP-P	05-09-100	356-18-170	REP-P	05-09-100	356-26-010	REP-P	05-09-100
356-15-070	REP	05-12-066	356-18-170	REP	05-12-066	356-26-010	REP	05-12-066
356-15-080	REP-P	05-09-100	356-18-200	REP-P	05-09-100	356-26-020	REP-P	05-09-100
356-15-080	REP	05-12-066	356-18-200	REP	05-12-066	356-26-020	REP	05-12-066
356-15-085	REP-P	05-09-100	356-18-220	REP-P	05-09-100	356-26-030	REP-P	05-09-100
356-15-085	REP	05-12-066	356-18-220	REP	05-12-066	356-26-030	REP	05-12-066
356-15-090	REP-P	05-09-100	356-22-010	REP-P	05-09-100	356-26-040	REP-P	05-09-100

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-26-040	REP	05-12-066	356-30-145	REP	05-12-066	356-34-040	REP	05-12-066
356-26-050	REP-P	05-09-100	356-30-150	REP-P	05-09-100	356-34-045	REP-P	05-09-100
356-26-050	REP	05-12-066	356-30-150	REP	05-12-066	356-34-045	REP	05-12-066
356-26-060	REP-P	05-09-100	356-30-160	REP-P	05-09-100	356-34-050	REP-P	05-09-100
356-26-060	REP	05-12-066	356-30-160	REP	05-12-066	356-34-050	REP	05-12-066
356-26-070	REP-P	05-09-100	356-30-170	REP-P	05-09-100	356-34-060	REP-P	05-09-100
356-26-070	REP	05-12-066	356-30-170	REP	05-12-066	356-34-060	REP	05-12-066
356-26-075	REP-P	05-09-100	356-30-180	REP-P	05-09-100	356-34-070	REP-P	05-09-100
356-26-075	REP	05-12-066	356-30-180	REP	05-12-066	356-34-070	REP	05-12-066
356-26-080	REP-P	05-09-100	356-30-190	REP-P	05-09-100	356-34-080	REP-P	05-09-100
356-26-080	REP	05-12-066	356-30-190	REP	05-12-066	356-34-080	REP	05-12-066
356-26-090	REP-P	05-09-100	356-30-200	REP-P	05-09-100	356-34-090	REP-P	05-09-100
356-26-090	REP	05-12-066	356-30-200	REP	05-12-066	356-34-090	REP	05-12-066
356-26-100	REP-P	05-09-100	356-30-210	REP-P	05-09-100	356-34-100	REP-P	05-09-100
356-26-100	REP	05-12-066	356-30-210	REP	05-12-066	356-34-100	REP	05-12-066
356-26-110	REP-P	05-09-100	356-30-220	REP-P	05-09-100	356-34-260	REP-P	05-09-100
356-26-110	REP	05-12-066	356-30-220	REP	05-12-066	356-34-260	REP	05-12-066
356-26-120	REP-P	05-09-100	356-30-230	REP-P	05-09-100	356-35-010	REP-P	05-09-100
356-26-120	REP	05-12-066	356-30-230	REP	05-12-066	356-35-010	REP	05-12-066
356-26-130	REP-P	05-09-100	356-30-240	REP-P	05-09-100	356-37-010	REP-P	05-09-100
356-26-130	REP	05-12-066	356-30-240	REP	05-12-066	356-37-010	REP	05-12-066
356-26-140	REP-P	05-09-100	356-30-250	REP-P	05-09-100	356-37-020	REP-P	05-09-100
356-26-140	REP	05-12-066	356-30-250	REP	05-12-066	356-37-020	REP	05-12-066
356-30-005	REP-P	05-09-100	356-30-255	REP-P	05-09-100	356-37-030	REP-P	05-09-100
356-30-005	REP	05-12-066	356-30-255	REP	05-12-066	356-37-030	REP	05-12-066
356-30-007	REP-P	05-09-100	356-30-260	REP-P	05-09-100	356-37-040	REP-P	05-09-100
356-30-007	REP	05-12-066	356-30-260	REP	05-12-066	356-37-040	REP	05-12-066
356-30-010	REP-P	05-09-100	356-30-270	REP-P	05-09-100	356-37-050	REP-P	05-09-100
356-30-010	REP	05-12-066	356-30-270	REP	05-12-066	356-37-050	REP	05-12-066
356-30-012	REP-P	05-09-100	356-30-280	REP-P	05-09-100	356-37-060	REP-P	05-09-100
356-30-012	REP	05-12-066	356-30-280	REP	05-12-066	356-37-060	REP	05-12-066
356-30-015	REP-P	05-09-100	356-30-285	REP-P	05-09-100	356-37-070	REP-P	05-09-100
356-30-015	REP	05-12-066	356-30-285	REP	05-12-066	356-37-070	REP	05-12-066
356-30-025	REP-P	05-09-100	356-30-290	REP-P	05-09-100	356-37-080	REP-P	05-09-100
356-30-025	REP	05-12-066	356-30-290	REP	05-12-066	356-37-080	REP	05-12-066
356-30-050	REP-P	05-09-100	356-30-300	REP-P	05-09-100	356-37-090	REP-P	05-09-100
356-30-050	REP	05-12-066	356-30-300	REP	05-12-066	356-37-090	REP	05-12-066
356-30-060	REP-P	05-09-100	356-30-305	REP-P	05-09-100	356-37-100	REP-P	05-09-100
356-30-060	REP	05-12-066	356-30-305	REP	05-12-066	356-37-100	REP	05-12-066
356-30-065	REP-P	05-09-100	356-30-310	REP-P	05-09-100	356-37-110	REP-P	05-09-100
356-30-065	REP	05-12-066	356-30-310	REP	05-12-066	356-37-110	REP	05-12-066
356-30-067	REP-P	05-09-100	356-30-315	REP-P	05-09-100	356-37-120	REP-P	05-09-100
356-30-067	REP	05-12-066	356-30-315	REP	05-12-066	356-37-120	REP	05-12-066
356-30-075	REP-P	05-09-100	356-30-320	REP-P	05-09-100	356-37-130	REP-P	05-09-100
356-30-075	REP	05-12-066	356-30-320	REP	05-12-066	356-37-130	REP	05-12-066
356-30-090	REP-P	05-09-100	356-30-330	REP-P	05-09-100	356-37-140	REP-P	05-09-100
356-30-090	REP	05-12-066	356-30-330	REP	05-12-066	356-37-140	REP	05-12-066
356-30-100	REP-P	05-09-100	356-30-331	REP-P	05-09-100	356-37-150	REP-P	05-09-100
356-30-100	REP	05-12-066	356-30-331	REP	05-12-066	356-37-150	REP	05-12-066
356-30-110	REP-P	05-09-100	356-30-335	REP-P	05-09-100	356-37-160	REP-P	05-09-100
356-30-110	REP	05-12-066	356-30-335	REP	05-12-066	356-37-160	REP	05-12-066
356-30-120	REP-P	05-09-100	356-34-010	REP-P	05-09-100	356-37-170	REP-P	05-09-100
356-30-120	REP	05-12-066	356-34-010	REP	05-12-066	356-37-170	REP	05-12-066
356-30-130	REP-P	05-09-100	356-34-011	REP-P	05-09-100	356-39-010	REP-P	05-09-100
356-30-130	REP	05-12-066	356-34-011	REP	05-12-066	356-39-010	REP	05-12-066
356-30-135	REP-P	05-09-100	356-34-012	REP-P	05-09-100	356-39-020	REP-P	05-09-100
356-30-135	REP	05-12-066	356-34-012	REP	05-12-066	356-39-020	REP	05-12-066
356-30-140	REP-P	05-09-100	356-34-020	REP-P	05-09-100	356-39-030	REP-P	05-09-100
356-30-140	REP	05-12-066	356-34-020	REP	05-12-066	356-39-030	REP	05-12-066
356-30-143	REP-P	05-09-100	356-34-030	REP-P	05-09-100	356-39-040	REP-P	05-09-100
356-30-143	REP	05-12-066	356-34-030	REP	05-12-066	356-39-040	REP	05-12-066
356-30-145	REP-P	05-09-100	356-34-040	REP-P	05-09-100	356-39-050	REP-P	05-09-100

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356-39-050	REP	05-12-066	356-46-110	REP	05-12-066	356-56-200	REP	05-12-066
356-39-060	REP-P	05-09-100	356-46-120	REP-P	05-09-100	356-56-203	REP-P	05-09-100
356-39-060	REP	05-12-066	356-46-120	REP	05-12-066	356-56-203	REP	05-12-066
356-39-070	REP-P	05-09-100	356-46-125	REP-P	05-09-100	356-56-205	REP-P	05-09-100
356-39-070	REP	05-12-066	356-46-125	REP	05-12-066	356-56-205	REP	05-12-066
356-39-080	REP-P	05-09-100	356-46-135	REP-P	05-09-100	356-56-210	REP-P	05-09-100
356-39-080	REP	05-12-066	356-46-135	REP	05-12-066	356-56-210	REP	05-12-066
356-39-090	REP-P	05-09-100	356-46-140	REP-P	05-09-100	356-56-215	REP-P	05-09-100
356-39-090	REP	05-12-066	356-46-140	REP	05-12-066	356-56-215	REP	05-12-066
356-39-100	REP-P	05-09-100	356-46-145	REP-P	05-09-100	356-56-220	REP-P	05-09-100
356-39-100	REP	05-12-066	356-46-145	REP	05-12-066	356-56-220	REP	05-12-066
356-39-110	REP-P	05-09-100	356-46-150	REP-P	05-09-100	356-56-230	REP-P	05-09-100
356-39-110	REP	05-12-066	356-46-150	REP	05-12-066	356-56-230	REP	05-12-066
356-39-120	REP-P	05-09-100	356-48-010	REP-P	05-09-100	356-56-255	REP-P	05-09-100
356-39-120	REP	05-12-066	356-48-010	REP	05-12-066	356-56-255	REP	05-12-066
356-39-130	REP-P	05-09-100	356-48-020	REP-P	05-09-100	356-56-400	REP-P	05-09-100
356-39-130	REP	05-12-066	356-48-020	REP	05-12-066	356-56-400	REP	05-12-066
356-39-140	REP-P	05-09-100	356-48-030	REP-P	05-09-100	356-56-410	REP-P	05-09-100
356-39-140	REP	05-12-066	356-48-030	REP	05-12-066	356-56-410	REP	05-12-066
356-42-010	REP-P	05-09-100	356-48-040	REP-P	05-09-100	356-56-420	REP-P	05-09-100
356-42-010	REP	05-12-066	356-48-040	REP	05-12-066	356-56-420	REP	05-12-066
356-42-042	REP-P	05-09-100	356-48-050	REP-P	05-09-100	356-56-440	REP-P	05-09-100
356-42-042	REP	05-12-066	356-48-050	REP	05-12-066	356-56-440	REP	05-12-066
356-42-043	REP-P	05-09-100	356-48-060	REP-P	05-09-100	356-56-500	REP-P	05-09-100
356-42-043	REP	05-12-066	356-48-060	REP	05-12-066	356-56-500	REP	05-12-066
