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OLYMPIA, WASHINGTON

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCA 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of April 1991 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1991 pursuant to RCW 63.14.130(1)(a) is thirteen point seven five percent (13.75%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve point two five percent (12.25%) for the second calendar quarter of 1991.

The maximum allowable retail installment contract service charge for the purchase of a vessel pursuant to RCW 63.14.130(3)(a) is twelve point zero percent (12.0%) for the second calendar quarter of 1991.

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.

Raymond W. Haman
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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.05 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and are set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** have been adopted on an emergency basis and are set forth in ten point oblique type.

3. 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 and bracketed 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.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA 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.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty 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.

6. 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].

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1990 – 1991

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing on or after
90-14	Jun 7	Jun 21	Jul 5	Jul 18	Aug 7
90-15	Jun 20	Jul 5	Jul 18	Aug 1	Aug 21
90-16	Jul 5	Jul 18	Aug 1	Aug 15	Sep 4
90-17	Jul 25	Aug 8	Aug 22	Sep 5	Sep 25
90-18	Aug 8	Aug 22	Sep 5	Sep 19	Oct 9
90-19	Aug 22	Sep 5	Sep 19	Oct 3	Oct 23
90-20	Sep 5	Sep 19	Oct 3	Oct 17	Nov 6
90-21	Sep 26	Oct 10	Oct 24	Nov 7	Nov 27
90-22	Oct 10	Oct 24	Nov 7	Nov 21	Dec 11
90-23	Oct 24	Nov 7	Nov 21	Dec 5	Dec 25
90-24	Nov 7	Nov 21	Dec 5	Dec 19	Jan 8, 1991
<hr/>					
91-01	Nov 21	Dec 5	Dec 19, 1990	Jan 2, 1991	Jan 22
91-02	Dec 5	Dec 19, 1990	Jan 2, 1991	Jan 16	Feb 5
91-03	Dec 26, 1990	Jan 9, 1991	Jan 23	Feb 6	Feb 26
91-04	Jan 9	Jan 23	Feb 6	Feb 20	Mar 12
91-05	Jan 23	Feb 6	Feb 20	Mar 6	Mar 26
91-06	Feb 6	Feb 20	Mar 6	Mar 20	Apr 9
91-07	Feb 20	Mar 6	Mar 20	Apr 3	Apr 23
91-08	Mar 6	Mar 20	Apr 3	Apr 17	May 7
91-09	Mar 20	Apr 3	Apr 17	May 1	May 21
91-10	Apr 3	Apr 17	May 1	May 15	Jun 4
91-11	Apr 24	May 8	May 22	Jun 5	Jun 25
91-12	May 8	May 22	Jun 5	Jun 19	Jul 9
91-13	May 22	Jun 5	Jun 19	Jul 3	Jul 23
91-14	Jun 5	Jun 19	Jul 3	Jul 17	Aug 6
91-15	Jun 26	Jul 10	Jul 24	Aug 7	Aug 27
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91-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
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91-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
91-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
91-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
91-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1992

¹All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

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

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

WSR 91-08-001
PERMANENT RULES
COLUMBIA BASIN COLLEGE

[Filed March 21, 1991, 1:20 p.m.]

Date of Adoption: March 4, 1991.

Purpose: Change grievance procedure to comply with the United States Office of Civil Rights request.

Citation of Existing Rules Affected by this Order: Amending WAC 132S-30-036.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 91-02-101 on January 2, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 18, 1991

Marvin W. Weiss

President

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-30-036 GRIEVANCE PROCEDURES—SEX DISCRIMINATION. Any applicant for admission, enrolled student, applicant for employment or employee of Columbia Basin College who believes he/she has been discriminated against on the basis of sex may lodge a formal institutional grievance by utilizing the following steps:

(1) Step 1. Informal meeting. Requesting an informal meeting with the individual believed to have committed the discriminatory act and attempt to informally resolve the concern. It shall be at the option of the complaining party to determine whether the Title IX officer will meet separately or in a single meeting with the complaining party and the party allegedly responsible for the discrimination.

The period of time for attempting to resolve the concern at the informal stage of the grievance will be limited to thirty days from the time the complaint is lodged.

(2) Step 2. Title IX official hearing. If not satisfied by the results of the informal meeting, the complainant may request in writing, stipulating the specific grievance(s), a meeting with the college Title IX officer. Within thirty days of receiving the written request, the Title IX officer will have arranged a meeting and reported the findings, in writing, to both the complainant and the person to whom the complaint is directed. It shall be at the discretion of the complainant to determine whether the Title IX officer will meet with each party separately or in a single meeting.

If the complainant requests a single meeting, that meeting shall be attended by the complainant, the person to whom the complaint is directed and the Title IX officer who will chair the meeting.

(3) Step 3. Presidential appeal. If the complaint is not resolved as a result of the hearing conducted by the Title IX officer, either the complainant or the person to whom the complaint is directed may request an appeal to the college president in writing within ten days after receiving the written results of Title IX official hearing. Within fifteen days after receiving the written request, the college president or the president's designee will conduct

the presidential appeal hearing and report the findings in writing to both the complainant and the person to whom the complaint is directed.

(a) The college president or designee, the Title IX officer, the complainant and the person to whom the complaint is directed shall attend the presidential appeal hearing. The college president or presidential designee shall preside.

(b) Either the complainant or person to whom the complaint is directed may have witnesses present at the discretion of the person presiding.

(c) The written findings of the presidential appeal will be considered final. No further intra-institutional appeal exists.

If desired, inquiries or appeals beyond the institutional level may be directed to:

Regional Director

Office of Civil Rights, HEW

or

The Equal Opportunity Commission

or

Human Rights Commission

WSR 91-08-002

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-15—Filed March 22, 1991, 3:38 p.m., effective April 25, 1991]

Date of Adoption: March 22, 1991.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-160.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allowable impacts on upriver spring chinook stocks will have occurred and conservation measures are required.

Effective Date of Rule: 12:01 a.m., April 25, 1991.

March 22, 1991

Joseph R. Blum

Director

NEW SECTION

WAC 220-57-16000H COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-57-160, effective 12:01 a.m. March 25, 1991 until further notice, it is unlawful to fish for or possess salmon downstream of the Interstate 5 Bridge at Vancouver to the Buoy 10 Line.

**WSR 91-08-003
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS**
[Filed March 22, 1991, 4:11 p.m.]

Original Notice.

Title of Rule: WAC 296-116-300 Pilotage rates for the Puget Sound pilotage district.

Purpose: To amend the pilotage tariff rate.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: RCW 88.16.035.

Summary: The proposed amendment reflects a 14.4 percent increase in the Puget Sound pilotage district tariff.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, Pier 52, Seattle, 576-7818.

Name of Proponent: Puget Sound pilotage district, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule would increase the tariff for pilotage services in Puget Sound by 14.4 percent.

Proposal Changes the Following Existing Rules: The proposed rule is a 14.4 percent increase over the existing rule.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Conference Room, Pier 52, Seattle, Washington, on May 9, 1991, at 9:00 a.m.

Submit Written Comments to: Admiral Chet Richmond, by April 26, 1991.

Date of Intended Adoption: May 9, 1991.

March 22, 1991
Marjorie Smith
Assistant Attorney General

AMENDATORY SECTION (Amending WSR 90-20-116, filed 10/2/90, effective 11/2/90)

WAC 296-116-300 PILOTAGE RATES FOR THE PUGET SOUND PILOTAGE DISTRICT. (~~These rates shall become effective on May 1, 1989.~~)

CLASSIFICATION	RATE
Ship length overall (LOA) Charges:	per LOA rate schedule in this section
Boarding fee:	\$ ((26.00)) <u>30.00</u>
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone 1
Harbor shift - Live ship (other than Seattle Port)	LOA Zone 1
Harbor shift - Dead ship	Double LOA Zone 1
Dead ship towing charge:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	
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.	

CLASSIFICATION

RATE

Waterway and bridge charges:

Ships up to 90' beam:

A charge of ~~((141.00))~~ \$161.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle, south of Eleventh Street Bridge 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 ~~((67.00))~~ \$77.00 per bridge.

Ships 90' beam and/or over:

A charge of ~~((190.00))~~ \$217.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street Bridge in Seattle and south of Eleventh Street Bridge in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ~~((133.00))~~ \$152.00 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	\$ ((89.00)) <u>216.00</u>
Radio direction finder calibration	\$ ((89.00)) <u>216.00</u>
Launching vessels	\$ ((285.00)) <u>326.00</u>
Trial trips, 6 hours or less (Minimum \$ ((34.00)) <u>611.00</u>)	\$ ((89.00)) <u>102.00</u> per hr.
Trial trips, over 6 hours (two pilots)	\$ ((178.00)) <u>204.00</u> per hr.
Shilshole Bay - Salmon Bay	\$ ((111.00)) <u>127.00</u>
Salmon Bay - Lake Union	\$ ((87.00)) <u>100.00</u>
Lake Union - Lake Washington (plus LOA zone from Webster Point)	\$ ((111.00)) <u>127.00</u>
Cancellation charge	LOA Zone 1
Cancellation charge - Port Angeles (when pilot is ordered and vessel proceeds without stopping for pilot.)	LOA Zone 1
Docking delay after anchoring:	\$ ((89.00)) <u>102.00</u> per hr.

Applicable harbor shift rate to apply, plus \$ ~~((89.00))~~ 102.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$ ~~((89.00))~~ 102.00 for every hour or fraction thereof.

Sailing delay: \$ ~~((89.00))~~ 102.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$ ~~((89.00))~~ 102.00 for every hour or fraction thereof.

\$ ~~((89.00))~~ 102.00 per hour

Slowdown:

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 \$ ~~((89.00))~~ 102.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Super ships:

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of \$ ~~((8.0472))~~ 0.0540 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 \$ ~~((8.0565))~~ 0.0646 per gross ton.

CLASSIFICATION

RATE

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles:

\$ ((89.00))
102.00
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 \$((89.00)) 102.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ ((112.00)) 128.00
Bangor	((65.00)) 74.00
Bellingham	((124.00)) 142.00
Bremerton	((34.00)) 39.00
Cherry Point	((146.00)) 167.00
Dupont	((65.00)) 74.00
Edmonds	((23.00)) 26.00
Everett	((42.00)) 48.00
Ferndale	((134.00)) 153.00
Manchester	((51.00)) 58.00
Mukilteo	((41.00)) 47.00
Olympia	((84.00)) 96.00
Point Wells	((23.00)) 26.00
Port Gamble	((60.00)) 69.00
Port Townsend (Indian Island)	((85.00)) 97.00
Semiahmoo (Blaine)	((153.00)) 175.00
Tacoma	((43.00)) 49.00
Tacoma Smelter	((49.00)) 56.00
Winslow	((34.00)) 39.00

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
Up to 449	133	208	361	541	730	950
450 - 459	136	213	364	549	741	953
460 - 469	140	216	368	558	752	957
470 - 479	145	221	373	570	755	960
480 - 489	148	226	375	580	760	963
490 - 499	151	228	379	590	768	968
500 - 509	158	232	386	599	774	975
510 - 519	160	237	390	606	782	978
520 - 529	162	246	396	609	789	987
530 - 539	168	249	401	616	801	997
540 - 549	171	253	409	623	815	1006
550 - 559	174	261	412	632	821	1016
560 - 569	181	271	420	638	830	1026
570 - 579	184	275	424	640	837	1033
580 - 589	192	279	432	645	843	1044
590 - 599	201	285	435	649	855	1055
600 - 609	208	293	441	651	864	1061
610 - 619	220	296	449	655	874	1070
620 - 629	229	300	455	660	883	1082
630 - 639	241	307	459	662	891	1093
640 - 649	251	313	464	665	901	1101
650 - 659	267	319	472	670	911	1111
660 - 669	275	322	477	673	920	1120
670 - 679	283	330	482	685	931	1127
680 - 689	288	337	488	692	939	1138
690 - 699	296	342	494	705	950	1161
700 - 719	310	353	504	712	966	1175
720 - 739	328	364	516	722	987	1194
740 - 759	342	379	527	730	1006	1215
760 - 779	356	395	539	741	1026	1233
780 - 799	373	410	549	752	1044	1254
800 - 819	388	424	560	757	1061	1272
820 - 839	401	438	572	768	1082	1288
840 - 859	419	456	584	776	1101	1310
860 - 879	433	472	596	798	1120	1328
880 - 899	449	487	606	816	1138	1348
900 - 919	462	501	617	835	1161	1367
920 - 939	478	516	632	855	1175	1385
940 - 959	494	530	641	874	1194	1403
960 - 979	507	546	653	891	1215	1423
980 - 999	525	560	663	911	1233	1441
1000 & over	539	579	675	931	1254	1461
Up to 449	152	238	413	619	835	1087
450 - 459	156	244	416	628	848	1090
460 - 469	160	247	421	638	860	1095
470 - 479	166	253	427	652	864	1098
480 - 489	169	259	429	664	869	1102
490 - 499	173	261	434	675	879	1107
500 - 509	181	265	442	685	885	1115
510 - 519	183	271	446	693	895	1119
520 - 529	185	281	453	697	903	1129
530 - 539	192	285	459	705	916	1141
540 - 549	196	289	468	713	932	1151
550 - 559	199	299	471	723	939	1162
560 - 569	207	310	480	730	950	1174
570 - 579	211	315	485	732	958	1182
580 - 589	220	319	494	738	964	1194
590 - 599	230	326	498	742	978	1207
600 - 609	238	335	505	745	988	1214
610 - 619	252	339	514	749	1000	1224
620 - 629	262	343	521	755	1010	1238
630 - 639	276	351	525	757	1019	1250
640 - 649	287	358	531	761	1031	1260
650 - 659	305	365	540	766	1042	1271
660 - 669	315	368	546	770	1052	1281
670 - 679	324	378	551	784	1065	1289
680 - 689	329	386	558	792	1074	1302
690 - 699	339	391	565	807	1087	1328
700 - 719	355	404	577	815	1105	1344
720 - 739	375	416	590	826	1129	1366
740 - 759	391	434	603	835	1151	1390
760 - 779	407	452	617	848	1174	1411
780 - 799	427	469	628	860	1194	1435
800 - 819	444	485	641	866	1214	1455
820 - 839	459	501	655	879	1238	1473
840 - 859	479	522	668	888	1260	1499
860 - 879	495	540	682	913	1281	1519
880 - 899	514	557	693	934	1302	1542
900 - 919	529	573	706	955	1328	1564
920 - 939	547	590	723	978	1344	1584

- (a) Intraharbor transportation for the Port Angeles port area - transportation between Port Angeles pilot station and Port Angeles harbor docks - \$((10.00)) 11.00.
- (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 \$((1.60)) 1.83 per mile.

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	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
940 - 959	565	606	733	1000	1366	1605
960 - 979	580	625	747	1019	1390	1628
980 - 999	601	641	758	1042	1411	1649
1000 & over	617	662	772	1065	1435	1671

**WSR 91-08-004
EMERGENCY RULES
BOARD OF
PILOTAGE COMMISSIONERS**

[Filed March 22, 1991, 4:14 p.m., effective March 28, 1991]

Date of Adoption: March 15, 1991.

Purpose: To amend the Grays Harbor pilotage tariff.

Citation of Existing Rules Affected by this Order: Amending WAC 296-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The drastic decrease in shipping in the Grays Harbor area has resulted in the need to immediately increase the pilotage tariff to provide monies for pilotage services.

Effective Date of Rule: March 28, 1991.

March 22, 1991

Marjorie Smitch

Assistant Attorney General

AMENDATORY SECTION (Amending WSR 90-09-013, filed 4/6/90, effective 5/7/90)

WAC 296-116-185 TARIFFS, AND PILOTAGE RATES FOR THE GRAYS HARBOR PILOTAGE DISTRICT. The following rates shall become effective on ~~((May 1, 1989))~~ March 28, 1991.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be ~~\$((39.68))~~ 50.53 per meter (or ~~\$((+2.08))~~ 15.38 per foot) and the tonnage charge shall be ~~\$((0.1266))~~ 0.1612 per net registered ton. The minimum net registered tonnage charge is ~~\$((442.72))~~ 563.81. The charge for an extra vessel (in case of tow) is ~~((252.99))~~ \$322.19.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Boarding fee:

Per each boarding/deboarding from a boat ~~\$((+90.87))~~
243.08

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage ~~\$((317.36))~~
404.16

Delays per hour \$ ~~((75.67))~~
96.37

Cancellation charge (pilot only) ~~\$((+26.49))~~
161.09

Cancellation charge (pilot boat only) . ~~\$((379.48))~~
483.27

Travel allowance:

Boarding or deboarding a vessel off Grays Harbor entrance \$ ~~((58.73))~~
74.79

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid ~~\$((430.00))~~ 537.50 for each day or fraction thereof, and the travel expense incurred ~~\$((442.72))~~
563.82

Bridge transit:

Charge for each bridge transited ~~\$((+38.92))~~
176.92

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 45 days of invoice will be assessed at 1 1/2% per month late charge.

WSR 91-08-005

**NOTICE OF PUBLIC MEETINGS
WASHINGTON INSTITUTE
OF APPLIED TECHNOLOGY**
[Memorandum—March 25, 1991]

BOARD OF DIRECTORS MEETING

Wednesday, March 27, 1991
7:30 a.m.

WIAT Sixth Floor Boardroom
Special Board Meeting

The next scheduled meeting of the board of directors is Wednesday, May 29, 1991, at 7:30 a.m., in the WIAT boardroom.

WSR 91-08-006
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—March 22, 1991]

The Department of Technical Communication will alter its meeting schedule between the dates April 7, 1991, to June 14, 1991, to the first and third Tuesdays. Beginning June 24, 1991, the department will revert to its first and third Friday schedule. The meetings continue to be held in Room 355 of Loew Hall.

WSR 91-08-007
PERMANENT RULES
DEPARTMENT OF HEALTH
(Board of Medical Examiners)
 [Order 153B—Filed March 26, 1991, 3:09 p.m.]

Date of Adoption: March 22, 1991.

Purpose: To allow physician assistants to use their supervising physician's DEA registration number with a suffix. Also allows certified physician assistants to prescribe Schedule II through V as approved by the board and noncertified physician assistants to prescribe Schedule II through V as approved by the board and delegated by the supervising physician.

Citation of Existing Rules Affected by this Order: Amending WAC 246-918-030.

Statutory Authority for Adoption: RCW 18.71A.020.

Pursuant to notice filed as WSR 91-04-055 on February 4, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 25, 1991

Patti Rathbun

Program Manager

AMENDATORY SECTION (Amending Order PM 599, filed 5/29/86)

WAC 246-918-030 NON-CERTIFIED PHYSICIAN ASSISTANT PRESCRIPTIONS. A non-certified physician assistant may issue written or oral prescriptions as provided herein when approved by the board and assigned by the supervising physician(s).

~~(1) ((Except for schedule two controlled substances as listed under federal and state controlled substances acts, a physician assistant may issue prescriptions for a patient who is under the care of the physician responsible for the supervision of the physician assistant.)) A non-certified physician assistant may not prescribe controlled substances unless especially approved by the board. A non-certified physician assistant may issue prescriptions for legend drugs for a patient who is under the care of the physician(s) responsible for the supervision of the non-certified physician assistant.~~

(a) Written prescriptions shall include the name, address and telephone number of the physician; the name and address of the patient and the date on which the prescription was written.

(b) The non-certified physician assistant shall sign such a prescription using his or her own name followed

by the letters "P.A.". Written prescriptions must include the non-certified physician assistant's license number.

~~(c) Written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, ((the number issued by the board of medical examiners.)) the supervising physician's D.E.A. registration number, followed by the letters "P.A." and the physician assistant's license number.~~

(2) A non-certified physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the by-laws, rules and regulations of the institution, order pharmaceutical agents ~~((, except those for schedule two controlled substances,))~~ for inpatients under the care of the physician(s) responsible for his or her supervision.

~~((3) To be authorized to issue prescriptions for schedule three through five controlled substances, a physician assistant must be registered with the board of pharmacy and the drug enforcement administration.))~~

~~((4))~~ (3) The ~~((registration))~~ license of a non-certified physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

~~((5))~~ (4) Non-certified ((P)) physician assistants may dispense medications the non-certified physician assistant has prescribed from office supplies. The non-certified physician assistant shall comply with the state laws concerning prescription labeling requirements.

NEW SECTION

WAC 246-918-035 CERTIFIED PHYSICIAN ASSISTANT PRESCRIPTIONS. A certified physician assistant may issue written or oral prescriptions as provided herein when approved by the board.

(1) Written prescriptions shall include the name, address and telephone number of the physician; the name and address of the patient and the date on which the prescription was written.

(a) The certified physician assistant shall sign such a prescription using his or her own name followed by the letters "P.A.-C". Written prescriptions must include the certified physician assistant's license number.

(b) The written prescriptions for schedule two through five must include the physician assistant's D.E.A. registration number, or, if none, the supervising physician's D.E.A. registration number, followed by the letters "P.A.-C" and the physician assistant's license number.

(2) A certified physician assistant employed or extended privileges by a hospital, nursing home or other health care institution may, if permissible under the by-laws, rules and regulations of the institution, order pharmaceutical agents for inpatients under the care of the physician(s) responsible for his or her supervision.

(3) The license of a certified physician assistant who issues a prescription in violation of these provisions shall be subject to revocation or suspension.

(4) Certified physician assistants may dispense medications the certified physician assistant has prescribed from office supplies. The certified physician assistant shall comply with the state laws concerning prescription labeling requirements.

WSR 91-08-008
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed March 26, 1991, 4:08 p.m.]

Date of Adoption: March 14, 1991.
Purpose: To amend the Grays Harbor pilotage tariff.
Citation of Existing Rules Affected by this Order:
Amending WAC 296-116-185.
Statutory Authority for Adoption: RCW 88.16.035.
Pursuant to notice filed as WSR 91-03-075 on January 17, 1991.
Changes Other than Editing from Proposed to Adopted Version: The adopted version represents an increase of 2 percent from the proposed version.
Effective Date of Rule: Thirty-one days after filing.
March 26, 1991
Marjorie Smitch
Assistant Attorney General

AMENDATORY SECTION (Amending WSR 90-09-013, filed 4/6/90, effective 5/7/90)

WAC 296-116-185 TARIFFS, AND PILOTAGE RATES FOR THE GRAYS HARBOR PILOTAGE DISTRICT. The following rates shall become effective on ((May 1, 1989)) March 28, 1991.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$((39.68)) 50.53 per meter (or \$((+2.08)) 15.38 per foot) and the tonnage charge shall be \$((0.1266)) 0.1612 per net registered ton. The minimum net registered tonnage charge is \$((442.72)) 563.81. The charge for an extra vessel (in case of tow) is ((252.99)) \$322.19.

Boarding fee:
Per each boarding/deboarding from a boat..... \$((+90.87))
243.08

Harbor shifts:
For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage \$((317.36))
404.16
Delays per hour \$ ((75.67))
96.37
Cancellation charge (pilot only) \$((+26.49))
161.09
Cancellation charge (pilot boat only). \$((379.48))
483.27

CLASSIFICATION OF PILOTAGE SERVICE RATE

Travel allowance:
Boarding or deboarding a vessel off Grays Harbor entrance \$ ((58.73))
74.79

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$((430.00)) 537.50 for each day or fraction thereof, and the travel expense incurred \$((442.72))
563.82

Bridge transit:
Charge for each bridge transited \$((+38.92))
176.92

Miscellaneous:
The balance of amounts due for pilotage rates not paid within 45 days of invoice will be assessed at 1 1/2% per month late charge.

WSR 91-08-009
EMERGENCY RULES
WILDLIFE COMMISSION

[Order 487—Filed March 26, 1991, 4:11 p.m.]

Date of Adoption: March 26, 1991.

Purpose: To modify the steelhead season for the 1990-91 Washington game fish season on the Columbia River by closing a section of the mainstem six days ahead of schedule.

Statutory Authority for Adoption: RCW 77.04.055 and 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Washington Department of Fisheries (WDF) and the Oregon Department of Fish and Wildlife took joint action on Thursday, March 21, 1991, to close the sport fishery for spring chinook and steelhead on the mainstem Columbia from Buoy 10 in Astoria upstream to the I-5 Bridge. The fishery which was scheduled to close Sunday, March 31, will be closed on-half hour after dusk on Sunday, March 24. The sport steelhead winter season closure of March 31 on the Columbia was originally adopted to complement the spring chinook closure. Oregon and WDF decided on March 21 to close the spring chinook fishery on March 24th, to protect the depressed Snake River-bound chinook stock. The department has proposed a closure of the sport steelhead winter season on the

mainstem Columbia River from Buoy 10 in Astoria upstream to the I-5 Bridge, Beginning 5:00 p.m. Tuesday, March 26, 1991, to 11:59 p.m. Wednesday, May 15, 1991. All other regulations as shown in the 1990-91 game fish pamphlet would remain in effect.

Effective Date of Rule: Immediately.

March 26, 1991
Curt Smitch
for John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-61818 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—COLUMBIA RIVER. Notwithstanding the provisions of WAC 232-28-618, effective 05:00 p.m. March 26, 1991 through 11:59 p.m. May 15, 1991, the Columbia River from Buoy 10 in Astoria upstream to the I-5 Bridge will be closed to the taking of steelhead.

WSR 91-08-010
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed March 26, 1991, 4:42 p.m.]

Continuance of WSR 91-04-043.

Title of Rule: WAC 388-24-050 Aid to families with dependent children—Assistance unit.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Culhane, Income Assistance, 753-0471.

Date of Intended Adoption: March 29, 1991.

March 26, 1991
Rosemary Carr
Acting Director
Administrative Services

WSR 91-08-011
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3152—Filed March 26, 1991, 4:47 p.m.]

Date of Adoption: March 26, 1991.

Purpose: Define "available" and "property owned"; and clarify rules for grandparented clients.

Citation of Existing Rules Affected by this Order: Amending chapter 388-15 WAC, Social services for families.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-04-039 on January 31, 1991.

Changes Other than Editing from Proposed to Adopted Version: Return the wording of WAC 388-15-216 (1)(b)(i) and (ii) and (2)(b)(i) and (ii) to the previously

adopted wording in effect since August 13, 1990. The WAC is being returned to its original wording because the proposed change mandates the termination of services to clients in the chore services grandparented program when those clients are eligible for COPES or Medicaid personal care. Provider qualifications are different for the three programs, and plans of care with relative providers would be negatively affected by the proposed rule change.

Effective Date of Rule: Thirty-one days after filing.

March 26, 1991
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90)

WAC 388-15-208 DEFINITIONS. (1) "Applicant" means a person applying for chore services.

(2) "Attendant care" means the service provided to a grandparented client needing full-time care because the client:

(a) Requires personal care task assistance that cannot be scheduled, e.g., toileting, ambulation, transfer, positioning, some medication assistance; or

(b) Needs protective supervision because of confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume.

(3) "Available" means accessible for use and conversion into money or its equivalent without significant depreciation in the value of the property.

(4) "Chore services" means services in performing personal care and related household assistance tasks as provided in the department's medical assistance state plan provision addressing personal care.

~~((4))~~ (5) "Client" means a person receiving chore services.

~~((5))~~ (6) "Companionship" means being with a person in the client's own home for the purpose of preventing loneliness or to accompany the client outside the home for other than basic errands, medical appointments, or laundry.

~~((6))~~ (7) "Contracted program" means that method of hourly chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore services provider.

~~((7))~~ (8) "Grandparented client" means a person approved for hourly household tasks or family care services before December 14, 1987, or a person approved for attendant care services before April 1, 1988 provided the person was receiving the same services as of June 30, 1989.

~~((8))~~ (9) "Hourly care" means the service provided to clients needing assistance with scheduled household or personal care tasks.

~~((9))~~ (10) "Household assistance" means assistance with travel to medical services, essential shopping, laundry, housework, or wood supply as defined under WAC 388-15-820.

~~((+10))~~ (11) "Individual provider program" means a method of chore service delivery where the client employs and supervises the chore services provider. Payment is made to the client who, in turn, pays the provider.

~~((+11))~~ (12) "Interim assessment" means the department's assessment form used to determine the amount and type of chore services to be provided.

~~((+12))~~ (13) "Own home" means the client's present or intended place of residence, whether in a building the client rents or owns or in the home of another person.

~~((+13))~~ (14) "Personal care" means assistance with personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, or meal preparation. The tasks are defined under WAC 388-15-820.

~~((+14))~~ (15) "Property owned (~~or available~~)" means property over which the applicant (~~or~~) or client has a legal (~~right of control~~) interest.

~~((+15))~~ (16) "Relative" means a client's spouse, father, mother, son, or daughter.

~~((+16))~~ (17) "Resources" means real or personal property owned by or available to an applicant or a client which the department may apply (~~toward meeting the applicant/client's requirements~~), either directly or (~~by~~) after conversion into money or its equivalent toward meeting the client's financial participation for services.

~~((+17))~~ (18) "Service authorization ceiling chart" means the chart indicating the maximum number of hours the department may authorize for a client's score.

~~((+18))~~ (19) "Shared living arrangement" means a situation where two or more adults share expenses and reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-209 ELIGIBILITY. The department shall consider the following eligibility criteria when determining an applicant/client's eligibility for chore services:

(1) Service eligibility:

- (a) Eighteen years of age and over;
- (b) At risk of placement in a long-term care facility as evidenced by the need for assistance with one or more personal care tasks listed in WAC 388-15-208(13); and
- (c) Not eligible for Medicaid personal care or community options program entry system (COPES) services.

(2) Financial eligibility, meets the financial and resource eligibility requirements established by the department;

(3) Resource eligibility:

- (a) Has resources at or below ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member;

(b) Resources considered. The department shall consider the following resources when available to the applicant or client in determining the value of an applicant's or client's resources:

- (i) Checking accounts;
- (ii) Savings accounts;
- (iii) Certificates of deposit;
- (iv) Money markets;
- (v) Negotiable stocks and bonds;
- (vi) Latest assessed value of lots or property not attached to residence;
- (vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;
- (viii) Liquid assets: Such as cash, gold, silver, and other items of an investment and negotiable nature; and
- (ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to WAC 388-15-209 (2) and (3)(a) and (b).

(c) Resources excluded. The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

- (i) A home and lot normal for the community where the client or applicant resides;
- (ii) Used and useful household furnishings, personal clothing, and one automobile per client;
- (iii) Personal property of great sentimental value;
- (iv) Real or personal property used by the applicant or client to earn income or for rehabilitation;
- (v) One cemetery plot for each member of the family unit;
- (vi) Cash surrender value of life insurance; (~~or~~)
- (vii) Resources that cannot be converted to cash in twenty working days as long as there is a reasonable ongoing effort to convert the resource into cash;
- (viii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383(~~(-)~~); or
- (ix) Real estate sales contracts. The interest and principal payments from real estate sales contracts is treated as unearned income.

(4) Adult protective services. Adult protective service clients at risk of being placed in a long-term care facility shall be eligible to receive chore services without regard to income or resources if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period; and

(5) Volunteer chore services. An applicant for chore services shall be referred to the volunteer chore service program when the applicant:

- (a) Does not meet the eligibility criteria for chore services;
- (b) Is eligible for five hours or less per month of chore services;
- (c) Is eligible for a reduced level of chore services because income exceeds thirty percent of the state median income; or
- (d) Needs help with tasks that are not available in the chore services program.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-212 SERVICE DETERMINATION((S)). (1) Assessment.

(a) The purpose of assessment is to determine the applicant/client's need for chore services and the authorized hours of service.

(b) Department staff shall perform the assessment.

(c) The department shall perform a separate assessment for each adult applying for chore services.

(d) The department shall document the assessment on a prescribed form.

(e) When administering the assessment, department staff shall take into account the applicant/client's:

(i) Risk of long-term care facility placement;

(ii) Ability to perform personal care and related household tasks;

(iii) Living situation; and

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

(f) The department shall consider the chore services client the secondary client in households where community options program entry system (COPES) services or Medicaid personal care services are also authorized.

(2) Scoring.

(a) For each task listed on the assessment form, the department staff shall determine the level of assistance:

(i) The applicant/client requires;

(ii) Available through alternative resources; and

(iii) Needed from the chore services program.

(b) The applicant/client's assistance needed from the chore services program is the difference between assistance required and assistance available through alternative resources. This represents the applicant/client's unmet need.

(c) The level of the applicant/client's assistance required is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = The applicant/client is able to perform this task without help;

(ii) M = The applicant/client requires a minimal amount of assistance to perform this task;

(iii) S = The applicant/client requires a substantial amount of assistance to perform this task;

(iv) T = The applicant/client requires total assistance to perform this task.

(d) The level of assistance available is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = Alternative resources are not available for assistance;

(ii) M = Alternative resources are available for minimal assistance;

(iii) S = Alternative resources are available for substantial assistance; or

(iv) T = Alternative resources are available for total assistance.

(e) The level of unmet need is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = No unmet need; the applicant/client can perform this task without help or all assistance required is available from alternative resources;

(ii) M = Minimal unmet need; the applicant/client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources;

(iii) S = Substantial unmet need; the applicant/client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources; or

(iv) T = Total unmet need; the applicant/client is totally unable to perform this task and no assistance from alternative resources is available. The total need of the applicant/client shall be met through the chore services program.

(f) Points are awarded for each task based on the level of unmet need. The number of points allowable for each task are listed below:

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

(g) The points awarded for each task are added together to obtain the total score for the applicant/client.

(3) Ceiling hour computation.

(a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized.

(b) Use the service authorization ceiling chart to convert the score to ceiling hours per month:

SCORE	CEILING HOURS	SCORE	CEILING HOURS	SCORE	CEILING HOURS
1-4	5	60-64	44	120-124	83
5-9	8	65-69	47	125-129	87
10-14	11	70-74	51	130-134	90
15-19	14	75-79	54	135-139	93
20-24	18	80-84	57	140-144	97
25-29	21	85-89	60	145-149	100
30-34	24	90-94	64	150-154	103
35-39	28	95-99	67	155-159	106
40-44	31	100-104	70	160-164	110
45-49	34	105-109	74	165-169	113
50-54	37	110-114	77	170 and	
55-59	((5+)) 41	115-119	80	Above	116

(4) Authorization when no reduction in hours.

(a) The department may authorize the number of ceiling hours allowable for the applicant/client's score when the applicant/client has a gross income, adjusted for family size, at or below thirty percent of the state median income.

(b) The department may authorize fewer than the allowable ceiling hours when appropriate to the applicant/client's individual circumstances.

(c) The department shall inform all applicant/clients of their right to request the department to authorize more than the allowable ceiling hours based on the applicant/client's score. The department shall grant a waiver to authorize additional hours up to the maximum of one hundred sixteen hours per month when:

(i) Circumstances of a demonstrated duration, frequency, or severity require additional chore services hours to assure the client's health or safety;

(ii) Needed additional hours are specific and clearly measurable; and

(iii) Available funds are provided under WAC 388-15-214.

(d) The department shall approve or deny requests for a waiver to exceed ceiling hours within thirty days.

(e) When a request for a waiver is denied, the department shall send the applicant/client a notice of the right to contest the department's decision under chapter 388-08 WAC.

(5) Authorization when hours are reduced.

(a) An applicant/client with a gross income, adjusted for family size, over thirty percent of the state median income, shall receive fewer than the number of ceiling hours allowable for the applicant/client's score((:));

(b) The department shall determine the amount of reduction to allowable ceiling hours by:

(i) Deducting one hour for each percentage point when the applicant/client's income exceeds thirty percent of the state median income; and

(ii) Deducting an additional hour for each percentage point when the applicant/client's income exceeds fifty percent of the state median income.

(c) The reduction computed under subsection (5)(b) of this section shall be subtracted from the allowable

ceiling hours to obtain the maximum number of hours per month the applicant/client may be authorized.

(6) Meal allowance—IPP hourly services only. When providing meals for the chore services provider is an extra client cost, the department may authorize a payment to partially reimburse the client for the meal cost. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service.

(7) Relative providers. The department may authorize a relative to provide chore services only when the relative:

(a) Gives up paid employment of thirty hours or more per week, to give the service;

(b) Needs to take paid employment of thirty hours or more per week to meet financial needs; or

(c) Is financially eligible to receive general assistance to meet their own need.

The above criteria apply to relatives providing service to clients, including grandparented clients, in either the contracted program or the individual provider hourly program.

(8) Re-assessment.

(a) The department shall reassess the eligibility of all chore service clients, except grandparented clients, at least every eighteen months or more often when deemed necessary because of a change in the client's condition or situation.

(b) The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall notify the client of the right to contest denial or reduction of services.

(c) The eligibility rules as described under WAC 388-15-209 apply to re-assessment of all clients except grandparented clients.

(d) The department shall terminate chore services for an hourly personal care client when a re-assessment shows the client now needs assistance with household tasks only. This rule shall not pertain to grandparented clients receiving household tasks only.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-215 PROGRAM LIMITATIONS.

(1) The department shall not authorize chore services for:

(a) Teaching and companionship;

(b) Child care for working parents;

(c) Providing nursing care; or

(d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall not provide chore services to a resident of a:

(a) Group home;

(b) Licensed boarding home;

(c) Congregate care facility;

(d) Nursing care facility;

- (e) Hospital;
- (f) Institution;
- (g) Adult family home; or
- (h) Child foster home.

Shared living arrangements are not considered group homes.

(3) Chore services shall be provided only in the client's home or surrounding property except for essential shopping, travel to medical services, and laundry when there are no laundry facilities in the client's home.

~~((4) The department shall not pay for chore services for hourly care clients when the clients are not residing at home, for example, because of hospitalization. In an emergency, however, the department may pay for limited services to enable the client to return home.))~~

AMENDATORY SECTION (Amending Order 3041, filed 7/13/90, effective 8/13/90)

WAC 388-15-216 GRANDPARENTED CLIENTS. (1) Continuing eligibility for hourly care chore service clients:

(a) The department may continue providing hourly chore services for clients receiving assistance with household tasks only before December 14, 1987, provided the clients were receiving the same services as of June 30, 1989(~~and~~).

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before December 14, 1987:

(i) If a review indicates a household tasks only client needs assistance with personal care, Medicaid personal care may be authorized if eligible for Medicaid funding. If not eligible for Medicaid personal care, chore services shall be authorized according to the eligibility requirements for a new client;

(ii) If more or less household task services are required, services may be authorized accordingly.

(2) Continuing eligibility for attendant care for adults.

(a) The department may continue providing chore services to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall ~~((make))~~ perform periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Attendant care protective supervision shall be authorized for clients who may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore services provider must be with the client. The chore services provider performs necessary household or personal care tasks during the authorized attendant care hours;

(iv) The client shall provide verification of the need for attendant care by producing a statement from the client's physician.

(c) The department shall pay a daily rate for attendant care for adults(~~The rate shall not exceed the lesser of the following~~) a sum not exceeding the department-established rate:

(i) ~~((A maximum of twenty-four dollars and fifty cents per day; or~~

~~(ii) The amount determined by the following table:~~

DAILY RATE DETERMINATION

HOURS OF SERVICE PER DAY	PAYMENT PER DAY
21 - 24	up to \$ 24.50
16 - 20	up to \$ 22.50
12 - 15	up to \$ 20.50
8 - 11	up to \$ 17.50
4 - 7	up to \$ 12.50
1 - 3	up to \$ 8.50))

The department shall add up to five dollars per day for each additional client in the household; and

~~((iii))~~ (ii) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the state median income.

(d) The department shall not increase the payment in effect on June 30, 1989(~~-~~) except for a department-approved vendor rate increase; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospitalization; except, up to seven days during the service month may be provided to enable the client to return home.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and:

(i) Is in the home but unable to physically care for the children; or

(ii) Is in the home and physically unable to perform the necessary household tasks; or

(iii) Is temporarily out of the home, as defined by the department; and

(iv) The division of children and family services confirms all possible resources have been explored and no one can or will provide the necessary care.