356-42-045	REP-P	05-09-100	356-49-010	REP-P	05-09-100	356-56-550	REP-P	05-09-100
356-42-045	REP	05-12-066	356-49-010	REP	05-12-066	356-56-550	REP	05-12-066
356-42-047	REP-P	05-09-100	356-49-020	REP-P	05-09-100	356-56-600	REP-P	05-09-100
356-42-047	REP	05-12-066	356-49-020	REP	05-12-066	356-56-600	REP	05-12-066
356-42-050	REP-P	05-09-100	356-49-030	REP-P	05-09-100	356-56-610	REP-P	05-09-100
356-42-050	REP	05-12-066	356-49-030	REP	05-12-066	356-56-610	REP	05-12-066
356-42-055	REP-P	05-09-100	356-49-040	REP-P	05-09-100	356-56-630	REP-P	05-09-100
356-42-055	REP	05-12-066	356-49-040	REP	05-12-066	356-56-630	REP	05-12-066
356-42-090	REP-P	05-09-100	356-56-001	REP-P	05-09-100	356-56-650	REP-P	05-09-100
356-42-090	REP	05-12-066	356-56-001	REP	05-12-066	356-56-650	REP	05-12-066
356-42-100	REP-P	05-09-100	356-56-002	REP-P	05-09-100	356-56-660	REP-P	05-09-100
356-42-100	REP	05-12-066	356-56-002	REP	05-12-066	356-56-660	REP	05-12-066
356-42-105	REP-P	05-09-100	356-56-010	REP-P	05-09-100	356-60-010	REP-P	05-09-100
356-42-105	REP	05-12-066	356-56-010	REP	05-12-066	356-60-010	REP	05-12-066
356-42-110	REP-P	05-09-100	356-56-015	REP-P	05-09-100	356-60-020	REP-P	05-09-100
356-42-110	REP	05-12-066	356-56-015	REP	05-12-066	356-60-020	REP	05-12-066
356-46-010	REP-P	05-09-100	356-56-020	REP-P	05-09-100	356-60-030	REP-P	05-09-100
356-46-010	REP	05-12-066	356-56-020	REP	05-12-066	356-60-030	REP	05-12-066
356-46-020	REP-P	05-09-100	356-56-030	REP-P	05-09-100	356-60-032	REP-P	05-09-100
356-46-020	REP	05-12-066	356-56-030	REP	05-12-066	356-60-032	REP	05-12-066
356-46-030	REP-P	05-09-100	356-56-035	REP-P	05-09-100	356-60-034	REP-P	05-09-100
356-46-030	REP	05-12-066	356-56-035	REP	05-12-066	356-60-034	REP	05-12-066
356-46-040	REP-P	05-09-100	356-56-050	REP-P	05-09-100	356-60-055	REP-P	05-09-100
356-46-040	REP	05-12-066	356-56-050	REP	05-12-066	356-60-055	REP	05-12-066
356-46-050	REP-P	05-09-100	356-56-070	REP-P	05-09-100	356-60-057	REP-P	05-09-100
356-46-050	REP	05-12-066	356-56-070	REP	05-12-066	356-60-057	REP	05-12-066
356-46-060	REP-P	05-09-100	356-56-100	REP-P	05-09-100	357-01-022	NEW-P	05-09-120
356-46-060	REP	05-12-066	356-56-100	REP	05-12-066	357-01-022	NEW	05-12-093
356-46-070	REP-P	05-09-100	356-56-105	REP-P	05-09-100	357-01-023	NEW-P	05-09-120
356-46-070	REP	05-12-066	356-56-105	REP	05-12-066	357-01-023	NEW	05-12-093
356-46-080	REP-P	05-09-100	356-56-115	REP-P	05-09-100	357-01-072	NEW-P	05-09-120
356-46-080	REP	05-12-066	356-56-115	REP	05-12-066	357-01-072	NEW	05-12-093
356-46-090	REP-P	05-09-100	356-56-118	REP-P	05-09-100	357-01-138	NEW-P	05-09-120
356-46-090	REP	05-12-066	356-56-118	REP	05-12-066	357-01-138	NEW	05-12-093
356-46-100	REP-P	05-09-100	356-56-120	REP-P	05-09-100	357-01-172	NEW-P	05-09-120
356-46-100	REP	05-12-066	356-56-120	REP	05-12-066	357-01-172	NEW	05-12-093
356-46-110	REP-P	05-09-100	356-56-200	REP-P	05-09-100	357-01-173	NEW-P	05-08-128

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-01-173	NEW	05-12-074	357-19-189	NEW	05-12-097	357-31-125	NEW	05-08-136
357-01-174	NEW-P	05-09-120	357-19-190	REP-P	05-09-111	357-31-130	NEW	05-08-136
357-01-174	NEW	05-12-093	357-19-190	REP	05-12-085	357-31-135	NEW	05-08-136
357-01-182	NEW-P	05-09-120	357-19-191	NEW-P	05-08-126	357-31-140	NEW	05-08-136
357-01-182	NEW	05-12-093	357-19-191	NEW-C	05-09-107	357-31-145	NEW	05-08-136
357-01-202	NEW-P	05-09-120	357-19-191	NEW	05-12-097	357-31-150	NEW	05-08-136
357-01-202	NEW	05-12-093	357-19-300	NEW-P	05-08-130	357-31-155	NEW	05-08-136
357-01-227	NEW-P	05-09-120	357-19-300	NEW	05-12-076	357-31-160	NEW	05-08-136
357-01-227	NEW	05-12-093	357-19-301	NEW-P	05-08-130	357-31-165	NEW	05-08-137
357-01-228	NEW-P	05-09-120	357-19-301	NEW	05-12-076	357-31-165	AMD-P	05-09-104
357-01-228	NEW	05-12-093	357-19-302	NEW-P	05-08-130	357-31-165	AMD	05-12-080
357-01-229	NEW-P	05-09-120	357-19-302	NEW	05-12-076	357-31-170	NEW	05-08-137
357-01-229	NEW	05-12-093	357-19-303	NEW-P	05-08-130	357-31-175	NEW	05-08-137
357-01-255	NEW-W	05-02-061	357-19-303	NEW	05-12-076	357-31-180	NEW	05-08-137
357-01-301	NEW	05-08-134	357-19-350	NEW-P	05-09-114	357-31-185	NEW	05-08-137
357-01-301	AMD-P	05-09-119	357-19-350	NEW	05-12-094	357-31-190	NEW	05-08-137
357-01-301	AMD	05-12-092	357-19-353	NEW-P	05-09-114	357-31-195	NEW	05-08-137
357-01-348	NEW-P	05-09-120	357-19-353	NEW	05-12-094	357-31-200	NEW	05-08-137
357-01-348	NEW	05-12-093	357-19-375	AMD-P	05-08-130	357-31-205	NEW	05-08-137
357-01-360	NEW-P	05-09-118	357-19-375	AMD	05-12-076	357-31-210	NEW	05-08-137
357-01-360	NEW	05-12-091	357-19-388	AMD-P	05-08-131	357-31-215	NEW	05-08-137
357-01-365	NEW-P	05-09-118	357-19-388	AMD	05-12-077	357-31-220	NEW	05-08-137
357-01-365	NEW	05-12-091	357-19-395	AMD-P	05-09-115	357-31-225	NEW	05-08-137
357-04-105	AMD-P	05-09-103	357-19-395	AMD	05-12-095	357-31-230	NEW	05-08-137
357-04-105	AMD	05-12-079	357-19-475	AMD-P	05-08-131	357-31-235	NEW	05-08-137
357-13-090	AMD-P	05-09-105	357-19-475	AMD	05-12-077	357-31-240	NEW	05-08-137
357-13-090	AMD	05-12-088	357-28-035	AMD-P	05-12-125	357-31-245	NEW	05-08-137
357-16-110	AMD-P	05-08-131	357-28-070	AMD-P	05-08-131	357-31-250	NEW	05-08-137
357-16-110	AMD	05-12-077	357-28-070	AMD	05-12-077	357-31-255	NEW	05-08-137
357-16-130	AMD-P	05-09-109	357-28-165	AMD-P	05-08-131	357-31-260	NEW	05-08-137
357-16-130	AMD	05-12-083	357-28-165	AMD	05-12-077	357-31-265	NEW	05-08-137
357-16-135	AMD-P	05-12-127	357-28-200	AMD-P	05-09-110	357-31-270	NEW	05-08-137
357-19-025	AMD-P	05-08-131	357-28-200	AMD	05-12-084	357-31-275	NEW	05-08-137
357-19-025	AMD	05-12-077	357-28-300	AMD-P	05-08-131	357-31-280	NEW	05-08-137
357-19-080	AMD-P	05-08-131	357-28-300	AMD	05-12-077	357-31-285	NEW	05-08-137
357-19-080	AMD	05-12-077	357-31-001	NEW	05-08-136	357-31-290	NEW	05-08-137
357-19-115	AMD-P	05-08-131	357-31-001	REP-P	05-09-120	357-31-295	NEW	05-08-137
357-19-115	AMD	05-12-077	357-31-001	REP	05-12-093	357-31-300	NEW	05-08-137
357-19-125	NEW-P	05-09-116	357-31-005	NEW	05-08-136	357-31-305	NEW	05-08-137
357-19-125	NEW	05-12-089	357-31-010	NEW	05-08-136	357-31-310	NEW	05-08-138
357-19-181	NEW-P	05-09-111	357-31-015	NEW	05-08-136	357-31-315	NEW	05-08-138
357-19-181	NEW	05-12-085	357-31-020	NEW	05-08-136	357-31-320	NEW	05-08-138
357-19-183	NEW-P	05-08-126	357-31-025	NEW	05-08-136	357-31-325	NEW	05-08-138
357-19-183	NEW-C	05-09-107	357-31-030	NEW	05-08-136	357-31-330	NEW	05-08-138
357-19-183	NEW	05-12-097	357-31-035	NEW	05-08-136	357-31-335	NEW	05-08-138
357-19-184	NEW-P	05-08-126	357-31-040	NEW	05-08-136	357-31-340	NEW	05-08-138
357-19-184	NEW-C	05-09-107	357-31-045	NEW	05-08-136	357-31-345	NEW	05-08-138
357-19-184	NEW	05-12-097	357-31-050	NEW	05-08-136	357-31-346	NEW-P	05-09-108
357-19-185	NEW-P	05-08-126	357-31-055	NEW	05-08-136	357-31-346	NEW	05-12-081
357-19-185	NEW-C	05-09-107	357-31-060	NEW	05-08-136	357-31-347	NEW-P	05-09-108
357-19-185	NEW	05-12-097	357-31-065	NEW	05-08-136	357-31-347	NEW	05-12-081
357-19-186	NEW-P	05-08-126	357-31-070	NEW	05-08-136	357-31-350	NEW	05-08-138
357-19-186	NEW-C	05-09-107	357-31-075	NEW	05-08-136	357-31-355	NEW	05-08-138
357-19-186	NEW	05-12-097	357-31-080	NEW	05-08-136	357-31-360	NEW	05-08-138
357-19-187	NEW-P	05-08-126	357-31-090	NEW	05-08-136	357-31-370	NEW	05-08-138
357-19-187	NEW-C	05-09-107	357-31-095	NEW	05-08-136	357-31-375	NEW	05-08-138
357-19-187	NEW	05-12-097	357-31-095	AMD-P	05-12-128	357-31-380	NEW	05-08-139
357-19-188	NEW-P	05-08-126	357-31-100	NEW	05-08-136	357-31-385	NEW-W	05-08-125
357-19-188	NEW-C	05-09-107	357-31-105	NEW	05-08-136	357-31-390	NEW	05-08-139
357-19-188	NEW	05-12-097	357-31-110	NEW	05-08-136	357-31-395	NEW	05-08-139
357-19-189	NEW-P	05-08-126	357-31-115	NEW	05-08-136	357-31-400	NEW	05-08-139
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357-31-410	NEW	05-08-139	357-46-066	NEW-P	05-08-128	357-58-010	NEW	05-12-068
357-31-415	NEW	05-08-139	357-46-066	NEW	05-12-074	357-58-015	NEW-P	05-04-087
357-31-420	NEW	05-08-139	357-46-067	NEW-P	05-08-128	357-58-015	NEW	05-12-068
357-31-425	NEW	05-08-139	357-46-067	NEW	05-12-074	357-58-020	NEW-P	05-04-087
357-31-430	NEW	05-08-139	357-46-068	NEW-P	05-08-128	357-58-020	NEW	05-12-068
357-31-435	NEW	05-08-139	357-46-068	NEW	05-12-074	357-58-025	NEW-P	05-04-087
357-31-440	NEW	05-08-139	357-46-095	AMD-P	05-08-131	357-58-025	NEW	05-12-068
357-31-445	NEW	05-08-139	357-46-095	AMD	05-12-077	357-58-030	NEW-P	05-04-087
357-31-450	NEW	05-08-139	357-46-110	AMD-P	05-08-131	357-58-030	NEW	05-12-068
357-31-455	NEW	05-08-139	357-46-110	AMD	05-12-077	357-58-035	NEW-P	05-04-087
357-31-460	NEW	05-08-140	357-46-125	AMD-P	05-09-102	357-58-035	NEW	05-12-068
357-31-465	NEW	05-08-140	357-46-125	AMD	05-12-078	357-58-040	NEW-P	05-04-087
357-31-470	NEW	05-08-140	357-46-145	AMD-P	05-12-126	357-58-040	NEW	05-12-068
357-31-475	NEW	05-08-140	357-49-010	AMD-P	05-09-106	357-58-045	NEW-P	05-04-087
357-31-480	NEW	05-08-140	357-49-010	AMD	05-12-082	357-58-045	NEW	05-12-068
357-31-485	NEW	05-08-140	357-52-207	NEW-P	05-09-113	357-58-050	NEW-P	05-04-087
357-31-490	NEW	05-08-140	357-52-207	NEW	05-12-087	357-58-050	NEW	05-12-068
357-31-495	NEW	05-08-140	357-52-208	NEW-P	05-09-113	357-58-055	NEW-P	05-04-087
357-31-500	NEW	05-08-140	357-52-208	NEW	05-12-087	357-58-055	NEW	05-12-068
357-31-505	NEW	05-08-140	357-55-010	NEW	05-08-132	357-58-060	NEW-P	05-04-087
357-31-510	NEW	05-08-140	357-55-020	NEW	05-08-132	357-58-060	NEW	05-12-068
357-31-515	NEW	05-08-140	357-55-030	NEW	05-08-132	357-58-065	NEW-P	05-04-087
357-31-520	NEW	05-08-140	357-55-040	NEW	05-08-132	357-58-065	NEW	05-12-068
357-31-525	NEW	05-08-140	357-55-110	NEW	05-08-132	357-58-070	NEW-P	05-04-087
357-31-525	AMD-P	05-09-112	357-55-210	NEW	05-08-132	357-58-070	NEW	05-12-068
357-31-525	AMD	05-12-086	357-55-215	NEW	05-08-132	357-58-075	NEW-P	05-04-087
357-31-530	NEW	05-08-140	357-55-220	NEW	05-08-132	357-58-075	NEW	05-12-068
357-31-530	AMD-P	05-09-117	357-55-225	NEW	05-08-132	357-58-080	NEW-P	05-04-087
357-31-530	AMD	05-12-090	357-55-230	NEW	05-08-132	357-58-080	NEW	05-12-068
357-31-535	NEW	05-08-140	357-55-235	NEW	05-08-132	357-58-085	NEW-P	05-04-087
357-31-540	NEW	05-08-140	357-55-240	NEW	05-08-132	357-58-085	NEW	05-12-068
357-31-545	NEW	05-08-140	357-55-245	NEW	05-08-132	357-58-090	NEW-P	05-04-087
357-31-550	NEW	05-08-140	357-55-250	NEW	05-08-132	357-58-090	NEW	05-12-068
357-31-555	NEW	05-08-140	357-55-255	NEW	05-08-132	357-58-095	NEW-P	05-04-087
357-31-560	NEW	05-08-140	357-55-260	NEW	05-08-132	357-58-095	NEW	05-12-068
357-31-565	NEW	05-08-140	357-55-265	NEW	05-08-133	357-58-100	NEW-P	05-04-087
357-37-200	NEW-C	05-09-101	357-55-270	NEW	05-08-133	357-58-100	NEW	05-12-068
357-37-200	NEW	05-12-096	357-55-275	NEW	05-08-133	357-58-105	NEW-P	05-04-087
357-40-050	NEW-P	05-09-103	357-55-280	NEW	05-08-133	357-58-105	NEW	05-12-068
357-40-050	NEW	05-12-079	357-55-285	NEW	05-08-133	357-58-110	NEW-P	05-04-087
357-43-008	NEW-W	05-09-053	357-55-310	NEW	05-08-133	357-58-110	NEW	05-12-068
357-43-045	NEW-W	05-02-062	357-55-320	NEW	05-08-133	357-58-115	NEW-P	05-04-087
357-46-010	AMD-W	05-09-054	357-55-330	NEW	05-08-133	357-58-115	NEW	05-12-068
357-46-012	NEW-W	05-09-054	357-55-410	NEW	05-08-133	357-58-120	NEW-P	05-04-088
357-46-050	AMD-P	05-09-110	357-55-415	NEW	05-08-133	357-58-120	NEW	05-12-069
357-46-050	AMD	05-12-084	357-55-420	NEW	05-08-133	357-58-125	NEW-P	05-04-088
357-46-053	NEW-P	05-08-129	357-55-425	NEW	05-08-133	357-58-125	NEW	05-12-069
357-46-053	NEW	05-12-075	357-55-430	NEW	05-08-133	357-58-130	NEW-P	05-04-088
357-46-055	NEW	05-08-135	357-55-510	NEW	05-08-133	357-58-130	NEW	05-12-069
357-46-056	NEW	05-08-135	357-55-515	NEW	05-08-133	357-58-135	NEW-P	05-04-088
357-46-057	NEW-P	05-08-127	357-55-520	NEW	05-08-133	357-58-135	NEW	05-12-069
357-46-057	NEW	05-12-073	357-55-610	NEW	05-08-133	357-58-140	NEW-P	05-04-088
357-46-058	NEW-P	05-08-127	357-55-615	NEW	05-08-133	357-58-140	NEW	05-12-069
357-46-058	NEW	05-12-073	357-55-620	NEW	05-08-133	357-58-145	NEW-P	05-04-088
357-46-060	AMD-P	05-08-131	357-55-625	NEW	05-08-133	357-58-145	NEW	05-12-069
357-46-060	AMD	05-12-077	357-55-630	NEW	05-08-133	357-58-150	NEW-P	05-04-088
357-46-063	NEW-P	05-08-128	357-55-635	NEW	05-08-133	357-58-150	NEW	05-12-069
357-46-063	NEW	05-12-074	357-55-640	NEW	05-08-133	357-58-155	NEW-P	05-04-088
357-46-064	NEW-P	05-08-128	357-55-645	NEW	05-08-133	357-58-155	NEW	05-12-069
357-46-064	NEW	05-12-074	357-58-005	NEW-P	05-04-087	357-58-160	NEW-P	05-04-088
357-46-065	NEW-P	05-08-128	357-58-005	NEW	05-12-068	357-58-160	NEW	05-12-069
357-46-065	NEW	05-12-074	357-58-010	NEW-P	05-04-087	357-58-165	NEW-P	05-04-088

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357- 58-170	NEW-P	05-04-088	357- 58-320	NEW-P	05-04-089	357- 58-475	NEW-P	05-04-091
357- 58-170	NEW	05-12-069	357- 58-320	NEW	05-12-070	357- 58-475	NEW	05-12-071
357- 58-175	NEW-P	05-04-088	357- 58-325	NEW-P	05-04-089	357- 58-480	NEW-P	05-04-091
357- 58-175	NEW	05-12-069	357- 58-325	NEW	05-12-070	357- 58-480	NEW	05-12-071
357- 58-180	NEW-P	05-04-088	357- 58-330	NEW-P	05-04-089	357- 58-485	NEW-P	05-04-091
357- 58-180	NEW	05-12-069	357- 58-330	NEW	05-12-070	357- 58-485	NEW	05-12-071
357- 58-185	NEW-P	05-04-088	357- 58-335	NEW-P	05-04-089	357- 58-490	NEW-P	05-04-091
357- 58-185	NEW	05-12-069	357- 58-335	NEW	05-12-070	357- 58-490	NEW	05-12-071
357- 58-190	NEW-P	05-04-088	357- 58-340	NEW-P	05-04-089	357- 58-495	NEW-P	05-04-091
357- 58-190	NEW	05-12-069	357- 58-340	NEW	05-12-070	357- 58-495	NEW-W	05-12-098
357- 58-195	NEW-P	05-04-088	357- 58-345	NEW-P	05-04-089	357- 58-500	NEW-P	05-04-090
357- 58-195	NEW	05-12-069	357- 58-345	NEW	05-12-070	357- 58-500	NEW	05-12-072
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357- 58-200	NEW	05-12-069	357- 58-350	NEW	05-12-070	357- 58-505	NEW	05-12-072
357- 58-205	NEW-P	05-04-088	357- 58-355	NEW-P	05-04-089	357- 58-510	NEW-P	05-04-090
357- 58-205	NEW	05-12-069	357- 58-355	NEW	05-12-070	357- 58-510	NEW	05-12-072
357- 58-210	NEW-P	05-04-088	357- 58-360	NEW-P	05-04-089	357- 58-515	NEW-P	05-04-090
357- 58-210	NEW	05-12-069	357- 58-360	NEW	05-12-070	357- 58-515	NEW	05-12-072
357- 58-215	NEW-P	05-04-088	357- 58-365	NEW-P	05-04-089	357- 58-520	NEW-P	05-04-090
357- 58-215	NEW	05-12-069	357- 58-365	NEW	05-12-070	357- 58-520	NEW	05-12-072
357- 58-220	NEW-P	05-04-088	357- 58-370	NEW-P	05-04-089	357- 58-525	NEW-P	05-04-090
357- 58-220	NEW	05-12-069	357- 58-370	NEW	05-12-070	357- 58-525	NEW	05-12-072
357- 58-225	NEW-P	05-04-088	357- 58-375	NEW-P	05-04-089	357- 58-530	NEW-P	05-04-090
357- 58-225	NEW	05-12-069	357- 58-375	NEW	05-12-070	357- 58-530	NEW	05-12-072
357- 58-230	NEW-P	05-04-088	357- 58-380	NEW-P	05-04-089	357- 58-535	NEW-P	05-04-090
357- 58-230	NEW	05-12-069	357- 58-380	NEW-W	05-12-065	357- 58-535	NEW-W	05-12-099
357- 58-235	NEW-P	05-04-088	357- 58-385	NEW-P	05-04-089	357- 58-540	NEW-P	05-04-090
357- 58-235	NEW	05-12-069	357- 58-385	NEW	05-12-070	357- 58-540	NEW	05-12-072
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357- 58-240	NEW	05-12-070	357- 58-390	NEW	05-12-070	357- 58-545	NEW	05-12-072