(c) The chore services provider may not act as a parent substitute or make major decisions affecting the children.

(d) For families to receive services, the total family income shall be at or below the department-established financial eligibility requirement. Minor children shall not

be financially eligible in their own right. The minor children are part of the family unit.

(e) Determination of need for hourly care takes into consideration the ages, number and level of responsibility of the children and presence of a spouse. Allowable family care activities are:

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) Points are awarded for family care activities as follows:

(i) O = 0;

(ii) M = 14;

(iii) S = 27; and

(iv) T = 40.

Enter the points awarded on the bottom of the assessment form and add to the client's total score.

~~((5))~~ (4) Board and room meal allowances. When providing board and room or meals for the chore services provider is an extra cost to the client, the department may authorize a payment to partially reimburse the client for this expense. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service. No client shall be authorized for both a board and room allowance and a meal allowance.

~~((6))~~ (5) Ninety-day rule. Grandparented clients terminated from chore services because of transfer to another program may be re-authorized for chore services when the:

(a) Transfer was in effect for less than ninety days; and

(b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

~~((7))~~ (6) Priority levels. Priority levels for grandparented clients are:

(a) Level A: Client needs help with one of the following personal care tasks:

(i) Eating;

(ii) Body care;

(iii) Bed transfer;

(iv) Wheelchair transfer; or

(v) Toileting.

(b) Level B: Client needs help with four or more other personal care tasks as described under WAC 388-15-208(13);

(c) Level C: Client needs help with one to three other personal care tasks;

(d) Level D: Client needs help with all five household tasks:

(i) Travel to medical services;

(ii) Essential shopping;

(iii) Laundry;

(iv) Housework; and

(v) Wood supply.

(e) Level E: Client needs help with three or four household tasks; and

(f) Level F: Client needs help with one or two household tasks.

WSR 91-08-012
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3153—Filed March 26, 1991, 4:49 p.m.]

Date of Adoption: March 26, 1991.

Purpose: To delete Clallam County as an area where Kitsap physician services sound care plan (KPS-SCP) serves recipients.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-00901.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 91-04-040 on January 31, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 26, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 2936, filed 1/29/90, effective 3/1/90)

WAC 388-86-00901 KITSAP PHYSICIANS SERVICE—SOUND CARE PLAN. (1) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients and family independence program (FIP-J and G) enrollees residing in Kitsap, Mason, or Jefferson(~~(; or Clallam)~~) counties in the Kitsap Physicians Service-Sound Care Plan (plan), except as provided in subsections (4) and (5) of this section.

(2) The department may offer optional enrollment to additional program eligible groups with the agreement of the plan.

(3) Timely provision of services means a recipient shall have the right to receive medically necessary care without unreasonable delay.

(4) Upon a client's request, the department may exempt the client(~~(s)~~), for whom medically necessary care is required, (~~(and)~~) when the plan is contracted to provide the service but cannot make medically necessary (~~(care)~~) service available. In making the exemption determination, the department's consideration shall include, but not be limited to whether:

(a) (~~(Whether)~~) Distance or transportation problems make it unreasonably difficult for the client to obtain services; or

(b) (~~(Whether)~~) The absence of a translator(~~(s)~~) for or of services accessible to disabled persons makes it unreasonably difficult for the client to obtain services.

(5) ~~((Indians))~~ Native Americans eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service may choose to enroll in the plan.

(6) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which a person immediately requires medical services ~~((are immediately required))~~ to avoid placing ~~((an individual's))~~ a person's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(a) The recipient is not responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the recipient is not financially responsible for any services rendered.

(c) If an emergency does not exist, and the plan will not authorize further services, the recipient is financially responsible for further services received only if the recipient is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010(6).

(7) Any client aggrieved by a decision of the plan or the department has the right to a fair hearing under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure before requesting a fair hearing. The plan's grievance procedure shall result in a written decision stating the basis for the decision. The recipient has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date the plan received the grievance. The plan may be a party to the fair hearing.

(b) In any case where the plan denies a recipient urgently needed medical services, a recipient need only provide a written grievance to the plan before or when requesting a fair hearing.

(c) A client requesting exemption from enrollment in the plan is required to file a written request with the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to the fair hearing.

(8) Each recipient enrolled in the plan shall have a primary care physician (PCP):

(a) Recipients shall have an opportunity to choose a PCP from current plan providers;

(b) The plan shall assign a PCP to recipients not choosing a participating provider;

(c) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason;

(ii) For subsequent changes during the twelve-month period the recipient shall first show good cause.

(d) When requesting a change in their PCP the recipient shall notify the plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(9) The recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the recipient needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the recipient believes the PCP is not authorizing medically necessary care.

(10) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

(11) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

(13) The plan shall appoint a medical director who:

(a) Is responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to such grievances.

(14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan.

WSR 91-08-013

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 3154—Filed March 26, 1991, 4:52 p.m.]

Date of Adoption: March 26, 1991.

Purpose: To change the food stamp standard utility allowance to a single standard and increase the telephone allowance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-505 Utility allowance.

Statutory Authority for Adoption: RCW 74.04.510.

Pursuant to notice filed as WSR 91-04-035 on January 30, 1991.

Effective Date of Rule: Thirty-one days after filing.
 March 26, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

Effective Date of Rule: Thirty-one days after filing.
 March 26, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 2901, filed 11/17/89)

WAC 388-49-505 UTILITY ALLOWANCES.

- (1) The department shall:
 - (a) Establish an annualized standard utility allowance for use in calculating shelter costs;
 - (b) Obtain FNS approval of the methodology used to establish the standard utility allowance;
 - (c) Establish a separate annualized telephone allowance;
 - (d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) ((Effective October 1, 1988)) The annual standard utility allowance((s by household size are:

Persons in Annualized
 Household Utility Standards

1	120
2	129
3	136
4	145
5	153
6	158
7	164
8	171
9	180

10 or more 188)) shall be one hundred and seventy-two dollars.

(3) ((Effective March 1, 1988)) The monthly telephone standard ((is sixteen)) shall be twenty-five dollars.

**WSR 91-08-014
 PERMANENT RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES
 (Institutions)**

[Order 3155—Filed March 26, 1991, 4:54 p.m.]

Date of Adoption: March 26, 1991.

Purpose: To revise the schedule of charges for state mental hospitals. The charges are cost based. Costs have risen during this year due to salary increases. Increased rates result in additional revenue to the state and to the hospital through federal revenue sources, and third party payees.

Citation of Existing Rules Affected by this Order: Amending WAC 275-16-030 Schedule of charges.

Statutory Authority for Adoption: RCW 43.20B.335.

Pursuant to notice filed as WSR 91-04-034 on January 30, 1991.

AMENDATORY SECTION (Amending Order 3061, filed 8/23/90, effective 9/23/90)

WAC 275-16-030 SCHEDULE OF CHARGES.

Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals for the previous year. Hospitalization charges are due and payable on or before the tenth day of each calendar month for services rendered to patients of the department during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
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(a) INPATIENT SERVICES -

Hospital Costs Per Day \$((+91.30))			((206.81))
	224.00	288.23	228.49
Physician Costs	*	15.56	*
Clozapine Costs Per Week \$172.00		—	172.00

*The department shall bill the client for physician costs on a fee-for-service basis.

(b) OUTPATIENT SERVICES -
 Per diem

Outpatient	—	—	—
Day Care Per Day	—	89.30	—
Per Hour	—	15.92	—

(c) ANCILLARY SERVICES -
 Per relative value unit ^{1/}

Radiology	4.20	4.20	5.90
Pathology	.31	.31	.29
Medical Clinics	1.78	1.78	7.31
Electroencephalogram	1.09	1.09	1.09
Electrocardiogram	.18	.18	.62
Physical Therapy	5.06	5.06	12.05
Occupational Therapy	—	—	26.89
Speech Therapy	—	—	16.68
Dental	29.46	29.60	40.60
Podiatry	1.28	1.28	1.00

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost.

^{1/}California Medical Association. Relative Value Studies. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

**WSR 91-08-015
 PERMANENT RULES
 DEPARTMENT OF AGRICULTURE
 [Order 2076—Filed March 27, 1991, 8:50 a.m.]**

Date of Adoption: March 27, 1991.

Purpose: To establish certification procedures for garlic grown for seed purposes.

Citation of Existing Rules Affected by this Order:
Amending chapter 16-333 WAC.

Statutory Authority for Adoption: Chapter 15.14
RCW.

Pursuant to notice filed as WSR 91-04-068 on Feb-
ruary 5, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 27, 1991

C. Alan Pettibone
Director

NEW SECTION

WAC 16-333-200 DEFINITIONS. (1) "Depart-
ment" means the Washington state department of
agriculture.

(2) "Director" means the director of the Washington
state department of agriculture or the director's duly
authorized representative.

(3) "Certified block" means a planting of plants,
bulbs, or cloves of garlic which are propagated from
foundation or registered stock and are used to increase
certified planting stock or propagated from plants, bulbs,
or cloves in another certified block.

(4) "Certified planting stock" means bulbs or cloves of
garlic which are:

(a) The first propagation of registered stock or foun-
dation stock; or

(b) Progeny of certified stock which are grown in a
certified block.

(5) "Foundation stock" means:

(a) Bulbs or cloves of garlic which have been treated
in a hot solution of formalin or other treatment approved
by the director for stem and bulb nematode (*Ditylenchus*
dipsaci) and inspected and found to be free of white rot
fungus (*Sclerotium cepivorum*); or

(b) Obtained from planting stock which was inspected
and found to be free from stem and bulb nematode and
white rot fungus; or

(c) Maintained and certified by the University of
California, or other approved sources, as foundation
stock.

(6) "Garlic" means the varieties of the plant *Allium*
sativum.

(7) "Registered stock" means bulbs or cloves of garlic
which are:

(a) The propagation of foundation stock; or

(b) Propagated from registered stock grown in a
block.

(8) "Planting stock" includes certified stock, founda-
tion stock, or registered stock.

(9) Garlic "seed" means bulbs or cloves of garlic for
planting purposes.

NEW SECTION

WAC 16-333-205 APPROVAL OF STOCK. The
department does not produce or maintain foundation,
registered, or certified class planting stock. Plants, bulbs,
or cloves of garlic may be accepted as planting stock if
the following conditions are met:

(1) The stock has been:

(a) Treated with a hot solution of formalin or other
treatment approved by the director for stem and bulb
nematode, according to label requirements, prior to be-
ing shipped into Washington; or

(b) Inspected by the department, another official state
inspection agency, a crop improvement association, or
another organization deemed as equivalent by the direc-
tor, as attested by an official certificate or other docu-
mentation, and found to be free from stem and bulb
nematode;

(2) The stock is free from white rot fungus;

(3) The stock has been approved by the department.

NEW SECTION

WAC 16-333-210 SEED STOCK ELIGIBLE
FOR CERTIFICATION. Only the progeny of garlic
stock meeting the approval requirements of WAC 16-
333-205 will be eligible for certification as certified gar-
lic seed.

NEW SECTION

WAC 16-333-215 PLANTING REQUIRE-
MENTS. (1) To assure that the identity of a certified
block is maintained, each block shall be planted a mini-
mum of twelve feet from another certified block or vari-
ety of garlic.

(2) Garlic shall be planted in a planting area inspect-
ed and approved by the department. That planting area
shall be one:

(a) Where stem and bulb nematode is not found;

(b) Where the spread of infestation of nematode by
drainage, flooding, or irrigation is not likely;

(c) Where water for irrigation is directly from wells
only;

(d) Which has not been found to be infested with
white rot fungus (*Sclerotium cepivorum*); and

(e) Which has never been planted with gladiolus bulbs
or with any *Allium* spp. except certified garlic.

(3) Garlic shall be planted a minimum of five hundred
feet from any *Allium* spp. which is not being grown for
certification as seed.

NEW SECTION

WAC 16-333-220 CONDITIONS UNDER
WHICH CERTIFICATION MAY BE REFUSED. The department
will conduct field inspections of certified
garlic plantings. Any plants which appear to be growing
abnormally or abnormal appearing bulbs will be collect-
ed and examined for the presence of pests or disease.
The department may refuse to certify a planting of gar-
lic or the harvested bulbs of garlic if:

(1) The planting, bulbs or cloves, are found to be in-
fested with stem or bulb nematode, white rot fungus, or
any other pest of garlic and the department determines
that the infestation cannot be eliminated by treatment,
rouging, or other procedure; or

(2) The grower has failed to comply with any certifi-
cation requirement in this chapter.

NEW SECTION

WAC 16-333-225 RESPONSIBILITIES OF THE GROWER. A grower of certified garlic shall:

- (1) Conduct an active program of garlic pest control;
- (2) Use suitable precautions when cultivating, irrigating, or moving or using of equipment to prevent the spread of soil-borne pests or disease;
- (3) Keep containers for the movement of harvested garlic free of dirt and residues of garlic, onions, or other Allium species: PROVIDED, That bins previously used for onions, potatoes, and gladiolus bulbs may not be used and bins used for other crops shall be steam cleaned;
- (4) Conform to white rot quarantine regulations in WAC 16-470-300 through 16-470-340.

NEW SECTION

WAC 16-333-230 STORAGE REQUIREMENTS FOR CERTIFIED SEED. Certified seed-garlic shall be stored in clean containers and in clean storage areas which have been approved by the department. Storage shall not be allowed in onion, potato, or gladiolus storage bins or areas. Certified garlic seed may be placed either in new bags, or bags that have been used only for certified garlic seed, or bags that have been sterilized in a manner approved by the department.

NEW SECTION

WAC 16-333-235 MOVEMENT OF SEED OUT-OF-STATE—PERMIT REQUIREMENT. (1) If a lot of certified seed-garlic is to be moved out of Washington for treatment, as provided in WAC 16-333-205 (1)(a), and for cracking, prior to that movement, the grower shall obtain a permit from the department. The number of the permit shall be used by the department to identify that lot.

(2) The permit shall be affixed to the shipping container at all times. The permit number shall be referenced on the official certificate certifying that the prescribed treatment has been completed. A certificate and the attached permit is required for reentry of the treated seed into Washington as certified garlic seed. Unless the identity shall be maintained on all seed lots, such lots may not be certified.

NEW SECTION

WAC 16-333-240 FEES. The following fees are applicable to the garlic seed certification program:

- (1) An application fee \$200.00
- (2) Inspection fee, per hour \$ 20.00
- (3) Mileage, per mile \$.26
- (4) Laboratory analysis by the department to determine the presence of nematodes or disease, costs of materials and labor, per hour..... \$ 20.00
- (5) Laboratory analysis performed by Washington State University or other laboratories will be charged back at the actual cost to the department including shipping and any other directly related costs.

NEW SECTION

WAC 16-333-245 CERTIFYING AGENCY ISSUANCE OF CERTIFICATE. (1) The issuance of a certified state of Washington seed tag or stamp under this chapter affirms solely that the tagged or stamped seed garlic has been subjected to certification standards and procedures by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all garlic plants, bulbs, or cloves under this chapter.

(2) The department is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling or otherwise, in connection with this chapter. No grower, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

WSR 91-08-016

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Order 2077—Filed March 27, 1991, 8:52 a.m.]

Date of Adoption: March 27, 1991.

Purpose: Certification of hop rootstock, the proposed revision would clarify the standards and tolerances for the production of certified rootstocks, and redefine plant disease terminology to conform to the currently accepted technology; and hop disease quarantine, revision would clarify the intent of the quarantine, propose stricter disease tolerance limits, and revise violation and penalty rules.

Citation of Existing Rules Affected by this Order: Amending chapters 16-354 and 16-497 WAC.

Statutory Authority for Adoption: Chapters 15.14 and 17.24 RCW.

Pursuant to notice filed as WSR 91-04-067 on February 5, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 27, 1991

C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-005 HOP ROOTSTOCK—GENERAL. (1) Rootstocks of hops (*Humulus Lupulus L.*) may be designated as foundation stock, registered stock and certified stock when inspected, tested and found to be ~~((true to name (not off-type) and))~~ discernibly free from ~~((virus (prunus necrotic ringspot strains)))~~ Ilar viruses and virus-like diseases, downy mildew, verticillium wilt, crown gall, rootknot nematode, hop cyst nematode or other serious pests, by procedures and inspections outlined in this program.

(2) The issuance of a ~~((certified))~~ state of Washington certified plant tag or stamp under this chapter affirms ~~((solely))~~ only that the tagged or stamped hop rootstock has been subjected to certification ~~((standards and))~~

procedures to determine compliance with standards by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(3) The department is not responsible for disease, genetic disorders, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the department regarding this chapter.

(4) Participation in the hop rootstock certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-010 DEFINITIONS. (1) (~~"Virus infected (affected)"~~) means presence of virus(es) in a plant or plant part:)) "Iilar virus" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(2) "Virus-like" means a transmissible disorder of (~~genetic or nontransmissible origin~~) unknown cause.

(3) (~~"Off-type" means not true to name.~~

(4)) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

((5)) (4) "Foundation rootstock" means slips or rhizomes, cuttings and rooted plants taken from hop stocks established and maintained by Washington State University, that are indexed, and believed to be free from known viruses and (~~that are true to name~~) which will be genetically uniform. Cuttings or rooted plants, which shall be used to establish (~~registered~~) certified mother blocks shall be furnished to the applicant for a fee determined by Washington State University.

((6) "~~Registered~~) (5) "Certified mother block" means a planting of hop stocks established from foundation rootstock.

((7)) (6) "Certified rootstock" means rootstock produced from (~~registered~~) certified mother blocks and meeting the requirements as herein provided.

((8)) (7) "Verticillium wilt" means the disease caused by Verticillium albo-atrum Reinke & Berth. or hop strains of this organism.

((9)) (8) "Downy mildew and/or black rot" means the disease caused by Pseudoperonospora humuli Miy. & Tak., G. W. Wils. Black roots caused by this disease shall not be permitted.

((10)) (9) "Crown gall" means the disease caused by Agrobacterium tumefaciens E. F. Sm. & Towns., Conn.

((11)) (10) "Rootknot nematode" means the nematode(~~(f)~~) Meloidogyne sp.(f)

((12)) (11) "Hop cyst nematode" means the nematode(~~(f)~~) Heterodera humuli(f) Filipjev.

((13)) (12) "Crown" means a slip or layered stem cutting with visible buds, that has been grown for one or two years.

((14)) (13) "Fairly fresh" means that the roots or cuttings are not excessively wilted.

((15)) (14) "Firm" means that the plant parts are not soft or spongy, although they may yield to slight pressure.

((16)) (15) "Moist" means that the plant parts are reasonably turgid and not dried to a degree that would affect normal growth.

((17)) (16) "Fairly clean" means that the plant parts are not matted or caked with dirt.

((18) "~~Mold~~") (17) "Free from damage caused by mold" means that the plants shall be free from excessive mold or decay. Plants slightly affected by mold shall be allowed.

((19) "~~Freezing~~) (18) "Free from damage caused by freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant.

((20)) (19) "Broken or mutilated rootstock" means the breaking of the root section or splitting of the plant part or other mechanical injury that would affect the normal growth of the plant.

(20) "Department" means the Washington state department of agriculture.

(21) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-020 FIELD STANDARDS FOR PRODUCTION OF CERTIFIED HOP ROOTSTOCK. (1) Land requirements:

(a) (~~A registered mother block to be eligible for the production of certified rootstock shall be planted in a site that has been out of hop production three years (poles and trellis removed):~~) New land (land that has never grown hops), proposed for the establishment of certified mother blocks, shall be approved by the department prior to planting.

(b) (~~New land (land that has never grown hops) proposed for the establishment of registered mother blocks shall be approved by the department prior to planting in respect to location, drainage and adaptability:~~) A certified mother block to be eligible for the production of certified rootstock shall be planted in a site that has been out of hop production for three years (poles and trellis removed). The site shall be inspected the season prior to planting. Sites with residual hop plants or with hop hullings present shall be rejected.

(c) (~~Old hop land proposed for the establishment of registered mother blocks shall be inspected the season prior to planting in order to determine the absence of holdover hop plants: PROVIDED, That a field is eligible to be replanted with the identical hop strain of equal standards:~~

(d)) Hop hullings shall not be spread over proposed planting sites prior to and/or during certified rootstock production.

(2) Isolation requirements:

(a) A field to be eligible for production of certified hop rootstock shall be separated by a strip of ground at least twenty-one feet in width from any other hop plants.

(b) A grower of certified hop rootstocks may grow more than one hop variety or strain: PROVIDED, That each variety or strain is separated by a hop plant free buffer strip not less than twenty-one feet in width.

(3) Plant requirements:

(a) Only foundation rootstock shall be planted to establish a ((registered)) certified mother block for the production of certified rootstock.

(b) ((Registered)) Certified mother blocks shall remain in place no more than four growing seasons: PROVIDED, That after four years, rootstock to be certified may be moved ((to a new eligible site if approved by a Washington State University pathologist: PROVIDED FURTHER, That if male plants are found, the field will be disqualified in the year following discovery of the male plants)), if approved by the department after consultation with a Washington State University pathologist, to a new approved site.

(c) If, during inspection, a male plant is found and that plant has pollinated female hop plants (seeded), the mother block site will be disqualified beginning in the year following discovery of the male plants. For the growing season in which the male plants are detected, the rootstock from that site may be dug and sold as certified while in the dormant stage.

(d) In roguing, growers shall dig and immediately destroy all low yielding, unhealthy appearing, ((off-type;)) diseased or otherwise abnormal plants.

((d)) (e) Plant pests and weeds shall be effectively controlled.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-030 HOP ROOTSTOCK INSPECTIONS. (1) The first inspection shall be for downy mildew, ((verticillium wilt)) and other diseases and pests. ((The presence of verticillium wilt shall disqualify the field.))

(2) The second inspection, depending on suitable weather conditions, shall be primarily for detection of Ilar viruses, and virus-like diseases.

(3) The presence of verticillium wilt, detected in any inspection, shall disqualify the field.

(4) Rootstocks. The planting material (slips or rhizomes, layered stem cuttings, or crowns) shall be inspected at digging and/or at planting time to determine freedom from serious pests.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-040 HOP ROOTSTOCK CERTIFICATION APPLICATION AND FEES. (1) The applicant grower shall furnish to the department all information pertinent to the operation of the hop rootstock certification program and shall give his/her consent to the department to take material from ((registered)) certified

mother blocks and/or greenhouses for examination and testing.

(2) Application for inspection and testing of ((registered)) certified mother blocks and certified stocks shall be filed with the department by April 1 of each year accompanied by a seventy-five dollar application fee.

(3) Inspection fees ((are)) shall be sixteen dollars for each acre per inspection with a minimum fee of eighty dollars for five acres or less per inspection.

(4) Payment for inspection of ((registered)) certified mother blocks and nursery stock for registration and certification shall be made upon completion of the inspection. Billing to the nursery stock grower shall be made by the ((chemical and)) plant services division.

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-070 HOP ROOTSTOCK FIELD STANDARDS. (1) The unit of certification shall be the entire lot within the field standing at the time of inspection.

(2) Specific requirements. (Percentage tolerances)

	<u>Certified</u>
Downy mildew	1%
Nematodes (visible)	1%
Verticillium wilt	0
<u>((Virus (Prunus necrotic ringspot strains)) Ilar viruses</u>	0

AMENDATORY SECTION (Amending Order 1867, filed 7/16/85)

WAC 16-354-100 HOP ROOTSTOCK TOLERANCES. (1) In order to allow for variations incident to proper grading and packing, not more than a combined total of six percent, by count, of the rootstocks in any lot shall fail to meet the requirements of ((the above grade)) Washington No. 1, and not more than six percent of the rootstock shall have rhizomes or layered stem cuttings less than five inches in length.

(2) ((The contents of individual containers in the lot, based on sample inspection, are subject to the following limitation: PROVIDED, That the averages for the entire lot are within the tolerances specified. When a tolerance is six percent or more, individual containers in any lot shall have not more than one and one-half times the tolerance specified.)) In order to insure lot uniformity, no individual container within a lot may contain more than one and one-half times the established tolerance.

(3) Hop plants shall be packed to retain a fresh condition.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-001 ESTABLISHING QUARANTINE. The introduction of dangerous diseases of hops into the state of Washington would entail great losses to the horticultural interests of the state, and the most rigid examinations cannot determine the presence of disease on dormant hop plants or parts of plants; therefore this quarantine is established by the director of agriculture,

pursuant to the authority provided in chapter 17.24 RCW, setting forth the rules for the importation of hop plants into the state of Washington.

NEW SECTION

WAC 16-497-005 HOP DISEASE QUARANTINE—DEFINITIONS. (1) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Iilar viruses" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(4) "Verticillium wilt" means the disease caused by Verticillium albo-atrum Reinke & Berth, or hop strains of this organism.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-020 (~~COMMODITIES COVERED~~) REGULATED ARTICLES. Plants and all parts thereof (except the kiln dried cone) of hops (*Humulus Lupulus L.*)

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-030 REGULATIONS—CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES. Hop plants and all parts thereof will be admitted into the state of Washington: PROVIDED, That the following provisions are complied with.

(1) The hop plant or parts thereof have been certified in accordance with the regulations of an official state agency, which certification program requires at least two field inspections during the growing season, and requires that certification tolerances shall not exceed: Verticillium wilt, (*albo atrum (dm)* (~~and *dahliae (ms)*~~)) and Iilar viruses, zero percent (~~and Virus, or virus-like symptoms one tenth of one percent~~): AND PROVIDED FURTHER, That all shipments of such hop planting stock shall be apparently free of insect pests and shall be accompanied by a certificate issued by (~~said~~) an official (~~state~~) agency of the state of origin certifying that (~~said~~) the hop planting stock was produced under official certification regulations and meets official standards.

(2) All shipments of hop planting stock shall be plainly marked with the contents on the outside of the package or container.

(3) (~~All products admissible under the foregoing provisions must be held by common carrier agent and not delivered to consignee or agent until inspected and passed by the director of agriculture of the state of~~

~~Washington or his designee.~~) Persons shipping or transporting regulated articles into this state from areas under quarantine shall notify the department's plant certification branch of the nature and quantity of each shipment, the expected date of arrival at destination, the name of the intended receiver and the destination. The person to whom the articles are shipped shall hold the same until they are inspected and/or released by the department.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-040 DISPOSITION OF MATERIAL SHIPPED IN VIOLATION OF THIS QUARANTINE. All (~~hop plants or parts thereof~~) regulated articles arriving in the state of Washington in violation of this quarantine shall be immediately sent out of the state or destroyed at the option and expense of the owner or owners, (~~or his~~) or their responsible agents.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-050 EXEMPTION. The (~~foregoing does not~~) restrictions on the movement of regulated articles set forth in this chapter shall not apply to (~~the experiments of~~) hop plants or parts of plants imported for experimental or trial purposes by the United States Department of Agriculture (and) or the state experiment stations in the state of Washington.

AMENDATORY SECTION (Amending Order 1663, filed 12/31/79, effective 6/1/80)

WAC 16-497-060 VIOLATION AND PENALTY. (~~All violations of this order shall be dealt with as provided for in RCW 17.24.100, as follows:~~

~~Penalties—Second and subsequent offenses. Every person who shall violate or fail to comply with any rule or regulation adopted and promulgated by the director of agriculture in accordance with and under the provision of RCW 17.24.020 through 17.24.100 shall be guilty of a misdemeanor, and for a second and each subsequent violation or failure to comply with the same rule or regulation, shall be punished by imprisonment in the county jail for not less than thirty days or more than one year, or by a fine of not less than one hundred dollars, or more than one thousand dollars or both such fine and imprisonment."~~) Violations of this quarantine shall be punishable by the criminal and/or civil penalties provided by law in addition to any other inspection costs that may be assessed.

WSR 91-08-017

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Order 2078—Filed March 27, 1991, 8:54 a.m.]

Date of Adoption: March 27, 1991.

Purpose: To revise the bean seed quarantine rules to reflect recent changes in technology in the detection and

determination of viral, bacterial and fungal diseases of beans. To make been seed certification rules consistent with changes in the bean seed quarantine rules.

Citation of Existing Rules Affected by this Order: Amending chapters 16-316 and 16-494 WAC.

Statutory Authority for Adoption: Chapter 15.49 RCW.

Pursuant to notice filed as WSR 91-04-066 on February 5, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 27, 1991

C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-280 FIELD TOLERANCES. Field tolerances shall be as follows:

(1)

	Field Producing		
	Found- ation	Regis- tered	Certi- fied
Other varieties or off-type plants	none	0.1%	0.2%
Other crops	none	0.1%	0.1%
Total seed-borne diseases	none	0.5%	1.5%
Bacterial bean blights and wilt	none	none	none
Anthraxnose	none	none	none
Mosaic seed-borne	none	0.5%	0.5%

(2) Snap beans and kidney beans grown under sprinkler irrigation will not be eligible for certification. Further snap and kidney beans shall be isolated by 1320 feet from known bacterial blight.

(3) Fields must be rogued of weeds, off-type plants, volunteer plants, and plants showing symptoms of seed-borne diseases. Excessive night-shade shall be a cause for rejection.

(4) A field to be eligible for certification must have clean, cultivated boundaries at least ten feet wide.

(5) Excessive weeds, poor stands, lack of vigor, or any other condition which is apt to make inspection inaccurate may be cause for rejection of the field.

(6) Bean fields showing virus-like mosaic symptoms will not be accepted as free of Bean Common Mosaic Virus until plant samples are tested serologically, and found to be free of Bean Common Mosaic Virus.

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-285 INSPECTION REQUIREMENTS. Inspection requirements shall be as follows:

(1) When factors affecting certification are most evident. The 2nd inspection, when required, shall be a window inspection.

(2) A greenhouse test may be required if the certifying agency deems it necessary.

(3) A serology test for Bean Common Mosaic Virus or Adzuki Mosaic Virus disease is required to certify seed.

(4) The combined results of field inspections, laboratory test, and greenhouse test, when required, will determine final certification.

AMENDATORY SECTION (Amending Order 1611, filed 4/30/79)

WAC 16-316-290 SEED STANDARDS. Seed standards shall be as follows:

(1)

Purity	Found- ation	Regis- tered	Blue Tag Certi- fied
Pure seed	(Min.) 98%	98%	98%
Other crops & varieties	(Max.) none	none	2/100 lbs.
Badly damaged seed	(Max.)	2%	2%
Inert matter	(Max.)	2%	2%
Splits & cracks	(Max.)	2%	2%
Weed seed	(Max.)	none	none
Bean Common Mosaic Virus disease or Adzuki Mosaic Virus disease	(Max.)	none	0.0%
Germination (minimum)		85%	85%

(2) Total inert matter, splits and cracks, and badly damaged seed shall not exceed 2% except for foundation class.

(3) Test reports will show percent of discolored beans for information only.

(4) Rough handling of bean seed in the combine or cleaning plant reduces germination materially. Precautions must be taken against such treatment and the seed safeguarded against high drops.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-001 ESTABLISHING QUARANTINE. ~~((Halo Blight Pseudomonas phaseolicola (Burk.) Dows., Common Bean Blight Xanthomonas phaseoli (E.F.Sm.) Dows., Fuscos Blight Xanthomonas phaseoli var. fuscans (Burk.), Bean anthracnose disease, Colletotrichum lindemuthianum (Sacc. & Magn.) Scrib., Brown spot disease, Pseudomonas syringae (Van Hall) (only strains virulently pathogenic to Phaseolus sp.), Bean Bacterial Wilt Corynebacterium flaccumfaciens (Hedges) Dows., and any new strains or variations of the above bacterial and fungus diseases are hereinafter referred to as diseases.))~~ The production of edible beans and bean seed is an important industry in the state of Washington. The economic well-being of that industry is threatened by the introduction of bean seed contaminated with viral, bacterial and fungal diseases not established in the commercial production areas in Washington. The director has determined that a quarantine will be effective in preventing the introduction of ((said)) these viral, bacterial and ((fungus)) fungal diseases of beans, and that control of ((the said bacterial and fungus)) these diseases of beans will provide the ((common)) bean growers of the state of

Washington with a source of ((common)) seed beans for planting purposes which are ((disease free)) tested for the presence of these diseases.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-010 DEFINITIONS. (1) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. ~~((This term shall import either the singular or the plural as the case may be.))~~

(2) "Department" means the Washington state department of agriculture.

(3) "Director" means the director of the department of agriculture or ((his)) the director's duly authorized representative.

(4) "Common bean" means *Phaseolus vulgaris* L.

(5) ~~((("Beans" means *Phaseolus* sp.))~~ "Adzuki bean" means *Vigna angularis*.

(6) "Bean" means common beans and adzuki beans.

(7) "Origin" means the county within the state of Washington, or the state, territory or country where a specific seed lot was grown.

~~((7))~~ (8) "Approved trial grounds" means a specific parcel of land ~~((determined by mutual agreement between persons, and))~~ approved by the director for experimental or limited production or increase of bean seed.

(9) "University" means the Washington State University, college of agriculture and home economics.

(10) "Dominant I-gene cultivar" means a cultivar which has resistance to all known strains of Bean Common Mosaic Virus (B.C.M.V.) due to the presence of the dominant I-gene. Dominant I-gene cultivars will not show mosaic mottle symptoms or transmit the virus through seed when inoculated with any strain of B.C.M.V.

(11) "Recessive I-gene cultivar" means a cultivar which may be susceptible to some strains of Bean Common Mosaic Virus and may show mosaic mottle symptoms.

(12) "Diseases" means those viral, fungal and bacterial diseases of beans enumerated in WAC 16-494-013 and any new variations or strains of these identified in the future.

(13) "Serology" means precipitation, agglutination, immunodiffusion, or labeled antibody test methods (such as ELISA) that use the specificity of antigen-antibody reactions to detect and identify antigenic substances and the organisms such as viruses and bacteria that carry them.

(14) "Official certificate" means a document issued by an official testing agency including but not limited to seed certification tags, bulk seed certification certificates, phyto-sanitary certificates, laboratory sanitary certificates, and other letters, tags, stamps or similar documents certifying seed quality or condition.

(15) "Quarantine Area I" means all areas west of the Continental Divide except those counties within the state of Washington subject to internal quarantine and the states of Alaska and Hawaii.

(16) "Quarantine Area II" means areas east of the Continental Divide, the counties in the state of Washington subject to internal quarantine, the states of Alaska and Hawaii and foreign countries.

NEW SECTION

WAC 16-494-012 REGULATED ARTICLES. Seeds of common beans and adzuki beans intended for planting purposes, bean plants and parts of plants, and crop residue from the harvest of infected beans are regulated under the provisions of this chapter.

NEW SECTION

WAC 16-494-013 REGULATED DISEASES. The following viral, bacterial and fungal diseases of beans, and any new strains or variations of these identified in the future, of beans are regulated under the provisions of this chapter:

Bean Common Mosaic Virus

Adzuki Mosaic Virus

Halo Blight (*Pseudomonas Syringae* pv. *phaseolicola* (Young et. al.))

Common Bean Blight (*Xanthomonas Campestris* pv. *phaseoli* (Smith) Dye)

Fuscous Blight (*Xanthomonas phaseoli* var. *fuscans* (Burk.))

Bean anthracnose disease (*Colletotrichum lindemuthianum* (Sacc. & Magn.) Scrib.)

Brown spot disease (*Pseudomonas syringae* pv. *syringae* (Van Hall)) strains virulently pathogenic to *Phaseolus*

Bean Bacterial Wilt (*Corynebacterium flaccumfaciens* ssp. *flaccumfaciens* (Hedges) Dows.)

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-020 BEAN SEED—QUARANTINED AREA. ~~((All))~~ The entire counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom in the state of Washington, ~~((except those counties east of the crest of the Cascade Mountains.))~~ and all areas outside the state of Washington are established as a quarantine area. The quarantine area is further divided into two portions defined in WAC 16-494-010 (15) and (16) for the purposes of regulation.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-030 BEAN SEED—REGULATED AREA. ~~((All counties east of the crest of the Cascade Mountains.))~~ The entire counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima in the state of Washington are established as a protected area within the state.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

~~WAC 16-494-042 ((CONDITIONS FOR PLANTING BEAN SEED IN WASHINGTON STATE)) GENERAL REQUIREMENTS FOR PLANTING BEAN SEED IN THE REGULATED AREA. ((1) No beans shall be planted in the regulated area listed in WAC 16-494-030 which are found to be or are known to be contaminated with the diseases listed in WAC 16-494-001.~~

~~(2) Requirements for planting Eastern Washington grown bean seed:~~

~~(a) Bean seed must have been entered into the Washington state bean phyto-sanitary certificate inspection program or the Washington state seed certification inspection program. See WAC 16-316-327 and 16-316-270.~~

~~(b) All commercial dry beans for seed, except kidney beans, are exempt from the above: PROVIDED, That the commercial dry beans pass a laboratory/greenhouse test approved by Washington State University, College of Agriculture and Home Economics, and they have not been shipped east of the Continental Divide.~~

~~(c) All commercial dry beans to be used only for dry edible purposes, except kidney beans, are exempt from (a) of this subsection: PROVIDED, That the seed has never been shipped outside the state.~~

~~(3) Requirements for planting imported bean seed originating in areas west of the Continental Divide, excluding the area west of the crest of the Cascade Mountains, Hawaii and Alaska:~~

~~(a) Imported bean seed shall not be shipped, transported or moved into the regulated area listed in WAC 16-494-030 for planting unless the beans are accompanied by an origin phyto-sanitary certificate showing that the beans are free from the diseases listed in WAC 16-494-001 on the basis of at least one field inspection and one windrow inspection. The windrow inspection portion of the phyto-sanitary certificate requirement may be waived when the bean seed is accompanied by an official certificate issued by an approved testing agency stating the seed is free from disease, based on an approved laboratory/greenhouse test of a five-pound sample from each ten thousand pounds or fraction thereof.~~

~~(b) The bean seed planted for seed increase or with intention of seed increase shall be planted in fields entered into either the Washington state bean seed phyto-sanitary certificate inspection program or the Washington state seed certification inspection program. See WAC 16-316-327 and 16-316-270.~~

~~(c) All commercial beans, except kidney beans, are exempt from (b) of this subsection: PROVIDED, That the seed is accompanied by a phyto-sanitary certificate or by an official certificate issued by an approved testing agency stating the bean seed is free from the diseases listed in WAC 16-494-001, based on an approved laboratory/greenhouse test.~~

~~(4) Requirements for planting imported bean seed originating from areas east of the Continental Divide or in foreign countries or otherwise ineligible for planting in regulated areas of Washington:~~

~~(a) Bean seed must first be planted into an approved trial ground that meets the requirements of the department:~~

~~(b) Bean seed up to a maximum of one pound per variety may be planted in an approved trial ground intended for research purposes, with no restrictions, except as noted in this rule to include notification to the department of intent to plant and inspection procedures to be complied with for trial grounds (see WAC 16-494-044).~~

~~(c) Bean seed over one pound intended for introduction or seed increase must first be planted in an approved trial ground not to exceed five acres for each variety: PROVIDED, That the bean seed must have first passed a laboratory/greenhouse test as approved by the Washington State University, College of Agriculture and Home Economics, notification has been given the department of intent to plant, and inspection procedures are to be complied with for trial grounds (see WAC 16-494-044).~~

~~(5) Bean seed planted for harvest as green beans for cannery or freezing that is in compliance with this quarantine is not required to be entered into an inspection program: PROVIDED, That the department reserves the right to request complete listing and location of all the plantings and other information the department may deem necessary. Further, if for any reason it is decided that the plantings are not to be harvested as green beans the Seed Branch of the Department, 2015 South 1st Street, Yakima, Washington 98903, shall be notified and the plantings placed under an inspection program.~~

~~(6) This quarantine shall not apply to the shipment, movement, or transportation of beans prepackaged in packages of eight ounces or less for home garden use in the regulated area if, as far as is known, the beans are free of diseases.~~

~~(7) The department shall be notified in writing prior to shipping, moving or transporting of any person's intent to ship, move or transport any common beans into the regulated area listed in WAC 16-494-030. The notice of intent shall be accompanied by a copy of the phyto-sanitary certificate issued for common beans:))~~

~~(1) No beans shall be planted, or sold, shipped, or transported for seed purposes in the regulated area which are found to be or are known to be contaminated with any disease listed in WAC 16-494-013.~~

~~(2) The department shall be notified in writing, prior to shipping, of any person's intent to ship, move, or transport any bean seed into the regulated area. This notice of intent shall be accompanied by a copy of the official certificate issued for that bean seed.~~

NEW SECTION

WAC 16-494-043 ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN THE REGULATED AREA. (1) Bean seed shall have been entered into the Washington state bean phyto-sanitary certificate inspection program or the Washington state seed certification inspection program as provided in WAC 16-316-270 and 16-316-327.