357- 58-245	NEW-P	05-04-089	357- 58-395	NEW-P	05-04-089	363-116	PREP	05-04-094
357- 58-245	NEW	05-12-070	357- 58-395	NEW	05-12-070	363-116-082	AMD	05-04-028
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357- 58-250	NEW	05-12-070	357- 58-400	NEW	05-12-070	363-116-300	AMD-P	05-08-063
357- 58-255	NEW-P	05-04-089	357- 58-405	NEW-P	05-04-091	363-116-300	AMD	05-12-055
357- 58-255	NEW	05-12-070	357- 58-405	NEW	05-12-071	365-110-035	AMD-W	05-06-057
357- 58-260	NEW-P	05-04-089	357- 58-410	NEW-P	05-04-091	371- 08-305	AMD-E	05-05-005
357- 58-260	NEW	05-12-070	357- 58-410	NEW	05-12-071	371- 08-305	AMD-P	05-08-022
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357- 58-265	NEW	05-12-070	357- 58-415	NEW	05-12-071	371- 08-335	AMD-P	05-08-022
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357- 58-270	NEW	05-12-070	357- 58-420	NEW	05-12-071	371- 08-345	AMD-P	05-08-022
357- 58-275	NEW-P	05-04-089	357- 58-425	NEW-P	05-04-091	371- 08-445	AMD-P	05-08-022
357- 58-275	NEW	05-12-070	357- 58-425	NEW	05-12-071	371- 08-450	AMD-P	05-08-022
357- 58-280	NEW-P	05-04-089	357- 58-430	NEW-P	05-04-091	374- 60	PREP	05-11-063
357- 58-280	NEW-P	05-09-114	357- 58-430	NEW	05-12-071	388	PREP	05-08-090
357- 58-280	NEW-W	05-12-065	357- 58-435	NEW-P	05-04-091	388- 02-0215	PREP	05-06-081
357- 58-280	NEW	05-12-094	357- 58-435	NEW	05-12-071	388- 14A	PREP	05-08-087
357- 58-285	NEW-P	05-04-089	357- 58-440	NEW-P	05-04-091	388- 14A-1020	AMD-P	05-11-081
357- 58-285	NEW	05-12-070	357- 58-440	NEW	05-12-071	388- 14A-2160	PREP	05-08-087
357- 58-290	NEW-P	05-04-089	357- 58-445	NEW-P	05-04-091	388- 14A-3102	PREP	05-05-078
357- 58-290	NEW	05-12-070	357- 58-445	NEW	05-12-071	388- 14A-3102	AMD-P	05-09-082
357- 58-295	NEW-P	05-04-089	357- 58-450	NEW-P	05-04-091	388- 14A-3102	AMD	05-12-136
357- 58-295	NEW	05-12-070	357- 58-450	NEW	05-12-071	388- 14A-3120	PREP	05-05-078
357- 58-300	NEW-P	05-04-089	357- 58-455	NEW-P	05-04-091	388- 14A-3120	AMD-P	05-09-082
357- 58-300	NEW	05-12-070	357- 58-455	NEW	05-12-071	388- 14A-3120	AMD	05-12-136
357- 58-305	NEW-P	05-04-089	357- 58-460	NEW-P	05-04-091	388- 14A-3304	AMD-P	05-03-095
357- 58-305	NEW	05-12-070	357- 58-460	NEW	05-12-071	388- 14A-3304	AMD	05-07-059
357- 58-310	NEW-P	05-04-089	357- 58-465	NEW-P	05-04-091	388- 14A-3310	AMD-P	05-03-095
357- 58-310	NEW	05-12-070	357- 58-465	NEW	05-12-071	388- 14A-3310	AMD	05-07-059
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388-14A-3320	AMD-P	05-03-095	388-25-0231	NEW-E	05-06-093	388-71-0430	REP	05-11-082
388-14A-3320	AMD	05-07-059	388-25-1000	NEW-P	05-06-086	388-71-0435	REP-P	05-03-096
388-14A-3321	NEW-E	05-03-095	388-25-1000	NEW-E	05-06-094	388-71-0435	REP	05-11-082
388-14A-3321	NEW	05-07-059	388-25-1000	NEW	05-11-016	388-71-0440	REP-P	05-03-096
388-14A-3350	AMD-P	05-11-080	388-25-1010	NEW-P	05-06-086	388-71-0440	REP	05-11-082
388-14A-3600	AMD-P	05-11-079	388-25-1010	NEW-E	05-06-094	388-71-0442	REP-P	05-03-096
388-14A-3810	AMD-P	05-11-081	388-25-1010	NEW	05-11-016	388-71-0442	REP	05-11-082
388-14A-4119	NEW-E	05-03-094	388-25-1020	NEW-P	05-06-086	388-71-0445	REP-P	05-03-096
388-14A-4119	NEW-P	05-05-082	388-25-1020	NEW-E	05-06-094	388-71-0445	REP	05-11-082
388-14A-4119	NEW	05-08-060	388-25-1020	NEW	05-11-016	388-71-0450	REP-P	05-03-096
388-14A-4180	NEW-E	05-03-094	388-25-1030	NEW-P	05-06-086	388-71-0450	REP	05-11-082
388-14A-4180	NEW-P	05-05-082	388-25-1030	NEW-E	05-06-094	388-71-0455	REP-P	05-03-096
388-14A-4180	NEW	05-08-060	388-25-1030	NEW	05-11-016	388-71-0455	REP	05-11-082
388-14A-4304	AMD	05-07-087	388-25-1040	NEW-P	05-06-086	388-71-0460	REP-P	05-03-096
388-14A-5000	AMD-P	05-02-063	388-25-1040	NEW-E	05-06-094	388-71-0460	REP	05-11-082
388-14A-5000	AMD	05-06-014	388-25-1040	NEW	05-11-016	388-71-0465	REP-P	05-03-096
388-14A-5001	AMD-P	05-02-063	388-25-1050	NEW-P	05-06-086	388-71-0465	REP	05-11-082
388-14A-5001	AMD	05-06-014	388-25-1050	NEW-E	05-06-094	388-71-0470	REP-P	05-03-096
388-14A-5005	AMD-P	05-02-063	388-25-1050	NEW	05-11-016	388-71-0470	REP	05-11-082
388-14A-5005	AMD	05-06-014	388-71-0194	REP-P	05-03-096	388-71-0480	REP-P	05-03-096
388-14A-5008	AMD-P	05-02-063	388-71-0194	REP	05-11-082	388-71-0480	REP	05-11-082
388-14A-5008	AMD	05-06-014	388-71-0202	REP-P	05-03-096	388-71-0500	AMD-P	05-03-096
388-14A-5009	NEW-P	05-02-063	388-71-0202	REP	05-11-082	388-71-0500	AMD	05-11-082
388-14A-5009	NEW	05-06-014	388-71-0203	REP-P	05-03-096	388-71-0515	AMD-P	05-03-096
388-14A-5010	NEW-P	05-02-063	388-71-0203	REP	05-11-082	388-71-0515	AMD	05-11-082
388-14A-5010	NEW	05-06-014	388-71-0205	REP-P	05-03-096	388-71-0520	AMD-P	05-03-096
388-14A-6300	AMD-P	05-11-079	388-71-0205	REP	05-11-082	388-71-0520	AMD	05-11-082
388-14A-7100	AMD-P	05-03-095	388-71-0210	NEW-P	05-03-096	388-71-0540	AMD-P	05-03-096
388-14A-7100	AMD	05-07-059	388-71-0210	NEW	05-11-082	388-71-0540	AMD	05-11-082
388-14A-7110	NEW-E	05-03-095	388-71-0215	NEW-P	05-03-096	388-71-05832	NEW-P	05-03-096
388-14A-7110	NEW	05-07-059	388-71-0215	NEW	05-11-082	388-71-05832	NEW	05-11-082
388-14A-7115	NEW-E	05-03-095	388-71-0220	NEW-P	05-03-096	388-71-0600	REP-P	05-03-096
388-14A-7115	NEW	05-07-059	388-71-0220	NEW	05-11-082	388-71-0600	REP	05-11-082
388-14A-7117	NEW-E	05-03-095	388-71-0225	NEW-P	05-03-096	388-71-0605	REP-P	05-03-096
388-14A-7117	NEW	05-07-059	388-71-0225	NEW	05-11-082	388-71-0605	REP	05-11-082
388-14A-7120	NEW-E	05-03-095	388-71-0230	NEW-P	05-03-096	388-71-0610	REP-P	05-03-096
388-14A-7120	NEW	05-07-059	388-71-0230	NEW	05-11-082	388-71-0610	REP	05-11-082
388-14A-8100	AMD-E	05-07-034	388-71-0235	NEW-P	05-03-096	388-71-0613	REP-P	05-03-096
388-14A-8100	AMD-P	05-09-081	388-71-0235	NEW	05-11-082	388-71-0613	REP	05-11-082
388-14A-8100	AMD	05-12-135	388-71-0240	NEW-P	05-03-096	388-71-0615	REP-P	05-03-096
388-14A-8600	NEW-E	05-03-095	388-71-0240	NEW	05-11-082	388-71-0615	REP	05-11-082
388-14A-8600	NEW	05-07-059	388-71-0245	NEW-P	05-03-096	388-71-0620	REP-P	05-03-096
388-25-0225	AMD-P	05-03-082	388-71-0245	NEW	05-11-082	388-71-0620	REP	05-11-082
388-25-0225	AMD	05-06-091	388-71-0250	NEW-P	05-03-096	388-71-0700	REP-P	05-03-096
388-25-0225	AMD-E	05-06-093	388-71-0250	NEW	05-11-082	388-71-0700	REP	05-11-082
388-25-0226	NEW-P	05-03-082	388-71-0255	NEW-P	05-03-096	388-71-0704	AMD-P	05-03-096
388-25-0226	NEW	05-06-091	388-71-0255	NEW	05-11-082	388-71-0704	AMD	05-11-082
388-25-0226	NEW-E	05-06-093	388-71-0260	NEW-P	05-03-096	388-71-0706	AMD-P	05-03-096
388-25-0227	NEW-P	05-03-082	388-71-0260	NEW	05-11-082	388-71-0706	AMD	05-11-082
388-25-0227	NEW	05-06-091	388-71-0400	REP-P	05-03-096	388-71-0708	AMD-P	05-03-096
388-25-0227	NEW-E	05-06-093	388-71-0400	REP	05-11-082	388-71-0708	AMD	05-11-082
388-25-0228	NEW-P	05-03-082	388-71-0405	REP-P	05-03-096	388-71-0710	AMD-P	05-03-096
388-25-0228	NEW	05-06-091	388-71-0405	REP	05-11-082	388-71-0710	AMD	05-11-082
388-25-0228	NEW-E	05-06-093	388-71-0410	REP-P	05-03-096	388-71-0716	AMD-P	05-03-096
388-25-0229	NEW-P	05-03-082	388-71-0410	REP	05-11-082	388-71-0716	AMD	05-11-082
388-25-0229	NEW	05-06-091	388-71-0415	REP-P	05-03-096	388-71-0720	AMD-P	05-03-096
388-25-0229	NEW-E	05-06-093	388-71-0415	REP	05-11-082	388-71-0720	AMD	05-11-082
388-25-0230	REP-P	05-03-082	388-71-0420	REP-P	05-03-096	388-71-0734	AMD	05-02-064
388-25-0230	REP	05-06-091	388-71-0420	REP	05-11-082	388-71-0800	REP-P	05-03-096
388-25-0230	REP-E	05-06-093	388-71-0425	REP-P	05-03-096	388-71-0800	REP	05-11-082