(2) When the director determines that an emergency condition exists because of a shortage of seed for planting purposes, beans grown for processing as edible beans may be accepted for planting purposes: PROVIDED, That the lot has been tested by means recommended by the university and approved by the director and found to be apparently free of regulated diseases.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

~~WAC 16-494-044 ((INSPECTION PROCEDURES FOR TRIAL GROUNDS))~~ ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN QUARANTINE AREA I. ((~~Applications for planting in a trial ground must be submitted to the department prior to May 15 of the growing year, and accompanied with detailed varietal planting plan.~~

~~(2) A minimum of three field inspections shall be made during the growing season and one windrow inspection.~~

~~(3) A disinfectant shall be applied to machinery used in the production of bean seed and footwear of personnel inspecting prior to movement to other bean fields.~~

~~(4) If any diseases listed in WAC 16-494-001 are detected by field inspections or subsequent laboratory/greenhouse tests, then none of the seed shall be released for general planting but shall again be planted in an approved trial ground for one additional year and undergo inspection procedures by the department.)~~ (1) Bean seed from quarantine area I shall not be shipped, transported, or moved into the regulated area for planting unless the beans are accompanied by an origin official certificate showing that the beans are apparently free from the regulated diseases. Such certification shall be on the basis of at least one growing season field inspection and one windrow inspection or on an approved laboratory/greenhouse test.

(2) Bean seed planted for seed increase or with intention of seed increase shall be planted in fields entered into either the Washington state bean seed phytosanitary certificate inspection program or the Washington state seed certification inspection program as provided in WAC 16-316-270 and 16-316-327.

NEW SECTION

WAC 16-494-045 ADDITIONAL REQUIREMENTS FOR PLANTING BEAN SEED GROWN IN QUARANTINE AREA II. (1) Bean seed shall first be planted into an approved trial ground that meets the requirements of the department.

(2) Bean seed, up to a maximum of one pound per variety, may be planted in an approved trial ground intended for research purposes, with notification to the department, plant certification program, of intent to plant and adherence to the inspection procedures in WAC 16-494-047 and such isolation and other requirements as the director may prescribe.

(3) Bean seed over one pound, intended for introduction or seed increase, shall first be planted in an approved trial ground not to exceed five acres for each variety. In addition, prior to planting, this bean seed shall

have passed a laboratory/greenhouse test as recommended by the university, notification shall have been given the department, plant certification program, of intent to plant and inspection procedures in WAC 16-494-047 shall have been complied with for trial grounds.

NEW SECTION

WAC 16-494-046 QUARANTINE—EXCEPTIONS AND EXEMPTIONS. (1) Bean seed planted for harvest as green beans for cannery or freezing, otherwise in compliance with this quarantine, is not required to be entered into an inspection program: PROVIDED, That the department reserves the right to request complete listing and location of all the plantings and other information the department may deem necessary. Further, if at any time prior to harvest, the grower decides that the plantings are not to be harvested as green beans, the department shall be notified and the plantings placed under an inspection program.

(2) Bean varieties (cultivars) from a quarantine area that are known to be uniform for the dominant I-gene are exempt from the serology testing requirement for Bean Common Mosaic Virus. Documentation or evidence of uniformity must accompany the seed shipment.

Undocumented cultivars are subject to a serology test to determine freedom from seedborne Bean Common Mosaic Virus based on a one-pound, untreated bean seed sample for each fifty thousand pounds of bean seed or fraction thereof.

(3) This quarantine shall not apply to the shipment, movement, or transportation of beans prepackaged in packages of eight ounces or less for home garden use in the regulated area if the beans are free of diseases.

NEW SECTION

WAC 16-494-047 INSPECTION PROCEDURES FOR TRIAL GROUNDS. (1) Applications for planting in a trial ground must be submitted to the department prior to May 15 of the growing year, and must include a detailed varietal planting plan, a description of the exact location of the trial ground, and a description of any bean plantings within one quarter mile of the trial ground.

(2) A minimum of three field inspections shall be made during the growing season and one windrow inspection.

(3) A disinfectant shall be applied to machinery used in the production of bean seed and to footwear of personnel performing inspections prior to movement to other bean fields.

(4) If any regulated diseases are detected by field inspections or subsequent laboratory/greenhouse tests, none of the seed shall be released for general planting but shall again be planted in an approved trial ground for one additional year and undergo inspection procedures by the department.

AMENDATORY SECTION (Amending Order 1846, filed 12/31/84)

WAC 16-494-062 IDENTIFICATION AND DISPOSITION OF DISEASED BEAN SEED AND

INFECTED BEAN FIELDS. (1) ~~((Any bean seed found or known to be contaminated with disease shall not be planted in Washington state.)) Any bean field planted with seed in violation of the requirements of this quarantine shall be subject to destruction, in full or in part, or quarantined, as determined necessary by the director, to prevent the spread of regulated diseases at the option and the expense of the grower or their responsible agents.~~

(a) Fields that are placed under a quarantine order shall be entered into the Washington state bean seed phyto-sanitary inspection program as provided in WAC 16-316-327 with all costs of inspection to be borne by the grower or the grower's agent.

(b) Fields that are placed under a quarantine order may be subject to additional requirements for inspection, control or isolation, as deemed necessary by the director, to prevent the spread of regulated diseases.

(2) Any bean field determined to be infected with ~~((the diseases listed in WAC 16-494-001))~~ a regulated disease shall be reported within seventy-two hours after discovery to the department, plant certification program.

(3) The department encourages the aid of all interested parties, including growers and seed company representatives, in the prompt reporting of suspected infected bean fields in order that timely investigation may be made.

(4) Any bean fields within the boundaries of ~~((Washington state))~~ the regulated area which show contamination ~~((of))~~ by a regulated disease, as provided in subsection (5) of this section, shall be destroyed in part or in total as may be required to eliminate the disease, by or at the expense of the grower and/or landlord: PROVIDED, That the director may authorize any other method of control at the director's discretion. The director ~~((or representative of the director))~~ shall notify the grower, seed company representatives and/or the grower's landlord of the method and extent of the destruction and safeguards against disease spread in order for the parties to comply.

(5) The ~~((true))~~ identity of a regulated disease on growing plants or plants in windrow will be based on ~~((a))~~ the observance of the visual symptoms of ~~((a regulated))~~ the disease~~((, and (b) when))~~. If the department deems it necessary to establish true identity or pathogenicity, a laboratory and/or greenhouse ~~((tests to))~~ test may be conducted by the department in cooperation with ~~((Washington State University))~~ the university.

~~((†))~~ (a) In cases of disagreement concerning the presence of a regulated disease between the department plant pathologist and a qualified plant pathologist representing the commercial company or grower, the definitive verification of identity or pathogenicity shall ~~((include))~~ be determined by isolation of the suspected pathogen and inoculation of seedlings of a known susceptible host using ~~((the Washington State University approved))~~ accepted scientific and professional techniques~~((, the verification to be conducted in cooperation with Washington State University, College of Agriculture and Home Economics)).~~

~~((††))~~ (b) Until verification of the suspected pathogen as specified in this section is completed, the involved planting shall be placed under quarantine for a period of thirty days subject to conditions and review or extension as determined by the director. Entry into the quarantined area is to be restricted to the grower or grower's agents, department employees, ~~((Washington State University plant pathologists,))~~ and/or persons authorized in writing by the director. Persons granted entry into the quarantined area will be required to take all necessary sanitary precautions as prescribed by the director to safeguard against the possible spread of the suspected regulated disease.

(6) The true identity of the regulated disease when found in or on seed will be based on testing methods ~~((approved))~~ recommended by the ~~((Washington State University, College of Agriculture and Home Economics,))~~ university results of which, when positive, will be evidence to identify the disease as being subject to the department's requirements ~~((unless the))~~. The owner of the seed, at owner's expense, may request verification of pathogenicity. Such verification shall be made using accepted scientific and professional techniques.

(7) Exemptions and special situations:

(a) Any field of beans~~((, commercial or garden,))~~ first found infected during windrow inspection, is exempt from total destruction if the diseased portion and an ~~((appropriate))~~ area (not less than a fifty-foot radius) surrounding the infected site is promptly destroyed~~((: PROVIDED, That none of the remaining bean seed produced in the infected field may be replanted in Washington state))~~ or harvested with the beans from the infected area directed, under department supervision, to processing. Seed from the remainder of the field shall be tested by a serology test. Only seed apparently free from regulated diseases may be used for seed purposes in the regulated area.

(b) ~~((All commercial dry))~~ Any field of beans to be used only for dry edible purposes~~((, except kidney beans,))~~ are exempt from destruction if the diseased portion of the field is destroyed ~~((and/or verification as provided in subsection (5) of this section))~~ and all the crop residue is promptly and completely destroyed after harvest.

(c) Beans for processing or fresh consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within ten days after first detection and/or verification as provided in subsection ~~((5))~~ (4) of this section and the crop residue is promptly and completely destroyed after harvest.

NEW SECTION

WAC 16-494-063 NOTICE OF DESTRUCTION. When the director finds personal property planted in violation of the terms of this quarantine or infected as described in WAC 16-494-062, the director shall issue a written notice of quarantine or destruction to the owners and occupants thereof. The notice shall identify the property under quarantine, order the destruction of infested plants or prescribe the terms of entry, inspection, partial destruction and/or treatment of regulated articles.

NEW SECTION

WAC 16-494-064 PENALTIES. In addition to actions specified in WAC 16-494-062, any grower violating the terms of this quarantine, shall be subject to civil and/or criminal penalties provided in law.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-494-015 VIOLATIONS AND PENALTY.

WSR 91-08-018**PREPROPOSAL COMMENTS****DEPARTMENT OF ECOLOGY**

[Order 91-15—Filed March 27, 1991, 11:37 a.m.]

Subject of Possible Rule Making: Amendment to WAC 173-303-902 Citizen/proponent negotiations grants.

Persons may comment on this subject in writing or by phone, Laurie Davies, Waste Management Grants Section, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711, (206) 438-7562, prior to the formal rule proposal in summer 1991.

Other Information or Comments by Agency at this Time, if any: The rules for citing criteria and the notice of intent, which were adopted after WAC 173-303-902 became effective, introduced new definitions for different types of hazardous waste management facilities. In addition, the rule governing notice of intent established a comprehensive public involvement process regarding ecology's determination of a hazardous waste company's compliance with citing criteria. The CPN rule (WAC 173-303-902) is now inconsistent with the rules for citing criteria and the notice of intent. In order to correct the discrepancies, ecology must amend the CPN rule. Ecology also plans to address issues that have surfaced during the first two years this rule has been in place, including the maximum amount of grants and committee appointments.

March 20, 1991

Fred Olson

Deputy Director

WSR 91-08-019**PERMANENT RULES****DEPARTMENT OF ECOLOGY**

[Order 90-41—Filed March 27, 1991, 11:48 a.m.]

Date of Adoption: March 27, 1991.

Purpose: To establish sediment quality standards and sediment dilution zone standards per requirements of 90.70 RCW, Puget Sound Water Quality Act, and the Puget Sound water quality management plan, and RCW 90.48.520 Water Pollution Control Act.

Citation of Existing Rules Affected by this Order: Amending [new] chapter 173-204 WAC.

Statutory Authority for Adoption: Chapters 43.21C, 70.105D, 90.48, 90.52, 90.54, and 90.70 RCW.

Pursuant to notice filed as WSR 91-06-098 on March 6, 1991.

Changes Other than Editing from Proposed to Adopted Version: The following is a summary of the changes, other than editing, made in response to public concerns voiced through written and oral testimony. The changes are categorized according to the appropriate section in the final, adopted regulation.

WAC 173-204-100 Authority and purpose, subsection (1), the reference to multiple state laws within this subsection was rearranged from a chronological listing to a list which orders the laws on the basis of direct mandate to ecology for the regulation of sediment quality; subsection (3), the purpose statement in this subsection was clarified to identify the goal of the rule as to identify sediments which have "no adverse effects" not just sediments which have "no acute or chronic adverse effects." Additionally, a statement was added to this subsection to clarify the intent of this rule to provide a regulatory and management goal for the quality of all sediments in Washington state; subsection (4), a phrase was added to this subsection to clarify that the purpose of the inventory is to list sampling stations where the sediment quality, not the station, has been determined to pass or fail the applicable sediment quality standards of the rule; subsection (5), this subsection was modified to clarify that the source control standards are intended to control discharge sources which affect sediment quality, and they establish sediment monitoring and sediment impact zone requirements; and subsection (7), a clarification was made to this subsection to identify that the "minor adverse effects" level was the maximum contamination level allowed within a sediment impact zone, not to all sediments. Additionally, the "minor adverse effects" level was defined as the intended minimum degree of cleanup in all cleanup actions.

WAC 173-204-110 Applicability, subsections (1) and (2), the second sentence of subsection (1) was moved to become a new subsection (2). The language was revised to clarify the applicability of WAC 173-204-320, 173-204-330, and 173-204-340 to marine, low salinity and freshwater surface sediments, respectively; subsections (1) and (3), the third sentence in subsection (1) was moved to become a new subsection (3). This language was modified to clarify the applicability of the rule to a persons's actions which "exposes or resuspends surface sediments" (rather than "remove or disturb surface sediments") in response to the public's specific wording suggestions; subsection (4), the last sentence of subsection (1) was moved to become a new subsection (4). The term "cleanup" was added to clarify that sediment recovery zones apply to specific sediment cleanup scenarios; and subsection (6), a new subsection was added to reaffirm the preexisting authority of the department to make case-by-case sediment management decisions where the standards of the rule are reserved.

WAC 173-204-120 Antidegradation and designated use policies, the title of this section was modified to recognize the legal applicability limitations of the antidegradation policy and to address management of designated uses; subsection (1), the antidegradation policy as defined in subsections (1), (2), (3) and (4) was reorganized into subsection (1)(a), (b) and (c) and clarified to indicate that the antidegradation policy, as guided by state law, applies only to new or increased activities. Language was added to clarify that the antidegradation policy does not allow degradation of "existing sediment quality" within pristine waters (tier 3 sediments). Public participation and intergovernmental coordination and protection of beneficial uses were added as requirements to cases where degradation of sediment quality is allowed (tier 2 sediments). The conditions allowing degradation of sediment quality were also modified to identify that best management practices may be required alone or in addition to all known, available and reasonable methods of prevention, control, and treatment. The reference to the "at a minimum" requirements for best management practices and/or all known, available and reasonable methods of prevention, control, and treatment was deleted as unnecessary and confusing. Finally, the reference to sediment impact zones as the method to authorize degradation of sediment quality was deleted; and subsection (2), a new subsection (2) was added to address public concerns for management of all waste discharges and sediment quality to move towards attainment of designated beneficial uses consistent with the Federal Clean Water Act and chapter 173-201 WAC, the state water quality standards.

WAC 173-204-130 Administrative policies, subsection (1), the adjective "fully" was deleted from the policy statement requiring protection of biological resources and human health. The term is not necessary to the meaning of the subsection. "Full protection" of the aquatic environment is already embodied and specifically defined in Part III of the rule. Additionally, subsection (1) was modified to establish a link with the purpose statement in WAC 173-204-100(2) and to identify that the department shall implement the rule using latest scientific knowledge which is consistent with the definitions of "no adverse effects" and "minor adverse effects" as provided in the rule; subsection (2), this subsection was revised to clarify that the applicability of groundwater, surface water and sediment standards at the interface between those media shall depend on the impacted beneficial use and shall require application of the most restrictive standards; subsection (3), this subsection was revised to clarify that the department shall validate and refine the technical methods in the rule based on latest scientific knowledge. Additionally, the technical concept of "area-weighted averaging" was removed from this section, as well as the rest of the rule, and another example (confirmatory biological tests) was included; subsection (4), this subsection was clarified to identify that an alternate technical method to those required by the rule may be proposed to "replace or enhance" the application of such methods. Additionally, the department's approval of such alternate technical methods was linked to the purpose statement in WAC 173-204-100(2) and

the scientific definitions of "minor adverse effects" and "no adverse effects"; subsection (6), subsection (6) was shortened to its opening paragraph and combined with subsection (7). The new subsection (6) states annual review and triennial modification requirements to the rule shall follow Administrative Procedure Act, chapter 34-.05 RCW, requirements; subsection (7), a new subsection (7) combined the subparts of the proposed subsection (6) and was revised to identify technical review factors for the department's annual review of the rule. This subsection now requires consideration of new or additional scientific information, new state or federal laws and scientific peer review recommendations; subsection (8), a new subsection was added to identify a public involvement and education goal and process requirements for the department for annual review of the rule; subsection (9), a new subsection was added to require use of the Puget Sound protocols or other methods approved by the department to ensure an appropriate quality assurance/quality control program for sediment quality data; subsection (10), a new subsection was added to identify that the department shall clearly identify the statutory authority within decision documents prepared to comply with the sediment management standards (SMS). Additionally, enforcement actions and judicial review are required to be consistent with the statutory authority cited by the department; and subsection (11), a new subsection was added to clarify the manner by which the department shall identify the SMS as an applicable or relevant and appropriate requirement under the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

WAC 173-204-200 Definitions, subsection (1), the definition of "acute" was modified to reflect scientific community consensus; subsection (3), the definition for "area-weighted averaging" was deleted. A new definition for "appropriate biological tests" was added to narratively define the requirements for revising the test procedures included in the rule; subsection (4), a new definition was added for "beneficial uses" to provide an understanding of its meaning within the SMS. The definition provided is derived from three existing state rules: Chapter 173-201 WAC, Water quality standards, chapter 173-500 WAC, Water resource management program, and chapter 173-200 WAC, Water quality standards for ground waters. The definition is consistent in all state programs and the Federal Clean Water Act, although the focus on specific beneficial uses may be different for each program; subsection (5), a new definition was added for "best management practices" to provide an understanding of its meaning in the source control requirements contained in the rule; subsection (6), the definition of "chronic" was modified to reflect scientific community consensus; subsection (14), the definition of "minor adverse effects" was modified to delete the direct reference to specific chemical and biological tests identified in the rule. The new definition provides a narrative standard for measuring minor adverse effects using methods determined by rule by the department, case-by-case decisions by the department, and specific performance criteria for chemical and biological tests; subsection (15) the definition of "no adverse effects" was

modified to delete the direct reference to specific chemical and biological tests identified in the rule. The new definition provides a narrative standard for measuring no adverse effects using methods determined by rule by the department, case-by-case decisions by the department, and specific performance criteria for chemical and biological tests; subsection (16), the definition for "other toxic, radioactive, biological, or deleterious substances" was modified to delete the concept that these substances only exist when they cause adverse effects to biological resources or correspond to a significant human health threat; subsection (17), the definition of "person" was modified to revise the reference to port "authorities" to port "districts"; subsection (18), a new definition was included for "practicable" to clarify the meaning of this term when used as a measure by the department for sediment source control and cleanup requirements; subsection (19), a change was made to the definition of "Puget Sound" to include within that definition the term "Puget Sound basin"; subsection (22), the definition for "sediment impact zone" was clarified to add that these zones are caused by ongoing "permitted or otherwise authorized" discharges; subsection (23), the definition for "sediment recovery zone" was modified to clarify these areas exceed the sediment quality standards due to historical discharges and these areas are authorized by the department via a cleanup decision under WAC 173-204-580, Cleanup action decision; subsection (25), the definition for "surface sediments" or "sediment (s)" was modified to clarify that human activities (e.g., dredging) may create or expose sediments within the intent of the definition; and subsection (26), a new definition was included for "test sediment" to clarify the use of that term within the rule.

WAC 173-204-310 Sediment quality designation procedures, the opening paragraph of this section was revised to include a reference to the pertinent requirements of WAC 173-204-600 Sampling and testing standards and 173-204-610 Records management, respectively. A policy statement was included on the importance of using data that meets applicable quality assurance and quality control standards. And a requirement was included to use the Puget Sound protocols or other methods approved by the department for sampling and analysis of sediment samples; subsection (1), subsection (1)(b) was modified to clarify that sediments which exceed any initial designation chemical or human health criterion are designated as having adverse effects specifically on "biological resources" or "posing significant human health threats"; subsection (2)(a), subsection (2)(a) was revised to clarify that any persons may confirm the designation of sediments which have "either passed or failed" initial designation; subsection (2)(b), subsection (2)(b) was revised to clarify that any person may confirm the designation of sediments which have "either passed or failed" initial designation; and subsection (3), this subsection was reorganized and modified to add that the chemical and biological tests and standards stipulated in the rule may be used to designate sediments containing other toxic, radioactive, biological or deleterious substances when determined appropriate by the department.

WAC 173-204-315 Confirmatory marine sediment biological tests, subsection (1)(a)(i), reference to the amphipod test was clarified as a "mortality" sediment bioassay; subsection (1)(a)(ii), reference to the duration of the larval bioassays was removed as unnecessary. The Puget Sound protocols provide specific information concerning the necessary duration of the specified larval bioassays; subsection (1)(b)(ii), the phrase "juvenile worm" was replaced with "juvenile polychaete" when referencing the bioassay for the juvenile polychaete *Neanthes arenaceodentata*; subsection (2), the performance standards for control and reference sediment biological test results language was modified to replace all directives using the term "must" with the term "shall" and to identify the authority of the department to reject the results of a reference sediment biological test based on unacceptably high variability; subsection (2)(c), subsection (2)(c) was modified to include language that recognizes the variability of reference benthic macroinvertebrate assemblages; subsection (2)(d), the performance standards for the "worm" test was retitled to the "juvenile polychaete" test consistent with earlier nomenclature changes; and subsection (2)(e), the reference and control requirements for the microtox test were modified to replace the specific terms "criteria, methods, and procedures" with the broader term "performance standards" which may include additional requirements beyond the deleted terms.

WAC 173-204-320 Marine sediment quality standards, the term "test sample" was universally replaced with the term "test sediment" throughout the section to indicate that the criteria are to be used for designation of sediments; subsection (1), subsection (1) was retitled from "applicability" to "goal and applicability." The rule's narrative goal statement, i.e., no adverse effects and no significant human health threat, was added as a new subsection (1)(a); subsection (1)(c), this subsection for non-Puget Sound marine sediment quality standards was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made by the department to meet the intent of the rule; subsection (3), this subsection titled "biological effects criteria" was modified to identify that the criteria contained in the subsection were intended for designation of sediments per the requirements of WAC 173-204-310(2); subsection (3)(d), the term "worm" was replaced with "juvenile polychaete" to refer to the sediment biological test for *Neanthes arenaceodentata* consistent with earlier nomenclature changes in the rule; subsection (4), this subsection for marine sediment human health criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; subsection (5), this subsection for marine sediment other toxic, radioactive, biological, or deleterious criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule. Additionally, this subsection was modified to add a reference to WAC 173-204-

310(3) as the location of sediment designation procedures for sediments which contain other toxic, radioactive, biological, or deleterious substances; and subsection (6), this subsection which stipulates nonanthropogenically affected sediment quality criteria was modified to clarify the term "lower quality" to include "higher levels of" adverse biological response "or posing a greater health threat to humans."

WAC 173-204-330 Low salinity sediment quality standards, this section was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this section by the department to meet the intent of the rule.

WAC 173-204-340 Freshwater sediment quality standards, this section was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this section by the department to meet the intent of the rule.

WAC 173-204-350 Sediment quality standards inventory, subsection (1), subsection (1) was modified to include a requirement to use the Puget Sound protocols or other methods approved by the department for sampling and analysis of sediment samples. Additionally, a requirement for using data that meets applicable quality assurance and quality control standards was included. Direct reference to public availability of the sediment quality standards inventory was also added to clarify the inventory as available to the public on request to ecology; subsection (1)(a), this subsection which details the uses of the inventory by the department and other federal, state and local agencies was expanded to include the identification of necessary "discharger monitoring"; and subsection (2), this subsection was revised to identify that chemical and biological data shall be gathered by the department to additionally "update" the inventory.

WAC 173-204-400 General considerations, subsection (1), a new subsection (1) was included to better describe the source control process required by the SMS; subsection (2), subsection (2) was modified to clarify the applicability of the subsection to nonpoint and other sources. Additionally, the requirement for all discharges to receive all known, available and reasonable methods of prevention, control, and treatment prior to discharge was modified to include application of "best management practices" to be consistent with similar requirements throughout the rule; subsection (6), the factors identified in this subsection to be considered by the department in establishing the appropriate permit monitoring conditions were clarified to include "sediment chemical concentration and biological effects levels" and "cost mitigating factors such as the available resources of the discharger" in response to the public's specific wording suggestions; subsection (7), this subsection was modified to clarify that permit terms and conditions for wastewater discharge loading and maximum chemical concentrations required by the SMS shall be associated with preventing violations of the applicable sediment standards; subsection (9), this new subsection was added to identify that the sediment quality criteria and sediment impact zones are not considered to be "effluent limits" subject to antibacksliding requirements of the

Federal Clean Water Act. This subsection also acknowledges that sediment monitoring and sediment impact zone discharge permit requirements may be used to establish permit effluent limits to meet the SMS; subsection (12), this subsection was added to clarify that the antidegradation and designated use policies are considered source control requirements; and subsection (13), this new subsection was added to clarify that the SMS source control requirements shall not diminish or provide for the relaxation of discharge permit requirements mandated under other state and federal laws.

WAC 173-204-410 Sediment quality goal and sediment impact zone applicability, subsection (1), the title and contents of this subsection was expanded and reorganized to include goal "and policies." The goal statement was separated into subsection (1)(a). Subsection (1)(b) added a preface statement that it is "the stated policy of the department" to minimize the number and size, with the intent to eliminate all sediment impact zones. Subsection (1)(b) also added a statement that the department shall consider the practicability of minimizing and/or eliminating sediment impact zones. A new policy statement was added as subsection (1)(c) which states the department's intent to implement the SMS source control standards so as to prevent the creation of new contaminated sediment cleanup sites; subsection (3), similar to WAC 173-204-110(3) the language in this subsection was modified to clarify the applicability of the rule to a person's action which "exposes or resuspends surface sediments" (rather than "remove or disturb surface sediments") which exceed or otherwise causes or potentially causes surface sediments to exceed, the applicable sediment quality standards, may apply for a sediment impact zone; subsections (4) and (5), the last sentence of subsection (4) was moved to a new subsection (5). Subsection (5) clarifies the intent that sediment impact zone authorizations, including the application, establishment, maintenance, or closure of a sediment impact zone, not be limited by consideration of sediment contamination from unknown, unpermitted or historic discharge sources; subsection (6), the applicability requirements of this subsection were modified to universally replace the term "shall meet" with the term "shall be required to meet," and nonpoint source discharges were added to the applicability requirements of subsection (6)(c); subsection (7), subsection (7)(e) has been revised to replace the phrase "as determined by the department" with the phrase "consistent with the requirements described in subsection (7)(a) of this section" to clarify that the established Puget Sound dredged disposal analysis procedures and policies will continue to govern dredging and unconfined open-water disposal in Puget Sound; subsection (8), this subsection was modified to clarify the applicability of the SMS source control standards in cases where the sediment quality standards are reserved.

WAC 173-204-415 Sediment impact zones, subsection (1), the opening paragraph of this subsection was modified to clarify the applicability of the general requirements to include not only authorization but also "modification and renewal" of sediment impact zones. Subsection (1)(f) was modified to add a requirement

that the department consider environmental effects, technical feasibility and cost in determining the "practicable" minimum chemical contamination and biological effects levels allowed within an authorized sediment impact zone. Also, the last two sentences were combined and reiterative language was deleted. A new subsection (1)(j) was added to provide a reference to the available public review process and the department's consideration of public comments for sediment impact zone authorizations; subsection (2), subsection (2)(a) was modified to delete reference to the department not considering sediment contamination resulting from unknown or unpermitted historic discharge sources when requiring a sediment impact zone application. The deleted language was reiterative of the same statement as was in WAC 173-204-410(5). Subsection (2)(b) was revised to clarify when a discharger must apply for a sediment impact zone to address specific public comments received by ecology. Additionally, subsection (2)(f) was modified to delete the reference to "port authorities" and replace this term with "port districts" consistent with the terminology used in the definition of "person"; subsection (3), this subsection was revised to add new subsections (3)(j) and (k) which refer to sediment areas subject to the SMS antidegradation policy (tiers 2 and 3) as locational considerations for authorization of a sediment impact zone; subsection (4), this subsection has been revised to indicate that ecology, or the discharger as required by ecology, will run the sediment impact zone model. Subsection (4)(a)(iii) was modified to delete a reiterative reference to other discharge sediment impact zone models, and to include a new subsection (4)(a)(iv) which requires identification of the preferred sediment impact zone closure alternative and associated costs; subsection (5), this subsection underwent several modifications to clarify the application of the sediment impact zone maintenance requirements; subsection (5)(a), subsection (5)(a) was modified to identify that the department may require additional sediment monitoring for violations of the sediment impact zone authorization as well as violations of the sediment impact zone maximum criteria at sediment sampling stations; subsection (5)(b), a new subsection (5)(b) was created from subsection (5)(a) and then modified to include a discharger notification process when the department can make a "clear demonstration" of a sediment impact zone maximum criteria or authorization violation or potential violation, and delete reiterative language authorizing the department to require compliance with the SMS source control standards; subsection (5)(c), a new subsection (5)(c) created from (5)(a) and then modified to allow the use of other appropriate sediment impact zone models with the approval of ecology; delete the reference to "area-weighted averaging" and simply require averaging of the three highest contaminated stations (for chemical contaminants) and comparison to the appropriate criteria levels; and clarify the use of biological testing information to demonstrate a clear demonstration violation; subsection (5)(d), (proposed subsection (5)(b)) was modified to clarify the intended chronology in department actions to require sediment impact zone maintenance activities,

and to include dredging and capping maintenance activities from proposed subsection (5)(c) as discharge controls or sediment impact zone maintenance activities. The proposed subsection (5)(c) was deleted and combined with the final rule subsection (5)(d) as described above; subsection (5)(e), subsection (5)(e) was revised to remove the requirement for landowner approval of sediment impact zone maintenance actions and to allow ecology to facilitate access to sediment impact zone lands that require maintenance actions in cases where landowner objections exist; subsection (6), subsection (6) retitled to closure planning requirements and was modified to indicate the discharger is to identify the preferred method for SIZ closure and the associated costs as the closure planning requirements. This modification includes that the discharger may select either active or natural recovery closure of authorized sediment impact zones; and subsections (7) and (8), subsections (7) and (8) were modified to link modification and renewal of sediment impact zone authorizations to an analysis of whether further reduction in the size and/or level of contamination or biological effects is practicable considering all known, available and reasonable methods of prevention, control, and treatment, best management practices, and applicable waste reduction and recycling provisions.

WAC 173-204-420 Sediment impact zone maximum criteria, the opening paragraph of this section was modified to delete a reference to "using the procedures of WAC 173-204-415(5)" for determining a violation of the sediment impact zone maximum criteria and requiring compliance with the SMS source control requirements of WAC 173-204-400 through 173-204-420. The deleted reference conflicted with the stated intent of the SMS source control standards to provide the department authority to require a sediment impact. Additionally, the term "sample" was universally replaced with the term "sediment" throughout the section to indicate that the criteria are to be used for designation of sediments; subsection (1), subsection (1)(c) for low salinity sediment impact zone maximum criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule. Subsection (1)(d) for freshwater sediment impact zone maximum criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; subsection (2), this subsection was revised to add the phrase "permitted or otherwise authorized" to provide the appropriate restatement of the exclusion of historic and unpermitted sources as described in WAC 173-204-410(5); subsection (3), in subsection (3)(c)(ii), the term "worm" was replaced with juvenile polychaete" to refer to the sediment biological test for *Neanthes arenaceodentata* consistent with earlier nomenclature changes in the rule; subsection (4), this subsection for Puget Sound marine sediment impact zone maximum human health criteria was modified to delete

reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; and subsection (5), subsection (5) for Puget Sound marine sediment impact zone maximum other toxic, radioactive, biological or deleterious substances criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule.

WAC 173-204-500 Sediment cleanup decision process and policies, the title and contents of this section were modified to clarify and consolidate cleanup policies within new subsections (4) and (5); subsection (4), new subsection (4) identifies the department's commitment to manage sediment cleanup actions so that site cleanup decisions and standards are as close a practicable to the sediment quality standards. Additionally, sediment recovery zones shall only be authorized so as to minimize the size and number of such zones and if possible, with the intent to eliminate sediment recovery zones whenever practicable; and subsection (5), new subsection (5) identifies the department's commitment to make sediment cleanup decisions as soon as possible after needed information is available, recognizing the availability of department resources and the priority of the cleanup site.

WAC 173-204-510 Screening sediment station clusters of potential concern, subsection (2), subsection (2) has been revised to: Clarify that the three stations with the highest degree of biological effects may also be used, in addition to the three stations with the highest chemical contaminant concentration, to identify a station cluster of potential concern; eliminate the concept of area-weighted averaging and replace it with averaging of the three highest contaminated stations (for chemical contaminants) and comparison to the appropriate cleanup screening levels; and clarify that when the average chemical concentration of the three stations is below the cleanup screening level (CSL) chemical criteria, and 1 or 2 (but not all 3) of the stations are above the CSL biological criteria, the station cluster will be defined as a station cluster of low concern; and subsection (5), subsection (5) was modified to delete reference to initiation of monitoring requirements based on a reexamination of the sediment inventory as unnecessarily reiterative of monitoring guidance included in WAC 173-204-350 and 173-204-400.

WAC 173-204-520 Cleanup screening levels criteria, subsection (1), subsection (1)(b) for non-Puget Sound marine sediment cleanup screening levels and minimum cleanup levels criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule. Subsection (1)(c) for low salinity sediment cleanup screening levels and minimum cleanup levels criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule. Subsection (1)(d) for freshwater sediment cleanup screening levels and minimum cleanup levels criteria was modified to delete reference

to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; subsection (3), subsection (3) was modified to delete the term "sample" and universally replace it with the term "sediment" throughout the section to indicate that the criteria are to be used for designation of sediments; subsection (3), in subsection (3)(d)(ii), the term "worm" was replaced with "juvenile polychaete" to refer to the sediment biological test for *Neanthes arenaceodentata* consistent with earlier nomenclature changes in the rule; subsection (4), this subsection for Puget Sound marine sediment cleanup screening levels and minimum cleanup levels human health criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; subsection (5), subsection (5) for Puget Sound marine sediment cleanup screening levels and minimum cleanup levels other toxic, radioactive, biological or deleterious substances criteria was modified to delete reference to "this subsection" as ambiguous when addressing case-by-case criteria determinations made under this subsection by the department to meet the intent of the rule; and subsection (6), this subsection which stipulates Puget Sound marine sediment cleanup screening levels and minimum cleanup levels nonanthropogenically affected sediment criteria was modified to clarify the term "lower quality" to include "higher levels of" adverse biological response "or posing a greater health threat to humans."

WAC 173-204-530 Hazard assessment, subsection (4), subsection (4) was deleted (and the remaining subsections were renumbered) as an unclear and unnecessary reiteration of the relationship of authorized sediment impact zones to sediment contamination resulting from unknown, unpermitted or historic sources defined in WAC 173-204-410(5); and subsection (5), subsection (5) was modified to eliminate use of the area-weighted averaging method; ensure that data used in sediment quality designations and inventory, and in sediment regulatory and management action, be of acceptable quality; require that all data available to ecology be considered in application of the rule; clarify that averages for different chemicals are conducted on only three stations at a time; clarify that the three stations with the highest degree of biological effects may also be used, in addition to the three stations with the highest chemical contaminant concentration, to identify a cleanup site; and indicate that when the average chemical concentration of the three stations is below the cleanup screening level (CSL) chemical criteria, and 1 or 2 (but not all 3) of the stations are above the CSL biological criteria, the station cluster will not be defined as a site, but rather as a station cluster of low concern.

WAC 173-204-540 Ranking and list of sites, subsection (2), subsection (2) was modified to clarify that the reference to "sites identified by the procedures in WAC 173-204-530" refers to "cleanup sites"; subsection (5), subsection (5) was modified to identify a site may have multiple conditions to be reported on the site list, and to clarify the term "cleanup action in progress" to include

sites where "voluntary, incidental, partial or department initiated cleanup actions" are in progress; subsection (6), subsection (6) was modified to clarify that confirmational monitoring shall not be considered as a condition to cleanup site delisting; and subsection (9), a new subsection (9) was added to clarify the relationship of the site list developed under the SMS to the hazardous site list published under the Model Toxics Control Act (MTCA) cleanup regulation.

WAC 173-204-550 Types of cleanup and authority, subsection (1), subsection (1) was modified to identify that sediment cleanups may also be initiated by the federal government pursuant to the CERCLA; subsection (2), subsection (2) was modified to include clarification language on the department's selection of authority; and subsection (3), subsection (3)(e) was added to identify that sediment cleanups may also be initiated by the federal government pursuant to the CERCLA and that the department may identify the SMS as an applicable state requirement for such cleanup actions.

WAC 173-204-560 Cleanup study, subsection (1), subsection (1) was modified to clarify that cleanup actions required under authority of chapter 70.105D RCW shall also meet "all standards" of the MTCA cleanup regulation. Additionally, this subsection was modified to identify that the department has authority to approve the cleanup study plan as submitted, with changes, or may require preparation of a new study plan; subsection (2), subsection (2) was modified to identify the department may consider cost mitigation factors in establishing the necessary scope of the cleanup study plan. Additionally, the language identifying requirements for the content of a cleanup study plan was clarified; subsection (3), subsection (3) was modified to replace the term "should" with the term "shall"; subsection (4), subsection (4) was modified to replace the term "should" with the term "shall." Subsection (4)(b) was modified to add a requirement to identify "ongoing sources" in the map of the cleanup site. Subsection (4)(c) was modified to add a requirement to identify the sedimentation rate in the cleanup site investigation, and to delete an unnecessary reiteration of the relationship of authorized sediment impact zones to sediment contamination resulting from unknown, unpermitted or historic sources defined in WAC 173-204-410(5). Subsection (4)(d) was revised to clarify that source control information will be obtained by ecology from the responsible dischargers. Subsection (4)(f) was modified to add a reference to sediment recovery zone confirmational monitoring as an "operational term/condition" for evaluation of sediment recovery zone alternatives; add consideration of human health risks from proposed sediment recovery zones for evaluation of sediment recovery zone alternatives; and add consideration of biological and human health risk and wastes cleanup and disposal site risks as factors for evaluation of cleanup action alternatives. Subsection (4)(g) was modified to delete "landowner approval" and replace it with "landowner cooperation" as a consideration of the ability of a cleanup action alternative to be implemented; subsection (6), subsection (6) was modified to replace the term "should" with the term "shall"; subsection (7), subsection (7) was modified to replace

the term "should" with the term "shall." Additionally, this subsection was modified to clarify that the cleanup study report shall receive ecology's review and "written approval" prior to implementation of the cleanup action; and subsection (8), a new subsection (8) was created to allow ecology to facilitate access to sediment cleanup site lands that require sampling actions in cases where landowner objections exist.