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388- 71-0805	REP	05-11-082	388- 71-1065	REP	05-11-082	388- 72A-0065	REP	05-11-082
388- 71-0810	REP-P	05-03-096	388- 71-1070	REP-P	05-03-096	388- 72A-0069	REP-P	05-03-096
388- 71-0810	REP	05-11-082	388- 71-1070	REP	05-11-082	388- 72A-0069	REP	05-11-082
388- 71-0815	REP-P	05-03-096	388- 71-1075	REP-P	05-03-096	388- 72A-0070	REP-P	05-03-096
388- 71-0815	REP	05-11-082	388- 71-1075	REP	05-11-082	388- 72A-0070	REP	05-11-082
388- 71-0820	REP-P	05-03-096	388- 71-1080	REP-P	05-03-096	388- 72A-0080	REP-P	05-03-096
388- 71-0820	REP	05-11-082	388- 71-1080	REP	05-11-082	388- 72A-0080	REP	05-11-082
388- 71-0825	REP-P	05-03-096	388- 71-1085	REP-P	05-03-096	388- 72A-0081	REP-P	05-03-096
388- 71-0825	REP	05-11-082	388- 71-1085	REP	05-11-082	388- 72A-0081	REP	05-11-082
388- 71-0830	REP-P	05-03-096	388- 71-1090	REP-P	05-03-096	388- 72A-0082	REP-P	05-03-096
388- 71-0830	REP	05-11-082	388- 71-1090	REP	05-11-082	388- 72A-0082	REP	05-11-082
388- 71-0835	REP-P	05-03-096	388- 71-1095	REP-P	05-03-096	388- 72A-0083	REP-P	05-03-096
388- 71-0835	REP	05-11-082	388- 71-1095	REP	05-11-082	388- 72A-0083	REP	05-11-082
388- 71-0840	REP-P	05-03-096	388- 71-1100	REP-P	05-03-096	388- 72A-0084	REP-P	05-03-096
388- 71-0840	REP	05-11-082	388- 71-1100	REP	05-11-082	388- 72A-0084	REP	05-11-082
388- 71-0845	REP-P	05-03-096	388- 71-1105	REP-P	05-03-096	388- 72A-0085	REP-P	05-03-096
388- 71-0845	REP	05-11-082	388- 71-1105	REP	05-11-082	388- 72A-0085	REP	05-11-082
388- 71-0900	REP-P	05-03-096	388- 71-1110	REP-P	05-03-096	388- 72A-0086	REP-P	05-03-096
388- 71-0900	REP-W	05-11-071	388- 71-1110	REP	05-11-082	388- 72A-0086	REP	05-11-082
388- 71-0905	REP-P	05-03-096	388- 72A-0005	REP-P	05-03-096	388- 72A-0087	REP-P	05-03-096
388- 71-0905	REP-W	05-11-071	388- 72A-0005	REP	05-11-082	388- 72A-0087	REP	05-11-082
388- 71-0910	REP-P	05-03-096	388- 72A-0010	REP-P	05-03-096	388- 72A-0090	REP-P	05-03-096
388- 71-0910	REP-W	05-11-071	388- 72A-0010	REP	05-11-082	388- 72A-0090	REP	05-11-082
388- 71-0915	REP-P	05-03-096	388- 72A-0015	REP-P	05-03-096	388- 72A-0092	REP-P	05-03-096
388- 71-0915	REP-W	05-11-071	388- 72A-0015	REP	05-11-082	388- 72A-0092	REP	05-11-082
388- 71-0920	REP-P	05-03-096	388- 72A-0020	REP-P	05-03-096	388- 72A-0095	REP-P	05-03-096
388- 71-0920	REP-W	05-11-071	388- 72A-0020	REP	05-11-082	388- 72A-0095	REP	05-11-082
388- 71-0925	REP-P	05-03-096	388- 72A-0025	REP-P	05-03-096	388- 72A-0100	REP-P	05-03-096
388- 71-0925	REP-W	05-11-071	388- 72A-0025	REP	05-11-082	388- 72A-0100	REP	05-11-082
388- 71-0930	REP-P	05-03-096	388- 72A-0030	REP-P	05-03-096	388- 72A-0105	REP-P	05-03-096
388- 71-0930	REP-W	05-11-071	388- 72A-0030	REP	05-11-082	388- 72A-0105	REP	05-11-082
388- 71-0935	REP-P	05-03-096	388- 72A-0035	REP-P	05-03-096	388- 72A-0110	REP-P	05-03-096
388- 71-0935	REP-W	05-11-071	388- 72A-0035	REP	05-11-082	388- 72A-0110	REP	05-11-082
388- 71-0940	REP-P	05-03-096	388- 72A-0036	REP-P	05-03-096	388- 72A-0115	REP-P	05-03-096
388- 71-0940	REP-W	05-11-071	388- 72A-0036	REP	05-11-082	388- 72A-0115	REP	05-11-082
388- 71-0945	REP-P	05-03-096	388- 72A-0037	REP-P	05-03-096	388- 72A-0120	REP-P	05-03-096
388- 71-0945	REP-W	05-11-071	388- 72A-0037	REP	05-11-082	388- 72A-0120	REP	05-11-082
388- 71-0950	REP-P	05-03-096	388- 72A-0038	REP-P	05-03-096	388- 76-76505	AMD-P	05-04-058
388- 71-0950	REP-W	05-11-071	388- 72A-0038	REP	05-11-082	388- 76-76505	AMD	05-07-137
388- 71-0955	REP-P	05-03-096	388- 72A-0039	REP-P	05-03-096	388- 78A-2020	PREP	05-10-085
388- 71-0955	REP-W	05-11-071	388- 72A-0039	REP	05-11-082	388- 78A-2050	PREP	05-10-085
388- 71-0960	REP-P	05-03-096	388- 72A-0041	REP-P	05-03-096	388- 78A-2260	PREP	05-10-085
388- 71-0960	REP-W	05-11-071	388- 72A-0041	REP	05-11-082	388- 78A-2270	PREP	05-10-085
388- 71-0965	REP-P	05-03-096	388- 72A-0042	REP-P	05-03-096	388- 78A-2280	PREP	05-10-085
388- 71-0965	REP-W	05-11-071	388- 72A-0042	REP	05-11-082	388- 78A-2300	PREP	05-10-085
388- 71-1000	REP-P	05-03-096	388- 72A-0043	REP-P	05-03-096	388- 78A-2340	PREP	05-10-085
388- 71-1000	REP	05-11-082	388- 72A-0043	REP	05-11-082	388- 78A-2360	PREP	05-10-085
388- 71-1005	REP-P	05-03-096	388- 72A-0045	REP-P	05-03-096	388- 78A-2470	PREP	05-10-085
388- 71-1005	REP	05-11-082	388- 72A-0045	REP	05-11-082	388- 78A-2480	PREP	05-10-085
388- 71-1010	REP-P	05-03-096	388- 72A-0050	REP-P	05-03-096	388- 78A-2490	PREP	05-10-085
388- 71-1010	REP	05-11-082	388- 72A-0050	REP	05-11-082	388- 78A-2500	PREP	05-10-085
388- 71-1015	REP-P	05-03-096	388- 72A-0053	REP-P	05-03-096	388- 78A-2510	PREP	05-10-085
388- 71-1015	REP	05-11-082	388- 72A-0053	REP	05-11-082	388- 78A-2520	PREP	05-10-085
388- 71-1020	REP-P	05-03-096	388- 72A-0055	REP-P	05-03-096	388- 78A-2700	PREP	05-10-085
388- 71-1020	REP	05-11-082	388- 72A-0055	REP	05-11-082	388- 78A-2840	PREP	05-10-085
388- 71-1025	REP-P	05-03-096	388- 72A-0057	REP-P	05-03-096	388- 78A-2910	PREP	05-10-085
388- 71-1025	REP	05-11-082	388- 72A-0057	REP	05-11-082	388- 78A-2930	PREP	05-10-085
388- 71-1030	REP-P	05-03-096	388- 72A-0058	REP-P	05-03-096	388- 78A-2940	PREP	05-10-085
388- 71-1030	REP	05-11-082	388- 72A-0058	REP	05-11-082	388- 78A-2960	PREP	05-10-085
388- 71-1035	REP-P	05-03-096	388- 72A-0060	REP-P	05-03-096	388-101	PREP	05-07-132
388- 71-1035	REP	05-11-082	388- 72A-0060	REP	05-11-082	388-101-1010	RECOD	05-05-077
388- 71-1065	REP-P	05-03-096	388- 72A-0065	REP-P	05-03-096	388-101-1020	RECOD	05-05-077

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-101-1020	AMD-P	05-07-136	388-101-1800	RECOD	05-05-077	388-106-0005	NEW	05-11-082
388-101-1020	AMD	05-10-086	388-101-1810	RECOD	05-05-077	388-106-0010	NEW-P	05-03-096
388-101-1100	RECOD	05-05-077	388-101-1820	RECOD	05-05-077	388-106-0010	NEW	05-11-082
388-101-1180	RECOD	05-05-077	388-101-1830	RECOD	05-05-077	388-106-0015	NEW-P	05-03-096
388-101-1190	RECOD	05-05-077	388-101-1840	RECOD	05-05-077	388-106-0015	NEW	05-11-082
388-101-1200	RECOD	05-05-077	388-101-1850	RECOD	05-05-077	388-106-0020	NEW-P	05-03-096
388-101-1205	RECOD	05-07-138	388-101-1860	RECOD	05-05-077	388-106-0020	NEW	05-11-082
388-101-1210	RECOD	05-05-077	388-101-1870	RECOD	05-05-077	388-106-0025	NEW-P	05-03-096
388-101-1220	RECOD	05-05-077	388-101-1880	RECOD	05-05-077	388-106-0025	NEW	05-11-082
388-101-1220	AMD-P	05-07-136	388-101-1890	RECOD	05-05-077	388-106-0030	NEW-P	05-03-096
388-101-1220	AMD	05-10-086	388-101-1900	RECOD	05-05-077	388-106-0030	NEW	05-11-082
388-101-1230	RECOD	05-05-077	388-101-2000	RECOD	05-05-077	388-106-0035	NEW-P	05-03-096
388-101-1240	RECOD	05-05-077	388-101-2010	RECOD	05-05-077	388-106-0035	NEW	05-11-082
388-101-1250	RECOD	05-05-077	388-101-2020	RECOD	05-05-077	388-106-0040	NEW-P	05-03-096
388-101-1260	RECOD	05-05-077	388-101-2030	RECOD	05-05-077	388-106-0040	NEW	05-11-082
388-101-1260	AMD-P	05-07-136	388-101-2040	RECOD	05-05-077	388-106-0045	NEW-P	05-03-096
388-101-1260	AMD	05-10-086	388-101-2050	RECOD	05-05-077	388-106-0045	NEW	05-11-082
388-101-1400	RECOD	05-05-077	388-101-2060	RECOD	05-05-077	388-106-0050	NEW-P	05-03-096
388-101-1400	AMD-P	05-07-136	388-101-2070	RECOD	05-05-077	388-106-0050	NEW	05-11-082
388-101-1400	AMD	05-10-086	388-101-2080	RECOD	05-05-077	388-106-0055	NEW-P	05-03-096
388-101-1410	RECOD	05-05-077	388-101-2090	RECOD	05-05-077	388-106-0055	NEW	05-11-082
388-101-1420	RECOD	05-05-077	388-101-2100	RECOD	05-05-077	388-106-0060	NEW-P	05-03-096
388-101-1420	AMD-P	05-07-136	388-101-2110	RECOD	05-05-077	388-106-0060	NEW	05-11-082
388-101-1420	AMD	05-10-086	388-101-2120	RECOD	05-05-077	388-106-0065	NEW-P	05-03-096
388-101-1430	RECOD	05-05-077	388-101-2130	RECOD	05-05-077	388-106-0065	NEW	05-11-082
388-101-1440	RECOD	05-05-077	388-101-2140	RECOD	05-05-077	388-106-0070	NEW-P	05-03-096
388-101-1460	RECOD	05-05-077	388-101-2150	RECOD	05-05-077	388-106-0070	NEW	05-11-082
388-101-1470	RECOD	05-05-077	388-101-2150	AMD-P	05-07-136	388-106-0075	NEW-P	05-03-096
388-101-1470	AMD-P	05-07-136	388-101-2150	AMD	05-10-086	388-106-0075	NEW	05-11-082
388-101-1470	AMD	05-10-086	388-101-2160	RECOD	05-05-077	388-106-0080	NEW-P	05-03-096
388-101-1480	RECOD	05-05-077	388-101-2300	RECOD	05-05-077	388-106-0080	NEW	05-11-082
388-101-1490	RECOD	05-05-077	388-101-2310	RECOD	05-05-077	388-106-0085	NEW-P	05-03-096
388-101-1500	RECOD	05-05-077	388-101-2310	AMD-P	05-07-136	388-106-0085	NEW	05-11-082
388-101-1510	RECOD	05-05-077	388-101-2310	DECOD	05-07-138	388-106-0090	NEW-P	05-03-096
388-101-1520	RECOD	05-05-077	388-101-2320	RECOD	05-05-077	388-106-0090	NEW	05-11-082
388-101-1530	RECOD	05-05-077	388-101-2320	DECOD	05-07-138	388-106-0095	NEW-P	05-03-096
388-101-1540	RECOD	05-05-077	388-101-2330	RECOD	05-05-077	388-106-0095	NEW	05-11-082
388-101-1550	RECOD	05-05-077	388-101-2340	RECOD	05-05-077	388-106-0100	NEW-P	05-03-096
388-101-1600	RECOD	05-05-077	388-101-2350	RECOD	05-05-077	388-106-0100	NEW	05-11-082
388-101-1610	RECOD	05-05-077	388-101-2360	RECOD	05-05-077	388-106-0105	NEW-P	05-03-096
388-101-1620	RECOD	05-05-077	388-101-2370	RECOD	05-05-077	388-106-0105	NEW	05-11-082
388-101-1630	RECOD	05-05-077	388-101-2380	RECOD	05-05-077	388-106-0110	NEW-P	05-03-096
388-101-1640	RECOD	05-05-077	388-101-2400	RECOD	05-07-138	388-106-0110	NEW	05-11-082
388-101-1650	RECOD	05-05-077	388-101-2410	RECOD	05-07-138	388-106-0115	NEW-P	05-03-096
388-101-1660	RECOD	05-05-077	388-101-2410	AMD	05-10-086	388-106-0115	NEW	05-11-082
388-101-1670	RECOD	05-05-077	388-101-2420	RECOD	05-07-138	388-106-0120	NEW-P	05-03-096
388-101-1670	AMD-P	05-07-136	388-101-2430	RECOD	05-07-138	388-106-0120	NEW	05-11-082
388-101-1670	AMD	05-10-086	388-101-2440	RECOD	05-07-138	388-106-0125	NEW-P	05-03-096
388-101-1680	RECOD	05-05-077	388-101-2450	RECOD	05-07-138	388-106-0125	NEW	05-11-082
388-101-1690	RECOD	05-05-077	388-101-2460	RECOD	05-07-138	388-106-0130	NEW-P	05-03-096
388-101-1700	RECOD	05-05-077	388-101-2470	RECOD	05-07-138	388-106-0130	NEW	05-11-082
388-101-1710	RECOD	05-05-077	388-101-2480	RECOD	05-07-138	388-106-0135	NEW-P	05-03-096
388-101-1720	RECOD	05-05-077	388-101-2490	RECOD	05-07-138	388-106-0135	NEW	05-11-082
388-101-1730	RECOD	05-05-077	388-101-2500	RECOD	05-07-138	388-106-0140	NEW-P	05-03-096
388-101-1740	RECOD	05-05-077	388-101-2510	RECOD	05-07-138	388-106-0140	NEW	05-11-082
388-101-1750	RECOD	05-05-077	388-101-2520	RECOD	05-07-138	388-106-0200	NEW-P	05-03-096
388-101-1750	AMD-P	05-07-136	388-101-2530	RECOD	05-07-138	388-106-0200	NEW	05-11-082
388-101-1750	AMD	05-10-086	388-101-2540	RECOD	05-07-138	388-106-0210	NEW-P	05-03-096
388-101-1760	RECOD	05-05-077	388-106	PREP	05-05-080	388-106-0210	NEW	05-11-082
388-101-1770	RECOD	05-05-077	388-106	PREP	05-06-082	388-106-0213	NEW-P	05-03-096
388-101-1780	RECOD	05-05-077	388-106	PREP	05-06-083	388-106-0213	NEW	05-11-082
388-101-1790	RECOD	05-05-077	388-106-0005	NEW-P	05-03-096	388-106-0220	NEW-P	05-03-096

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-106-0220	NEW	05-11-082	388-106-0615	NEW	05-11-082	388-106-1105	NEW	05-11-082
388-106-0225	NEW-P	05-03-096	388-106-0620	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096
388-106-0225	NEW	05-11-082	388-106-0620	NEW	05-11-082	388-106-1110	NEW	05-11-082
388-106-0230	NEW-P	05-03-096	388-106-0625	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096
388-106-0230	NEW	05-11-082	388-106-0625	NEW	05-11-082	388-106-1115	NEW	05-11-082
388-106-0235	NEW-P	05-03-096	388-106-0630	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096
388-106-0235	NEW	05-11-082	388-106-0630	NEW	05-11-082	388-106-1120	NEW	05-11-082
388-106-0300	NEW-P	05-03-096	388-106-0650	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096
388-106-0300	NEW	05-11-082	388-106-0650	NEW	05-11-082	388-106-1200	NEW	05-11-082
388-106-0305	NEW-P	05-03-096	388-106-0655	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096
388-106-0305	NEW	05-11-082	388-106-0655	NEW	05-11-082	388-106-1205	NEW	05-11-082
388-106-0310	NEW-P	05-03-096	388-106-0700	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096
388-106-0310	NEW	05-11-082	388-106-0700	NEW	05-11-082	388-106-1210	NEW	05-11-082
388-106-0315	NEW-P	05-03-096	388-106-0705	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096
388-106-0315	NEW	05-11-082	388-106-0705	NEW	05-11-082	388-106-1215	NEW	05-11-082
388-106-0320	NEW-P	05-03-096	388-106-0710	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096
388-106-0320	NEW	05-11-082	388-106-0710	NEW	05-11-082	388-106-1220	NEW	05-11-082
388-106-0325	NEW-P	05-03-096	388-106-0715	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096
388-106-0325	NEW	05-11-082	388-106-0715	NEW	05-11-082	388-106-1225	NEW	05-11-082
388-106-0330	NEW-P	05-03-096	388-106-0800	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096
388-106-0330	NEW	05-11-082	388-106-0800	NEW	05-11-082	388-106-1230	NEW	05-11-082
388-106-0335	NEW-P	05-03-096	388-106-0805	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096
388-106-0335	NEW	05-11-082	388-106-0805	NEW	05-11-082	388-106-1300	NEW	05-11-082
388-106-0350	NEW-P	05-03-096	388-106-0810	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096
388-106-0350	NEW	05-11-082	388-106-0810	NEW	05-11-082	388-106-1305	NEW	05-11-082
388-106-0355	NEW-P	05-03-096	388-106-0815	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096
388-106-0355	NEW	05-11-082	388-106-0815	NEW	05-11-082	388-106-1310	NEW	05-11-082
388-106-0360	NEW-P	05-03-096	388-106-0900	NEW-P	05-03-096	388-145-0100	AMD-P	05-07-134
388-106-0360	NEW	05-11-082	388-106-0900	NEW	05-11-082	388-145-0100	AMD	05-11-008
388-106-0400	NEW-P	05-03-096	388-106-0905	NEW-P	05-03-096	388-145-0230	AMD-P	05-07-134
388-106-0400	NEW	05-11-082	388-106-0905	NEW	05-11-082	388-145-0230	AMD	05-11-008
388-106-0410	NEW-P	05-03-096	388-106-0950	NEW-P	05-03-096	388-160-0075	AMD-P	05-09-079
388-106-0410	NEW	05-11-082	388-106-0950	NEW	05-11-082	388-160-0195	AMD-P	05-09-079
388-106-0415	NEW-P	05-03-096	388-106-0955	NEW-P	05-03-096	388-273-0035	AMD-E	05-06-024
388-106-0415	NEW	05-11-082	388-106-0955	NEW	05-11-082	388-273-0035	PREP	05-06-077
388-106-0420	NEW-P	05-03-096	388-106-1000	NEW-P	05-03-096	388-273-0035	AMD-P	05-12-133
388-106-0420	NEW	05-11-082	388-106-1000	NEW-W	05-11-071	388-290-0010	PREP	05-06-078
388-106-0425	NEW-P	05-03-096	388-106-1005	NEW-P	05-03-096	388-290-0025	PREP	05-06-078
388-106-0425	NEW	05-11-082	388-106-1005	NEW-W	05-11-071	388-290-0075	PREP	05-06-078
388-106-0430	NEW-P	05-03-096	388-106-1010	NEW-P	05-03-096	388-290-0095	PREP	05-06-078
388-106-0430	NEW	05-11-082	388-106-1010	NEW-W	05-11-071	388-290-0100	PREP	05-06-078
388-106-0435	NEW-P	05-03-096	388-106-1015	NEW-P	05-03-096	388-290-0105	PREP	05-06-078
388-106-0435	NEW	05-11-082	388-106-1015	NEW-W	05-11-071	388-290-0110	PREP	05-06-078
388-106-0500	NEW-P	05-03-096	388-106-1020	NEW-P	05-03-096	388-290-0120	PREP	05-06-078
388-106-0500	NEW	05-11-082	388-106-1020	NEW-W	05-11-071	388-290-0200	AMD-E	05-05-024
388-106-0510	NEW-P	05-03-096	388-106-1025	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024