WAC 173-204-580 Cleanup action decision, subsection (1), subsection (1) was modified to clarify the relationship and procedures of sediment site cleanup action decisions made under the MTCA. Additionally, this subsection was modified to identify the department's authority for approval of the cleanup study report; subsections (1) and (2), the proposed subsection (2) was deleted in its entirety. The subparts of the proposed subsection (1) were separated into a new subsection (2) and revised to add requirements for cleanup actions to "achieve compliance with" applicable state, federal and local laws and site cleanup standards; delete the requirement for landowner approval of the proposed active sediment cleanup; add consideration of public comment raised during review of the draft cleanup report; delete the requirement for cleanup actions to "be appropriate for conditions and circumstances at the site" as ambiguous; and add consideration of compliance with source control requirements to cleanup action decision making; subsection (3), a new subsection (3) "Cleanup time frame" was added to clearly state that the 10-year period is associated with establishing a site-specific cleanup standard and to identify the factors to be considered in selecting a reasonable time frame for completion of a cleanup action; subsection (4), a new subsection (4) was added to identify factors for the department to consider in evaluating cleanup action alternatives. The factors include consideration of net environmental effects, cost, and technical feasibility; and subsection (6), a new subsection (6) was added to allow ecology to facilitate access to lands subject to a cleanup action decision in cases where landowner objections exist.

WAC 173-204-590 Sediment recovery zone, subsection (2), subsection (2)(d) was modified to add a cross-reference for the operational terms and conditions requirements for sediment recovery zones, WAC 173-204-590(5). Subsection (2)(e) was added as a new subpart to clarify that sediment recovery zones may [be] authorized for periods exceeding 10 years; and subsection (6), subsection (6) was revised to replace consideration of "monitoring" with the expanded department consideration of all sediment recovery zone "terms and conditions data or studies" to ensure compliance with the sediment recovery zone authorization and the requirements of the SMS.

WAC 173-204-600 Sampling and testing plan standards, the title of this section was expanded to clarify the requirements for testing "plans"; subsection (2), subsection (2) was modified to identify that sampling "and testing" plans are a requirement of the subsection and to add a requirement that the plan identify "a description of methods of chemical analysis and biological testing"; and subsection (3), subsection (3) was modified

to delete the reference to the Puget Sound protocols being "required in this chapter" as ambiguous. The requirement for use of the Puget Sound protocols first appears in WAC 173-204-600(3).

WAC 173-204-610 Records management, subsection (2), subsection (2) was modified to identify that sampling "and testing" plans are a requirement of the subsection.

Effective Date of Rule: Thirty-one days after filing.

March 27, 1991

Fred Olson

Deputy Director

Chapter 173-204 WAC SEDIMENT MANAGEMENT STANDARDS

PART I—GENERAL INFORMATION

NEW SECTION

WAC 173-204-100 AUTHORITY AND PURPOSE. (1) This chapter is promulgated under the authority of chapter 90.48 RCW, the Water Pollution Control Act; chapter 70.105D RCW, the Model Toxics Control Act; chapter 90.70 RCW, the Puget Sound Water Quality Authority Act; chapter 90.52 RCW, the Pollution Disclosure Act of 1971; chapter 90.54 RCW, the Water Resources Act of 1971; and chapter 43.21C RCW, the state Environmental Policy Act, to establish marine, low salinity and freshwater surface sediment management standards for the state of Washington.

(2) The purpose of this chapter is to reduce and ultimately eliminate adverse effects on biological resources and significant health threats to humans from surface sediment contamination by:

(a) Establishing standards for the quality of surface sediments;

(b) Applying these standards as the basis for management and reduction of pollutant discharges; and

(c) Providing a management and decision process for the cleanup of contaminated sediments.

(3) Part III, Sediment quality standards of this chapter provides chemical concentration criteria, biological effects criteria, human health criteria, and other toxic, radioactive, biological, or deleterious substances criteria which identify surface sediments that have no adverse effects, including no acute or chronic adverse effects on biological resources and no significant health risk to humans, as defined in this regulation. The sediment quality standards provide a regulatory and management goal for the quality of sediments throughout the state.

(4) The sediment criteria of WAC 173-204-320 through 173-204-340 shall constitute surface sediment quality standards and be used to establish an inventory of surface sediment sampling stations where the sediments samples taken from these stations are determined to pass or fail the applicable sediment quality standards.

(5) Part IV, Sediment source control standards of this chapter shall be used as a basis for controlling the effects of point and nonpoint source discharges to sediments through the National Pollutant Discharge Elimination System (NPDES) federal permit program, state water

quality management permit programs, issuance of administrative orders or other means determined appropriate by the department. The source control standards establish discharge sediment monitoring requirements and criteria for establishment and maintenance of sediment impact zones.

(6) Part V, Sediment cleanup standards of this chapter establishes administrative procedural requirements and criteria to identify, screen, rank and prioritize, and cleanup contaminated surface sediment sites. The sediment cleanup standards of WAC 173-204-500 through 173-204-590 shall be used pursuant to authorities established under chapters 90.48 and 70.105D RCW.

(7) This chapter establishes and defines a goal of minor adverse effects as the maximum level of sediment contamination allowed in sediment impact zones under the provisions of Part IV, Sediment source control standards and as the minimum degree of cleanup to be achieved in all cleanup actions under Part V, Sediment cleanup standards.

(8) Local ordinances establishing requirements for the designation and management of marine, low salinity and freshwater sediments shall not be less stringent than this chapter.

Note: All codes, standards, statutes, rules or regulations cited in this chapter are available for inspection at the Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711.

NEW SECTION

WAC 173-204-110 APPLICABILITY. (1) The sediment quality standards of WAC 173-204-300 through 173-204-315, and 173-204-350, and the sediment cleanup standards of WAC 173-204-500 through 173-204-580 shall apply to all surface sediments.

(2) The sediment quality standards of WAC 173-204-320, 173-204-330, and 173-204-340 shall apply to marine, low salinity and freshwater surface sediments, respectively.

(3) The source control standards of WAC 173-204-400 through 173-204-420 shall apply to each person's actions which exposes or resuspends surface sediments which exceed, or otherwise cause or potentially cause surface sediments to exceed, the applicable standards of WAC 173-204-320 through 173-204-340.

(4) The sediment recovery zone standards of WAC 173-204-590 shall apply to each person's cleanup action decision made pursuant to WAC 173-204-580 where the selected cleanup action leaves in place marine, low salinity, or freshwater sediments that exceed the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(5) The sediment quality standards of WAC 173-204-320 through 173-204-340 shall not apply:

(a) Within a sediment impact zone as authorized by the department under WAC 173-204-415; or

(b) Within a sediment recovery zone as authorized by the department under WAC 173-204-590; or

(c) To particulates suspended in the water column; or

(d) To particulates suspended in a permitted effluent discharge.

(6) Nothing in this chapter shall constrain the department's authority to make appropriate sediment

management decisions on a case-specific basis using best professional judgment and latest scientific knowledge for cases where the standards of this chapter are reserved or standards are not available.

NEW SECTION

WAC 173-204-120 ANTIDegradation AND DESIGNATED USE POLICIES. (1) Antidegradation policy. The antidegradation policy of the state of Washington as generally guided by chapters 90.48 and 90.54 RCW, is applicable to any person's new or increased activity and shall apply to this chapter as follows:

(a) Existing beneficial uses shall be maintained and protected and no further degradation which would interfere with or become injurious to existing beneficial uses shall be allowed.

(b) No degradation of existing sediment quality shall be allowed of waters constituting an outstanding national resource, such as waters of national and state parks and scenic and recreation areas, wildlife refuges, and waters of exceptional recreational or ecological significance.

(c) Whenever surface sediments are of a higher quality (i.e., lower chemical concentrations or adverse biological response) than the criteria assigned to said sediments, the existing surface sediment quality shall be protected and waste and other materials and substances shall not be allowed to contaminate such sediments or reduce the existing sediment quality thereof, except in those instances where:

(i) It is clear, after satisfactory public participation and intergovernmental coordination, that overriding considerations of the public interest will be served;

(ii) All wastes and other materials and substances proposed for discharge that may contaminate such sediments are provided with all known, available and reasonable methods of prevention, control, and treatment and/or best management practices;

(iii) The reduction of existing surface sediment quality is authorized by the department; and

(iv) Existing beneficial uses are maintained and protected, and no degradation which would interfere with and/or become injurious to existing sediment beneficial uses and/or causes long-term, irreparable harm to the environment is allowed.

(2) Designated use policy. The policy of the department and the purpose of this chapter shall be to manage waste discharges and sediment quality so as to protect existing beneficial uses and move towards attainment of designated beneficial uses as specified in section 101 (a)(2) of the federal Clean Water Act (33 USC 1251, et seq.) and chapter 173-201 WAC, the Water quality standards for surface waters of the state of Washington. This policy is applicable to any person's existing or proposed actions which may affect surface sediment quality.

NEW SECTION

WAC 173-204-130 ADMINISTRATIVE POLICIES. The department shall implement this chapter in accordance with the following policies:

(1) The department shall seek to implement, and as necessary modify this chapter to protect biological resources and human health consistent with WAC 173-204-100(2). To implement the intent of this subsection, the department shall use methods that accurately reflect the latest scientific knowledge consistent with the definitions contained in WAC 173-204-200 (14) and (15), as applicable.

(2) At the interface between surface sediments, ground water or surface water, the applicable standards shall depend on which beneficial use is or could be adversely affected, as determined by the department. If beneficial uses of more than one resource are affected, the most restrictive standards shall apply.

(3) It shall be the goal of the department to modify this chapter so that methods such as confirmatory biological tests, sediment impact zone models, use of contaminated sediment site ranking models, etc., continue to accurately reflect the latest scientific knowledge as established through ongoing validation and refinement.

(4) Any person or the department may propose an alternate technical method to replace or enhance the application of a specific technical method required under this chapter. Using best professional judgment, the department shall provide advance review and approval of any alternate technical method proposed prior to its application. Application and use of alternate technical methods shall be allowed when the department determines that the technical merit of the resulting decisions will improve the department's ability to implement and meet the intent of this chapter as described in WAC 173-204-100(2), and will remain consistent with the scientific intent of definitions contained in WAC 173-204-200 (14) and (15). The department shall maintain a record of the department's decisions concerning application for use of alternate technical methods pursuant to this subsection. The record shall be made available to the public on request.

(5) Intergovernmental coordination. The department shall ensure appropriate coordination and consultation with federally recognized Indian tribes and local, state, and federal agencies to provide information on and to implement this chapter.

(6) The department shall conduct an annual review of this chapter, and modify its provisions every three years, or as necessary. Revision to this chapter shall be made pursuant to the procedures established within chapter 34.05 RCW, the Administrative Procedure Act.

(7) Review of scientific information. When evaluating this chapter for necessary revisions, the factors the department shall consider include:

(a) New or additional scientific information which is available relating surface sediment chemical quality to acute or chronic adverse effects on biological resources as defined in WAC 173-204-200 (1) and (7);

(b) New or additional scientific information which is available relating human health risk to marine, low salinity, or freshwater surface sediment chemical contaminant levels;

(c) New or additional scientific information which is available relating levels of other toxic, radioactive, biological and deleterious substances in marine, low salinity, or freshwater sediments to acute or chronic adverse effects on biological resources, or to a significant health risk to humans;

(d) New state or federal laws which have established environmental or human health protection standards applicable to surface sediment; or

(e) Scientific information which has been identified for addition, modification or deletion by a scientific review process established by the department.

(8) Public involvement and education. The goal of the department shall be to provide timely information and meaningful opportunities for participation by the public in the annual review conducted by the department under subsection (7) of this section, and any modification of this chapter. To meet the intent of this subsection the department shall:

(a) Provide public notice of the department's decision regarding the results of its annual review of this chapter, including:

(i) The department's findings for the annual review factors identified in subsection (7) of this section;

(ii) The department's decision regarding the need for modification of this chapter based on its annual review; and

(iii) Identification of a time period for public opportunity to comment on the department's findings and decisions pursuant to this subsection.

(b) Provide public notice by mail or by additional procedures determined necessary by the department which may include:

(i) Newspaper publication;

(ii) Other news media;

(iii) Press releases;

(iv) Fact sheets;

(v) Publications;

(vi) Any other method as determined by the department.

(c) Conduct public meetings as determined necessary by the department to educate and inform the public regarding the department's annual review determinations and decisions.

(d) Comply with the rule making and public participation requirements of chapter 34.05 RCW, the Administrative Procedure Act, for any revisions to this chapter.

(9) Test sediments evaluated for compliance with the sediment quality standards of WAC 173-204-320 through 173-204-340 and/or the sediment impact zone maximum criteria of WAC 173-204-420 and/or the cleanup screening levels criteria of WAC 173-204-520 shall be sampled and analyzed using the Puget Sound Protocols or other methods approved by the department. Determinations made pursuant to this chapter shall be based on sediment chemical and/or biological data that were developed using an appropriate quality assurance/quality control program, as determined by the department.

(10) The statutory authority for decisions under this chapter shall be clearly stated in the decision documents prepared pursuant to this chapter. The department shall

undertake enforcement actions consistent with the stated authority under which the action is taken. The process for judicial review of these decisions shall be pursuant to the statutes under which the action is being taken.

(11) When the department identifies this chapter as an applicable, or relevant and appropriate requirement for a federal cleanup action under the Comprehensive Environmental Response, Compensation and Liability Act, the department shall identify the entire contents of this chapter as the appropriate state requirement.

PART II—DEFINITIONS

NEW SECTION

WAC 173-204-200 DEFINITIONS. For the purpose of this chapter, the following definitions shall apply:

(1) "Acute" means measurements of biological effects using surface sediment bioassays conducted for time periods that are relatively short in comparison to the life cycle of the test organism. Acute effects may include mortality, larval abnormality, or other endpoints determined appropriate by the department.

(2) "Amphipod" means crustacean of the Class Amphipoda, e.g., *Rhepoxynius abronius*.

(3) "Appropriate biological tests" means only tests designed to measure directly, or through established predictive capability, biologically significant adverse effects to the established or potential benthic or aquatic resources at a given location, as determined by rule by the department.

(4) "Beneficial uses" means uses of waters of the state which include but are not limited to use for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, recreation, generation of electric power, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(5) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface sediments of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material storage.

(6) "Bioassay" means a test procedure that measures the response of living plants, animals, or tissues to a sediment sample.

(7) "Chronic" means measurements of biological effects using sediment bioassays conducted for, or simulating, prolonged exposure periods of not less than one complete life cycle, evaluations of indigenous field organisms for long-term effects, assessment of biological effects resulting from bioaccumulation and biomagnification, and/or extrapolated values or methods for simulating effects from prolonged exposure periods. Chronic effects may include mortality, reduced growth, impaired reproduction, histopathological abnormalities, adverse effects to birds and mammals, or other endpoints determined appropriate by the department.

(8) "Contaminated sediment" means surface sediments designated under the procedures of WAC 173-204-310 as exceeding the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(9) "Control sediment sample" means a surface sediment sample which is relatively free of contamination and is physically and chemically characteristic of the area from which bioassay test animals are collected. Control sediment sample bioassays provide information concerning a test animal's tolerance for stress due to transportation, laboratory handling, and bioassay procedures. Control sediment samples cannot exceed the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(10) "Department" means the department of ecology.

(11) "Freshwater sediments" means surface sediments in which the sediment pore water contains less than or equal to 0.5 parts per thousand salinity.

(12) "Low salinity sediments" means surface sediments in which the sediment pore water contains greater than 0.5 parts per thousand salinity and less than 25 parts per thousand salinity.

(13) "Marine sediments" means surface sediments in which the sediment pore water contains 25 parts per thousand salinity or greater.

(14) "Minor adverse effects" means a level of effects that:

(a) Has been determined by rule by the department, except in cases subject to WAC 173-204-110(6); and

(b) Meets the following criteria:

(i) An acute or chronic adverse effect to biological resources as measured by a statistically and biologically significant response relative to reference in no more than one appropriate biological test as defined in WAC 173-204-200(3); or

(ii) A statistically and biologically significant response that is significantly elevated relative to reference in any appropriate biological test as defined in WAC 173-204-200(3); or

(iii) Biological effects per (b)(i) or (ii) of this subsection as predicted by exceedance of an appropriate chemical or other deleterious substance standard, except where the prediction is overridden by direct biological testing evidence pursuant to (b)(i) and (ii) of this subsection; and

(c) Does not result in significant human health risk as predicted by exceedance of an appropriate chemical, biological, or other deleterious substance standard.

(15) "No adverse effects" means a level of effects that:

(a) Has been determined by rule by the department, except in cases subject to WAC 173-204-110(6); and

(b) Meets the following biological criteria:

(i) No acute or chronic adverse effects to biological resources as measured by a statistically and biologically significant response relative to reference in any appropriate biological test as defined in WAC 173-204-200(3); and

(ii) No acute or chronic adverse biological effect per (b)(i) of this subsection as predicted by exceedance of an appropriate chemical or other deleterious substance standard, except where the prediction is overridden by

direct biological testing evidence pursuant to (b)(i) of this subsection; and

(iii) Does not result in significant human health risk as predicted by exceedance of an appropriate chemical, biological, or other deleterious substance standard.

(16) "Other toxic, radioactive, biological, or deleterious substances" means contaminants which are not specifically identified in the sediment quality standards chemical criteria of WAC 173-204-320 through 173-204-340 (e.g., organic debris, tributyltin, DDT, etc.).

(17) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, industry, private corporation, port district, special purpose district, irrigation district, unit of local government, state government agency, federal government agency, Indian tribe, or any other entity whatsoever.

(18) "Practicable" means able to be completed in consideration of environmental effects, technical feasibility and cost.

(19) "Puget Sound basin" or "Puget Sound" means:

(a) Puget Sound south of Admiralty Inlet, including Hood Canal and Saratoga Passage;

(b) The waters north to the Canadian border, including portions of the Strait of Georgia;

(c) The Strait of Juan de Fuca south of the Canadian border; and

(d) All the lands draining into these waters as mapped in water resources inventory areas numbers 1 through 19, set forth in Water resources management program established pursuant to the Water Resources Act of 1971, chapter 173-500 WAC.

(20) "Puget Sound protocols" means Puget Sound Estuary Program. 1986. Updated in 1989. Recommended Protocols for Measuring Selected Environmental Variables in Puget Sound, U.S. Environmental Protection Agency, Region 10, Seattle, WA (looseleaf), as amended.

(21) "Reference sediment sample" means a surface sediment sample which serves as a laboratory indicator of a test animal's tolerance to important natural physical and chemical characteristics of the sediment, e.g., grain size, organic content. Reference sediment samples represent the nonanthropogenically affected background surface sediment quality of the sediment sample. Reference sediment samples cannot exceed the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(22) "Sediment impact zone" means an area where the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 are exceeded due to ongoing permitted or otherwise authorized wastewater, storm water, or nonpoint source discharges and authorized by the department within a federal or state wastewater or storm water discharge permit, or other formal department authorization.

(23) "Sediment recovery zone" means an area where the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 are exceeded as a result of historical discharge activities, and authorized by the department as a result of a cleanup decision made pursuant to WAC 173-204-580, Cleanup action decision.

(24) "Site units" means discrete subdivisions of an individual contaminated sediment site that are being evaluated for the purpose of establishing cleanup standards. Site units are based on consideration of unique locational, environmental, spatial, or other conditions determined appropriate by the department, e.g., cleanup under piers, cleanup in eelgrass beds, cleanup in navigational lanes.

(25) "Surface sediments" or "sediment(s)" means settled particulate matter located in the predominant biologically active aquatic zone, or exposed to the water column. Sediment(s) also includes settled particulate matter exposed by human activity (e.g., dredging) to the biologically active aquatic zone or to the water column.

(26) "Test sediment" means a sediment sample that is evaluated for compliance with the sediment quality standards of WAC 173-204-320 through 173-204-340 and/or the sediment impact zone maximum criteria of WAC 173-240-420 and/or the cleanup screening levels criteria of WAC 173-204-520.

PART III—SEDIMENT QUALITY STANDARDS

NEW SECTION

WAC 173-204-300 PURPOSE. The sediment quality standards of WAC 173-204-320 through 173-204-340 include chemical concentration criteria, biological effects criteria, human health criteria, other toxic, radioactive, biological, or deleterious substances criteria, and nonanthropogenically affected sediment quality criteria which are used to identify sediments that have no adverse effects on biological resources, and correspond to no significant health risk to humans. Designation determinations using the sediment quality standards of WAC 173-204-320 through 173-204-340 shall be conducted as stipulated in WAC 173-204-310, Sediment quality standards designation procedures.

NEW SECTION

WAC 173-204-310 SEDIMENT QUALITY STANDARDS DESIGNATION PROCEDURES. Any person may use these procedures to determine a sediment's designation using the applicable sediment quality standards of WAC 173-204-320 through 173-204-340. Any person who designates test sediments using the procedures of this section shall meet the sampling and testing plan requirements of WAC 173-204-600 and records management requirements of WAC 173-204-610. Test sediments designated using the procedures of this section shall be sampled and analyzed using the Puget Sound Protocols or other methods approved by the department, and shall use an appropriate quality assurance/quality control program, as determined by the department. A sediment sample that passes the initial designation procedures is designated as complying with the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, until such time as any person or the department confirms the sediment designation as failing the applicable sediment quality standards of WAC 173-204-320 through 173-

204-340. A sediment sample that fails the initial designation procedures is designated as not complying with the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, until such time as any person or the department confirms the sediment designation as passing the applicable sediment quality standards of WAC 173-204-320 through 173-204-340. A sediment sample that passes or fails the confirmatory designation procedures is designated as such under the procedures of WAC 173-204-310. Sediments shall be designated with the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 as follows:

(1) Initial designation. Sediments that have been chemically analyzed for the applicable chemical concentration criteria of WAC 173-204-320 through 173-204-340 shall be designated as follows:

(a) Sediments with chemical concentrations equal to or less than all the applicable chemical and human health criteria are designated as having no adverse effects on biological resources, and not posing a significant health threat to humans, and pass the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(b) Sediments with chemical concentrations which exceed any one applicable chemical or human health criterion in WAC 173-204-320 through 173-204-340 are designated as having adverse effects on biological resources or posing significant human health threats, and fail the sediment quality standards of WAC 173-204-320 through 173-204-340, pending confirmatory designation.

(2) Confirmatory designation. Any person or the department may confirm the designation of sediments which have either passed or failed initial designation procedures listed in subsection (1) of this section using the applicable biological testing of WAC 173-204-315, as required below. Sediment samples that pass all the required confirmatory biological tests are designated as passing the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, notwithstanding the sediment's previous initial designation under subsection (1) of this section. Any sediment sample which fails any one of the required confirmatory biological tests shall be designated as failing the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, notwithstanding the sediment's previous initial designation under subsection (1) of this section. The confirmatory biological test standards are described below.

(a) To confirm the designation of a sediment which either passed or failed any applicable chemical concentration criterion established in WAC 173-204-320 through 173-204-340, the sediment shall be tested for:

(i) Two of the acute effects biological tests described in the applicable standards of WAC 173-204-315; and

(ii) One of the chronic effects biological tests described in the applicable standards of WAC 173-204-315.

(b) Sediments with chemical concentrations which either passed or failed any applicable human health criterion of WAC 173-204-320 through 173-204-340 shall

be eligible for confirmatory designation as follows: Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(3) Initial and confirmatory designation of sediments which contain other toxic, radioactive, biological, or deleterious substances. Sediments which contain other toxic, radioactive, biological, or deleterious substances, as defined in WAC 173-204-200(16), shall be designated by the department using the following procedures.

(a) The department shall:

(i) Identify individual contaminants of concern;

(ii) Identify appropriate and practicable sampling and analysis methodologies;

(iii) Identify test interpretation standards for initial and confirmatory designation; and

(iv) Identify acceptable levels of sediment contamination for sediments which contain other toxic, radioactive, biological, or deleterious substances.

(b) Where sediment containing other toxic, radioactive, biological or deleterious substances may also be contaminated by chemicals identified in WAC 173-204-320 through 173-204-340, the department shall require application of the appropriate tests and standards of WAC 173-204-320 through 173-204-340, as determined by the department, in addition to any requirements developed pursuant to (a) of this subsection.

(c) The department may use all or some of the sediment biological tests of WAC 173-204-320 through 173-204-340 to designate sediments with other toxic, radioactive, biological or deleterious substances in cases where those tests are technically appropriate, as determined by the department.

NEW SECTION

WAC 173-204-315 CONFIRMATORY MARINE SEDIMENT BIOLOGICAL TESTS. (1) The following five acute and chronic effects biological tests shall be used to confirm designation of Puget Sound marine sediments using the procedures described in WAC 173-204-310(2). Use of alternate biological tests shall be subject to the review and approval of the department using the procedures of WAC 173-204-130(4).

(a) Acute effects tests.

(i) Amphipod: Ten-day mortality sediment bioassay for the Amphipod, i.e., *Rhepoxynius abronius*.

(ii) Larval: Any one of the following mortality/abnormality sediment bioassays:

(A) *Crassostrea gigas*, i.e., Pacific oyster;

(B) *Mytilus edulis*, i.e., Blue mussel;

(C) *Strongylocentrotus purpuratus*, i.e., Purple sea urchin; or

(D) *Dendraster excentricus*, i.e., Sand dollar.

(b) Chronic effects tests.

(i) Benthic infaunal abundance: Abundance of the following major taxa: Crustacea, Polychaeta, and Mollusca.

(ii) Juvenile polychaete: Twenty-day biomass of the juvenile polychaete *Neanthes arenaceodentata*; or

(iii) Microtox saline extract: Decreased luminescence from the bacteria *Photobacterium phosphoreum* after a fifteen minute exposure.

(2) Performance standards for control and reference sediment biological test results. The biological tests of this section shall not be considered valid unless test results for the appropriate control and reference sediments meet the performance standards of (a) through (e) of this subsection. The department may reject the results of a reference sediment biological test based on unacceptably high variability.

(a) Amphipod: The control sediment shall have less than ten percent mortality over the test period. The reference sediment shall have less than twenty-five percent mortality.

(b) Larval: The seawater control sample shall have less than fifty percent combined abnormality and mortality (i.e., a fifty percent normal survivorship at time-final).

(c) Benthic abundance: The reference benthic macroinvertebrate assemblage shall be representative of areas of Puget Sound removed from significant sources of contaminants, and to the extent possible shall have the following characteristics:

(i) The taxonomic richness of benthic macroinvertebrates and the abundances of higher taxonomic groups shall reflect seasonality and natural physical-chemical conditions (e.g., grain size composition and salinity of sediments, water depth) in a reference area, and not be obviously depressed as a result of chemical toxicity;

(ii) Normally abundant species that are known to be sensitive to chemical contaminants shall be present;

(iii) Normally rare species that are known to become abundant only under chemically disturbed conditions shall be rare or absent; and

(iv) The abundances of normally rare species that control community structure through physical modification of the sediment shall be similar to those observed at the test sediment site.

(d) Juvenile polychaete: The control sediment shall have less than ten percent mortality. The reference sediment shall have a mean biomass which is at least eighty percent of the mean biomass found in the control sediment.

(e) Microtox: Reserved: The department shall determine performance standards on a case-by-case basis as necessary to meet the intent of this chapter.

NEW SECTION

WAC 173-204-320 MARINE SEDIMENT QUALITY STANDARDS. (1) Goal and applicability.

(a) The sediment quality standards of this section shall correspond to a sediment quality that will result in no adverse effects, including no acute or chronic adverse effects on biological resources and no significant health risk to humans.

(b) The marine sediment quality standards of this section shall apply to marine sediments located within Puget Sound as defined in WAC 173-204-200(19).

(c) Non-Puget Sound marine sediment quality standards. Reserved: The department shall determine on a

case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(2) Chemical concentration criteria. The chemical concentrations in Table I establish the marine sediment quality standards chemical criteria for designation of sediments.

Table I
Marine Sediment Quality Standards
—Chemical Criteria¹

CHEMICAL PARAMETER	MG/KG DRY WEIGHT (PARTS PER MILLION (PPM) DRY)
ARSENIC	57
CADMIUM	5.1
CHROMIUM	260
COPPER	390
LEAD	450
MERCURY	0.41
SILVER	6.1
ZINC	410
CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON) ²
LPAH ³	370
NAPHTHALENE	99
ACENAPHTHYLENE	66
ACENAPHTHENE	16
FLUORENE	23
PHENANTHRENE	100
ANTHRACENE	220
2-METHYLNAPHTHALENE	38
CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON)
HPAH ⁴	960
FLUORANTHENE	160
PYRENE	1000
BENZ(A)ANTHRACENE	110
CHRYSENE	110
TOTAL BENZOFLUORANTHENES ⁵	230
BENZO(A)PYRENE	99
INDENO (1,2,3,-C,D) PYRENE	34
DIBENZO (A,H) ANTHRACENE	12
BENZO(G,H,I)PERYLENE	31
1,2-DICHLOROBENZENE	2.3
1,4-DICHLOROBENZENE	3.1
1,2,4-TRICHLOROBENZENE	0.81
HEXACHLOROBENZENE	0.38
DIMETHYL PHTHALATE	53
DIETHYL PHTHALATE	61
DI-N-BUTYL PHTHALATE	220
BUTYL BENZYL PHTHALATE	4.9
BIS (2-ETHYLHEXYL) PHTHALATE	47
DI-N-OCTYL PHTHALATE	58
DIBENZOFURAN	15
HEXACHLOROBUTADIENE	3.9
N-NITROSODIPHENYLAMINE	11
TOTAL PCB'S	12
CHEMICAL PARAMETER	UG/KG DRY WEIGHT (PARTS PER BILLION (PPB) DRY)
PHENOL	420
2-METHYLPHENOL	63
4-METHYLPHENOL	670
2,4-DIMETHYL PHENOL	29
PENTACHLOROPHENOL	360
BENZYL ALCOHOL	57
BENZOIC ACID	650

Table I Footnotes

- Where laboratory analysis indicates a chemical is not detected in a sediment sample, the detection limit shall be reported and shall be at or below the criteria value shown in this table. Where chemical criteria in this table represent the sum of individual compounds or isomers, and a chemical analysis identifies an undetected value for one or more individual compounds or isomers, the detection limit shall be used for calculating the sum of the respective compounds or isomers.
- The listed chemical parameter criteria represent concentrations in

parts per million, "normalized," or expressed, on a total organic carbon basis. To normalize to total organic carbon, the dry weight concentration for each parameter is divided by the decimal fraction representing the percent total organic carbon content of the sediment.

- The LPAH criterion represents the sum of the following "low molecular weight polynuclear aromatic hydrocarbon" compounds: Naphthalene, Acenaphthylene, Acenaphthene, Fluorene, Phenanthrene, and Anthracene. The LPAH criterion is not the sum of the criteria values for the individual LPAH compounds as listed.
- The HPAH criterion represents the sum of the following "high molecular weight polynuclear aromatic hydrocarbon" compounds: Fluoranthene, Pyrene, Benz(a)anthracene, Chrysene, Total Benzo(a)fluoranthenes, Benzo(a)pyrene, Indeno(1,2,3,-c,d)pyrene, Dibenzo(a,h)anthracene, and Benzo(g,h,i)perylene. The HPAH criterion is not the sum of the criteria values for the individual HPAH compounds as listed.
- The TOTAL BENZOFLUORANTHENES criterion represents the sum of the concentrations of the "B," "J," and "K" isomers.

(3) Biological effects criteria. For designation of sediments pursuant to WAC 173-204-310(2), sediments are determined to have adverse effects on biological resources when any one of the confirmatory marine sediment biological tests of WAC 173-204-315(1) demonstrate the following results:

(a) Amphipod: The test sediment has a higher (statistically significant, t test, $p \leq 0.05$) mean mortality than the reference sediment and the test sediment mean mortality exceeds twenty-five percent, on an absolute basis.

(b) Larval: The test sediment has a mean survivorship of normal larvae that is less (statistically significant, t test, $p \leq 0.05$) than the mean normal survivorship in the reference sediment and the test sediment mean normal survivorship is less than eighty-five percent of the mean normal survivorship in the reference sediment (i.e., the test sediment has a mean combined abnormality and mortality that is greater than fifteen percent relative to time-final in the reference sediment).

(c) Benthic abundance: The test sediment has less than fifty percent of the reference sediment mean abundance of any one of the following major taxa: Crustacea, Mollusca or Polychaeta, and the test sediment abundance is statistically different (t test, $p \leq 0.05$) from the reference sediment abundance.

(d) Juvenile polychaete: The test sediment has a mean biomass of less than seventy percent of the reference sediment mean biomass and the test sediment biomass is statistically different (t test, $p \leq 0.05$) from the reference sediment biomass.

(e) Microtox: The mean light output of the highest concentration of the test sediment is less than eighty percent of the mean light output of the reference sediment, and the two means are statistically different from each other (t test, $p \leq 0.05$).

(4) Marine sediment human health criteria. Reserved: The department may determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(5) Marine sediment other toxic, radioactive, biological, or deleterious substances criteria. Other toxic, radioactive, biological or deleterious substances in, or on, sediments shall be at or below levels which cause no adverse effects in marine biological resources, and below

levels which correspond to a significant health risk to humans, as determined by the department. The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter pursuant to WAC 173-204-310(3).

(6) Nonanthropogenically affected sediment quality criteria. Whenever the nonanthropogenically affected sediment quality is of a lower quality (i.e., higher chemical concentrations, higher levels of adverse biological response, or posing a greater health threat to humans) than the applicable sediment quality standards assigned for said sediments by this chapter, the existing sediment chemical and biological quality shall be identified on an area-wide basis as determined by the department, and used in place of the sediment quality standards of WAC 173-204-320.

NEW SECTION

WAC 173-204-330 LOW SALINITY SEDIMENT QUALITY STANDARDS. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

NEW SECTION

WAC 173-204-340 FRESHWATER SEDIMENT QUALITY STANDARDS. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

NEW SECTION

WAC 173-204-350 SEDIMENT QUALITY STANDARDS INVENTORY. (1) The department shall gather available data on sediments and produce an inventory of sediment sampling stations which pass or fail the applicable sediment quality standards of WAC 173-204-320 through 173-204-340. Sediment sampling stations which are evaluated for compliance with the sediment quality standards of WAC 173-204-320 through 173-204-340 and placed on the inventory shall be sampled and analyzed using the Puget Sound Protocols or other methods approved by the department, and shall use an appropriate quality assurance/quality control program, as determined by the department. The sediment quality standards inventory produced per this section shall be used by the department, and made available upon request to the public and other federal, state, and local agencies for the following uses:

(a) To identify and target necessary source control activities, such as discharger monitoring, to eliminate adverse effects on biological resources and significant health threats to humans from sediment contamination;

(b) To identify contaminated sediment cleanup sites per the procedures in WAC 173-204-500 through 173-204-590;

(c) To establish sediment quality ambient monitoring program status and trends analyses and reports;

(d) To identify the sediment quality of areas proposed for dredging, in-water construction, and other actions requiring federal, state, and/or local permits; and

(e) To complete other uses consistent with the intent of this chapter, as determined by the department.

(2) Sources of data. Sediment biological and chemical data shall be gathered by the department for review to produce and update the sediment quality inventory on a biennial basis. Data sources include, but are not limited to:

(a) Sediment data collected by the department for the Puget Sound ambient monitoring program, compliance monitoring of permitted discharges, and special environmental investigations.

(b) Sediment data submitted to the U.S. Army Corps of Engineers in support of dredging permit applications.

(c) Sediment data collected to identify problem areas and needed source controls in Puget Sound as defined in WAC 173-204-200(19), other marine waters, and all low salinity and freshwater areas in Washington state.

(d) Sediment data used or collected in compliance with chapter 70.105D RCW, and the Model Toxics Control Act cleanup regulation, chapter 173-340 WAC.

(e) Sediment data used or collected in compliance with the federal Comprehensive Environmental Response, Compensation and Liability Act.

(f) Sediment data collected as a requirement of a National Pollutant Discharge Elimination System or state discharge permit.

(g) Sediment data derived from other studies including:

(i) Federally sponsored monitoring studies.

(ii) Special monitoring studies conducted by local and municipal governments, or private industry.

(iii) Data derived through Washington state department of natural resources administration of use authorizations.

(3) The inventory shall be updated and made available to the public on a biennial basis.

PART IV—SEDIMENT SOURCE CONTROL

NEW SECTION

WAC 173-204-400 GENERAL CONSIDERATIONS. (1) The standards of WAC 173-204-400 through 173-204-420 specify a process for managing sources of sediment contamination. These procedures include:

(a) Evaluating the potential for a waste discharge to create a sediment impact;

(b) Requiring application for a sediment impact zone authorization;

(c) Verifying whether a discharge has received all known, available and reasonable methods of prevention, control, and treatment prior to discharge, and/or application of best management practices;

(d) Analysis and verification of the potential sediment impact;

(e) Determining whether the sediment impact zone would meet maximum allowable contamination requirements;

(f) Evaluating the proposed sediment impact zone in consideration of locational criteria;

(g) Design and/or constrain the sediment impact zone to be as small, and with the least contamination, as practicable;

(h) Public review of the proposed sediment impact zone authorization;

(i) Issuance of the sediment impact zone authorization with provisions for maintenance and closure; and

(j) Reducing and eventually eliminating the sediment impact zone via renewals and modifications of a sediment impact zone authorization.

(2) Permits and other authorizations of wastewater, storm water, and nonpoint source discharges to surface waters of the state of Washington under authority of chapter 90.48 RCW shall be conditioned so that the discharge receives all known, available and reasonable methods of prevention, control, and treatment, and best management practices prior to discharge, as required by chapters 90.48, 90.52, and 90.54 RCW. The department shall provide consistent guidance on the collection, analysis and evaluation of wastewater, receiving-water, and sediment samples to meet the intent of this section using consideration of pertinent sections of the Department of Ecology Permit Writers' Manual, as amended, and other guidance approved by the department.

(3) As determined necessary, the department shall require any person who proposes a new discharge to evaluate the potential for the proposed discharge to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(4) As determined necessary, the department shall require existing permitted discharges to evaluate the potential for the permitted discharge to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(5) Within permits authorizing existing discharges to surface waters of the state of Washington, the department may specify appropriate locations and methodologies for the collection and analysis of representative samples of wastewater, receiving-water, and sediments to evaluate the potential for the discharge to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(6) In establishing the need for, and the appropriate, individual permit monitoring conditions, the department shall consider multiple factors relating to the potential for a discharge to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 including but not limited to:

(a) Discharge particulate characteristics;

(b) Discharge contaminant concentrations, flow, and loading rate;

(c) Sediment chemical concentration and biological effects levels;

(d) Receiving water characteristics;

(e) The geomorphology of sediments;

(f) Cost mitigating factors such as the available resources of the discharger; and

(g) Other factors determined necessary by the department.

(7) As determined necessary to ensure the wastewater discharge does not cause a violation of the applicable standards of WAC 173-204-320 through 173-204-340,

except as authorized by the department under WAC 173-204-415, Sediment impact zones, the department shall stipulate permit terms and conditions which include wastewater discharge average and maximum mass loading per unit time, and wastewater discharge average and maximum chemical concentrations within new and existing facility permits authorizing wastewater discharges to surface waters of the state of Washington.

(8) As determined necessary, the department shall modify wastewater discharge permits whenever it appears the discharge causes a violation, or creates a substantial potential to cause a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, as authorized by RCW 90.48.520.

(9) To meet the intent of this section, the sediment quality standards of WAC 173-204-320 through 173-204-340 and the sediment impact zone standards of WAC 173-204-415 through 173-204-420 are not considered to be federal discharge permit effluent limits subject to antibacksliding requirements of the federal Clean Water Act. Discharge permit sediment monitoring and sediment impact zone compliance requirements may be used to establish effluent limits sufficient to meet the standards of this chapter.

(10) As determined necessary, the department shall use issuance of administrative actions under authority of chapters 90.48 or 70.105D RCW to implement this chapter.