388-106-0510	NEW	05-11-082	388-106-1025	NEW-W	05-11-071	388-295	PREP	05-08-059
388-106-0515	NEW-P	05-03-096	388-106-1030	NEW-P	05-03-096	388-296	PREP	05-07-131
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388-106-0520	NEW	05-11-082	388-106-1035	NEW-W	05-11-071	388-310-1400	AMD-P	05-08-121
388-106-0525	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096	388-400	PREP	05-08-091
388-106-0525	NEW	05-11-082	388-106-1040	NEW-W	05-11-071	388-400-0005	AMD-P	05-09-083
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388-823-0850	NEW	05-12-130	388-824-0230	NEW-P	05-09-084	388-825-130	NEW-E	05-07-075
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388-823-0900	NEW	05-12-130	388-824-0250	NEW-P	05-09-084	388-825-140	NEW-E	05-07-075
388-823-0910	NEW-P	05-04-057	388-824-0260	NEW-P	05-09-084	388-825-145	NEW-E	05-07-075
388-823-0910	NEW	05-12-130	388-824-0270	NEW-P	05-09-084	388-825-150	NEW-E	05-07-075
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388-823-0930	NEW	05-12-130	388-824-0310	NEW-P	05-09-084	388-825-170	REP-E	05-07-075
388-823-0940	NEW-P	05-04-057	388-824-0320	NEW-P	05-09-084	388-825-180	REP-E	05-07-075
388-823-0940	NEW	05-12-130	388-824-0330	NEW-P	05-09-084	388-825-190	REP-E	05-07-075
388-823-1000	NEW-P	05-04-057	388-825-030	REP-P	05-04-057	388-825-260	REP-E	05-07-075
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388-823-1005	NEW	05-12-130	388-825-035	REP-P	05-04-057	388-825-266	REP-E	05-07-075
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388-823-1030	NEW	05-12-130	388-825-060	REP-E	05-09-019	388-825-284	REP-E	05-07-075
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388-823-1040	NEW	05-12-130	388-825-064	REP-P	05-05-084	388-825-305	NEW-E	05-07-075
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434-333-125	REP-P	05-05-034	434-335-160	NEW-P	05-05-034	446-20-630	AMD	05-07-157
434-333-127	REP-P	05-05-034	434-335-170	NEW-P	05-05-034	446-65-010	AMD	05-04-002
434-333-130	AMD-E	05-05-033	434-335-180	NEW-P	05-05-034	456-09-001	NEW-P	05-09-125
434-333-130	REP-P	05-05-034	434-335-190	NEW-P	05-05-034	456-09-010	AMD-P	05-09-125
434-333-135	AMD-E	05-05-033	434-335-200	NEW-P	05-05-034	456-09-110	AMD-P	05-09-125
434-333-135	REP-P	05-05-034	434-335-210	NEW-P	05-05-034	456-09-120	AMD-P	05-09-125
434-333-140	AMD-E	05-05-033	434-335-220	NEW-P	05-05-034	456-09-130	AMD-P	05-09-125
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456-09-170	REP-P	05-09-125	456-09-930	AMD-P	05-09-125	458-12-342	PREP	05-06-017
456-09-210	AMD-P	05-09-125	456-09-935	REP-P	05-09-125	458-12-342	AMD-P	05-11-007
456-09-215	NEW-P	05-09-125	456-09-940	REP-P	05-09-125	458-16-1000	NEW-E	05-04-047
456-09-220	AMD-P	05-09-125	456-09-945	REP-P	05-09-125	458-16-1000	NEW-P	05-05-063
456-09-300	NEW-P	05-09-125	456-09-950	REP-P	05-09-125	458-16-1000	NEW-S	05-12-101
456-09-310	AMD-P	05-09-125	456-09-955	AMD-P	05-09-125	458-16-1000	NEW-E	05-12-102
456-09-315	AMD-P	05-09-125	456-09-960	AMD-P	05-09-125	458-20-100	PREP	05-07-156
456-09-320	REP-P	05-09-125	456-10-001	NEW-P	05-09-125	458-20-141	AMD	05-03-053
456-09-325	AMD-P	05-09-125	456-10-010	AMD-P	05-09-125	458-20-144	AMD	05-03-052
456-09-330	AMD-P	05-09-125	456-10-110	AMD-P	05-09-125	458-20-168	AMD-P	05-06-019
456-09-335	AMD-P	05-09-125	456-10-120	AMD-P	05-09-125	458-20-173	PREP	05-12-138
456-09-340	AMD-P	05-09-125	456-10-130	REP-P	05-09-125	458-20-177	AMD-P	05-06-018
456-09-345	AMD-P	05-09-125	456-10-140	AMD-P	05-09-125	458-20-17803	NEW	05-03-051
456-09-350	REP-P	05-09-125	456-10-150	AMD-P	05-09-125	458-20-190	AMD	05-03-002
456-09-355	REP-P	05-09-125	456-10-160	AMD-P	05-09-125	458-20-191	REP	05-03-002
456-09-365	REP-P	05-09-125	456-10-170	REP-P	05-09-125	458-20-193	PREP	05-11-096
456-09-410	REP-P	05-09-125	456-10-180	REP-P	05-09-125	458-20-193C	PREP	05-11-096
456-09-420	REP-P	05-09-125	456-10-210	AMD-P	05-09-125	458-20-194	PREP	05-06-124
456-09-430	REP-P	05-09-125	456-10-215	NEW-P	05-09-125	458-20-196	AMD	05-04-048
456-09-440	REP-P	05-09-125	456-10-220	AMD-P	05-09-125	458-20-198	AMD	05-04-048
456-09-510	AMD-P	05-09-125	456-10-300	NEW-P	05-09-125	458-20-216	AMD-P	05-09-032
456-09-520	AMD-P	05-09-125	456-10-310	AMD-P	05-09-125	458-20-229	PREP	05-12-137
456-09-530	AMD-P	05-09-125	456-10-315	AMD-P	05-09-125	458-20-24001	PREP	05-05-061
456-09-540	AMD-P	05-09-125	456-10-320	REP-P	05-09-125	458-20-24001A	PREP	05-05-061
456-09-545	NEW-P	05-09-125	456-10-325	AMD-P	05-09-125	458-20-24003	PREP	05-05-062
456-09-550	AMD-P	05-09-125	456-10-330	AMD-P	05-09-125	458-20-261	PREP	05-08-118
456-09-552	NEW-P	05-09-125	456-10-335	AMD-P	05-09-125	458-20-267	NEW-E	05-03-016
456-09-555	NEW-P	05-09-125	456-10-340	REP-P	05-09-125	458-20-268	NEW-E	05-03-017
456-09-560	AMD-P	05-09-125	456-10-345	REP-P	05-09-125	458-20-268	PREP	05-09-121
456-09-565	NEW-P	05-09-125	456-10-355	REP-P	05-09-125	458-20-268	NEW-E	05-11-020
456-09-570	AMD-P	05-09-125	456-10-360	REP-P	05-09-125	458-20-99999	REP	05-03-002
456-09-575	NEW-P	05-09-125	456-10-410	AMD-P	05-09-125	458-40-610	AMD	05-08-070
456-09-610	REP-P	05-09-125	456-10-420	REP-P	05-09-125	458-40-660	PREP	05-06-059
456-09-615	REP-P	05-09-125	456-10-430	REP-P	05-09-125	458-40-660	AMD-P	05-11-052
456-09-620	REP-P	05-09-125	456-10-440	REP-P	05-09-125	458-40-680	AMD	05-08-070
456-09-625	REP-P	05-09-125	456-10-500	NEW-P	05-09-125	458-61	PREP	05-12-100
456-09-635	REP-P	05-09-125	456-10-501	NEW-P	05-09-125	460-24A-105	PREP	05-03-104
456-09-640	REP-P	05-09-125	456-10-503	NEW-P	05-09-125	463-60-382	RECOD-W	05-03-087
456-09-645	REP-P	05-09-125	456-10-505	AMD-P	05-09-125	463-60-385	RECOD-W	05-03-087
456-09-650	REP-P	05-09-125	456-10-507	NEW-P	05-09-125	463-60-435	RECOD-W	05-03-087
456-09-655	REP-P	05-09-125	456-10-510	AMD-P	05-09-125	463-60-525	RECOD-W	05-03-087
456-09-705	REP-P	05-09-125	456-10-515	AMD-P	05-09-125	463-60-625	RECOD-W	05-03-087
456-09-710	REP-P	05-09-125	456-10-525	REP-P	05-09-125	463-60-645	RECOD-W	05-03-087
456-09-715	REP-P	05-09-125	456-10-530	AMD-P	05-09-125	463-60-655	RECOD-W	05-03-087
456-09-720	REP-P	05-09-125	456-10-535	REP-P	05-09-125	463-60-665	RECOD-W	05-03-087
456-09-725	REP-P	05-09-125	456-10-540	AMD-P	05-09-125	463-60-675	RECOD-W	05-03-087
456-09-730	REP-P	05-09-125	456-10-545	AMD-P	05-09-125	463-60-680	RECOD-W	05-03-087
456-09-732	REP-P	05-09-125	456-10-547	AMD-P	05-09-125	463-60-685	RECOD-W	05-03-087
456-09-735	REP-P	05-09-125	456-10-550	AMD-P	05-09-125	463-60-690	RECOD-W	05-03-087
456-09-740	AMD-P	05-09-125	456-10-555	AMD-P	05-09-125	463-64-060	NEW-W	05-03-087
456-09-742	AMD-P	05-09-125	456-10-560	AMD-P	05-09-125	463-66-010	RECOD-W	05-03-087
456-09-745	AMD-P	05-09-125	456-10-565	AMD-P	05-09-125	463-70-080	RECOD-W	05-03-087
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456-09-755	AMD-P	05-09-125	456-10-710	AMD-P	05-09-125	463-76-030	RECOD-W	05-03-087
456-09-760	REP-P	05-09-125	456-10-720	REP-P	05-09-125	463-76-040	RECOD-W	05-03-087
456-09-765	AMD-P	05-09-125	456-10-725	AMD-P	05-09-125	463-76-050	RECOD-W	05-03-087
456-09-770	REP-P	05-09-125	456-10-730	AMD-P	05-09-125	463-76-060	RECOD-W	05-03-087
456-09-775	REP-P	05-09-125	456-10-735	REP-P	05-09-125	468-38	AMD	05-04-053
456-09-910	AMD-P	05-09-125	456-10-740	REP-P	05-09-125	468-38-001	NEW	05-04-053
456-09-915	AMD-P	05-09-125	456-10-745	REP-P	05-09-125	468-38-005	NEW	05-04-053
456-09-920	AMD-P	05-09-125	456-10-750	REP-P	05-09-125	468-38-010	REP	05-04-053

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468-38-030	AMD	05-04-053	478-118-020	AMD-P	05-03-071	480-73-999	NEW	05-06-051