(11) Wastewater dilution zones. Water quality mixing zones authorized by the department pursuant to chapter 173-201 WAC, Water quality standards for surface waters of the state of Washington, do not satisfy the standards of WAC 173-204-415, Sediment impact zones.

(12) For the sediment source control standards of WAC 173-204-400 through 173-204-420, any and all references to violation of, potential to violate, exceedance of, or potential to exceed the applicable standards of WAC 173-204-320 through 173-204-340 shall also apply to the antidegradation and designated use policies of WAC 173-204-120. Any exceedances or potential exceedances of the antidegradation or designated use policies of WAC 173-204-120 shall meet the applicable requirements of WAC 173-204-400 through 173-204-420.

(13) Under no circumstances shall the provisions of sediment source control standards WAC 173-204-400 through 173-204-420 be construed as providing for the relaxation of discharge permit requirements under other authorities including, but not limited to, chapter 90.48 RCW, the Water Pollution Control Act, chapter 90.54 RCW, the Water Resources Act of 1971, and the Federal Water Pollution Control Act of 1972 and amendments.

NEW SECTION

WAC 173-204-410 SEDIMENT QUALITY GOAL AND SEDIMENT IMPACT ZONE APPLICABILITY. (1) Goal and policies.

(a) It is the established goal of the department to manage source control activities to reduce and ultimately eliminate adverse effects on biological resources and

significant health threats to humans from sediment contamination.

(b) The stated policy of the department shall be to only authorize sediment impact zones so as to minimize the number, size, and adverse effects of all zones, with the intent to eliminate the existence of all such zones whenever practicable. The department shall consider the relationship between environmental effects, technical feasibility and cost in determining whether it is practicable to minimize and/or eliminate sediment impact zones.

(c) The department shall implement the standards of WAC 173-204-400 through 173-204-420 so as to prevent the creation of new contaminated sediment cleanup sites identified under WAC 173-204-530(4).

(2) A sediment impact zone authorization issued by the department under the authority of chapter 90.48 RCW does not constitute authorization to trespass on lands not owned by the applicant. These standards do not address and in no way alter the legal rights, responsibilities, or liabilities of the permittee or landowner of the sediment impact zone for any applicable requirements of proprietary, real estate, tort, and/or other laws not directly expressed as a requirement of this chapter.

(3) Except as identified in subsection (6)(d) of this section, any person may apply for a sediment impact zone under the following conditions:

(a) The person's discharge is provided with all known, available and reasonable methods of prevention, control, and treatment, and meets best management practices as stipulated by the department; and

(b) The person's discharge activity exposes or resuspends sediments which exceed, or otherwise cause or potentially cause sediments to exceed the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, or the antidegradation policy standards of WAC 173-204-120 (1)(a) and (c) within a period of ten years from the later date of either the department's formal approval of the application for a sediment impact zone authorization or the starting date of the discharge.

(4) The department shall only authorize sediment impact zones for permitted wastewater and storm water discharges, and other discharges authorized by the department. The department shall authorize all sediment impact zones via discharge permits or other formal administrative actions.

(5) The department shall not limit the application, establishment, maintenance, or closure of an authorized sediment impact zone via consideration of sediment contamination determined by the department to be the result of unknown, unpermitted or historic discharge sources.

(6) As determined necessary by the department, any person with a permitted discharge shall be required to meet the standards of WAC 173-204-400 through 173-204-420, as follows:

(a) Any person with a new or existing permitted wastewater discharge shall be required to meet the standards of WAC 173-204-400 through 173-204-420;

(b) Any person with a new or existing permitted industrial storm water discharge, regulated as process

wastewater in National Pollutant Discharge Elimination System or state discharge permits, shall be required to meet the standards of WAC 173-204-400 through 173-204-420;

(c) Any person with a new or existing permitted storm water or nonpoint source discharge, which fully uses all known, available and reasonable methods of prevention, control, and treatment, and best management practices as stipulated by the department at the time of the person's application for a sediment impact zone, shall be required to meet the standards of WAC 173-204-400 through 173-204-420;

(d) Any person with a storm water discharge, existing prior to the adoption of this chapter, and determined by the department to not be fully using best management practices stipulated by the department at the time of the person's application for a permit from the department, shall be eligible for a sediment impact zone as follows:

(i) The department shall issue sediment impact zone authorizations with requirements for application of best management practices stipulated by the department on an approved time schedule. The sediment impact zone maximum criteria of WAC 173-204-420 shall not be applicable during the approved time schedule authorized by the department.

(ii) Sediment impact zones authorized by the department for permitted storm water discharges under the applicability provisions of subsection (6)(d) of this section shall be subject to cleanup action determinations made by the department pursuant to WAC 173-204-500 through 173-204-590 when the sediment impact zone maximum criteria of WAC 173-204-420 are exceeded within the authorized sediment impact zone.

(iii) The department shall identify and include best management practices required to meet the sediment impact zone design standards of WAC 173-204-415(4) as soon as practicable within sediment impact zone authorizations established for storm water discharges per WAC 173-204-410 (6)(d).

(7) Dredged material and fill discharge activities subject to authorization under Section 401 of the federal Clean Water Act via chapter 90.48 RCW and chapter 173-225 WAC, establishment of implementation procedures of application for certification, are not subject to the standards of WAC 173-204-415 but are subject to the standards of WAC 173-204-400 through 173-204-410 and 173-204-420 as follows:

(a) Requirements for dredging activities and disposal sites shall be established by the department using best available dredged material management guidelines and applicable federal and state rules. These guidelines shall include the Puget Sound dredged disposal analysis (PSDDA) dredged material testing and disposal requirements cited in:

(i) Management Plan Report - Unconfined Open-Water Disposal Of Dredged Material, Phase I, (Central Puget Sound), June 1988, or as amended;

(ii) Management Plan Report - Unconfined Open-Water Disposal Of Dredged Material, Phase II, (North And South Puget Sound), September 1989, or as amended; and

(iii) Users Manual For Dredged Material Management In Puget Sound, November 1990, or as amended.

(b) In coordination with other applicable federal and state and local dredged material management programs, the department may issue administrative orders to establish approved disposal sites, to specify disposal site use conditions, and to specify disposal site monitoring requirements.

(c) The department may authorize sediment impact zones for dredged material disposal via federal Clean Water Act Section 401 certification actions.

(d) As determined necessary by the department, the department may authorize sediment impact zones for dredged material disposal via administrative orders issued under authority of chapter 90.48 RCW. The department shall authorize sediment impact zones for all Puget Sound dredged disposal analysis disposal sites via administrative orders issued under authority of chapter 90.48 RCW.

(e) Administrative orders and certifications establishing sediment impact zones for dredged material disposal sites shall describe establishment, maintenance, and closure requirements for the authorized site, consistent with the requirements described in (a) of this subsection.

(8) The source control standards of WAC 173-204-400 through 173-204-420 are applicable in cases where the sediment quality standards of WAC 173-204-320 through 173-204-340 are reserved.

NEW SECTION

WAC 173-204-415 SEDIMENT IMPACT ZONES. The purpose of this section is to set forth the standards for establishment, maintenance, and closure of sediment impact zones to meet the intent of sediment quality dilution zones authorized pursuant to RCW 90.48.520, except for sediment impact zones authorized under WAC 173-204-410(7). The department shall authorize all sediment impact zones via discharge permits or other formal administrative actions.

(1) General requirements. Authorization, modification and renewal of a sediment impact zone by the department shall require compliance with the following general requirements:

(a) Permits authorizing wastewater discharges to surface waters of the state of Washington under authority of chapter 90.48 RCW shall be conditioned so that the discharge receives:

(i) All known, available and reasonable methods of prevention, control, and treatment prior to discharge, as required by chapters 90.48, 90.52, and 90.54 RCW; and

(ii) Best management practices as stipulated by the department.

(b) The maximum area, and maximum chemical contaminant concentration and/or allowable maximum biological effect level within sediments assigned to a sediment impact zone shall be as authorized by the department, in accordance with the standards of this section.

(c) The department shall determine that the person's activity generating effluent discharges which require authorization of a sediment impact zone is in the public interest.

(d) The department shall determine that any person's activity generating effluent discharges which require authorization of a sediment impact zone has adequately addressed alternative waste reduction, recycling, and disposal options through application of all known, available and reasonable methods of prevention, control, and treatment to minimize as best practicable the volume and concentration of waste contaminants in the discharge.

(e) The area boundaries of the sediment impact zone established by the department shall include the minimum practicable surface area, not to exceed the surface area allowed under subsection (4) of this section.

(f) Adverse effects to biological resources within an authorized sediment impact zone shall be maintained at the minimum chemical contamination and biological effects levels practicable at all times. The department shall consider the relationship between environmental effects, technical feasibility and cost in determining the minimum practicable chemical contamination and biological effects levels. Adverse effects to biological resources within an authorized sediment impact zone shall not exceed a minor adverse effects level as a result of the discharge, as determined by the procedures of subsection (5) of this section.

(g) The operational terms and conditions for the sediment impact zone shall be maintained at all times.

(h) Final closure of the sediment impact zone shall be conducted in strict accordance with the department's sediment impact zone authorization.

(i) Documents authorizing a sediment impact zone shall require that the permitted discharge not result in a violation of the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, outside the area limits of the established zone.

(j) All applications to the department for sediment impact zone authorizations shall be subject to public notice, comment and hearing procedures defined but not limited to the applicable discharge permit or other formal administrative action requirements of chapter 43.21C RCW, the State Environmental Policy Act, chapter 197-11 WAC, SEPA rules, chapter 90.48 RCW, chapter 163-216 WAC, the State waste discharge permit program, and chapter 173-220 WAC, National Pollutant Discharge Elimination System Permit Program prior to issuance of the authorization. In determining the need for, location, and/or design of any sediment impact zone authorization, the department shall give consideration to all comments received during public review of the proposed sediment impact zone application.

(2) Application requirements.

(a) Whenever, in the opinion of the department, as a result of an ongoing or proposed effluent discharge, a person violates, shall violate, or creates a substantial potential to violate the sediment quality standards of WAC 173-204-320 through 173-204-340 as applicable within a period of ten years from the later date of either the department's evaluation of the ongoing discharge or the starting date of the proposed discharge, the department may require application for a sediment impact zone authorization under authority of chapter 90.48 RCW.

(b) Any person with a proposed or permitted effluent discharge shall apply to the department for authorization of a sediment impact zone when:

(i) The department requires the sediment impact zone application by written notification; or

(ii) The person independently identifies that the ongoing or proposed effluent discharge violates, shall violate, or creates a substantial potential to violate the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 within a period of ten years from the later date of the person's evaluation of the ongoing discharge or the starting date of the proposed discharge, using the procedures of this section.

(c) As necessary, the department may require any person to submit a sediment impact zone application in multiple steps concurrent with its ongoing review and determination concerning the adequacy of the application. The application shall provide the sediment impact zone design information required in subsection (4) of this section and other such information the department determines necessary. The application shall also provide the legal location and landowner(s) of property proposed for use as, or potentially affected by, a sediment impact zone, and shall be accompanied by such other relevant information as the department may require. The department shall issue a written approval of the complete sediment impact zone application prior to or concurrent with authorizing a sediment impact zone.

(d) Submittal of an application to the department for authorization of a sediment impact zone under the terms and conditions of this section shall establish the applicant's interim compliance with requirements of chapter 90.48 RCW and this chapter, as determined by the department. The department may authorize an interim compliance period within a valid discharge permit or administrative order to ensure ultimate compliance with chapter 90.48 RCW and this chapter. The interim compliance period shall not continue beyond the date of issuance of a sediment impact zone authorization within a valid discharge permit issued by the department.

(e) Prior to authorization, the department shall make a reasonable effort to identify and notify all landowners, adjacent landowners, and lessees affected by the proposed sediment impact zone. The department shall issue a sediment impact zone notification letter to any person it believes to be a potentially affected landowner and other parties determined appropriate by the department. The notification letter shall be sent by certified mail, return receipt requested, or by personal service. The notification letter shall provide:

(i) The name of the person the department believes to be the affected landowner;

(ii) The names and addresses of other affected landowners to whom the department has sent a proposed sediment impact zone notification letter;

(iii) The name and address of the sediment impact zone applicant;

(iv) A general description of the location, size, and contamination level proposed for the sediment impact zone;

(v) The intention of the department to release all specific sediment impact zone application information to the public upon written request to the department;

(vi) The determination of the department concerning whether the proposed sediment impact zone application meets the standards of this section;

(vii) The intention of the department whether to authorize the proposed sediment impact zone; and

(viii) Notification that the affected landowners, adjacent landowners, and lessees may comment on the proposed sediment impact zone. Any comments on the proposed sediment impact zone authorization shall be submitted in writing to the department within thirty days from the date of receipt of the notification letter, unless the department provides an extension.

(f) Prior to authorization, the department shall issue a sediment impact zone notification letter to affected port districts, the Washington state department of natural resources marine lands division, the U.S. Army Corps of Engineers, and other parties determined appropriate by the department. The notification letter shall be sent by certified mail, return receipt requested, or by personal service. The notification letter shall provide the information required under (e) of this subsection.

(3) Locational considerations. The department shall require any person applying for a sediment impact zone to submit information concerning potential location considerations of the zone. The location of an authorized sediment impact zone shall avoid whenever possible and minimize adverse impacts to areas of special importance. Prior to authorization of a sediment impact zone, the department shall consider all pertinent information from the applicant, all affected parties, local, state and federal agencies, federally recognized Indian tribes, and the public concerning locational considerations, including but not limited to:

(a) Spawning areas;

(b) Nursery areas;

(c) Waterfowl feeding areas;

(d) Shellfish harvest areas;

(e) Areas used by species of economic importance;

(f) Tribal areas of significance;

(g) Areas determined to be ecologically unique;

(h) Water supply intake areas;

(i) Areas used for primary contact public recreation;

(j) High quality waters that constitute an outstanding national resource; and

(k) Areas where sediment quality is substantially better than levels necessary for protection of biological resources and human health.

(4) Design requirements. The location, areal limitations, and degree of effects allowed within an authorized sediment impact zone shall be determined by application of the department's sediment impact zone computer models "CORMIX" and/or "WASP 4," or an alternate sediment impact zone model(s) approved by the department under WAC 173-204-130(4), as limited by the standards of this section and the department's best professional judgment. The models shall be used by the department or by the discharger as required by the department, to estimate the impact of any person's wastewater or storm water discharge on the receiving water

and sediment quality for a period of ten years from the later date of either the department's formal approval of the application for a sediment impact zone authorization or the starting date of the discharge.

(a) Data requirements. The discharger shall submit the following information to determine requirements for establishment and authorization of a sediment impact zone, as required by the department:

(i) Data reports and analyses results for all samples of wastewater or storm water, receiving water, and sediments collected by the discharger or other parties relating to evaluation of the potential effects of the permitted discharge, as required by WAC 173-204-400.

(ii) Data reports and analyses results determined necessary to:

(A) Apply discharge modeling to the permitted discharge; and

(B) To identify and evaluate potential alternative chemical and biological effects of the discharge on the receiving water and sediments; and

(C) To identify and evaluate potential alternatives to define the areal size and location of a sediment impact zone needed by the discharge.

(iii) Data reports and analyses results from the discharger's application of the "CORMIX" and/or "WASP 4" or an alternate sediment impact zone model(s) approved by the department under WAC 173-204-130(4), to the permitted discharge to identify and evaluate:

(A) Potential alternative chemical and biological effects of the discharge on the receiving water and sediments; and

(B) Potential alternatives for the areal distribution and location of a potential sediment impact zone required by the discharge.

(iv) Preferred alternative for closure of the potential sediment impact zone by active removal and/or natural recovery, and identified costs of the preferred closure method.

(b) Overlapping sediment impact zones. Overlapping sediment impact zones, as predicted by the "CORMIX" and/or "WASP 4" models or an alternate sediment impact zone model(s) approved by the department under WAC 173-204-130(4), and the department's best professional judgment, shall be authorized only as follows:

(i) The applicable sediment impact zone maximum criteria of WAC 173-204-420 shall not be exceeded as a result of the multiple discharge sediment impact zones overlap; and

(ii) If the department determines that the applicable chemical contaminant concentration and biological effects restrictions of WAC 173-204-420 would be exceeded as a result of the overlap of multiple discharge sediment impact zones, the department may authorize the sediment impact zones after:

(A) Application of a waste load allocation process to the individual permitted discharges to identify individual permit effluent limitations necessary to meet:

(I) The applicable chemical contaminant concentration and biological effects restrictions for sediment impact zones required by this section; and/or

(II) Storm water best management practices required by the department; and

(B) Establishment of individual permit compliance schedules for the multiple permitted discharges to ensure compliance with:

(I) The permit effluent limitations established by the department using the waste load allocation process and best professional judgment; and

(II) The standards of WAC 173-204-400 through 173-204-420.

(5) Maintenance requirements.

(a) The department shall review sediment impact zone monitoring conducted by the discharger to evaluate compliance with the department's sediment impact zone authorization and the standards of WAC 173-204-400 through 173-204-420. The department may require additional sediment impact zone monitoring when the department determines that any sediment sampling station within an authorized sediment impact zone exceeds the sediment impact zone maximum criteria of WAC 173-204-420 or violates the sediment impact zone authorization as a result of the discharge.

(b) Whenever the department can clearly demonstrate that, as a result of an effluent discharge, a discharger violates, shall violate, or creates a substantial potential to violate the department's sediment impact zone authorization, or the sediment impact zone maximum criteria of WAC 173-204-420, the department shall:

(i) Provide written notification and supporting documentation of the department's clear demonstration determination to the affected discharger;

(ii) Establish a reasonable time frame for the affected discharger to either submit a written statement and supporting documentation rebutting the department's clear demonstration determination, or accept the department's determination. The discharger may use the clear demonstration methods identified in (c) of this subsection for rebuttal of the department's clear demonstration; and

(iii) Provide written notification of the department's determination concerning approval or denial of the submitted clear demonstration rebuttal to the discharger.

(c) For the purpose of this section, a clear demonstration shall consist of:

(i) Use of the sediment impact zone model(s) "CORMIX" and/or "WASP 4" or other model(s) to demonstrate a discharge(s) is the source of the violation or potential violation; and

(ii) Use of one or more of the following methods to demonstrate a violation of the sediment impact zone authorization or the sediment impact zone maximum criteria of WAC 173-204-420:

(A) Direct sediment sampling. A violation of the sediment impact zone authorization and/or the sediment impact zone maximum criteria of WAC 173-204-420 is demonstrated when:

(I) The average chemical concentration for three stations within the sediment impact zone exceeds the sediment impact zone maximum criteria of WAC 173-204-

420 due to the discharge source. This concentration average shall not include stations for which complete biological testing information shows that the biological effects requirements of WAC 173-204-420, or the authorized sediment impact zone if applicable, are met; or

(II) The biological effects at each of any three stations within the sediment impact zone exceed the sediment impact zone maximum biological effects criteria of WAC 173-204-420 or the authorized sediment impact zone as applicable, due to the discharge source; or

(B) Monitoring data which demonstrates a chemical contaminant concentration gradient toward the discharge source exists in sediments which violates the sediment impact zone authorization or the standards of WAC 173-204-420; or

(C) A trend analysis of the effluent chemical discharge quality and in place sediment monitoring data which statistically demonstrates an ongoing violation or substantial potential to violate the sediment impact zone authorization or the standards of WAC 173-204-420; or

(D) Field depositional (e.g., sediment traps) and/or effluent particulate (e.g., centrifuge analysis) data which demonstrate an ongoing violation or substantial potential to violate the sediment impact zone authorization or the standards of WAC 173-204-420; or

(E) Mathematical or computer modeling which demonstrates an ongoing violation or substantial potential to violate the sediment impact zone authorization or the standards of WAC 173-204-420.

(d) The department's response to a clear demonstration of a violation or potential violation shall be to require maintenance activities in the following order:

(i) Require reanalysis of whether the discharger's effluent treatment complies with all known, available and reasonable methods of prevention, control, and treatment and best management practices based on the data used to establish the clear demonstration;

(ii) Alter the authorized sediment impact zone size and/or degree of effects consistent with the standards of this section and the results of direct sediment sampling;

(iii) Reduce impacts of the existing or potential violation by requiring additional discharge controls or additional sediment impact zone maintenance activities which can include, but are not limited to:

(A) Dredging and removal of sediments, solely for sediment impact zone maintenance needs or coordinated with maintenance dredging of commercially important areas, e.g., navigational lanes or ship berthing areas;

(B) Dredging, treatment, and replacement of sediments within the sediment impact zone; and/or

(C) Capping of sediments within the sediment impact zone;

(iv) Limit the quantity and/or quality of the existing permitted discharge; and/or

(v) Withdraw the department's sediment impact zone authorization and require final closure of the zone.

(e) All sediment impact zone maintenance actions conducted under this chapter shall provide for landowner review of the maintenance action plans prior to implementation of the action. In cases where the discharger is not able to secure access to lands subject to the sediment impact zone maintenance actions of this subsection, the

department may facilitate negotiations or other proceedings to secure access to the lands. Requests for department facilitation of land access shall be submitted to the department in writing by the responsible discharger.

(6) Closure planning and requirements.

(a) The discharger shall select and identify a preferred method for closure of a sediment impact zone in the application required by WAC 173-204-415(2). Closure methods can include either active cleanup and/or natural recovery and monitoring. The department shall incorporate the discharger's identified closure method in the sediment impact zone authorization.

(b) The department may require closure of authorized sediment impact zones when the department determines that:

(i) The discharger has violated the sediment impact zone maintenance standards of subsection (5) of this section; or

(ii) The department determines that:

(A) The wastewater or storm water discharge quality will not violate the applicable sediment quality standards of WAC 173-204-320 through 173-204-340; or

(B) A sediment impact zone is no longer needed or eligible under the standards of WAC 173-204-410 through 173-204-415.

(7) Modification of sediment impact zones. The department may modify sediment impact zone authorization requirements where the nature of a person's activity which generates, transports, disposes, prevents, controls, or treats effluent discharges has substantially changed and been demonstrated to the department's satisfaction. The modification may occur after consideration of the following:

(a) Reduction of effects. Assessment of the discharge activities and treatment methods shall be conducted by the discharger to demonstrate to the satisfaction of the department that:

(i) Elimination of the sediment impact zone is not practicable; and

(ii) Further reduction in any existing or proposed sediment impact zone area size and/or level of contamination or effects is not practicable in consideration of discharge requirements for all known, available and reasonable methods of prevention, control, and treatment, best management practices, and applicable waste reduction and recycling provisions.

(b) Alterations. There are substantial alterations or additions to the person's activity generating effluent discharges which require authorization of a sediment impact zone which occur after permit issuance and justify application of permit conditions different from, or absent in, the existing permit.

(c) New information. Sediment impact zones may be modified when new information is received by the department that was not available at the time of permit issuance that would have justified the application of different sediment impact zone authorization conditions.

(d) New regulations. The standards or regulations on which the permit was based have changed by amended standards, criteria, or by judicial decision after the permit was issued.

(e) Changes in technology. Advances in waste control technology that qualify as "all known, available and reasonable methods of prevention, control, and treatment" and "best management practices" shall be adopted as permit requirements, as appropriate, in all permits reissued by the department.

(8) Renewal of previously authorized sediment impact zones. Renewal of sediment impact zones previously authorized under the standards of WAC 173-204-410 and this section shall be allowed under the following conditions:

(a) The department determines the discharge activities and treatment methods meet all known, available and reasonable methods of prevention, control, and treatment and best management practices as stipulated by the department; and

(b) The discharger demonstrates to the department's satisfaction that the discharge activities comply with the standards of WAC 173-204-400 through 173-204-420 and with the existing sediment impact zone authorization; and

(c) Reduction of effects. The discharger conducts an assessment of the permitted discharge activities and treatment methods and demonstrates to the department's satisfaction that:

(i) Elimination of the sediment impact zone is not practicable; and

(ii) A further reduction in any existing or proposed sediment impact zone area size and/or level of contamination is not practicable in consideration of discharge requirements for all known, available and reasonable methods of prevention, control, and treatment, best management practices, and applicable waste reduction and recycling provisions.

NEW SECTION

WAC 173-204-420 **SEDIMENT IMPACT ZONE MAXIMUM CRITERIA.** This section establishes minor adverse effects as the maximum chemical contaminant concentration, maximum health risk to humans, maximum biological effects level, maximum other toxic, radioactive, biological, or deleterious substance level, and maximum nonanthropogenically affected sediment quality level allowed within authorized sediment impact zones due to an existing or proposed discharge. If the department determines that the standards of this section are or will be exceeded as a result of an existing or proposed discharge(s), the department shall authorize a sediment impact zone or modify a sediment impact zone authorization consistent with the standards of WAC 173-204-400 through 173-204-420 such that individual permit effluent limitations, requirements, and compliance time periods are sufficient to meet the standards of this section as applicable.

(1) Applicability.

(a) The marine sediment impact zone maximum chemical criteria, and the marine sediment biological effects criteria, and the marine sediment human health criteria, and the marine sediment other toxic, radioactive, biological or deleterious substance criteria and the marine sediment nonanthropogenically affected sediment

criteria of this section shall apply to marine sediments within Puget Sound.

(b) Non-Puget Sound marine sediment impact zone maximum criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(c) Low salinity sediment impact zone maximum criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(d) Freshwater sediment impact zone maximum criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(2) Puget Sound marine sediment impact zone maximum chemical criteria. The maximum chemical concentration levels that may be allowed within an authorized sediment impact zone due to a permitted or otherwise authorized discharge shall be at or below the chemical levels stipulated in Table II, Sediment Impact Zone Maximum Chemical Criteria, except as provided for by the marine sediment biological effects restrictions of subsection (3) of this section, and any compliance time periods established under WAC 173-204-410 (6)(d) and 173-204-415.

Table II

Puget Sound Marine Sediment Impact Zones Maximum Chemical Criteria¹

CHEMICAL PARAMETER	MG/KG DRY WEIGHT (PARTS PER MILLION (PPM) DRY)
ARSENIC	93
CADMIUM	6.7
CHROMIUM	270
COPPER	390
LEAD	530
MERCURY	0.59
SILVER	6.1
ZINC	960

CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON) ²
LPAH ³	780
NAPHTHALENE	170
ACENAPHTHYLENE	66
ACENAPHTHENE	57
FLUORENE	79
PHENANTHRENE	480
ANTHRACENE	1200
2-METHYLNAPHTHALENE	64

CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON)
HPAH ⁴	5300
FLUORANTHENE	1200
PYRENE	1400
BENZ(A)ANTHRACENE	270
CHRYSENE	460
TOTAL BENZOFLUORANTHENES ⁵	450
BENZO(A)PYRENE	210
INDENO (1,2,3,-C,D) PYRENE	88
DIBENZO (A,H) ANTHRACENE	33
BENZO(G,H,I)PERYLENE	78
1,2-DICHLOROBENZENE	2.3
1,4-DICHLOROBENZENE	9
1,2,4-TRICHLOROBENZENE	1.8
HEXACHLOROBENZENE	2.3
DIMETHYL PHTHALATE	53
DIETHYL PHTHALATE	110
DI-N-BUTYL PHTHALATE	1700
BUTYL BENZYL PHTHALATE	64
BIS (2-ETHYLHEXYL) PHTHALATE	78

DI-N-OCTYL PHTHALATE	4500
DIBENZOFURAN	58
HEXACHLOROBUTADIENE	6.2
N-NITROSODIPHENYLAMINE	11
TOTAL PCB'S	-65
CHEMICAL PARAMETER UG/KG DRY WEIGHT (PARTS PER BILLION (PPB) DRY)	
PHENOL	1200
2-METHYLPHENOL	63
4-METHYLPHENOL	670
2,4-DIMETHYL PHENOL	29
PENTACHLOROPHENOL	690
BENZYL ALCOHOL	73
BENZOIC ACID	650

Table II Footnotes

- Where laboratory analysis indicates a chemical is not detected in a sediment sample, the detection limit shall be reported and shall be at or below the criteria value shown in this table. Where chemical criteria in this table represent the sum of individual compounds or isomers, and a chemical analysis identifies an undetected value for one or more individual compounds or isomers, the detection limit shall be used for calculating the sum of the respective compounds or isomers.
- The listed chemical parameter criteria represent concentrations in parts per million, "normalized," or expressed, on a total organic carbon basis. To normalize to total organic carbon, the dry weight concentration for each parameter is divided by the decimal fraction representing the percent total organic carbon content of the sediment.
- The LPAH criterion represents the sum of the following "low molecular weight polynuclear aromatic hydrocarbon" compounds: Naphthalene, Acenaphthylene, Acenaphthene, Fluorene, Phenanthrene, and Anthracene. The LPAH criterion is not the sum of the criteria values for the individual LPAH compounds as listed.
- The HPAH criterion represents the sum of the following "high molecular weight polynuclear aromatic hydrocarbon" compounds: Fluoranthene, Pyrene, Benz(a)anthracene, Chrysene, Total Benzofluoranthenes, Benzo(a)pyrene, Indeno(1,2,3,-c,d)pyrene, Dibenzo(a,h)anthracene, and Benzo(g,h,i)perylene. The HPAH criterion is not the sum of the criteria values for the individual HPAH compounds as listed.
- The TOTAL BENZOFLUORANTHENES criterion represents the sum of the concentrations of the "B," "J," and "K" isomers.

(3) Puget Sound marine sediment impact zone maximum biological effects criteria. The maximum biological effects level that may be allowed within an authorized sediment impact zone shall be at or below a minor adverse biological effects level. The acute and chronic effects biological tests of WAC 173-204-315(1) may be used to determine compliance with the minor adverse biological effects restriction within an authorized sediment impact zone as follows:

(a) When using biological testing to determine compliance with the maximum biological effects criteria within a sediment impact zone, a person shall select and conduct any two acute effects tests and any one chronic effects test.

(b) The biological tests shall not be considered valid unless test results for the appropriate control and reference sediment samples meet the performance standards described in WAC 173-204-315(2).

(c) The sediment impact zone maximum biological effects level is established as that level below which any two of the biological tests in any combination exceed the criteria of WAC 173-204-320(3), or one of the following biological test determinations is made:

(i) Amphipod: The test sediment has a higher (statistically significant, t test, $p \leq 0.05$) mean mortality than the reference sediment and the test sediment mean mortality is more than thirty percent higher than the reference sediment mean mortality, on an absolute basis; or

(ii) Larval: The test sediment has a mean survivorship of normal larvae that is less (statistically significant, t test, $p \leq 0.05$) than the mean normal survivorship in the reference sediment sample and the test sediment mean normal survivorship is less than seventy percent of the mean normal survivorship in the reference sediment (i.e., the test sediment has a mean combined abnormality and mortality that is greater than thirty percent relative to time-final in the reference sediment); or

(iii) Benthic abundance: The test sediment has less than fifty percent of the reference sediment mean abundance of any two of the following major taxa: Crustacea, Mollusca or Polychaeta and the test sediment abundances are statistically different (t test, $p \leq 0.05$) from the reference sediment abundances; or

(iv) Juvenile polychaete: The test sediment has a mean biomass of less than fifty percent of the reference sediment mean biomass and the test sediment biomass is statistically different (t test, $p \leq 0.05$) from the reference sediment biomass.

(4) Puget Sound marine sediment impact zone maximum human health criteria. Reserved: The department may determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(5) Puget Sound marine sediment impact zone maximum other toxic, radioactive, biological, or deleterious substances criteria. Other toxic, radioactive, biological or deleterious substances in, or on, sediments shall be below levels which cause minor adverse effects in marine biological resources, or which correspond to a significant health risk to humans, as determined by the department. The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(6) Puget Sound marine sediment impact zone maximum nonanthropogenically affected sediment criteria. Whenever the nonanthropogenically affected sediment quality is of a lower quality (i.e., higher chemical concentrations, higher levels of adverse biological response, or posing a higher threat to human health) than the applicable sediment impact zone maximum criteria established under this section, the existing sediment chemical and biological quality shall be identified on an area-wide basis as determined by the department, and used in place of the standards of WAC 173-204-420.

PART V—SEDIMENT CLEANUP STANDARDS

NEW SECTION

WAC 173-204-500 SEDIMENT CLEANUP DECISION PROCESS AND POLICIES. (1) The standards of WAC 173-204-500 through 173-204-590 are procedures which specify a cleanup decision process for managing contaminated sediments. These procedures include:

- (a) Screening sediment station clusters of potential concern;
- (b) Conducting hazard assessments to identify clean-up sites;
- (c) Ranking sites identified in (b) of this subsection;
- (d) Determining the appropriate site cleanup authority;
- (e) Conducting a site cleanup study;
- (f) Determining the site-specific cleanup standard;
- (g) Selecting a site cleanup action; and
- (h) Where necessary, authorizing a cleanup site sediment recovery zone.

(2) Under this chapter, the department may require or take those actions necessary to implement the standards of WAC 173-204-500 through 173-204-580 for all contaminated sediment stations on the inventory identified in WAC 173-204-350.

(3) The cleanup process and procedures under this chapter and under other laws may be combined. The department may initiate a cleanup action under this chapter and may upon further analysis determine that another law is more appropriate, or vice versa.

(4) It is the policy of the department to manage sediment cleanup actions towards the goal of reducing and ultimately eliminating adverse effects on biological resources and significant health threats to humans from sediment contamination. To achieve this goal, the department will pursue sediment cleanup decisions and cleanup standards that are as close as practicable to the sediment quality standards of WAC 173-204-320 through 173-204-340, including the consideration of net environmental effects, cost and technical feasibility. The department shall only authorize sediment recovery zones so as to minimize the number, size and adverse effects of all zones, with the intent to eliminate the existence of all such zones whenever practicable.

(5) The department shall endeavor to make sediment cleanup decisions in an expeditious manner, as soon as all needed information is available, consistent with the availability of department resources and the priority of the cleanup site.

NEW SECTION

WAC 173-204-510 SCREENING SEDIMENT STATION CLUSTERS OF POTENTIAL CONCERN. (1) Using the sediment quality standards inventory of WAC 173-204-350, the department shall analyze the sediment sampling data to identify station clusters of potential concern and station clusters of low concern per the standards of this section. Station clusters of potential concern shall be further evaluated using the hazard assessment standards of WAC 173-204-530. Station clusters of low concern shall remain on the inventory and no further cleanup action determinations shall be taken by the department until the stations are reexamined per subsection (5) of this section.

(2) A station cluster is defined as any number of stations from the inventory of WAC 173-204-350 that are determined to be contiguous. For the purpose of identifying a station cluster of potential concern per the procedures of this subsection, three stations with the highest

contaminant concentration for any particular contaminant or the highest degree of biological effects as identified in WAC 173-204-520 are selected from a station cluster. This procedure may be repeated for multiple chemicals identified in WAC 173-204-520, recognizing that the three stations with the highest concentration for each particular contaminant may be different and the respective areas for all chemicals may overlap. The department shall review the inventory of WAC 173-204-350 to identify station clusters of potential concern via the following process:

(a) Identify if available, the three stations within a station cluster with the highest concentration of each chemical contaminant identified in WAC 173-204-520, Cleanup screening levels criteria; and

(b) For each contaminant identified in (a) of this subsection, determine the average concentration for the contaminant at the three stations identified in (a) of this subsection; and

(c) Identify if available, three stations within the station cluster with the highest level of biological effects for the biological tests identified in WAC 173-204-315(1); and

(d) If the average contaminant concentration for any three stations identified in (a) of this subsection, exceeds the applicable cleanup screening level in WAC 173-204-520, then the station cluster is defined as a station cluster of potential concern; and

(e) If the biological effects at each of the three stations from (c) of this subsection exceeds the cleanup screening level in WAC 173-204-520, then the station cluster is defined as a station cluster of potential concern; and

(f) If neither of the conditions of (d) or (e) of this subsection apply, then the station cluster is defined as a station cluster of low concern; and

(g) If the department determines that any three stations within a station cluster exceed the sediment cleanup screening levels human health criteria or the other toxic, radioactive, biological, or deleterious substances criteria or the nonanthropogenically affected criteria of WAC 173-204-520, then the station cluster is defined as a station cluster of potential concern.

(3) Notification. When a station cluster of potential concern has been identified, the department shall issue notification to the landowners, lessees, onsite dischargers, adjacent dischargers, and other persons determined appropriate by the department prior to the department's conducting a hazard assessment as defined in WAC 173-204-530.

(4) No further cleanup action determinations shall be taken with station clusters of low concern until the inventory of WAC 173-204-350 is updated and the stations reexamined per subsection (5) of this section. Station clusters of low concern shall receive no further consideration for active cleanup, unless new information indicates an increase of chemical contamination at the stations in question. Station clusters of low concern shall be evaluated by the department for improved source control and/or monitoring requirements of this chapter.

(5) The department may at any time reexamine a station or group of stations to reevaluate and identify

station clusters of potential concern following the procedures of subsection (2) of this section when new information demonstrates to the department's satisfaction that reexamination actions are necessary to fulfill the purposes of WAC 173-204-500 through 173-204-590.

NEW SECTION

WAC 173-204-520 CLEANUP SCREENING LEVELS CRITERIA. (1) Applicability.

(a) The marine sediment cleanup screening levels chemical criteria, and the marine sediment biological effects criteria, and the marine sediment other toxic, radioactive, biological, or deleterious substance criteria, and the marine sediment nonanthropogenically affected criteria of this section shall apply to marine sediments within Puget Sound. The cleanup screening levels establish minor adverse effects as the level above which station clusters of potential concern are defined, and at or below which station clusters of low concern are defined, per the procedures identified in WAC 173-204-510(2). The cleanup screening levels also establish the levels above which station clusters of potential concern are defined as cleanup sites, per the procedures identified in WAC 173-204-530, Hazard assessment. The criteria in Table III and this section also establish minor adverse effects as the Puget Sound marine sediment minimum cleanup level to be used in evaluation of cleanup alternatives per the procedures of WAC 173-204-560, and selection of a site cleanup standard(s) per the procedures of WAC 173-204-570.

(b) Non-Puget Sound marine sediment cleanup screening levels and minimum cleanup levels criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(c) Low salinity sediment cleanup screening levels and minimum cleanup levels criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(d) Freshwater sediment cleanup screening levels and minimum cleanup levels criteria. Reserved: The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(2) Puget Sound marine sediment cleanup screening levels and minimum cleanup levels chemical criteria. The chemical concentration criteria in Table III establish the Puget Sound marine sediment cleanup screening levels and minimum cleanup levels chemical criteria.

Table III
Puget Sound Marine Sediment
Cleanup Screening Levels
and
Minimum Cleanup Levels—
Chemical Criteria¹

CHEMICAL PARAMETER	MG/KG DRY WEIGHT (PARTS PER MILLION (PPM) DRY)
ARSENIC	93
CADMIUM	6.7
CHROMIUM	270
COPPER	390
LEAD	530
MERCURY	0.59
SILVER	6.1
ZINC	960
CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON) ²
LPAH ³	780
NAPHTHALENE	170
ACENAPHTHYLENE	66
ACENAPHTHENE	57
FLUORENE	79
PHENANTHRENE	480
ANTHRACENE	1200
2-METHYLNAPHTHALENE	64
CHEMICAL PARAMETER	MG/KG ORGANIC CARBON (PPM CARBON)
HPAH ⁴	5300
FLUORANTHENE	1200
PYRENE	1400
BENZ(A)ANTHRACENE	270
CHRYSENE	460
TOTAL BENZOFLUORANTHENES ⁵	450
BENZO(A)PYRENE	210
INDENO (1,2,3-C,D) PYRENE	88
DIBENZO (A,H) ANTHRACENE	33
BENZO(G,H,I)PERYLENE	78
1,2-DICHLOROBENZENE	2.3
1,4-DICHLOROBENZENE	9
1,2,4-TRICHLOROBENZENE	1.8
HEXACHLOROBENZENE	2.3
DIMETHYL PHTHALATE	53
DIETHYL PHTHALATE	110
DI-N-BUTYL PHTHALATE	1700
BUTYL BENZYL PHTHALATE	64
BIS (2-ETHYLHEXYL) PHTHALATE	78
DI-N-OCTYL PHTHALATE	4500
DIBENZOFURAN	58
HEXACHLOROBUTADIENE	6.2
N-NITROSODIPHENYLAMINE	11
TOTAL PCB'S	65
CHEMICAL PARAMETER	UG/KG DRY WEIGHT (PARTS PER BILLION (PPB) DRY)
PHENOL	1200
2-METHYLPHENOL	63
4-METHYLPHENOL	670
2,4-DIMETHYL PHENOL	29
PENTACHLOROPHENOL	690
BENZYL ALCOHOL	73
BENZOIC ACID	650

Table III Footnotes

- Where laboratory analysis indicates a chemical is not detected in a sediment sample, the detection limit shall be reported and shall be at or below the criteria value shown in this table. Where chemical criteria in this table represent the sum of individual compounds or isomers, and a chemical analysis identifies an undetected value for one or more individual compounds or isomers, the detection limit shall be used for calculating the sum of the respective compounds or isomers.
- The listed chemical parameter criteria represent concentrations in parts per million, "normalized," or expressed, on a total organic carbon basis. To normalize to total organic carbon, the dry weight concentration for each parameter is divided by the decimal fraction

representing the percent total organic carbon content of the sediment.