468-38-040	REP	05-04-053	478-118-020	AMD	05-08-017	480-75-240	AMD-P	05-09-122
468-38-050	AMD	05-04-053	478-118-045	NEW-P	05-03-071	480-80-123	AMD	05-03-031
468-38-060	REP	05-04-053	478-118-045	NEW	05-08-017	480-80-204	AMD	05-03-031
468-38-070	AMD	05-04-053	478-118-050	AMD-P	05-03-071	480-80-206	AMD	05-03-031
468-38-071	AMD	05-04-053	478-118-050	AMD	05-08-017	480-90-008	AMD	05-06-051
468-38-073	NEW-P	05-07-085	478-118-055	NEW-P	05-03-071	480-90-023	AMD	05-06-051
468-38-073	NEW	05-12-002	478-118-055	NEW	05-08-017	480-90-207	NEW	05-06-051
468-38-075	AMD	05-04-053	478-118-060	AMD-P	05-03-071	480-90-207	AMD-S	05-10-099
468-38-080	AMD	05-04-053	478-118-060	AMD	05-08-017	480-90-208	REP	05-06-051
468-38-095	NEW	05-04-053	478-118-080	AMD-P	05-03-071	480-90-209	NEW	05-06-051
468-38-100	AMD	05-04-053	478-118-080	AMD	05-08-017	480-90-218	REP	05-06-051
468-38-110	REP	05-04-053	478-118-100	AMD-P	05-03-071	480-90-242	NEW-S	05-10-099
468-38-120	AMD	05-04-053	478-118-100	AMD	05-08-017	480-90-244	NEW	05-06-051
468-38-130	REP	05-04-053	478-118-200	AMD-P	05-03-071	480-90-245	NEW	05-06-051
468-38-135	REP	05-04-053	478-118-200	AMD	05-08-017	480-90-248	NEW	05-06-051
468-38-140	REP	05-04-053	478-118-210	AMD-P	05-03-071	480-90-248	AMD-S	05-10-099
468-38-155	NEW	05-04-053	478-118-210	AMD	05-08-017	480-90-252	NEW	05-06-051
468-38-160	REP	05-04-053	478-118-270	AMD-P	05-03-071	480-90-257	NEW	05-06-051
468-38-175	NEW	05-04-053	478-118-270	AMD	05-08-017	480-90-262	NEW-S	05-10-099
468-38-180	REP	05-04-053	478-118-290	NEW-P	05-03-071	480-90-264	NEW	05-06-051
468-38-190	REP	05-04-053	478-118-290	NEW	05-08-017	480-90-268	NEW	05-06-051
468-38-200	REP	05-04-053	478-118-300	NEW-P	05-03-071	480-90-275	NEW	05-06-051
468-38-220	REP	05-04-053	478-118-300	NEW	05-08-017	480-90-999	AMD	05-06-051
468-38-230	REP	05-04-053	478-118-400	AMD-P	05-03-071	480-92-016	AMD	05-06-051
468-38-235	REP	05-04-053	478-118-400	AMD	05-08-017	480-92-021	AMD	05-06-051
468-38-240	REP	05-04-053	478-118-410	AMD-P	05-03-071	480-92-050	AMD	05-06-051
468-38-250	REP	05-04-053	478-118-410	AMD	05-08-017	480-92-055	NEW	05-06-051
468-38-260	REP	05-04-053	478-118-420	AMD-P	05-03-071	480-93	AMD-C	05-06-064
468-38-270	AMD-P	05-08-016	478-118-420	AMD	05-08-017	480-93-002	REP-S	05-02-096
468-38-270	AMD	05-12-001	478-118-510	REP-P	05-03-071	480-93-002	REP	05-10-055
468-38-280	AMD	05-04-053	478-118-510	REP	05-08-017	480-93-005	AMD-S	05-02-096
468-38-290	AMD	05-04-053	478-137	PREP	05-11-011	480-93-005	AMD	05-10-055
468-38-300	REP	05-04-053	478-250-050	AMD	05-08-064	480-93-007	NEW-S	05-02-096
468-38-310	REP	05-04-053	478-250-060	AMD	05-08-064	480-93-007	NEW	05-10-055
468-38-320	REP	05-04-053	479-12-150	AMD	05-05-004	480-93-008	NEW-S	05-02-096
468-38-330	REP	05-04-053	479-14-180	AMD	05-05-004	480-93-008	NEW	05-10-055
468-38-340	REP	05-04-053	480-60-035	PREP-W	05-07-007	480-93-009	NEW-S	05-02-096
468-38-350	REP	05-04-053	480-62-218	NEW-W	05-04-008	480-93-009	NEW	05-10-055
468-38-360	AMD	05-04-053	480-70-041	AMD	05-06-051	480-93-010	REP-S	05-02-096
468-38-390	REP	05-04-053	480-70-051	AMD	05-06-051	480-93-010	REP	05-10-055
468-38-405	AMD	05-04-053	480-70-077	NEW	05-06-051	480-93-012	NEW-S	05-02-096
468-38-420	AMD	05-04-053	480-70-078	NEW	05-06-051	480-93-012	NEW	05-10-055
468-300-010	AMD-P	05-05-058	480-70-079	NEW	05-06-051	480-93-013	NEW	05-10-055
468-300-010	AMD-S	05-07-159	480-73-010	NEW	05-06-051	480-93-015	AMD-S	05-02-096
468-300-010	AMD	05-10-041	480-73-020	NEW	05-06-051	480-93-015	AMD	05-10-055
468-300-020	AMD-P	05-05-058	480-73-030	NEW	05-06-051	480-93-017	AMD-S	05-02-096
468-300-020	AMD-S	05-07-159	480-73-040	NEW	05-06-051	480-93-017	AMD	05-10-055
468-300-020	AMD	05-10-041	480-73-050	NEW	05-06-051	480-93-018	AMD-S	05-02-096
468-300-040	AMD-P	05-05-058	480-73-060	NEW	05-06-051	480-93-018	AMD	05-10-055
468-300-040	AMD-S	05-07-159	480-73-110	NEW	05-06-051	480-93-020	AMD-S	05-02-096
468-300-040	AMD	05-10-041	480-73-110	AMD-S	05-10-099	480-93-020	AMD	05-10-055
468-300-220	AMD-P	05-05-058	480-73-120	NEW	05-06-051	480-93-030	REP-S	05-02-096
468-300-220	AMD-S	05-07-159	480-73-130	NEW	05-06-051	480-93-030	REP	05-10-055
468-300-220	AMD	05-10-041	480-73-140	NEW	05-06-051	480-93-040	AMD-S	05-02-096
478-04-030	AMD	05-08-064	480-73-150	NEW	05-06-051	480-93-040	AMD	05-10-055
478-116-145	AMD	05-08-064	480-73-160	NEW	05-06-051	480-93-080	AMD-S	05-02-096
478-116-161	AMD	05-08-064	480-73-170	NEW-S	05-10-099	480-93-080	AMD	05-10-055
478-116-311	AMD	05-08-064	480-73-180	NEW	05-06-051	480-93-082	REP-S	05-02-096
478-116-431	AMD	05-08-064	480-73-190	NEW	05-06-051	480-93-082	REP	05-10-055
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480-93-110	AMD-S	05-02-096	480-100-207	AMD-S	05-10-099	480-120-015	AMD	05-06-051
480-93-110	AMD	05-10-055	480-100-208	REP	05-06-051	480-120-021	AMD	05-03-031
480-93-111	REP-S	05-02-096	480-100-209	NEW	05-06-051	480-120-034	NEW	05-03-031
480-93-111	REP	05-10-055	480-100-218	REP	05-06-051	480-120-112	AMD	05-03-031
480-93-112	REP-S	05-02-096	480-100-242	NEW-S	05-10-099	480-120-122	AMD	05-03-031
480-93-112	REP	05-10-055	480-100-244	NEW	05-06-051	480-120-128	AMD	05-03-031
480-93-115	AMD-S	05-02-096	480-100-245	NEW	05-06-051	480-120-147	AMD	05-03-031
480-93-115	AMD	05-10-055	480-100-248	NEW	05-06-051	480-120-161	AMD	05-03-031
480-93-120	REP-S	05-02-096	480-100-248	AMD-S	05-10-099	480-120-166	AMD	05-03-031
480-93-120	REP	05-10-055	480-100-252	NEW	05-06-051	480-120-172	AMD	05-03-031
480-93-124	AMD-S	05-02-096	480-100-257	NEW	05-06-051	480-120-173	AMD	05-03-031
480-93-124	AMD	05-10-055	480-100-262	NEW-S	05-10-099	480-120-174	AMD	05-03-031
480-93-130	AMD-S	05-02-096	480-100-264	NEW	05-06-051	480-120-196	AMD	05-03-031
480-93-130	AMD	05-10-055	480-100-268	NEW	05-06-051	480-120-201	REP	05-03-031
480-93-140	AMD-S	05-02-096	480-100-275	NEW	05-06-051	480-120-202	NEW	05-03-031
480-93-140	AMD	05-10-055	480-100-282	NEW-S	05-10-099	480-120-203	REP	05-03-031
480-93-150	REP-S	05-02-096	480-100-287	NEW-S	05-10-099	480-120-204	REP	05-03-031
480-93-150	REP	05-10-055	480-100-999	AMD	05-06-051	480-120-205	REP	05-03-031
480-93-155	AMD-S	05-02-096	480-110-205	AMD-P	05-04-063	480-120-206	REP	05-03-031
480-93-155	AMD	05-10-055	480-110-205	AMD	05-06-051	480-120-207	REP	05-03-031
480-93-160	AMD-S	05-02-096	480-110-205	AMD	05-08-099	480-120-208	REP	05-03-031
480-93-160	AMD	05-10-055	480-110-215	AMD	05-06-051	480-120-209	REP	05-03-031
480-93-170	AMD-S	05-02-096	480-110-225	AMD	05-06-051	480-120-211	REP	05-03-031
480-93-170	AMD	05-10-055	480-110-227	NEW	05-06-051	480-120-212	REP	05-03-031
480-93-175	AMD-S	05-02-096	480-110-235	AMD	05-06-051	480-120-213	REP	05-03-031
480-93-175	AMD	05-10-055	480-110-245	AMD	05-06-051	480-120-214	REP	05-03-031
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480-93-178	NEW	05-10-055	480-110-255	AMD	05-08-099	480-120-216	REP	05-03-031
480-93-180	AMD-S	05-02-096	480-110-261	NEW	05-06-051	480-120-216	REP	05-03-031
480-93-180	AMD	05-10-055	480-110-265	REP	05-06-051	480-120-253	AMD	05-03-031
480-93-183	REP-S	05-02-096	480-110-275	REP	05-06-051	480-120-262	AMD	05-03-031
480-93-183	REP	05-10-055	480-110-275	REP	05-06-051	480-120-301	REP	05-06-051
480-93-184	REP-S	05-02-096	480-110-285	REP	05-06-051	480-120-302	REP	05-03-031
480-93-184	REP	05-10-055	480-110-295	REP	05-06-051	480-120-303	REP	05-06-051
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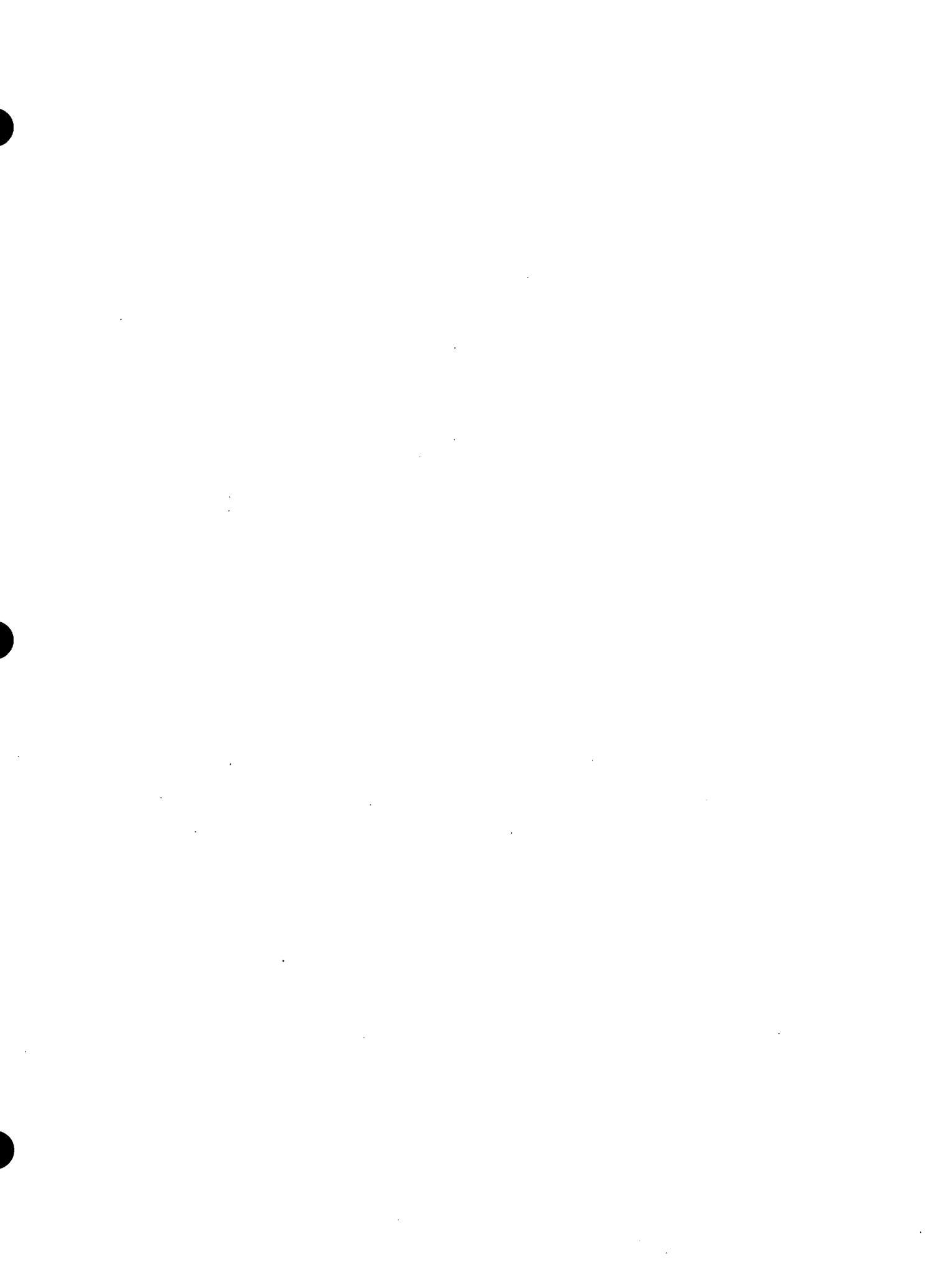
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