- 3 The LPAH criterion represents the sum of the following "low molecular weight polynuclear aromatic hydrocarbon" compounds: Naphthalene, Acenaphthylene, Acenaphthene, Fluorene, Phenanthrene, and Anthracene. The LPAH criterion is not the sum of the criteria values for the individual LPAH compounds as listed.
- 4 The HPAH criterion represents the sum of the following "high molecular weight polynuclear aromatic hydrocarbon" compounds: Fluoranthene, Pyrene, Benz(a)anthracene, Chrysene, Total Benzofluoranthenes, Benzo(a)pyrene, Indeno(1,2,3-c,d)pyrene, Dibenzo(a,h)anthracene, and Benzo(g,h,i)perylene. The HPAH criterion is not the sum of the criteria values for the individual HPAH compounds as listed.
- 5 The TOTAL BENZOFLUORANTHENES criterion represents the sum of the concentrations of the "B," "J," and "K" isomers.

(3) Puget Sound marine sediment cleanup screening levels and minimum cleanup level biological criteria. The biological effects criteria of this subsection establish the Puget Sound marine sediment cleanup screening level, and the Puget Sound marine sediment minimum cleanup level criteria.

(a) The acute and chronic effects biological tests of WAC 173-204-315(1) shall be used to:

(i) Identify the Puget Sound marine sediment cleanup screening level for the purpose of screening sediment station clusters of potential concern using the procedures of WAC 173-204-510(2); and

(ii) Identify the Puget Sound marine sediment cleanup screening level for the purpose of identifying station clusters of low concern and/or cleanup sites using the hazard assessment procedures of WAC 173-204-530(4); and/or

(iii) Identify the Puget Sound marine sediment minimum cleanup level to confirm minimum cleanup level determinations using the procedures of WAC 173-204-570(3).

(b) When using biological testing to determine if station clusters exceed the cleanup screening level or to identify the minimum cleanup level for a contaminated site, test results from at least two acute effects tests and one chronic effects test shall be evaluated.

(c) The biological tests shall not be considered valid unless test results for the appropriate control and reference sediment samples meet the performance standards described in WAC 173-204-315(2).

(d) The cleanup screening level and minimum cleanup level is exceeded when any two of the biological tests exceed the criteria of WAC 173-204-320(3); or one of the following test determinations is made:

(i) Amphipod: The test sediment has a higher (statistically significant, t test, $p \leq 0.05$) mean mortality than the reference sediment and the test sediment mean mortality is more than thirty percent higher than the reference sediment mean mortality, on an absolute basis.

(ii) Larval: The test sediment has a mean survivorship of normal larvae that is less (statistically significant, t test, $p \leq 0.05$) than the mean normal survivorship in the reference sediment and the test sediment mean normal survivorship is less than seventy percent of the mean normal survivorship in the reference sediment (i.e., the test sediment has a mean combined abnormality and

mortality that is greater than thirty percent relative to time-final in the reference sediment).

(iii) Benthic abundance: The test sediment has less than fifty percent of the reference sediment mean abundance of any two of the following major taxa: Crustacea, Mollusca or Polychaeta and the test sample abundances are statistically different (t test, $p \leq 0.05$) from the reference abundances.

(iv) Juvenile polychaete: The test sediment has a mean biomass of less than fifty percent of the reference sediment mean biomass and the test sediment biomass is statistically different (t test, $p \leq 0.05$) from the reference sediment biomass.

(4) Puget Sound marine sediment cleanup screening levels and minimum cleanup levels human health criteria. Reserved: The department may determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(5) Puget Sound marine sediment cleanup screening levels and minimum cleanup levels other toxic, radioactive, biological, or deleterious substances criteria. Other toxic, radioactive, biological, or deleterious substances in, or on, sediments shall be at or below levels which cause minor adverse effects in marine biological resources, or which correspond to a significant health risk to humans, as determined by the department. The department shall determine on a case-by-case basis the criteria, methods, and procedures necessary to meet the intent of this chapter.

(6) Puget Sound marine sediment cleanup screening levels and minimum cleanup levels nonanthropogenically affected sediment criteria. Whenever the nonanthropogenically affected sediment quality is of a lower quality (i.e., higher chemical concentrations, higher levels of adverse biological response, or posing a higher threat to human health) than the applicable cleanup screening levels or minimum cleanup levels criteria established under this section, the existing sediment chemical and biological quality shall be identified on an area-wide basis as determined by the department, and used in place of the standards of WAC 173-204-520.

NEW SECTION

WAC 173-204-530 HAZARD ASSESSMENT.

(1) Purpose. A hazard assessment shall be performed to gather existing and available information to further characterize each station cluster of potential concern identified per WAC 173-204-510.

(2) Hazard assessment requirements. Onsite dischargers, lessees, landowners, and adjacent dischargers shall submit, upon the department's request, all existing and available information that would enable the department to:

(a) Determine the concentration and/or areal extent and depth of sediment contamination at the station cluster of potential concern by:

(i) Identifying the contaminants exceeding the applicable sediment quality standards of WAC 173-204-320 through 173-204-340;

(ii) Identifying individual stations within the station cluster of potential concern which exceed the sediment cleanup screening levels criteria of WAC 173-204-520;

(iii) Identifying the level of toxicity to the applicable biological test organisms of WAC 173-204-320 through 173-204-340;

(iv) Determining where the applicable sediment quality standards of WAC 173-204-320 through 173-204-340, for any given contaminant, is met;

(v) Determining if concentrations of chemicals exist that potentially present a significant threat to human health;

(vi) Defining the location where the minimum cleanup level as defined in WAC 173-204-570 is met.

(b) Identifying and characterizing the present and historic source or sources of the contamination.

(c) Identifying the location of sediment impact zones authorized under WAC 173-204-415.

(d) Identifying sensitive resources in the vicinity of the station cluster of potential concern.

(e) Providing other information as determined necessary by the department for ranking sites under WAC 173-204-540.

(3) The department shall also compile existing and available information from other federal, state, and local governments that pertain to the topics in subsection (2) of this section.

(4) To identify cleanup sites, the department shall use all available information of acceptable quality gathered from the hazard assessment to evaluate station clusters of potential concern identified pursuant to WAC 173-204-510(2). For the purpose of identifying a cleanup site per the procedures of this subsection, three stations with the highest contaminant concentration for any particular contaminant or the highest degree of biological effects as identified in WAC 173-204-520 are selected from a station cluster of potential concern. This procedure may be repeated for multiple chemicals identified in WAC 173-204-520, recognizing that the three stations with the highest concentration for each particular contaminant may be different and the respective areas for all chemicals may overlap. The department shall review the list of station clusters of potential concern to identify cleanup sites via the following process:

(a) Identify if available, three stations within the station cluster of potential concern with the highest level of biological effects for the biological tests identified in WAC 173-204-315(1).

(b) Station clusters of potential concern where the level of biological effects for any three stations within the station cluster of potential concern exceeds the cleanup screening levels of WAC 173-204-520(3) shall be defined as cleanup sites.

(c) Identify if available, the three stations within a station cluster of potential concern with the highest concentration of each chemical contaminant identified in WAC 173-204-520, Cleanup screening levels criteria. For the purpose of identifying a cleanup site per the procedures of this subsection, stations that meet the biological standards of WAC 173-204-520(3) shall not be included in the evaluation of chemical contaminant concentrations.

(d) For each contaminant identified in (c) of this subsection, determine the average concentration for the

contaminant at the three stations identified in (c) of this subsection.

(e) Station clusters of potential concern for which any average chemical concentration identified in (d) of this subsection exceeds the cleanup screening level chemical criteria of Table III shall be defined as cleanup sites.

(f) After completion of the hazard assessment, if neither of the conditions of (b) or (e) of this subsection apply, then the station cluster is defined as a station cluster of low concern.

(g) Station clusters of potential concern where the department determines that any three stations within the station cluster of potential concern exceed the sediment cleanup screening levels human health criteria or the other toxic, radioactive, biological, or deleterious substances criteria or the nonanthropogenically affected criteria of WAC 173-204-520, shall be defined as cleanup sites.

NEW SECTION

WAC 173-204-540 RANKING AND LIST OF SITES. (1) Purpose. The department shall prepare and maintain a list of contaminated sediment sites in the order of their relative hazard ranking. From this list, the department shall select sites where action shall be taken.

(2) Site ranking. The department shall evaluate each cleanup site identified by the procedures in WAC 173-204-530 on a consistent basis using the procedure described in Sediment Ranking System ("SEDRANK"), January 1990, and all additions and revisions thereto or other procedures approved by the department. The purpose of ranking is to estimate, based on technical information compiled during the hazard assessment procedures in WAC 173-204-530, the relative potential risk posed by the site to human health and the environment. Information obtained during hazard assessment, plus any additional data specified in "SEDRANK," shall be included in the site hazard ranking evaluation.

(3) Considerations in ranking. In conducting sediment site ranking, the department shall assess both human health hazard and ecological hazard, and consider chemical toxicity, affected resources, and site characteristics for both types of hazards. The department shall also use best professional judgment and other information as necessary on a case-by-case basis to conduct site ranking.

(4) Site reranking. The department may, at its discretion, rerank a site. To rerank a site, the department shall use any additional information within the scope of the hazard ranking evaluation criteria and best professional judgment to establish that a significant change in rank should result.

(5) List of ranked sites.

(a) Contaminated sediment sites that are ranked via "SEDRANK" shall be placed on a list in the order of their relative hazard ranking. The list shall describe the current status of cleanup action at each site and be updated on an annual basis. The department may change a site's status to reflect current conditions on a more frequent basis. The status for each site shall be identified as one or more of the following:

(i) Sites awaiting cleanup action;

(ii) Sites where voluntary, incidental, partial or department initiated cleanup actions, as defined in WAC 173-204-550, are in progress;

(iii) Sites where a cleanup action has been completed and confirmational monitoring is underway;

(iv) Sites with sediment recovery zones authorized under WAC 173-204-590; and/or

(v) Other categories established by the department.

(b) The department shall routinely publish and make the list available to be used in conjunction with a review of ongoing and proposed regulatory actions to determine where and when a cleanup action should be taken. The department shall also make the list available to landowners and dischargers at or near listed sites, and to the public.

(6) Site delisting.

(a) The department may remove a site from the list only after it has determined that:

(i) All cleanup actions except confirmational monitoring have been completed and compliance with the site cleanup study and report and cleanup standard(s) has been achieved; or

(ii) The listing of the site was erroneous.

(b) A site owner or operator may request that a site be removed from the list by submitting a petition to the department. The petition shall state the reason for the site delisting request, and as determined appropriate by the department, shall include thorough documentation of all investigations performed, all cleanup actions taken, and all compliance monitoring data and results to demonstrate to the department's satisfaction that the site cleanup standards have been achieved. The department may require payment of costs incurred, including an advance deposit, for review and verification of the work performed. The department shall review such petitions, however the timing of the review shall be at its discretion and as resources may allow.

(c) The department shall maintain a record of sites that have been removed from the list under (a) of this subsection. This record shall be made available to the public on request.

(7) Relisting of sites. The department may relist a site which has previously been removed if it determines that the site requires further cleanup action.

(8) Delisting notice. The department shall provide public notice and an opportunity to comment when the department proposes to remove a site from the list.

(9) Relationship to hazardous sites list. The department may additionally evaluate cleanup sites on the site list developed under subsection (5) of this section for possible inclusion on the hazardous sites list published under WAC 173-340-330.

NEW SECTION

WAC 173-204-550 TYPES OF CLEANUP AND AUTHORITY. (1) Purpose. The department acknowledges that cleanups of contaminated sediment sites can occur under the authority of chapter 90.48 or 70.105D RCW. Sediment cleanups may also be initiated by the federal government pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

(CERCLA). This section describes the department's role in department initiated and other cleanup actions.

(2) The department shall use best professional judgment and other information as necessary on a case-by-case basis to determine the appropriate administrative authority for conducting, or requiring contaminated sediment cleanup actions based on, but not limited to, the following considerations:

(a) Source of contaminants requiring cleanup including spills, dredging actions, and wastewater and/or storm water discharges;

(b) Significance of contamination threat to human health and the environment including the degree of contamination and types and number of contaminants;

(c) Public perception concerning the contaminant threat to human health and the environment;

(d) Personal or corporate financial status of the landowner(s) and/or discharger(s);

(e) Enforcement compliance history of the landowner(s) and/or discharger(s);

(f) Status of existing or pending federal, state, or local legal orders or administrative actions; and

(g) Size of cleanup action proposed or determined necessary.

(3) The types of cleanup actions below establish scenarios recognized by the department which may occur to effect cleanup of contaminated sediment sites. All of these types of cleanup actions shall be subject to administrative review and approval of the department under chapters 90.48 and/or 70.105D RCW.

(a) Department initiated cleanup. Department initiated cleanup actions occur when the department uses its authority under chapter 90.48 and/or 70.105D RCW to conduct or require and/or otherwise effect cleanup to meet the intent of this chapter.

(b) Voluntary cleanup. Voluntary cleanup actions are initiated by parties other than the department. The department shall encourage voluntary cleanup actions whenever possible, and as early as possible, to meet the intent of this chapter.

(c) Incidental cleanup. Incidental cleanup actions are conducted when other state or federally permitted activities are ongoing in and/or around the contaminated sediment site. Early coordination of incidental cleanup actions with the department is encouraged to meet the intent of this chapter, chapter 70.105D RCW, and chapter 90.48 RCW, as appropriate.

(d) Partial cleanup. Partial cleanup actions may be conducted when completion of cleanup study requirements under WAC 173-204-560 has identified and proposed discrete site units and cleanup standards, the department has approved the selection of the partial cleanup alternative per the standards of WAC 173-204-580, and the department has determined that awaiting action or decision on conducting a complete site cleanup would have a net detrimental effect on the environment or human health.

(e) CERCLA cleanup. Pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, the department may identify chapter 173-204 WAC as an applicable state requirement for cleanup actions conducted by the federal government.

NEW SECTION

WAC 173-204-560 CLEANUP STUDY. (1) Purpose. This section describes cleanup study plan and report standards which meet the intent of cleanup actions required under authority of chapter 90.48 and/or 70.105D RCW, and/or this chapter. Cleanup actions required under authority of chapter 70.105D RCW shall also meet all standards of chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation. The cleanup study plan and report standards in this chapter include activities to collect, develop, and evaluate sufficient information to enable consideration of cleanup alternatives and selection of a site-specific sediment cleanup standard prior to making a cleanup decision. Each person performing a cleanup action to meet the intent of this chapter shall submit a cleanup study plan and cleanup study report to the department for review and written approval prior to implementation of the cleanup action. The department may approve the cleanup study plan as submitted, may approve the cleanup study plan with appropriate changes or additions, or may require preparation of a new cleanup study plan.

(2) Scope of cleanup study plan. The scope of a cleanup study plan shall depend on the specific site informational needs, the site hazard, the type of cleanup action proposed, and the authority cited by the department to require cleanup. In establishing the necessary scope of the cleanup study plan, the department may consider cost mitigation factors, such as the financial resources of the person(s) responsible for the cleanup action. In all cases sufficient information must be collected, developed, and evaluated to enable the appropriate selection of a cleanup standard under WAC 173-204-570 and a cleanup action decision under WAC 173-204-580. The sediment cleanup study plan shall address:

- (a) Public information/education;
- (b) Site investigation and cleanup alternatives evaluation;
- (c) Sampling plan and recordkeeping; and
- (d) Site safety.

(3) Cleanup study plan public information/education requirements. The cleanup study plan shall encourage coordinated and effective public involvement commensurate with the nature of the proposed cleanup action, the level of public concern, and the existence of, or potential for adverse effects on biological resources and/or a threat to human health. The cleanup study plan shall address proposed activities for the following subjects:

- (a) When public notice will occur, the length of the comment periods accompanying each notice, the potentially affected vicinity, and any other areas to be provided notice;
- (b) Where public information repositories will be located to provide site information to the public;
- (c) Methods for identifying the public's concerns, e.g., interviews, questionnaires, community group meetings, etc.;
- (d) Methods for providing information to the public, e.g., press releases, public meetings, fact sheets, etc.;
- (e) Coordination of public participation requirements mandated by other federal, state, or local laws;

(f) Amendments to the planned public involvement activities; and

(g) Any other elements that the department determines to be appropriate for inclusion in the cleanup study plan.

(4) Cleanup study plan site investigation and cleanup alternatives evaluation requirements. The content of the cleanup study plan for the site investigation and cleanup alternatives evaluation is determined by the type of cleanup action selected as defined under WAC 173-204-550. As determined by the department, the cleanup study plan shall address the following subjects:

(a) General site information. General information, including: Project title; name, address, and phone number of project coordinator; legal description of the cleanup site; area and volume dimensions of the site; present owners and operators of contaminant source discharges to site; chronological listing of past owners and operators of contaminant source discharges to the site and their respective operational history; and other pertinent information determined by the department.

(b) Site conditions map. An existing site conditions map which illustrates site features as follows:

- (i) Property boundaries.
- (ii) The site boundary defined by the individual contaminants exceeding the applicable sediment quality standards of WAC 173-204-320 through 173-204-340 at the point where the concentration of the contaminant would meet the:
 - (A) Cleanup objective; and
 - (B) Minimum cleanup level; and
 - (C) Recommended cleanup standards.
- (iii) Surface and subsurface topography.
- (iv) Surface and subsurface structures.
- (v) Utility lines.
- (vi) Navigation lanes.
- (vii) Current and ongoing sediment sources.
- (viii) Other pertinent information determined by the department.

(c) Site investigation. Sufficient investigation to characterize the distribution of sediment contamination present at the site, and the threat or potential threat to human health and the environment. Where applicable to the site, these investigations shall address the following:

(i) Surface water and sediments. Investigations of surface water hydrodynamics and sediment transport mechanisms to characterize significant hydrologic features such as: Site surface water drainage patterns, quantities and flow rates, areas of sediment erosion and deposition including estimates of sedimentation rates, and actual or potential contaminant migration routes to and from the site and within the site. Sufficient surface water and sediment sampling shall be performed to adequately characterize the areal and vertical distribution and concentrations of contaminants. Properties of sediments which are likely to influence the type and rate of contaminant migration, or are likely to affect the ability to implement alternative cleanup actions shall be characterized;

(ii) Geology and ground water system characteristics. Investigations of site geology and hydrogeology to adequately characterize the physical properties and distribution of sediment types, and the characteristics of ground water flow rate, ground water gradient, ground water discharge areas, and ground water quality data which may affect site cleanup alternatives evaluations;

(iii) Climate. Information regarding local and regional climatological characteristics which are likely to affect surface water hydrodynamics, ground water flow characteristics, and migration of sediment contaminants such as: Seasonal patterns of rainfall; the magnitude and frequency of significant storm events; prevailing wind direction and velocity;

(iv) Land use. Information characterizing human populations exposed or potentially exposed to sediment contaminants released from the site and present and proposed uses and zoning for shoreline areas contiguous with the site; and

(v) Natural resources and ecology. Information to determine the impact or potential impact of sediment contaminants from the site on natural resources and ecology of the area such as: Sensitive environment, local and regional habitat, plant and animal species, and other environmental receptors.

(d) Sediment contaminant sources. A description of the location, quantity, areal and vertical extent, concentration and sources of active and inactive waste disposal and other sediment contaminant discharge sources which affect or potentially affect the site. Where determined relevant by the department, the following information shall be obtained by the department from the responsible discharger:

(i) The physical and chemical characteristics, and the biological effects of site sediment contaminant sources;

(ii) The status of source control actions for permitted and unpermitted site sediment contaminant sources; and

(iii) A recommended compliance time frame for known permitted and unpermitted site sediment contaminant sources which affect or potentially affect implementation of the timing and scope of the site cleanup action alternatives.

(e) Human health risk assessment. The current and potential threats to human health that may be posed by sediment site contamination shall be evaluated using a risk assessment procedure approved by the department.

(f) Cleanup action alternatives. Each cleanup study plan shall include an evaluation of alternative cleanup actions that protect human health and the environment by eliminating, reducing, or otherwise controlling risks posed through each exposure pathway and migration route. The number and types of alternatives to be evaluated shall take into account the characteristics and complexity of the site.

(i) The proposed site cleanup alternatives may include establishment of site units, as defined in WAC 173-204-200(24), with individual cleanup standards within the range required by WAC 173-204-570, based on site physical characteristics and complexity, and cleanup standard alternatives established on consideration of cost, technical feasibility, and net environmental impact.

(ii) The proposed site cleanup alternatives may include establishment of a sediment recovery zone as authorized under WAC 173-204-590, Sediment recovery zones. Establishment or expansion of a sediment recovery zone shall not be used as a substitute for active cleanup actions, when such actions are practicable and meet the standards of WAC 173-204-580. The cleanup study plan shall include the following information for evaluation of sediment recovery zone alternatives:

(A) The time period during which a sediment recovery zone is projected to be necessary based on source loading and net environmental recovery processes;

(B) The legal location and landowner(s) of property proposed as a sediment recovery zone;

(C) Operational terms and conditions including, but not limited to proposed confirmational monitoring actions for discharge effluent and/or receiving water column and/or sediment chemical monitoring studies and/or bioassays to evaluate ongoing water quality, sediment quality, and biological conditions within and adjacent to the proposed or authorized sediment recovery zone to confirm source loading and recovery rates in the proposed sediment recovery zone.

(D) Potential risks posed by the proposed sediment recovery zone to human health and the environment;

(E) The technical practicability of elimination or reduction of the size and/or degree of chemical contamination and/or level of biological effects within the proposed sediment recovery zone; and

(F) Current and potential use of the sediment recovery zone, surrounding areas, and associated resources that are, or may be, affected by releases from the zone.

(G) The need for institutional controls or other site use restrictions to reduce site contamination risks to human health.

(iii) A phased approach for evaluation of alternatives may be required for certain sites, including an initial screening of alternatives to reduce the number of potential remedies for the final detailed evaluation. The final evaluation of cleanup action alternatives that pass the initial screening shall consider the following factors:

(A) Overall protection of human health and the environment, time required to attain the cleanup standard(s), and on-site and off-site environmental impacts and risks to human health resulting from implementing the cleanup alternatives;

(B) Attainment of the cleanup standard(s) and compliance with applicable federal, state, and local laws;

(C) Short-term effectiveness, including protection of human health and the environment during construction and implementation of the alternative; and

(D) Long-term effectiveness, including degree of certainty that the alternative will be successful, long-term reliability, magnitude of residual, biological and human health risk, and effectiveness of controls for ongoing discharges and/or controls required to manage treatment residues or remaining wastes cleanup and/or disposal site risks;

(g) Ability to be implemented. The ability to be implemented including the potential for landowner cooperation, consideration of technical feasibility, availability

of needed off-site facilities, services and materials, administrative and regulatory requirements, scheduling, monitoring requirements, access for construction, operations and monitoring, and integration with existing facility operations and other current or potential cleanup actions;

(h) Cost, including consideration of present and future direct and indirect capital, operation, and maintenance costs and other foreseeable costs;

(i) The degree to which community concerns are addressed;

(j) The degree to which recycling, reuse, and waste minimization are employed; and

(k) Environmental impact. Sufficient information shall be provided to fulfill the requirements of chapter 43.21C RCW, the State Environmental Policy Act. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated shall be included.

(5) Cleanup study plan — sampling plan and record-keeping requirements. The cleanup study plan shall address proposed sampling and recordkeeping activities to meet the standards of WAC 173-204-600, Sampling and testing plan standards, and WAC 173-204-610, Records management, and the standards of this section.

(6) Cleanup study plan site safety requirements. The cleanup study plan shall address proposed activities to meet the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651 et seq.) and the Washington Industrial Safety and Health Act (chapter 49.17 RCW), and regulations promulgated pursuant thereto. These requirements are subject to enforcement by the designated federal and state agencies. Actions taken by the department under this chapter do not constitute an exercise of statutory authority within the meaning of section (4)(b)(1) of the Occupational Safety and Health Act.

(7) Cleanup study report. Each person performing a cleanup action to meet the intent of this chapter shall submit a cleanup study report to the department for review and written approval of a cleanup decision prior to implementation of the cleanup action. The sediment cleanup study report shall include the results of cleanup study site investigations conducted pursuant to subsection (4) of this section, and preferred and alternate cleanup action proposals based on the results of the approved cleanup study plan.

(8) Sampling access. In cases where the person(s) responsible for cleanup is not able to secure access to sample sediments on lands subject to a cleanup study plan approved by the department, the department may facilitate negotiations or other proceedings to secure access to the lands. Requests for department facilitation of land access for sampling shall be submitted to the department in writing by the person(s) responsible for the cleanup action study plan.

NEW SECTION

WAC 173-204-570 SEDIMENT CLEANUP STANDARDS. (1) Applicability and purpose. This section establishes the sediment cleanup standards requirements for cleanup actions required under authority of chapter 90.48 and/or 70.105D RCW, and/or this chapter, and describes the process to determine site-specific cleanup standards.

(2) Cleanup objective. The sediment cleanup objective shall be to eliminate adverse effects on biological resources and significant health threats to humans from sediment contamination. The sediment cleanup objective for all cleanup actions shall be the sediment quality standards as defined in WAC 173-204-320 through 173-204-340, as applicable. The sediment cleanup objective identifies sediments that have no acute or chronic adverse effects on biological resources, and which correspond to no significant health risk to humans, as defined in this chapter.

(3) Minimum cleanup level. The minimum cleanup level is the maximum allowed chemical concentration and level of biological effects permissible at the cleanup site to be achieved by year ten after completion of the active cleanup action.

(a) The minimum cleanup levels criteria of WAC 173-204-520 shall be used in evaluation of cleanup alternatives per the procedures of WAC 173-204-560, and selection of a site cleanup standard(s) per the procedures of this section.

(b) The Puget Sound marine sediment minimum cleanup level is established by the following:

(i) Sediments with chemical concentrations at or below the chemical criteria of Table III shall be determined to meet the minimum cleanup level, except as provided in (b)(iv) of this subsection; and

(ii) Sediments with chemical concentrations that are higher than the chemical criteria of Table III shall be determined to exceed the minimum cleanup level, except as provided in (b)(iii) of this subsection; and

(iii) Sediments with biological effects that do not exceed the levels of WAC 173-204-520(3) shall be determined to meet the minimum cleanup level; and

(iv) Sediments with biological effects that exceed the levels of WAC 173-204-520(3) shall be determined to exceed the minimum cleanup level; and

(v) Sediments which exceed the sediment minimum cleanup level human health criteria or the other toxic, radioactive, biological, or deleterious substances criteria or the nonanthropogenically affected criteria of WAC 173-204-520 as determined by the department, shall be determined to exceed the minimum cleanup level.

(4) Sediment cleanup standard. The sediment cleanup standards are established on a site-specific basis within an allowable range of contamination. The lower end of the range is the sediment cleanup objective as defined in subsection (2) of this section. The upper end of the range is the minimum cleanup level as defined in subsection (3) of this section. The site specific cleanup standards shall be as close as practicable to the cleanup objective but in no case shall exceed the minimum cleanup level. For any given cleanup action, either a site-specific

sediment cleanup standard shall be defined, or multiple site unit sediment cleanup standards shall be defined. In all cases, the cleanup standards shall be defined in consideration of the net environmental effects (including the potential for natural recovery of the sediments over time), cost and engineering feasibility of different cleanup alternatives, as determined through the cleanup study plan and report standards of WAC 173-204-560.

(5) All cleanup standards must ensure protection of human health and the environment, and must meet all legally applicable federal, state, and local requirements.

NEW SECTION

WAC 173-204-580 CLEANUP ACTION DECISION. (1) Each person performing a cleanup action to meet the intent of this chapter shall comply with the standards of WAC 173-204-560(7), Cleanup study report. Except for cleanups conducted under chapter 70.105D RCW, the department shall review each cleanup study report and issue a written approval of one or more of the cleanup action alternatives described in the cleanup study report, or issue a written disapproval of all alternatives described in the cleanup study report. The department's approval of one or more cleanup study report cleanup action alternatives shall constitute the cleanup decision and shall be referenced in one or more permit or administrative authorities established under chapter 90.48 or 70.105D RCW, Section 401 of the federal Clean Water Act, chapter 173-225 WAC, establishment of implementation procedures of application for certification, or other administrative authorities available to the department. The department may approve the cleanup alternative recommended in the cleanup study report, may approve a different alternative discussed in the report, or may approve an alternative(s) with appropriate conditions. The department's disapproval of all cleanup study report cleanup action alternatives shall be issued by certified mail, return receipt requested, to the cleanup action proponent(s). The procedures for department review of the cleanup study report and selection of a cleanup action under chapter 70.105D RCW shall be in accordance with the procedures of chapter 173-340 WAC.

(2) All cleanup actions conducted under this chapter shall meet the following requirements:

(a) Receive department review and written approval of the preferred and/or alternate cleanup actions and necessary sediment recovery zones proposed in the cleanup study report prior to implementing a cleanup action(s);

(b) Achieve a degree of cleanup that is protective of human health and the environment;

(c) Achieve compliance with applicable state, federal, and local laws;

(d) Achieve compliance with site cleanup standards;

(e) Achieve compliance with sediment source control requirements pursuant to WAC 173-204-400 through 173-204-420, if necessary;

(f) Provide for landowner review of the cleanup study plan and report, and consider public concerns raised during review of the draft cleanup report; and

(g) Provide adequate monitoring to ensure the effectiveness of the cleanup action.

(3) Cleanup time frame.

(a) The cleanup action selected shall provide for a reasonable time frame for completion of the cleanup action, based on consideration of the following factors:

(i) Potential risks posed by the site to biological resources and human health;

(ii) Practicability of achieving the site cleanup standards in less than a ten-year period;

(iii) Current use of the site, surrounding areas, and associated resources that are, or may be, affected by the site contamination;

(iv) Potential future use of the site, surrounding areas, and associated resources that are, or may be, affected by the site contamination;

(v) Likely effectiveness and reliability of institutional controls;

(vi) Degree of, and ability to control and monitor, migration of contamination from the site; and

(vii) Natural recovery processes which are expected to occur at the site that will reduce concentrations of contaminants.

(b) The department may authorize cleanup time frames that exceed the ten-year period used in deriving the site cleanup standards of WAC 173-204-570(4) where cleanup actions are not practicable to accomplish within a ten-year period.

(4) In evaluating cleanup action alternatives, the department shall consider:

(a) The net environmental effects of the alternatives, including consideration of residual effects, recovery rates, and any adverse effects of cleanup construction or disposal activities;

(b) The relative cost-effectiveness of the alternatives in achieving the approved site cleanup standards; and

(c) The technical effectiveness and reliability of the alternatives.

(5) Public participation. The department shall provide opportunity for public review and comment on all cleanup action study plans, reports, and decisions reviewed and approved by the department, for cleanup actions conducted under this chapter.

(6) Land access. In cases where the person(s) responsible for cleanup is not able to secure access to lands subject to a cleanup action decision made pursuant to this section, the department may facilitate negotiations or other proceedings to secure access to the lands. Requests for department facilitation of land access shall be submitted to the department in writing by the person(s) named in the cleanup action approval.

NEW SECTION

WAC 173-204-590 SEDIMENT RECOVERY ZONES. (1) The purpose of this section is to set forth the requirements for establishment and monitoring of sediment recovery zones to meet the intent of sediment quality dilution zones authorized pursuant to RCW 90.48.520. The standards of this section are applicable to cleanup action decisions made pursuant to WAC 173-204-580 where selected actions leave in place marine,

low salinity, or freshwater sediments that exceed the applicable sediment quality standards of WAC 173-204-320 through 173-204-340.

(2) General requirements. Authorization of a sediment recovery zone by the department shall require compliance with the following general requirements:

(a) The department shall provide specific authorization for a sediment recovery zone within the written approval of the cleanup study report and cleanup decision required under WAC 173-204-580.

(b) The time period during which a sediment recovery zone is authorized by the department shall be so stated in the department's written approval of the cleanup study report and cleanup decision.

(c) The department's written sediment recovery zone authorization shall identify the legal location and landowners of property proposed as a sediment recovery zone.

(d) Operational terms and conditions for the authorized sediment recovery zone pursuant to subsection (5) of this section shall be maintained at all times.

(e) Where cleanup is not practicable pursuant to the analysis under WAC 173-204-570(4), sediment recovery zones may be authorized for periods in excess of ten years.

(3) A sediment recovery zone authorization issued by the department under the authority of chapter 90.48 or 70.105D RCW, or other administrative means available to the department, does not constitute authorization to trespass on lands not owned by the applicant. These requirements do not address, and in no way alter, the legal rights, responsibilities, or liabilities of the permittee or landowner of the sediment recovery zone for any applicable requirements of proprietary, real estate, tort, and/or other laws not directly expressed as a requirement of this chapter.

(4) Prior to authorization, the department shall make a reasonable effort to identify and notify all landowners affected by the proposed sediment recovery zone. The department shall issue a sediment recovery zone notification letter to any person it believes to be a potentially affected landowner and other parties determined appropriate by the department. The notification letter shall be sent by certified mail, return receipt requested, or by personal service. The notification letter shall provide:

(a) The name of the person the department believes to be the affected landowner; and

(b) The names of other affected landowners to whom the department has sent a proposed sediment recovery zone notification letter; and

(c) The name of the sediment recovery zone applicant; and

(d) A general description of the proposed sediment recovery zone including the chemical(s) of concern by name and concentration, and the area of affected sediment; and

(e) The determination of the department concerning whether the proposed sediment recovery zone application meets the standards of this section; and

(f) The intention of the department whether to authorize the proposed sediment recovery zone; and

(g) Notification that the affected landowner may comment on the proposed sediment recovery zone. Any landowner comments shall be submitted in writing to the department within thirty days from the date of receipt of the notification letter, unless the department provides an extension.

(5) As determined necessary by the department, operational terms and conditions for the sediment recovery zone may include completion and submittal to the department of discharge effluent and/or receiving water column and/or sediment chemical monitoring studies and/or bioassays to evaluate ongoing water quality, sediment quality, and biological conditions within and adjacent to the proposed or authorized sediment recovery zone.

(6) The department shall review all data or studies conducted in accordance with a sediment recovery zone authorization to ensure compliance with the terms and conditions of the authorization and the standards of this section. Whenever, in the opinion of the department, the operational terms and conditions of a sediment recovery zone or the standards of this section are violated or there is a potential to violate the sediment recovery zone authorization or the standards of this section, or new information or a reexamination of existing information indicates the sediment recovery zone is no longer appropriate, the department may at its discretion:

(a) Require additional chemical or biological monitoring as necessary;

(b) Revise the sediment recovery zone authorization as necessary to meet the standards of this section;

(c) Require active contaminated sediment maintenance actions including additional cleanup in accordance with the standards of WAC 173-204-500 through 173-204-580; and/or

(d) Withdraw the department's authorization of the sediment recovery zone.

PART VI—SAMPLING AND TESTING PLANS/ RECORDKEEPING

NEW SECTION

WAC 173-204-600 SAMPLING AND TESTING PLAN STANDARDS. (1) Applicability. These standards apply to:

(a) Any person who samples sediments to determine compliance with this chapter;

(b) Any person who makes application to the department for authorization of a sediment impact zone under the standards of WAC 173-204-400 through 173-204-420; and

(c) Any person who samples sediments consistent with cleanup action plans approved and cleanup actions conducted under this chapter.

(2) All applicable persons shall at a minimum, develop, keep, and abide by a sediment sampling and testing plan. The sampling and testing plan shall be available for inspection at the request of the department. Sediment sampling and testing plans shall identify sampling dates, sample types, sample depths, sample composites, sample locations, sample positioning methods, sampling

personnel, sampling equipment and methods, a description of methods of chemical analysis and biological testing, and quality assurance/quality control procedures.

(3) Sediment sampling locations and procedures and testing protocols and interpretations shall be those included in the Puget Sound protocols as amended and/or other methods approved by the department.

(4) The department reserves the right to revise these sampling and testing protocols when:

(a) The Puget Sound protocols are modified or updated per the approval of the department; or

(b) The department determines the Puget Sound protocols are not applicable to, or appropriate for analysis of sediment chemical contamination in any given case.

NEW SECTION

WAC 173-204-610 RECORDS MANAGEMENT. (1) Applicability. These standards apply to:

(a) Any person who samples sediments to determine compliance with this chapter;

(b) Any person who makes application to the department for authorization of a sediment impact zone under the standards of WAC 173-204-400 through 173-204-420.

(2) All applicable persons shall keep sediment sampling and testing records as follows:

(a) Sediment sampling and testing plans which identify sampling dates, sample types, sample composites, sample locations, sample depths, sample positioning method, sampling personnel, sampling equipment and methods, quality assurance/quality control plans, and sampling procedures.

(b) Sediment removal records which identify removal dates, dredging contractor/equipment, volume of sediment removed, analytical data generated during the sediment removal process, and sediment disposal location(s).

(c) Records and results of sediment analyses conducted in accordance with this chapter, or as required under activities authorized under chapter 173-225 WAC, establishment of implementation procedures of application for certification.

(d) Records and results of inspections conducted as required under chapter 173-225 WAC, establishment of implementation procedures of application for certification.

(e) Sediment treatment records.

(f) Sediment onsite capping records.

(g) Sediment disposal records which identify sediment disposal location(s), onsite operating records, sediment volumes, disposal site property owner(s), and the chemical/biological nature of effluent discharges from the disposal location including the name, location, and quality of the receiving water.

(3) All sediment records as required under subsection (2) of this section must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(4) All sediment records as required in this section shall be maintained for a period not less than ten years after the issuance, modification, or renewal of the applicable permit, or administrative order, or certification, or cleanup site delisting under WAC 173-204-540(6), whichever is greater.

NEW SECTION

WAC 173-204-620 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.

WSR 91-08-020

NOTICE OF PUBLIC MEETINGS DEPARTMENT OF ECOLOGY [Memorandum—March 27, 1991]

STATE/ENVIRONMENTAL PROTECTION AGENCY AGREEMENT NOTICE OF PUBLIC HEARING April 15, 1991

The Washington State Departments of Ecology, Health, and Agriculture and the United States Environmental Protection Agency (EPA) are requesting public review and comment on proposed environmental programs. This state/environmental protection agency agreement (SEA) is for state fiscal year 1992 (July 1, 1991 – June 30, 1992).

The SEA outlines priority environmental problems and state activities responsive to those problems for air quality, water quality, water quality financial assistance, drinking water, hazardous waste, and pesticides. EPA provides funding and technical assistance to the state agencies while the state agencies provide staff time and matching funds to accomplish a variety of activities in those programs.

The draft SEA document will be available to the public after May 3, 1991, at ecology headquarters (Lacey), ecology regional offices (Tumwater, Redmond, Yakima, and Spokane), health headquarters (Tumwater), agriculture headquarters (Olympia), and EPA offices (Seattle and Lacey).

A public hearing will provide opportunity for comment on the draft SEA. Written comments will also be accepted until June 6, 1991.

Public Hearing: May 30, 1991, 7:00 p.m., North Thurston School District Office, Board Room, 305 College Street N.E., Lacey, WA.

Requests for the draft SEA and written comments should be addressed to: Dee Peace Ragsdale, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504, phone (206) 459-6280.

WSR 91-08-021

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed March 27, 1991, 4:09 p.m., effective April 1, 1991]

Date of Adoption: March 26, 1991.

Purpose: New chapter 16-557 WAC, to establish a commodity commission to represent asparagus growers with the authority to collect assessments and to carry out activities in promotion, research, public information, and the prevention of unfair trade practices all related to asparagus.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 15.65 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: That by becoming effective April 1, 1991, before harvest begins, all the 1991 crop will be assessed. If this becomes effective 30 days later, it will be after harvest begins and not all the crop will be assessed. This will make an unfair situation where some of the crop is assessed and some is not.

Effective Date of Rule: April 1, 1991.

March 26, 1991
C. Alan Pettibone
Director

Chapter 16-557 WAC

WASHINGTON ASPARAGUS COMMISSION

WAC

16-557-010	Definition of terms.
16-557-020	Asparagus commodity board.
16-557-030	Marketing order purposes.
16-557-040	Assessments and collections.
16-557-041	Time—Place—Method for payment and collection of assessments.
16-557-050	Obligations of the board.
16-557-060	Termination of the order.
16-557-070	Effective time.
16-557-080	Separability.

NEW SECTION

WAC 16-557-010 DEFINITION OF TERMS.

For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association, or corporation.

(5) "Affected producer" means any person who produces in the state of Washington asparagus in commercial quantities for fresh market, for processing, or for sale to processors.

(6) "Commercial quantity" means any asparagus produced for market in quantities of three tons (6,000 pounds) or more, in any calendar year.

(7) "Affected handler" means both affected handler fresh and affected handler processor.

(8) "Affected handler, fresh" means any person who acts as principal or agent or otherwise in selling, marketing, or distributing fresh asparagus not produced by him.

(9) "Affected handler, processor" means any person who acts as principal or agent or otherwise in processing, freezing asparagus, and selling, marketing, or distributing said processed or frozen asparagus, not produced by him.

(10) "Asparagus commodity board," hereinafter referred to as "board," means the commodity board formed under the provisions of WAC 16-557-020.

(11) "Asparagus" means and includes all kinds, varieties, and hybrids of "officinalis" Linn.

(12) "Marketing season" or "fiscal year" means the twelve-month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(13) "Producer-handler" means any person who acts both as a producer and as a handler with respect to asparagus. A producer-handler shall be deemed to be a producer with respect to the asparagus which he produces and a handler with respect to the asparagus which he handles, including those produced by himself.

(14) "Affected area" means the following counties in the state of Washington: Adams, Benton, Columbia, Franklin, Grant, Kittitas, Klickitat, Walla Walla, and Yakima.

(15) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(16) "Affected unit" means one pound net pay weight of asparagus.

NEW SECTION

WAC 16-557-020 ASPARAGUS COMMODITY BOARD. (1) ADMINISTRATION. The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) BOARD MEMBERSHIP.

(a) The board shall consist of nine members. Six members shall be affected producers elected as provided in this section, one member shall be an affected handler, fresh, elected as provided in this section, one member shall be an affected handler processor, as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be that portion of the state of Washington located east of the summit of the Cascade Mountains and shall be divided into three representative districts as follows:

(i) District I shall have two board members, being positions one and two, and shall be Benton, Kittitas, Klickitat, and Yakima counties.

(ii) District II shall have two board members, being positions three and four, and shall include the counties of Adams, Franklin, and Grant.

(iii) District III shall have two board members, being positions five and six, and shall include the counties of Columbia and Walla Walla.

(3) BOARD MEMBERSHIP QUALIFICATIONS.

(a) The affected producer members of the board shall be practical producers of asparagus and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actively engaged in producing asparagus within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom. Producer-handlers shall be considered to be acting only as handlers for purpose of election and membership on a commodity board.

(b) The affected handler member of the board shall be a practical handler of asparagus and shall be a citizen and resident of the state of Washington, over the age of twenty-five years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership association or cooperative actually engaged in handling asparagus within the state of Washington for a period of five years and has during that period derived a substantial portion of his income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) TERM OF OFFICE.

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six, affected handler member fresh product, position seven, affected handler member, processor, position eight, and the member appointed by the director, position nine.

(c) The term of office for the initial board members shall be as follows:

Positions one, three, and seven - one year, shall terminate on December 31, 1992;

Positions two, four, and five - two years, shall terminate on December 31, 1993;

Positions six and eight - three years, shall terminate on December 31, 1994.

(d) No elected produce member of the board may serve more than two full consecutive three-year terms.

(5) NOMINATION AND ELECTION OF BOARD MEMBERS.

For the purpose of nominating candidates for election to board membership, the director shall call separate meetings of affected producers, affected handlers, fresh and affected handler processors. Each year the director shall call for nomination meetings in those districts whose board members' term is about to expire. Such meetings shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a

newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area and all affected handlers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer or affected handler may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers or affected handlers. At the inception of this order, nominations may be made at the issuance hearing.

(6) ELECTION OF BOARD MEMBERS.

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer within the affected district shall be entitled to one vote.

Affected handler, fresh, shall be elected by a majority of the votes cast by the affected handlers, fresh. Affected handler, processor, shall be elected by a majority of the votes cast by the affected handlers, processor.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer or affected handler entitled to vote whose name appears on the list of such affected producers and affected handler within the affected area maintained by the director in accordance with RCW 15.65.200. Any other affected producer or affected handler entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) VACANCIES PRIOR TO ELECTION. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) QUORUM. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) BOARD COMPENSATION. No member of the board shall receive any salary or other compensation, but each member may receive thirty-five dollars or an amount as provided for in RCW 43.03.230 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) **POWERS AND DUTIES OF THE BOARD.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish an "asparagus board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except for an amount of petty cash for each days' needs, not to exceed fifty dollars, shall be deposited daily.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act.

(m) To bring actions or proceedings, upon joining the director as a party, for specific performance, restraint, injunction, or mandatory injunction against any person

who violates or refuses to perform the obligations or duties imposed upon him by the act or the order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(p) To authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.

(11) PROCEDURES FOR BOARD.

(a) The board shall hold regular meetings, at least quarterly, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. In addition to such notice as may be required by chapter 42.30 RCW, notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer, and handler and by regular news service.

(c) In accordance with RCW 42.30.080, the board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: **PROVIDED**, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

NEW SECTION

WAC 16-557-030 MARKETING ORDER PURPOSES. The order is to promote the general welfare of the state, to enable producers of asparagus to help themselves establish orderly, fair, sound, efficient, unhampered marketing; facilitate cultural and harvesting improvements, and regulate unfair trade practices within the industry. To carry out the purposes of the order, the board may provide for a program in one or more of the following areas:

(1) Establish plans and conduct programs for advertising, sales, promotion, and/or other programs for maintaining present markets and/or creating new or larger markets for asparagus. Such programs shall be directed toward increasing the sale of asparagus without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of asparagus nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, processing, and/or marketing of asparagus and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by Washington State University, but if in the judgment of the board, said university does not have the facilities for a particular

project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Investigate and take necessary action to prevent unfair trade practices as set forth in RCW 15.65.340 and to correct where possible, trade practices which hinder marketing of Washington asparagus.

(4) Prohibit making or publishing false or misleading advertising. Such regulation may authorize uniform trade practices applicable to all similarly situated handlers and/or other persons.

NEW SECTION

WAC 16-557-040 ASSESSMENTS AND COLLECTIONS. (1) Assessments.

(a) The annual assessment on all varieties of asparagus shall be one percent of the gross receipts at first point of sale.

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment.

(c) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped, or sold, both inside and outside the state.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year, may be refunded on a prorata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Remedies. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or

persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

NEW SECTION

WAC 16-557-041 TIME—PLACE—METHOD FOR PAYMENT AND COLLECTION OF ASSESSMENTS. Effective with the growing season of 1991, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65-.410 and WAC 16-557-040:

(1) All first handlers of asparagus for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. All such assessments accumulated will be due and payable to the commission within thirty days of collection. With the submission of the assessments, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer shall be submitted to the commission on forms provided by the commission.

(2) All growers selling asparagus other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall pay the assessment directly to the commission, within thirty days of sale of such product.

(3) Any assessments paid after the above deadlines shall be accompanied by an administrative fee of 10% as provided in RCW 15.65.440 of the act.

NEW SECTION

WAC 16-557-050 OBLIGATIONS OF THE BOARD. Obligations incurred by the board or employee or agent thereof pertaining to their performance or non-performance or misperformance of any matters or things authorized, required, or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee, or agent incurred in their official capacity under this order shall exist either against the board, officers, employees, and/or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator, or board (or employee or agent thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

NEW SECTION

WAC 16-557-060 TERMINATION OF THE ORDER. The order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent to such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers and twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.

NEW SECTION

WAC 16-557-070 EFFECTIVE TIME. The marketing order for asparagus shall become effective on April 1, 1991.

NEW SECTION

WAC 16-557-080 SEPARABILITY. If any provisions hereof are declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder hereof or of the applicability thereof to any other person, circumstances, or thing shall not be affected thereby.

WSR 91-08-022
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed March 27, 1991, 4:12 p.m.]

Date of Adoption: March 27, 1991.

Purpose: To amend WAC 314-20-020 Beer labels, to remove the language requiring alcohol content be listed on all bottles and cans of malt beverages.

Citation of Existing Rules Affected by this Order: Amending WAC 314-20-020.

Statutory Authority for Adoption: RCW 66.08.030.

Other Authority: RCW 66.28.160.

Pursuant to notice filed as WSR 91-05-086 on February 20, 1991.

Effective Date of Rule: Thirty days after filing.

March 27, 1991
 Paula O'Connor
 Chairman

AMENDATORY SECTION (Amending Order 290, Resolution 299 [WSR 90-18-008], filed 8/24/90)

WAC 314-20-020 BEER LABELS—CERTIFICATE OF LABEL APPROVAL REQUIRED—LABELS TO BE SUBMITTED. (1) Every bottle or can containing beer intended for sale in the state of Washington shall bear a label in compliance with RCW 66.28.120. No beer shall be imported or sold within the state of Washington until the licensed brewery, or certificate of approval holder, shall have obtained from the board a certificate of label approval for such beer.

~~((2) Such label shall show the alcoholic content of the beer by volume on the label or container with a tolerance not to exceed five-tenths of one percent.))~~

~~((3))~~ (2) A request for certificate of label approval must be submitted on a form(s) prescribed by the board which is one copy of the federal certificate of label approval for such beer, issued by the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department.

~~((4))~~ (3) Any change in label or product which requires reissuance of federal certificate of label approval, must also be submitted to the board, in accordance with the foregoing provisions of this regulation.

~~((5))~~ (4) No label shall be used that is misleading.

~~((6))~~ (5) Every producer, importer, or wholesaler of beer shall, upon request of the board or its authorized representative, furnish, without cost to the board, samples of any brand of beer upon its premises for the purpose of analysis in order to determine whether the beer conforms to commercial standards.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 91-08-023
EMERGENCY RULES
DEPARTMENT OF FISHERIES
 [Order 91-14—Filed March 28, 1991, 3:25 p.m., effective April 1, 1991]

Date of Adoption: March 27, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-050001.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Pacific Fishery Management Council has established a harvestable quota of groundfish. This regulation provides for harvest of the quota without impacting nonharvestable stocks. This regulation is adopted at the recommendation of the Pacific Fisheries Management Council and is consistent with federal regulations.

Effective Date of Rule: 12:01 a.m., April 1, 1991.

March 28, 1991
 Joseph R. Blum
 Director

NEW SECTION

WAC 220-44-05000J COASTAL BOTTOMFISH CATCH LIMITS. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. April 1, 1991, until further notice it is unlawful to possess, transport through the waters of the state, or land in any Washington State port bottomfish taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

(1) Widow Rockfish (*Sebastes entomelas*) – 10,000 pounds per vessel trip per week, defined as Wednesday through the following Tuesday. A fisherman may choose to make one landing of 20,000 pounds per two consecutive weeks by filing a 1991 declaration of intent. There is no limit on the number of landings less than 3,000 pounds.

(2) Shortbelly rockfish (*Sebastes jordani*) – no maximum poundage per vessel trip, no minimum size.

(3) Pacific ocean perch (*Sebastes alutus*) – No restrictions on landings up to 1,000 pounds per vessel trip. Landings above 1,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of the total weight of fish on board. Under no circumstances may a vessel land more than 3,000 pounds of Pacific ocean perch in any one vessel trip.

(4) All other species of rockfish (includes all rockfish except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*Sebastes entomelas*), shortbelly rockfish (*Sebastes jordani*) and Thornyhead (or idiot) rockfish (*Sebastes spp.*)) – 25,000 pounds of all other species of rockfish combined per vessel trip per calendar week, defined as Wednesday through the following Tuesday, of which no more than 5,000 pounds may be yellowtail rockfish (*Sebastes flavidus*) except that a fisherman having made a 1991 declaration of intent, may make either one landing of no more than 50,000 pounds of all other species of rockfish combined per vessel trip biweekly, defined as Wednesday through the second Tuesday following, of which no more than 10,000 pounds may be yellowtail rockfish or two landings of not more than 12,500 pounds of all other species of rockfish in any one calendar week of which no more than 2,500 pounds in any one landing may be yellowtail rockfish. It is unlawful for any vessel to make more than one landing in excess of 3,000 pounds of other rockfish species in any calendar week, if no declaration to land twice weekly has been made.

(5) Deepwater Complex – Sablefish, Dover Sole, and Thornyhead (or Idiot) Rockfish (*Sebastes spp.*) – Fishers are limited to 27,500 pounds of the deepwater complex of which no more than 7,500 pounds can be Thornyhead rockfish, per vessel trip, per calendar week, defined as Wednesday through the following Tuesday, except that a fisher having made a 1991 declaration of intent may make either one landing of no more than 55,000 pounds of the deepwater complex of which no more than 15,000 pounds can be Thornyhead rockfish, per vessel trip biweekly, defined as Wednesday through the second Tuesday following or two landings of not

more than 13,750 pounds of the deepwater complex of which no more than 3,750 pounds can be Thornyhead rockfish, in any one calendar week. If no declaration of intent to land twice weekly has been made, then it is unlawful for any vessel to make more than one landing in excess of 4,000 pounds of the deepwater complex except sablefish landings are limited to 1,000 pounds.

The following limits apply to sablefish taken under these subsections.

(a) Trawl vessels – Landings above 1000 pounds allowed only if sablefish represent 25 percent or less of the total combined round weight of the deepwater complex onboard. Minimum size 22 inches in length, unless dressed in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. To convert to round weight from dressed weight multiply the dressed weight by 1.6. Trawl vessels are allowed an incidental catch less than the minimum size of 1,000 pounds or 25 percent of the total combined round weight of the deep water complex on board but not to exceed 5,000 pounds per trip. This undersize sablefish incidental allowance is inclusive in the trip limit.

(b) Non-Trawl Vessels – No trip limit. Non-trawl vessels are allowed an incidental catch less than the minimum size of 22 inches not to exceed 1,500 pounds or 3 percent of all sablefish on board, whichever is greater. Minimum size 22 inches in length, unless dressed, in which case minimum size 15.5 inches in length from the anterior insertion of the first dorsal fin to the tip of the tail. To convert to round weight from dressed weight, multiply the dressed weight by 1.6.

(6) 1991 Declarations of Intent – A 1991 Declaration of Intent must be made to make other than one vessel trip per week and land in excess of the minimum amounts as provided for in this section. The new declaration form must be completed as provided for in this subsection. All Declarations of Intent are binding for a minimum of four weeks starting on the first Wednesday following the declaration. The 1991 declaration of intent to make other than one vessel trip per week must be mailed or delivered to the Department of Fisheries, 115 General Administration Building Olympia, Wa., 98504, and must be received prior to the beginning of such fishing. The declaration of intent must contain the name and address of the fishermen, the name and registration number of the vessel, the date on which such fishing will commence and must be signed and dated by the fisherman. The fisherman may return to the one vessel trip per calendar week fishing by filing a declaration of intent to stop fishing other than once weekly with the department in the above manner. The declaration to stop such fishing and begin one vessel trip per calendar week fishing must be received prior to the beginning of the week in which the one vessel trip per calendar week fishing will resume. The date of first landing will determine the beginning of bi-weekly periodicity. A calendar week is defined as Wednesday through the following Tuesday.

(7) It is unlawful during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a vessel trip limit.

(8) For purposes of this section, a vessel trip is defined as having occurred upon the initiation of transfer of catch from the fishing vessel, and all fish aboard the vessel are considered part of the vessel trip limit at the initiation of transfer of catch.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 1991:

WAC 220-44-050001 COASTAL BOTTOMFISH CATCH LIMITS (90-135)

WSR 91-08-024

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-16—Filed March 28, 1991, 3:27 p.m., effective May 16, 1991]

Date of Adoption: March 27, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There is an adequate resource available to allow a limited commercial harvest of razor clams in an area which is not readily available to the recreation digger.

Effective Date of Rule: 12:01 a.m., May 16, 1991.

March 28, 1991

Joseph R. Blum

Director

NEW SECTION

WAC 220-52-03000G RAZOR CLAM—COMMERCIAL HARVEST. Notwithstanding the provisions of WAC 220-52-030, effective immediately until further notice, it is unlawful to fish for or possess razor clams taken for commercial purposes from Washington waters except as provided for in this section:

(1) Those waters of Razor Clam Area Number One lying south of the Willapa Bay Ship Channel, west of Ellen Sands, and north of latitude 46 degrees, 39 minutes, 00 seconds north, are open to commercial razor clam digging from 12:01 a.m. May 16 through 11:59 p.m. June 30, 1991.

(2) It is lawful to possess razor clams for commercial purposes that are lawfully taken from within the boundaries of the Quinault Indian Reservation.

WSR 91-08-025

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-17—Filed March 28, 1991, 3:30 p.m., effective April 1, 1991]

Date of Adoption: March 27, 1991.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-315, 220-57-497, 220-57-505, and 220-57-515.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Harvestable runs of spring chinook are available to the recreational fishery on each of these streams. Discussions with the Yakima Tribe on the tributary regulation package were not completed in time to make this regulation part of the permanent package.

Effective Date of Rule: 12:01 a.m., April 1, 1991.

March 28, 1991

Joseph R. Blum

Director

NEW SECTION

WAC 220-57-31500U KLICKITAT RIVER. Notwithstanding the provisions of WAC 220-57-315, effective April 6 through May 25, 1991, Saturdays only, two salmon bag limit downstream from the Fisher Hill Bridge to the mouth of the Klickitat River.

NEW SECTION

WAC 220-57-49700F WENATCHEE RIVER. Notwithstanding the provisions of WAC 220-57-497, effective May 16 through June 9, 1991, two salmon bag limit, downstream of the mouth of the Icicle River to the Highway 2 Bridge at Leavenworth.

NEW SECTION

WAC 220-57-50500S LITTLE WHITE SALMON RIVER (DRANO LAKE). Notwithstanding the provisions of WAC 220-57-505, effective April 1 through May 12, 1991, two salmon bag limit, downstream from markers placed on points of land downstream and across from the federal salmon hatchery and upstream of the Highway 14 Bridge.

NEW SECTION

WAC 220-57-51500G WIND RIVER. Notwithstanding the provisions of WAC 220-57-515:

(1) Effective April 1 through June 30, 1991 two salmon bag limit, downstream from markers 400 feet below Shipperd Falls to markers at the outer land points downstream from the Burlington Northern Railroad Bridge at the mouth of the river.

(2) Effective June 1 through June 30, 1991, two salmon bag limit in those waters 100 feet upstream of

Shipperd Falls to boundary markers 800 yards downstream of the federal salmon hatchery.

**WSR 91-08-026
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Order R-341, Docket No. U-901099—Filed March 28, 1991, 4:24 p.m.]

In the matter of amending WAC 480-140-020 and 480-140-040 relating to budget reporting for major capital projects.

This action is taken pursuant to Notice No. WSR 91-03-099 filed with the code reviser on January 18, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-03-099 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, March 6, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A.J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to February 25, 1991, and orally at 9:00 a.m., Wednesday, March 6, 1991, in the commission's hearing room above noted. At the March 6, 1991, meeting the commission considered the rule change proposal. No oral comments were received. Anne Eakin submitted written comments on behalf of Pacific Corp.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-140-020 and 480-140-040 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-140-020 and 480-140-040 as amended will reflect the current threshold in gross annual revenue of all regulated utilities, the escalation of construction costs, and the size of the projects related to the total construction budgets.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-140-020 and 480-140-040 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 22nd day of March, 1991.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-269, Cause No. U-86-121, filed 12/5/86)

WAC 480-140-020 WHO MUST FILE. All public service companies shall be required to file budgets with the Washington utilities and transportation commission: PROVIDED, HOWEVER, Gas, water, telecommunications, telegraph, and electrical companies whose annual gross operating revenues do not exceed (~~twenty-five~~) one hundred fifty thousand dollars, shall not be required to file budgets.

AMENDATORY SECTION (Amending Order R-269, Cause No. U-86-121, filed 12/5/86)

WAC 480-140-040 PREPARATION. Budgets shall be made in duplicate on forms furnished by the commission. The original and three copies shall be filed with the commission and one copy shall be kept by the company for its files. Each question must be answered fully and accurately. Where the word "none" truly and completely states the fact, it may be given as the answer to any particular inquiry or portion thereof. Do not leave blank lines. Items and schedules which do not apply to the reporting company's business and therefore cannot be filled in, shall be answered "not applicable." In no case shall any utility deviate from the requirements of these rules except upon a showing of good cause, and then only to the extent authorized by the commission in writing. For the purpose of the budget report an "individual major project," is defined (~~as one exceeding fifty thousand dollars~~) according to the following schedule:

<u>Company Construction Budget</u>	<u>Major Project</u>
<u>\$25,000 or less</u>	<u>\$2,000 or more</u>
<u>\$25,001 to \$50,000</u>	<u>\$2,500 or more</u>
<u>\$50,001 to \$100,000</u>	<u>\$10,000 or more</u>
<u>\$100,001 to \$200,000</u>	<u>\$15,000 or more</u>
<u>\$500,001 to \$1,000,000</u>	<u>\$50,000 or more</u>
<u>\$1,000,001 to \$5,000,000</u>	<u>\$100,000 or more</u>
<u>\$5,000,001 or more</u>	<u>\$500,000 or more</u>

All other individual projects shall be listed by name, location, and estimated cost. For companies with utility operations in more than one state, the major project threshold shall be applied to all projects proposed to be located in the state of Washington and to all projects which will be partly or wholly allocated to Washington

operations: PROVIDED, That individual project description sheets shall be required only for those projects for which the assigned or allocated costs to Washington equal or exceed the threshold set forth in this rule.

WSR 91-08-027
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Filed March 29, 1991, 8:38 a.m.]

Date of Adoption: March 29, 1991.

Purpose: To establish rules for the control and eradication of the disease Pseudorabies in swine in the state of Washington.

Statutory Authority for Adoption: RCW 16.36.040 and 16.36.096.

Pursuant to notice filed as WSR 91-05-076 on February 20, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 29, 1991
 C. Alan Pettibone
 Director

Chapter 16-80 WAC
PSEUDORABIES IN SWINE

NEW SECTION

WAC 16-80-005 DEFINITIONS. For the purpose of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or his duly authorized representatives.

(2) "Department" means the Washington state department of agriculture.

(3) "Approved pseudorabies vaccine" means only those biological products that are approved by and produced under license of the United States Department of Agriculture for injection into swine for the purpose of enhancing their resistance to pseudorabies, are a specific gene deletion vaccine and are authorized for use in a specific herd by the state veterinarian.

(4) "Official identification" means a USDA issued backtag or a metal eartag bearing state identification and a unique number.

(5) "Pseudorabies infected herd" means a herd of swine in which the disease pseudorabies has been diagnosed positive in one or more animals by the National Veterinary Service Laboratory (NVSL) or a state laboratory which can conduct the serum neutralization test.

(6) "Expose" means to lay open an animal or group of animals to risk of infection by the pseudorabies virus.

NEW SECTION

WAC 16-80-007 SURVEILLANCE PROGRAM. All swine blood submitted to the federal-state animal health laboratory for brucellosis testing will be also tested for pseudorabies by the latex agglutination test. Samples which are positive on the latex agglutination test will be further tested by the enzyme linked

immunosorbant assay (ELISA) and serum neutralization (SN) tests. The ELISA or SN tests must show positive results before classifying the sample as positive. An epidemiological investigation will be initiated for each positive sample and an attempt will be made to trace such a sample to the herd of origin. Area testing will be done on all swine herds within a five mile radius of any infected premises. Trace forward and trace backward testing will be done in all herds which may have bought animals from or sold animals to the infected herd within a twenty-four month period prior to discovery of the infection.

NEW SECTION

WAC 16-80-010 QUARANTINE. All swine herds that are infected with or exposed to pseudorabies shall be quarantined and officially tested for pseudorabies. If the owner of any such swine herd refuses to allow the department to test for the above disease, the swine herd and the premises on which they are quarantined shall remain quarantined until released under WAC 16-80-020 or RCW 16.36.030. No animal or products of such animals shall be removed from the premises while they are under quarantine except as provided in RCW 16.36.030.

NEW SECTION

WAC 16-80-015 SALE OF QUARANTINED ANIMALS. No person shall offer for sale any swine from a pseudorabies quarantined herd for other than immediate slaughter: PROVIDED, HOWEVER, That such swine shall only be moved from the pseudorabies quarantined herd when accompanied by an official federal form number VS1-27 filled out and signed by a federal or state veterinarian.

NEW SECTION

WAC 16-80-020 QUARANTINE AND RE-LEASE. Any herd of swine in which pseudorabies positive animals are found will be quarantined. The quarantine will be released when the entire quarantined herd has successfully completed PLAN A (test and removal), PLAN B (offspring segregation), or PLAN C (depopulation - repopulation) as described in "Swine Pseudorabies Eradication Guidelines," prepared and published by the pseudorabies committee, Livestock Conservation Institute. PLAN C will be the plan of choice if the state-wide herd infection rate is less than 0.1% of total number of state herds. The plan used will be determined by mutual agreement between the herd owner or their veterinarian if so designated by the owner and the state veterinarian.

NEW SECTION

WAC 16-80-025 DISINFECTING PREMISES. All barns, feed troughs, water tanks, feeding platforms, farrowing houses, and dry lots where a pseudorabies infected herd has been held must be thoroughly cleaned and disinfected within fifteen days after all infected swine have been removed. Recommended disinfectants

are: Orthophenolphenate compounds, phenolic compounds, 2% Na hydroxide, TriNaPO₄, chlorhexidine.

NEW SECTION

WAC 16-80-030 DISINFECTING VEHICLES.

(1) When a vehicle is used to transport pseudorabies infected animals or pseudorabies exposed animals from a pseudorabies quarantined herd, the vehicle shall be cleaned and disinfected immediately following the unloading of the last animal of each such load. The destination of such infected or exposed swine shall be equipped with department approved facilities to clean and disinfect vehicles.

(2) Upon completion of the cleaning and disinfection of the vehicle, approval of the adequacy of the cleaning and disinfection shall be obtained in writing. This approval must be obtained from a state or federal animal health employee or from an authorized representative of the director of agriculture on a form approved by the director.

NEW SECTION

WAC 16-80-035 INDEMNITY FOR PSEUDORABIES INFECTED OR EXPOSED SWINE. As provided under RCW 16.36.096, the director of agriculture may order the slaughter or destruction of any swine affected with or exposed to pseudorabies. Subject to the availability of sufficient funds, the director may pay an indemnity for any swine ordered slaughtered or destroyed. When the indemnity is approved, the amount that will be paid is one hundred dollars for any sow past fifty days pregnant or with suckling piglets, fifty dollars for boars and open sows or sows less than fifty days pregnant, and fifty dollars for breeding gilts over two hundred fifty pounds live weight. An indemnity of up to fifty percent of appraised value of feeding stock will be paid when destroyed rather than slaughtered.

No indemnity will be paid if:

- (1) The state-wide infection rate exceeds 0.1% of total swine herds in the state;
- (2) The swine belong to the federal government or any of its agencies, this state or any political subdivisions thereof or any municipal corporations; or
- (3) The swine were brought into this state within six months of being ordered slaughtered or destroyed.

NEW SECTION

WAC 16-80-040 VACCINATION. No pseudorabies vaccine may be used in the state of Washington except when the use of an approved pseudorabies vaccine is specifically authorized in writing by the state veterinarian for use in a pseudorabies infected herd under pseudorabies eradication PLAN A (test and removal). Only gene deleted vaccines with a corresponding specific laboratory test will be authorized.

NEW SECTION

WAC 16-80-045 IDENTIFICATION OF SWINE. Boars and sows moving through livestock auction yards or collection facilities in intrastate commerce

must be tagged with official identification. All swine moving in interstate commerce must be identified in compliance with federal regulation CFR 71.19 a & b.

NEW SECTION

WAC 16-80-047 MANDATORY REPORTING OF SUSPECTED PSEUDORABIES. Pseudorabies is a reportable disease under WAC 16-70-010 and must be reported to the department immediately by persons licensed to practice veterinary medicine in the state of Washington as required by WAC 16-70-010. Additionally, laboratories and swine producers are hereby required to report to the director of agriculture or his authorized representative the discovery of the existence or suspected existence of pseudorabies infection among domestic swine within the state. This report shall be immediate (by telephone or FAX on the day discovered) to the office of the state veterinarian, telephone number (206) 753-5040, FAX (206) 753-3700.

NEW SECTION

WAC 16-80-050 CRIMINAL PENALTY—CIVIL INJUNCTION. Pursuant to RCW 16.36.110, a violation of or a failure to comply with any provisions of this chapter shall be a gross misdemeanor. Each day upon which a violation occurs shall constitute a separate violation.

WSR 91-08-028

NOTICE OF PUBLIC MEETINGS FOREST PRACTICES BOARD

[Memorandum—March 29, 1991]

NOTICE OF REGULAR QUARTERLY MEETING OF THE WASHINGTON FOREST PRACTICES BOARD

This notice is given pursuant to provisions of RCW 42.03.075 [42.30.075] and WAC 222-08-040.

The Washington Forest Practices Board will hold its regular quarterly meeting on May 8, 1991, at 9 a.m. at the Stevens County Courthouse, Commissioner's Conference Room 215, 215 South Oak, Colville, WA.

Additional Information may be Obtained From: Department of National Resources, Forest Practices Division, 1007 South Washington, EL-03, Olympia, WA 98504, (206) 753-5315.

WSR 91-08-029

PERMANENT RULES BOARD FOR

VOCATIONAL EDUCATION

[Filed March 29, 1991, 12:35 p.m., effective March 29, 1991]

Date of Adoption: March 28, 1991.

Purpose: To amend rules previously filed December 13, 1990, to add a new section, and to repeal a section.

Citation of Existing Rules Affected by this Order: Repealing WAC 490-100-012; and amending WAC

490-100-010, 490-100-030, 490-100-035, 490-100-040, 490-100-050, 490-100-060, 490-100-070, 490-100-080, 490-100-100, 490-100-105, 490-100-110, 490-100-120, 490-100-130, 490-100-140, 490-100-150, 490-100-160, 490-100-170, 490-100-180, 490-100-200, 490-100-205, 490-100-208, 490-100-210, 490-100-220, and 490-100-250.

Statutory Authority for Adoption: Chapter 28C.10 RCW.

Pursuant to notice filed as WSR 91-05-077 on February 20, 1991.

Changes Other than Editing from Proposed to Adopted Version: Removed WAC 490-100-150 (4)(b) on recommendation from agency's assistant attorney general that provisions could be unconstitutional. Added requirements for "notice" in WAC 490-100-060 (5)(e) to be in writing, correcting oversight in initial drafting.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Legal hiatus would be created by any delay in effective date of rules containing repealer.

Effective Date of Rule: March 29, 1991.

March 28, 1991
Stan Marshburn
Chairman

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-010 AUTHORITY. These rules are promulgated pursuant to ~~((chapter 28C.10 RCW))~~ the authority contained in RCW 28C.10.040(2) to implement the Private Vocational Schools Act.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-030 ~~((EXEMPTIONS))~~ DEFINITIONS. ~~((Sec RCW 28C.10.030))~~ (1) The following is intended to clarify the statutory exemptions (see RCW 28C.10.030):

~~((+))~~ (a) "Avocational" or "recreational" means instruction which is primarily intended for leisure and not offered for the purpose of providing a student with employable skills or with competencies that upon completion of the program, course, or class would be customarily applied to gainful employment and is not utilized by the school as a prerequisite for vocational instruction.

~~((2))~~ (b) Entities not otherwise exempt offering only workshops or seminars lasting not more than three calendar days and consisting of no more than twenty-four contact hours of instruction: PROVIDED, That training is completed within the three calendar days; and a vocational education program is not being offered through a series of supplementary seminars.

(2) The term "revoke" as used in RCW 28C.10.050(2) and elsewhere in these regulations means that the agency terminates the school license. When the license is revoked, the school is no longer legally authorized to continue operating.

(3) The term "suspend" as used in RCW 28C.10.050(2) and elsewhere in these regulations means

that because of deficiencies, the agency interrupts for a stated time the school's authority to make offers of training, as that is defined under RCW 28C.10.020(9), and prohibits the school for that time to begin instruction of new students, but it may remain in operation to continue training students already enrolled and in good standing on the date such suspension commences.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-035 AUXILIARY FACILITIES. (See RCW 28C.10.020(7).) Any location within the state of Washington at which an entity provides postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession is deemed to be a private vocational school within the meaning of RCW 28C.10.020(7), except for case-by-case exemptions that may be granted for activities that meet the following definition of "auxiliary facility."

(1) Upon application to the agency on forms provided for that purpose, a licensed private vocational school may be authorized to provide training services at an additional physical site termed an "auxiliary facility."

To qualify for the designation "auxiliary facility," the site must be established by the licensee to meet one or more of the following criteria:

(a) To absorb a temporary overload which the licensed facility cannot accommodate; or

(b) To provide a single, specialized kind of training activity, generally on a short-term basis, under circumstances that cannot readily be accommodated at the licensed facility; or

(c) To provide training under contract(s) with a public agency, private company, or other sponsoring entity: PROVIDED, That no fiduciary responsibility is created between students and the licensee under such arrangements: PROVIDED FURTHER, That the training offered is not open to general enrollment.

(2) To have any of its activities classified as an "auxiliary facility" and not subject to being licensed as a private vocational school, a licensee must secure approval from the agency in advance of conducting operations at such a site by documenting that it meets one of the above definitions and in addition that:

(a) The instructional program(s), site administration, and training provided at the auxiliary facility are significantly integrated with the licensee's primary facility; and

(b) The address of the auxiliary facility will not be represented as a school location.

(3) Activities carried forward at an auxiliary facility must be regularly incorporated into operational and financial data reported to the agency by the licensee: PROVIDED, That income derived from activities conducted under contract (see: Subsection ~~((3))~~ (1)(c) of this section) will not be included as "tuition income" for purposes of calculating license fees and/or contributions to the tuition recovery fund.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-040 CANCELLATION AND REFUND POLICY. (See RCW 28C.10.050 (1)(b).) As a condition of licensing, each school must adhere to the following uniform state-wide minimum cancellation and refund policy: PROVIDED, That any refund due to students receiving federal financial assistance (~~((e.g., Pell Grant, Supplemental Education Opportunity Grant, National Direct Student Loan, etc.)))~~), grant, or loan, will be refunded by the school to the particular federal financial aid program in accordance with federal law:

(1) A full refund of all money paid if the applicant is not accepted by the school;

(2) A full refund of tuition and fees paid if the applicant withdraws not later than midnight on the fifth business day (excluding Sundays and holidays) after signing the contract or making an initial payment, provided that the applicant has not commenced training;

(3) After five business days (excluding Sundays and holidays), the school may retain an established registration fee equal to ten percent of the total tuition cost, or one hundred dollars, whichever is less. "Registration fee" refers to any fee, however named, covering those expenses incurred by an institution in processing student applications and establishing a student records system;

(4) The official date of termination of a student shall be the last date of recorded attendance when withdrawal occurs in any of the following manners:

(a) When the school receives notice of the student's intention to discontinue the training program;

(b) When the student is terminated for a violation of a published school policy which provides for termination;

(c) When a student, without notice to the institution, fails to attend classes for thirty calendar days.

(5) If training is terminated after entering classes, the student is financially obligated to the school according to the following formulas or maximum charges:

(a) Termination during first week or ten percent of instruction, whichever is less. School may retain ten percent of tuition cost plus registration fee established under subsection (3) of this section;

(b) Termination after first week or ten percent of instruction, whichever is less, but prior to completion of twenty-five percent of contracted instructional time. School may retain twenty-five percent of tuition cost plus registration fee established under subsection (3) of this section;

(c) Termination after completion of first twenty-five percent but prior to completion of fifty percent of contracted instructional time. School may retain fifty percent of tuition cost plus registration fee established under subsection (3) of this section;

(d) Termination after completion of more than fifty percent of contracted instructional time. School may retain the full tuition cost plus registration fee established under subsection (3) of this section.

(6) If a school continues to operate under its license but discontinues instruction in any program after training of students has begun, the students enrolled in the discontinued program are entitled to a prorata refund of

all tuition and fees paid unless comparable training is arranged by the school to be provided at another public or private vocational school and such arrangements are agreed to in writing by the student as provided by WAC (~~((490-800-220))~~) 490-100-220(4).

(a) Notice in advance of the discontinuance must be provided to the agency and to students in writing, including at the least data required under WAC (~~((490-800-220))~~) 490-100-220(2).

(b) The term "discontinued" generally applies to the elimination by the school of a particular course offering prior to its completion. However, the term includes circumstances where program(s) commenced at a specific location under terms of an enrollment agreement are relocated to substituted physical site.

(c) A student affected by relocation may voluntarily accept transportation and other arrangements offered by the school in order to continue his/her training or may file a refund claim.

(d) Requests for refunds pursuant to this provision must be made in writing by the enrolled student within thirty calendar days following discontinuation of the program. Money due the applicant/student shall be refunded within thirty calendar days after receipt of the request.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-050 CATALOG, BROCHURE, OR OTHER WRITTEN MATERIAL. (See RCW 28C.10.050 (1)(c).) The catalog/bulletin shall be the school's principal printed means to explain its operations and requirements to prospective and enrolled students. For this reason, it shall be current, comprehensive, and accurate. Each school shall publish a catalog, brochure, or other written material which shall include the following:

(1) Date of publication;

(2) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and parent corporation, if a subsidiary;

(3) Names, addresses, and telephone numbers of the school's administrative offices and all auxiliary facilities;

(4) Names and qualifications of teaching faculty. Such lists shall be accurate as of the date of catalog publication. Any changes of faculty shall be noted on a catalog errata sheet provided each student prior to entering classes;

(5) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(6) Admission procedure, policies, and regulations describing accurately and completely all prerequisites (e.g., GED, physical requirements, etc.) and (~~((requirements for))~~):

(a) Fulfilling the skills assessment requirements adopted/developed by the school and applied to each applicant as part of the admissions process;

(b) Completing successfully the programs of study in which they are interested; and

((b)) (c) Qualifying for the fields of employment for which their education is designed.

(7) A description of the exact nature and kind of placement assistance offered, if any. If no assistance is offered, the school shall make this fact known;

(8) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(9) The school's policy and regulations relative to leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance;

(10) The school's policy and regulations relative to standards of progress required of the student. This policy will define the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, and a description of the probationary period, if any, allowed by the school, and conditions for reentrance for those students dismissed for unsatisfactory progress. A statement will be furnished to the student regarding the student's progress.

(11) An accurate description, whether through words, photos, or other means, of the school's facilities, equipment, and physical plant used for training with a description of the equipment available for student use and the maximum or usual class size;

(12) Total cost of training including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, student activities, insurance and all other charges and expenses necessary for completion of the program;

(13) A description of each course of instruction, including:

(a) Specific course objectives: The educational or vocational objective of each course or program including the name of occupations for which the course or program purports to train;

(b) The number of clock or credit hours of instruction and types of instruction (e.g., correspondence, classroom, lab, computer assisted) in each course and the average length of time in weeks or months normally required for completion;

(c) If instruction is calculated in credit hours, the catalog must contain at least one statement describing the contact hour conversion formula applied by the school: The number of contact hours applicable to each quarter or semester credit hour of lecture, laboratory/practicum, and/or internship/externship.

(d) Number of lessons (correspondence/home study schools). "Correspondence and/or home study school" shall mean that the instructional format of the school involves the sequential mailing or distribution of lessons to the student, who studies the material, completes a lesson examination, and returns the examination to the school. The school then grades the lesson/examination (and, in some instances, provides additional comments and instruction), and returns the graded lesson to the student along with the next set of instructional materials;

(e) The scope and sequence of courses or programs required to achieve the educational objective;

(f) A statement indicating what type of certificates, diplomas or other educational credentials are awarded upon graduation or successful completion.

(14) Policy and regulations relative to refund of unearned tuition, fees, and other charges, which must meet the minimum cancellation and refund policy set forth in these rules, including procedures a student shall follow to cancel enrollment before or after instruction has begun;

(15) The following statement shall appear prominently on either the first or last printed page or inside the front or back cover: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE BOARD FOR VOCATIONAL EDUCATION, BUILDING 17, AIRDUSTRIAL PARK, MAILSTOP LS-10, OLYMPIA, WASHINGTON 98504-6110 (206/753-5673);

(16) Availability of financial aid, grants and scholarships, if any;

(17) Supplements or errata sheets for the catalog/bulletin or other written materials shall be filed with the agency prior to being used (see RCW 28C.10.110(2)):

(a) Supplement pages or errata sheets shall be fastened to or otherwise made an integral part of that publication;

(b) The catalog/bulletin supplement or errata sheets shall include the publication date;

(c) In event that information on a supplement or errata sheet supplants any other information contained in the catalog/bulletin, the insert shall specifically identify the information it contradicts or replaces, including at the least an appropriate page reference.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-060 ENROLLMENT CONTRACT OR AGREEMENT. (See RCW 28C.10.050 (1)(d).) "Enrollment agreement" is any agreement, instrument or note, however named, which creates or evidences an obligation binding a student to purchase a course of instruction from a school. Each school shall use an enrollment contract or agreement that includes:

(1) The school's cancellation and refund policy, in accordance with these rules, displayed in a type size no smaller than that used to meet any other requirements of this section;

(2) The following statement: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; ((INQUIRES)) INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WASHINGTON STATE BOARD FOR VOCATIONAL EDUCATION; BUILDING 17, AIRDUSTRIAL PARK; MAILSTOP LS-10; OLYMPIA, WASHINGTON 98504-6110; (206/753-5673);

(3) Information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

(a) The name and address of the school and the student;

(b) The title of the educational services, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(c) The cost incurred by the student or his/her sponsor in order to complete the training. Such costs shall be itemized and shall include tuition, fees, books, supplies (where appropriate), and all other charges made by the school necessary to complete the training. The student enrollment agreement shall outline the methods of payment or the payment schedule;

(d) A statement acknowledging receipt of a copy of the school's catalog and student enrollment agreement by the student;

(e) Language explaining that the agreement will be binding only when officially accepted and the agreement is fully completed, signed and dated by the student and chief administrative officer or authorized representative of the school prior to the time instruction begins.

(4) A statement that any changes in the agreement shall not be binding on either the student or the school unless such changes have been approved in writing by the chief administrative officer or an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor;

(5) "NOTICE TO THE BUYER" which includes the following statements in a position above the space reserved for the student's signature:

(a) "DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. THIS IS A LEGAL INSTRUMENT.

(b) (~~BOTH SIDES~~) ALL PAGES OF THE CONTRACT ARE BINDING.

(c) READ BOTH SIDES OF ALL PAGES BEFORE SIGNING.

(d) YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT, SCHOOL CATALOG AND ANY OTHER PAPERS YOU SIGN.

(e) YOU MAY CANCEL THIS CONTRACT BY PROVIDING WRITTEN NOTICE OF SUCH CANCELLATION TO THE SCHOOL AT ITS ADDRESS SHOWN ON THE CONTRACT WHICH NOTICE SHALL BE POSTMARKED NOT LATER THAN MIDNIGHT OF THE FIFTH BUSINESS DAY (EXCLUDING SUNDAYS AND HOLIDAYS) FOLLOWING YOUR SIGNING THIS CONTRACT OR (~~IT~~) THE WRITTEN NOTICE MAY BE PERSONALLY OR OTHERWISE DELIVERED TO THE SCHOOL WITHIN THAT TIME. IN EVENT OF DISPUTE OVER TIMELY NOTICE, THE BURDEN TO PROVE SERVICE RESTS ON THE SENDER.

(f) IT IS AN UNFAIR BUSINESS PRACTICE FOR THE SCHOOL TO SELL, DISCOUNT OR OTHERWISE TRANSFER THIS CONTRACT OR PROMISSORY NOTE WITHOUT THE SIGNED WRITTEN CONSENT OF THE STUDENT OR HIS/HER FINANCIAL SPONSORS AND A WRITTEN STATEMENT NOTIFYING ALL PARTIES THAT THE CANCELLATION AND REFUND POLICY CONTINUES TO APPLY."

(6) Physically attached to each completed contract shall be a one-page form constructed by the agency and supplied in prototype to each licensee, containing acknowledgements signed by the school and the enrollee relating to the student's rights, responsibilities, and loan repayment obligations; and attesting that the school counseled the enrollee against incurring excessive debt burdens.

(7) The school shall retain a copy of the student enrollment agreement and one copy shall be delivered to

the student at the time of execution or by return mail when the enrollment is solicited by mail.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-070 TIME OF APPLICATION. (See RCW 28C.10.060.) (1) Initial licensing. Any entity desiring to operate a private vocational school(s) must initially be licensed by the agency no later than (~~one month~~) thirty calendar days prior to the date on which it first offers educational services;

(2) Renewal. Each private vocational school must annually renew its license. No later than (~~one month~~) thirty calendar days prior to the anniversary date of its license, the private vocational school must file a completed application for license renewal, including a financial statement, attested to by the chief administrative officer, and amend any statements or materials on file which are no longer accurate.

(3) A license may be denied, revoked, or suspended by the agency's executive director or his/her designee for just cause.

(4) Transition. A training location in operation on or before June 7, 1990, as an "additional instruction site" (WAC (~~490-800-100~~) 490-100-100(2)) under a license issued to a common owner but which site is required to be individually licensed as a private vocational school, as a consequence of the enactment of RCW 28C.10.020(7) shall be considered to be licensed under chapter 28C.10 RCW until the expiration date of the license under which its owning entity was operating on June 7, 1990: PROVIDED, That during such transition, an affected "additional instruction site" remains otherwise in compliance with the provisions of the act and these rules: PROVIDED FURTHER, That the license of its owning entity remains valid throughout the transition period described.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-080 DISPLAY OF LICENSES—LOSS OR DESTRUCTION—CHANGE OF NAME—CHANGE OF LOCATION. (See RCW 28C.10.060.) (1) Licenses shall be issued in the name of the applicant school showing that name, its address, and phone number. In the instance of schools under a common ownership, the name and address of the owning entity shall also be shown.

(2) A certificate shall be issued to each auxiliary facility for which approval is requested and granted in accordance with the provisions of WAC (~~490-800-100~~) 490-100-100. It shall contain the identifications described under subsection (1) of this section.

(3) Display. Each school shall prominently display its license and/or certificate issued to an auxiliary facility to the public, prospective students, and other interested persons at each location.

(4) Loss or destruction. Upon the loss or destruction of any license and/or certificate issued to an auxiliary facility, application for a duplicate and payment of the

appropriate license reissuance fee must be made to the agency. See WAC (~~(490-800-120)~~) 490-100-120(4).

(5) Change of name. No licensee shall adopt or make a change in its name prior to providing written notification to the agency together with payment of the appropriate license reissuance fee. See WAC (~~(490-800-120)~~) 490-100-120(5).

(6) Change of location. No change in the location of premises including auxiliary facilities, if any, shall be made without applying to and obtaining prior written consent of the agency and making payment of the appropriate license reissuance fee. See WAC (~~(490-800-120)~~) 490-100-120(6).

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-090 CHANGE OF OWNERSHIP—LICENSE NONTRANSFERABLE. (See RCW 28C.10.060.) (1) The ownership of a licensed entity is deemed to have changed at the consummation of:

- (a) A sale by the sole proprietor of a school;
- (b) A change in the majority interest of general partners of a partnership owning a school; or
- (c) A sale or transfer of stock occurs that creates a change in the majority interest in the issued and outstanding shares of a corporation owning a school.

(2) No license issued under this chapter is transferrable. Simultaneous with consummating the change(s) described under subsection (1) of this section, the license(s) issued to the existing owner(s) expires.

(3) The provisions of subsection (2) of this section notwithstanding, to maintain a continuity of operation, the new ownership must make application for a new license no less than fifteen calendar days prior to the change of ownership. The agency may extend the existing license for a maximum sixty calendar days beyond the date that ownership changes: PROVIDED, That the new applicant's chief administrative officer furnishes a written statement asserting that all conditions set forth in the act and these rules are being met or will be met before offering training or education in the period during which the application for new license is pending.

(4) In event the new owner(s) fail to obtain a license in no more than sixty calendar days after the date of sale or transfer of ownership and no further extension of time has been granted by the agency, continued operation beyond that date as a private vocational school will constitute a violation of RCW 28C.10.090.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-100 APPLICATION CONTENTS. (See RCW 28C.10.050 and 28C.10.060.) Any entity desiring to operate a private vocational school shall apply for license to the agency on forms provided by the agency which shall include the following information attested to by the school's chief administrative officer.

- (1) Owners, shareholders, and directors:

(a) The complete legal name of the school, current telephone number, current mailing address, the school's physical address, and date of establishment;

(b) The form of ownership of the school, whether sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, birthdates, prior school affiliations and capacities, and any other appropriate information of all those with ten percent or more ownership interest;

(d) A school which is a corporation or a subsidiary of another corporation shall submit to the agency as part of the school's application current evidence that the corporation is registered with the Washington secretary of state's office and the name, address and telephone number of the corporation's registered agent;

(e) "Ownership" of a school means:

(i) In the case of a school owned by an individual, that individual;

(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more ownership interest;

(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares.

(2) Schools under common ownership. Application(s) for initial and renewal licensing may be submitted by a single entity on behalf of each private vocational school under its common ownership: PROVIDED, That the owning entity controls the licensee's recruiting activities, faculty, and administrators, course curricula and guidelines for teaching, and is otherwise wholly accountable for its operations.

(a) Each license issued to a private vocational school under common ownership shall be valid only for the location listed in the initial and renewal applications and the name and address of the owning entity shall be shown thereon in addition to information identifying the individual site.

(b) A single location may be identified by the owning entity as the principal facility for recordkeeping.

(3) (~~Agents of institutions. Each agent's name, address, phone number, territory, date of birth, prior school affiliations and capacities.~~)

(~~4~~) Financial statement. Each school must annually disclose to the agency information reflecting the financial condition of the school at the close of its most recent fiscal or calendar year to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Entities operating a private vocational school must submit:

(a) The fiscal year dates utilized for the school's operations;

(b) A financial statement (~~(showing gross tuition income (excluding refunds, books, tools, and supplies) for the last completed fiscal year, certified by the school's chief administrative officer. This may be accomplished by submitting one of the following)~~) in a format supplied by the agency that:

~~(i) ((A copy of an external audit prepared by a certified public accountant or a state audit agency; or~~

~~(ii) A financial statement in the format provided by the agency;~~

~~(c)) Is certified true and accurate by the school's chief administrative officer or his/her designee; and~~

~~(ii) Covers the period of the most recently completed of the periods established in (a) of this subsection.~~

~~(c) On a showing by the school that inadequate time exists to produce such data in the interval between the ending date of the period established in (a) of this subsection and the due date of an application, the agency will adjust the license period of the school to provide a reasonable interval.~~

~~(d) Any entity just starting operations at the time of initial licensing must substitute for the financial statement described under (b) of this subsection, a proposed operating budget for its initial twelve months' period of operation using a format provided by the agency.~~

~~((d)) (e) Any entity seeking initial licensing as a private vocational school which has operated another business or businesses for one year or more prior to filing an application under chapter 28C.10 RCW, shall include in its initial application, in addition to the requirements under ((c)) (d) of this subsection, a financial statement for any one or more such additional business(es) that is prepared by a certified public accountant and/or certified by its chief administrative officer, covering ((the prior business in)) the period of its most recently completed fiscal year.~~

~~((e)) (f) The owning entity of multiple schools under a common ownership may file financial information with initial or renewal license applications that consists of a single, consolidated financial statement and balance sheet for the corporate entity, as described under (b) of this subsection: PROVIDED, That it is accompanied by data extracted therefrom that documents total tuition earnings for each licensee under its common ownership at the close of its most recent fiscal year of operation, or lacking historic data, projects total tuition earnings for a subject school in its first or next completed twelve months of operation.~~

~~((f)) (4) Financial references. The applicant shall furnish the name(s) of one or more bank(s) or other financial institution(s) that may be consulted as financial reference(s) for the entity and school, together with a statement authorizing the agency to verify such information by consulting with the references furnished.~~

~~((g)) (5) A copy of the applicant's catalog.~~

~~((h)) (6) A copy of the applicant's enrollment agreement/contract.~~

~~((i)) (7) Administrators/instructors educational and occupational records, employing qualification forms supplied by the agency for that purpose, evidencing names, Social Security numbers, addresses, phone numbers, positions, education, experience, prior school affiliations, and birthdates.~~

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-105 APPLICATION ~~((FOR LICENSE))~~ TO OPERATE AS AGENT OF PRIVATE

VOCATIONAL SCHOOL. (See RCW 28C.10.060.)

(1) No person shall act in this state as an agent for a private vocational school unless the board has approved the individual's registration as an agent as part of the school's license.

(2) The application shall be in writing, upon forms prepared and supplied by the agency and shall contain at least the following:

(a) The full name, Social Security number, current address, and phone number of the individual applying for ((license)) registration;

(b) The name, current address, and phone number of the vocational school proposed to be represented;

(c) The past employment record of the applicant((-);

~~((2))~~ (d) The signatures of the applicant and chief administrative officer of the school.

(3) Each agent registered under this chapter shall be considered for all purposes under chapter 28C.10 RCW to be acting as an agent of the licensee submitting his/her application and no person can be independently registered to perform those functions.

(4) Each school shall provide training to a sales agent prior to his/her representing the school in that capacity that includes:

(a) Knowledge of the Private Vocational School Act (chapter 28C.10 RCW) and the regulations contained in this chapter.

(b) A detailed understanding of the school's catalog, enrollment contract, and refund policy.

(c) An organized review of the school's policies and practices governing the ethical conduct of sales agents.

(5) In the instance of an individual who applies to represent a private vocational school that is domiciled in another state and does not operate training facility(ies) within Washington state, the application shall be accompanied by the ((license)) fee in WAC ((490-800-120)) 490-100-120(2).

~~((3))~~ (6) Each school to whom the agent is ((licensed)) registered shall notify the agency in writing within no more than thirty calendar days following the date that the ((licensed)) registered agent ceases to perform those services((- indicating therein whether for reasons of reassignment to other duties or termination of employment)).

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-110 NOTICE OF ACTIONS BY GOVERNMENTAL ENTITIES OR ACCREDITING COMMISSIONS—CHANGE OF CIRCUMSTANCES. (See RCW 28C.10.060.) At the time of original and renewal applications, the entity shall present the agency with details of any consent orders with the Federal Trade Commission and notification of any adverse actions which have been taken by any federal or state agencies, including courts or accrediting commissions((- The entity)) and shall inform the agency in writing of actions being taken to correct deficiencies cited. Any change of circumstance, including bankruptcy, which would ~~((require amendment to the))~~ amend information

reported in the application for initial license/license renewal form must be filed with the agency within ~~((thirty))~~ ten calendar days of the change ~~((, along with a notarized statement))~~ by the chief administrative officer.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-120 FEES. (See RCW 28C.10.060(3).) (1) Annual fee:

- (a) For in-state schools, the annual licensing fee is based on total annual tuition income.
- (b) For out-of-state schools, the annual licensing fee is based on total annual tuition income received from or on behalf of Washington state residents.
- (c) Schools not having been in operation prior to the date of their initial licensing shall base their annual fee upon estimated total annual tuition income.

Total Annual Tuition Income	License Fee
Up to \$25,000.....	\$ 250
\$25,001 to \$50,000.....	\$ 500
\$50,001 to \$100,000.....	\$ 600
\$100,001 to \$250,000.....	\$ 750
\$250,001 to \$500,000.....	\$1,000
\$500,001 to \$1,000,000.....	\$1,500
\$1,000,001 to \$2,500,000.....	\$2,000
Over \$2,500,001	\$2,500

- (2) Agents representing out-of-state schools: \$120 annual fee per agent per school represented.
- (3) Fee for late filing of renewal application: \$25 per day for the ~~((month))~~ thirty calendar days prior to the expiration of the current school license;
- (4) Loss or destruction of license/auxiliary certificate. Reissuance fee: \$25.
- (5) Change of name. Reissuance fee: \$25.
- (6) Change of location. Reissuance fee: \$25.
- (7) Auxiliary location. Certificate issuance fee: \$25.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-130 FINANCIAL STANDARDS. (See RCW 28C.10.050 (1)(a).) The school must demonstrate that it has sufficient financial resources to:

- (1) Fulfill its ~~((commitments))~~ contracted obligations to students;
- (2) ~~((Follow))~~ Meet all refund obligations incurred under a uniform state-wide cancellation and refund policy as specified in these rules;
- (3) Meet the school's operational expenses and maintain its financial obligations;
- (4) ~~((Furnish and maintain))~~ Make scheduled contributions to the tuition recovery fund as required under WAC ((490-800-180)) 490-100-180.

NEW SECTION

WAC 490-100-135 ADMISSIONS STANDARDS. (See RCW 28C.10.050 (1)(g).) Prior to enrolling any individual into a program of study each

school shall assess in accordance with the following guidelines the appropriate employment prerequisites, basic skills, and relevant aptitudes of each individual applying for enrollment to determine that he/she has the ability to complete and benefit from the program or programs he/she is considering.

(1) Within sixty calendar days following the adoption of this section, each current licensee shall file with the agency a description of the methodology it employs to comply with the requirements under this section and each entity applying to be licensed as a private vocational school under chapter 28C.10 RCW shall include such information in its application. Any subsequent substantive change(s) in the methodology initially submitted shall be reported to the agency no more than fifteen calendar days after such change is adopted.

(2) The individual's ability to benefit shall be measured against current prerequisites for employment in the job objective established for the program, e.g., prior work and health history, driving and arrest records, and evaluations of any applicable physiological factors such as vision acuity, color perception, lifting and weight bearing capabilities, and manual dexterity.

(3) The individual's academic abilities shall be considered adequate to meet learning needs upon demonstration that he/she has earned a high school diploma or General Educational Development (GED) Certificate.

(4) To assess the academic capabilities of individuals applying for admission who have not earned a high school diploma or GED, the school shall adopt or devise a test or tests with the demonstrated capability to:

- (a) Validate that the individual possesses skills, competencies, and knowledge that correlates with grades, course or program completion or other measures of success in the program of study, or;
- (b) Validate that the individual's academic skills, competencies, and knowledge are at a level equivalent to that of persons completing a high school education;
- (c) Provide a periodic, organized review comparing success ratios of accepted students with test cut-off scores and incorporating appropriate cut-off adjustments.

(5) The agency will accept as prima facie evidence of meeting the criteria in subsection (4) of this section a statement by the school indicating that the testing used to determine ability to benefit has been published by the American College Testing Service (ACT) and/or reviewed and approved by the American Council on Education (ACE).

(6) The following must be part of the methodology developed for assessment:

- (a) In the event that tests are administered by school officials, evidence that they are being administered as intended by the publisher/test developers;
- (b) Information about the test security procedures employed, evidencing that students have no advance information about the exact questions or tasks and that answers cannot be supplied by a third party while completing the test(s);

(c) Information about test scoring procedures employed, evidencing that if tests are scored by school officials the tests are being evaluated as intended by the publisher/test developer;

(d) Information that the test(s) does/do not contain information that is offensive with regard to gender, age, native language, ethnic origin, or handicapping conditions.

(7) Records resulting from the assessment of ability to benefit must be included as a regular part of the records of each entering student.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-140 PROGRAM STANDARDS. (See RCW 28C.10.050 and 28C.10.060.) The school shall design and implement programs that by content and instructional strategies have the capacity to provide educational services ((such as)) that will adequately achieve the stated objectives for which the educational services are offered. In evaluating program offerings, the agency will use as a guideline their comparability, if any, to similar programs leading to similar educational objectives that have been established by other comparable schools.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-150 STAFF QUALIFICATIONS. (See RCW 28C.10.050 and 28C.10.060.) (1) The education and experience qualifications of administrators, instructional staff, and other personnel shall adequately insure that the students will receive educational services consistent with the stated objectives for which the educational services are offered.

(2) No school licensed under this chapter shall use the services of any administrative or instructional personnel for more than thirty calendar days after their initial employment or following the effective date of this section, whichever shall first occur, without completing and filing with the agency information regarding their qualifications. Such information shall be submitted on forms provided by the agency for that purpose.

(3) Each licensee shall establish and enforce specific written policies setting standards for qualification, supervision, and evaluation of administrators, faculty, and staff. As a minimum, the following qualifications shall be required:

(a) School directors must have at least two years of prior experience in either school or business administration, teaching, or other experience related to their duties within the school's organization;

(b) If the graduated student is required to be licensed, certificated, or rated as a condition to employment in the job objective of a program, an instructor teaching a related class or course must hold or be qualified to hold such a license, certificate, or rating, and must possess at least two years of work experience or two years of post-secondary training in the subject which they instruct, or

any equivalent combination of both: PROVIDED, That current evidence of being qualified to teach that is issued by a regulatory agency, board, or commission of this or another state is acceptable in lieu of the foregoing;

(c) If a school utilizes any form of teacher assistants, aides, or trainees, it shall establish and maintain policies and practices governing their duties and functions. Such personnel shall provide services to students only under the direct supervision of and shall not substitute for a qualified instructor.

(4) No school licensed under this chapter shall employ administrators, faculty members, or agents, and no persons shall hold positions of direct authority or control in a licensed school who are not of good moral character and reputation:

(a) The agency may find a person not to be of good moral character and reputation when the person has been convicted of:

(i) Any felony within the prior seven years;

(ii) A misdemeanor which involved the illegal use, possession, or sale of a controlled substance; or

(iii) A misdemeanor that involved any sexual offense.

(b) The agency shall not make a finding that a person is not of good moral character solely for the reason that the person has been convicted of/charged with a felony but shall consider the relationship of the facts which support the conviction/charge and all associated circumstances to the performance of his or her occupational responsibilities with the licensed school and to that school's students.

(c) In making such determinations the agency shall request a letter of recommendation from the employing school and may consider any other related materials submitted by the school and/or affected individual prior to making a finding under this section.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-160 FACILITIES. (See RCW 28C.10.050 and 28C.10.060.) (1) To be licensed under this chapter, the school must have an exact physical location or locations, including in that requirement any auxiliary facility(ies) operated under the provisions of WAC 490-100-035(1).

(2) The physical ((plant and equipment)) structure, classrooms, laboratories, faculty and staff accommodations, study and study lounge areas, restroom/sanitary facilities, and heating/ventilation capabilities of the school shall be commensurate in size, accommodations, and condition to meet the purposes of the school and the program objectives. The school must provide a modern and effective learning environment containing enough classroom, laboratory, and shop space for the number of students to be trained.

(3) The school must have evidence available for agency inspection demonstrating that all premises are maintained in compliance with applicable state laws and local ordinances relating to the safety and health of persons on the premises.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-170 EQUIPMENT AND MATERIALS. (See RCW 28C.10.050 and 28C.10.060.) Equipment, furniture, instructional devices and aids, machinery and other physical features of the classroom, laboratory, or shop shall be adequate to achieve the stated educational objectives of the course(~~(, and)~~). It shall be comparable in number and quality with those used by comparable schools with similar programs and educational objectives(~~(. The equipment available must be)~~), comparable to that in current use by the appropriate trade, business or profession, and be of sufficient quantity for the number of enrolled students.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-180 TUITION RECOVERY FUND. (See RCW 28C.10.082, and 28C.10.084.) (1) Establishment of fund liability limits. The amount of liability that can be satisfied by this fund on behalf of each individual entity licensed under this chapter shall be based on the following scale:

Total Annual Tuition Income:	Liability Limit:
\$ 0.00 to \$ 50,000	\$ 5,000
\$ 50,001 to \$ 75,000	\$ 7,500
\$ 75,001 to \$ 100,000	\$ 10,000
\$ 100,001 to \$ 150,000	\$ 15,000
\$ 150,001 to \$ 200,000	\$ 20,000
\$ 200,001 to \$ 250,000	\$ 25,000
\$ 250,001 to \$ 350,000	\$ 35,000
\$ 350,001 to \$ 500,000	\$ 50,000
\$ 500,001 to \$ 750,000	\$ 75,000
\$ 750,001 to \$ 1,000,000	\$100,000
\$ 1,000,001 to \$ 1,250,000	\$125,000
\$ 1,250,001 to \$ 1,500,000	\$150,000
\$ 1,500,001 to \$ 1,750,000	\$175,000
\$ 1,750,001 and above	\$200,000

Provided: (a) That the calculation of total annual tuition for a school located outside the state of Washington shall include only that income derived from residents of this state during the entity's preceding fiscal year of operation, as evidenced in the financial statement required by WAC 490-800-100(~~(+5))~~) (4); (b) institutions not yet in operation or otherwise lacking a full year's financial data prior to initial licensing, shall have a liability limit calculated on the basis of the total annual tuition estimate that institution supplies under the provisions of WAC (~~(490-800-120))~~ 490-100-100(4); (c) no liability established in any circumstance shall be less than five thousand dollars or more than two hundred thousand dollars.

(2) Matrix for calculating initial capitalization deposits and any assessments necessary under subsection (8) of this section:

Level of Liability (Section 1):	Prorated Participatory Share:
\$ 5,000	\$ 0.15%
\$ 7,500	\$ 0.23%
\$ 10,000	\$ 0.30%
\$ 15,000	\$ 0.46%
\$ 20,000	\$ 0.61%
\$ 25,000	\$ 0.76%
\$ 35,000	\$ 1.07%
\$ 50,000	\$ 1.52%
\$ 75,000	\$ 2.28%
\$100,000	\$ 3.05%
\$125,000	\$ 3.81%
\$150,000	\$ 4.57%
\$175,000	\$ 5.33%
\$200,000	\$ 6.10%

(3) Initial capitalization. Each entity applying to be initially licensed under this chapter shall submit to the agency in cash, or by check or money order, the following amounts for deposit into the tuition recovery fund, those being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling two hundred thousand;

Level of Liability (Section 1):	Capitalization Deposit:
\$ 5,000	\$ 305
\$ 7,500	\$ 457
\$ 10,000	\$ 609
\$ 15,000	\$ 914
\$ 20,000	\$ 1,219
\$ 25,000	\$ 1,523
\$ 35,000	\$ 2,133
\$ 50,000	\$ 3,046
\$ 75,000	\$ 4,570
\$100,000	\$ 6,093
\$125,000	\$ 7,616
\$150,000	\$ 9,139
\$175,000	\$ 10,663
\$200,000	\$ 12,186

(4) Five-year contribution schedule. As a condition to remaining licensed under this chapter, each entity shall, commencing six months after the due date of its initial capitalization deposit and thereafter, remit to the agency for deposit into the tuition recovery fund semiannual payments in cash, or by check or money order in accordance with the following schedule, such amounts being calculated by application of the matrix displayed under subsection (2) of this section to an amount totaling one million dollars; however the calculation of final payment may be adjusted to cover total remittances to equal the total amount of deposit due.

Level of Liability (Section 1):	Semiannual Deposit Required:
\$ 5,000	\$ 122
\$ 7,500	\$ 183
\$ 10,000	\$ 244
\$ 15,000	\$ 366

Level of Liability (Section 1):	Semiannual Deposit Required:
\$ 20,000	\$ 487
\$ 25,000	\$ 609
\$ 35,000	\$ 853
\$ 50,000	\$ 1,219
\$ 75,000	\$ 1,828
\$100,000	\$ 2,437
\$125,000	\$ 3,046
\$150,000	\$ 3,656
\$175,000	\$ 4,265
\$200,000	\$ 4,874

(5) Transition into tuition recovery fund. A training location operated prior to June 7, 1990, as an "additional instruction site" (WAC ((~~490-800-100~~)) 490-100-100(2)) under a license issued to a common owner but required to be individually licensed as a consequence of RCW 28C.10.020(7) will, upon the expiration of its current license to operate:

(a) Be considered to have commenced its participation in the tuition recovery fund under the terms of RCW 28C.10.084 on the first date that participation under the fund was commenced by its common owner(s); and

(b) Be considered to have satisfied the requirement for an "initial capitalization" deposit (RCW 28C.10.084(5) and WAC ((~~490-800-180~~)) 490-100-180(3)) by recognizing in its name the initial capitalization deposit received on its behalf from its common owner(s); and

(c) Begin, effective with the date it is required to be separately licensed and thereafter, to make semiannual contributions to the tuition recovery fund on the basis of its reported total tuition income, calculated under subsection (4) of this section; and

(d) Begin, effective with the date it is required to be separately licensed and thereafter, to make semiannual deposits that are the same in number as remained unpaid by its common owner(s) on that date, until it has completed the schedule of ten payments described under subsection (4) of this section.

(6) The agency will prepare and mail to each licensee semiannual notices of the due dates and amounts of deposits required under subsection (4) of this section. The fee for late filings under WAC ((~~490-800-120~~)) 490-100-120(3) of this chapter shall apply to late payments of deposits into the fund for a period cumulating to thirty calendar days. Failure to make a deposit within thirty calendar days is a violation of RCW 28C.10.050 (1)(f).

(7) Each notice conforming to subsection (6) of this section shall include therein at least once each year:

(a) A notation showing the licensee's aggregated prior deposits into the fund;

(b) A notation showing the licensee's balance of remaining payments, based on the most recent deposit received;

(c) A notation showing the cumulated balance existing in the fund at the most recent half-year accounting; and

(d) A summary showing any disbursements made from the fund to satisfy claims in the period since the last such similar summary was disseminated.

(8) Within thirty calendar days after disbursements made to settle claims reduce the operating balance below two hundred thousand dollars and recovery of such funds has not been ensured under the provisions of RCW 28C.10.084 (9)(d) and/or (10), the agency shall assess each licensee a pro rata share of an amount required to restore the deficiency created by such disbursements. In making calculations of each respective share the agency shall employ the same percentages of liability established by the matrix appearing under subsection (2) of this section. In the event that the amount of any single such assessment equals or is less than the semiannual amount of deposit established for a licensee under subsection (4) of this section, the assessment shall be paid within thirty calendar days of notice. In the event any single assessment exceeds the amount of its semiannual deposit, the entity may apply to the agency for a schedule of deferred payments. The agency shall grant such deferrals on application, but in no case shall the time extended exceed one year beyond the date of an assessment.

(9) Funds disbursed to settle claims against a current licensee shall be recovered by the agency under a schedule to be negotiated with the affected entity on a case-by-case basis following such disbursement. To secure deferral of payment more than thirty calendar days after demand for recovery is made, the burden to prove manifest hardship rests on the entity but in no case shall the time extended exceed one year beyond the date of the initial demand notice.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-200 COMPLAINTS. (See RCW 28C.10.080(5) and 28C.10.120.) (1) To be adjudicated under this chapter, a complaint against a licensee by a former student must be filed no more than one calendar year following the student's last recorded date of attendance or, in the case of correspondence students, one calendar year following the date on which the school received the most recently submitted test for grading or, if the school closes, within sixty calendar days of the closure. Such time may be extended by the agency based on a showing that good faith efforts to obtain satisfaction from the school were being pursued by the student during the time elapsed.

(2) Complaints shall be made in writing to the agency and contain the following information:

(a) The complaining party's name, Social Security number, address, and phone number;

(b) School name, address, and phone number;

(c) Nature of complaint, such as, failure to refund tuition, misrepresentation, or other unfair business practice as specified in the act and these rules;

(d) Facts detailing dates of attendance, termination date, date of occurrence, names, addresses and positions of school officials contacted, financial loss, if any, and any other pertinent information;

(e) An explanation of what efforts have been taken to resolve the problem with the school, if any;

(f) Copies of pertinent documents, such as, the enrollment agreement, financial data and payment contracts, catalog, advertisements, etc.

(3) Upon receipt of a complaint alleging that an institution has failed or is failing to comply with the provisions of the act or this chapter, the agency shall:

(a) Notify the school by mail of the nature of the allegations, including a copy of the complaint and its attachments;

(b) Afford the institution fifteen working days to respond: PROVIDED, That the failure by an institution to submit a timely response will be treated by the agency as evidencing that it has no defense to offer;

(c) Investigate the facts supplied by all parties;

(d) Adjudicate the complaint;

(e) Notify all parties of the determinations and remedies.

(4) Any adjudication made under this section by the staff of the agency which is alleged to be unreasonable or unfair in its effect upon institutions or students, and/or which is alleged to be not in keeping with the intent and purposes of the act or these rules and regulations may be appealed by the affected party(ies) to the (~~executive~~) deputy director. An informal hearing on the issues shall be conducted by the (~~executive~~) deputy director in response to such request. He/she may uphold or reject prior determinations of the staff, in whole or in part; may call for further findings; or take any other action he/she deems appropriate under the circumstances, pursuant to the provisions of the act and these rules.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-205 APPEALS. (See RCW 28C.10.120 and 34.05.410.) Any school feeling aggrieved by any dispute involving the following actions may request a hearing pursuant to WAC (~~490-800-208~~) 490-100-208 and chapter 34.05 RCW:

(1) A denial of an exemption under RCW 28C.10.030.

(2) A denial, suspension or revocation of licensing under RCW 28C.10.050.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-208 HEARINGS. (See RCW 28C.10.120.) (1) Any hearing called for under the act or these rules shall be conducted by a designated hearings officer in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(2) A designated hearings officer shall make findings and conclusions in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The findings, conclusions, and any recommendations for action shall be submitted to the (~~board members~~) executive director for final action pursuant to RCW 34.05.461.

(3) The (~~board members~~) executive director may accept or reject, in whole or in part, any recommendations made by the hearings officer, may remand for further findings, or take any other action (~~they~~) he or she

deems appropriate under the circumstances, pursuant to the provisions of the act and these rules.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-210 RECORD RETENTION. (See RCW 28C.10.060(4) and 28C.10.160.) (1) Each school shall maintain for a minimum of fifty years from the date of each student's enrollment or until such time that it ceases to be licensed under this chapter; whichever first occurs, student educational records as defined by these rules.

(2) Past and current catalogs, catalog supplements, and errata sheets shall be retained for a period of at least six years from their respective dates of publication.

(3) "Educational records" include, but are not limited to, transcripts that the school is permitted to create on a single page summary for each student, indicating:

(a) The name, address, and telephone number of the school;

(b) Full name, address, and telephone number of the student;

(c) Dates of attendance;

(d) Course of instruction or subjects attempted;

(e) Amount of credit, if any, awarded for each subject;

(f) Grade for each subject completed;

(g) Date of completion, graduation, or termination together with notation of document(s) issued signifying satisfactory completion, if achieved (degree, diploma, certificate conferred);

(h) If termination, the reason(s) therefor;

(i) Signature and title of the certifying officer; and

(j) Date that transcript is prepared.

(4) "Financial records" include, but are not limited to, the following and are to be retained for no less than six years from the student's date of enrollment:

(a) Signed and completed enrollment agreements and other contracts;

(b) The student's payment record((;

~~Financial aid records~~)).

(5) Financial aid records related to title IV student financial assistance are not under state jurisdiction, but should be maintained in accordance with appropriate federal regulations.

(6) Schools shall maintain for a minimum of at least one year from date of publication (~~all copies~~) or airing a true and legible copy of all newspaper ads and direct mail solicitations together with written or taped transcripts of all broadcast and television advertising purchased in that period.

(~~6~~) (7) Each school must provide, upon request, transcripts described under subsection (3) of this section to students who have satisfied all financial obligations currently due and payable directly to the school.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-220 SCHOOL CLOSING/CHANGE OF STATUS. (See RCW 28C.10.060(4); 28C.10.084(9); and 28C.10.160.) (1) "Ceases to provide

educational services" means that a stoppage of training has occurred because:

(a) Facilities are rendered continuously unusable for a period of thirty calendar days or more; or

(b) Faculty or qualified substitute(s) assigned to a specific class(es) are not available or otherwise fail to perform instructional duties for five or more successive days of scheduled instruction; or

(c) Bankruptcy proceedings or other financial emergency(ies) occur with effect lasting for five or more successive days of scheduled instruction; or

(d) Adverse action has been taken by a federal, state, or local jurisdiction(s) with an effect lasting five or more successive days of scheduled instruction.

(2) The school shall make plans and take measures to protect the contractual rights of present and former students if it ceases to provide educational services to its students. A school going out of business shall return its license certificate to the agency ((immediately by mail)) within ten calendar days upon cessation of instruction or expiration of its license, whichever comes first.

(3) A school which ceases to provide educational services to its students, either voluntarily or involuntarily, shall:

(a) Inform the agency of this action immediately by the most expeditious means available, confirming such information thereafter by certified mail within three business days;

(b) Give the name, address, and telephone number of the person who will be responsible for fulfilling the requirements of this section;

(c) Provide the agency with the name, Social Security number, address, and telephone number, and the name ~~((of))~~ and cost of tuition and charges for the course of instruction for each student who has not completed the course;

(d) Provide information on the amount of class time left for each student to complete the course; the total amount of tuition and fees paid by each student for any program terminated due to the school's ceasing to provide educational services; ~~((whether or not))~~ and if the tuition and fees were paid through federal student aid, grants, or loans, ((and, if so,)) the amount and type of aid, grant, or loan ((e.g., Pell Grant, Supplemental Education Opportunity Grant, National Direct Student Loan, etc.));

(e) Prepare and distribute to all enrolled students no less than three business days prior to cessation of providing services, a written notice explaining the procedures ~~((they))~~ students are to follow to secure refunds or continue their education and furnish a copy of such notice within three business days to the agency;

(f) File with the agency procedures for disbursement of refunds to students and set a date no longer than thirty calendar days from the last day of instruction to issue refund checks in the full amount for which students are entitled.

(4) If students are receiving instruction prior to the school's ceasing to provide educational services, the school shall file with the agency its plans if any, for

teach-out; insuring that all affected students will continue to receive training of the same quality and content as that for which they contracted:

(a) Arrangements for teaching out students made with a public or other licensed private school shall be filed with the agency;

(b) The agency shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted.

(5) Unless the student agrees in writing to comparable training, a school that ceases to provide educational services shall make pro rata refunds to the student or his/her parent, guardian or sponsor based on a day-by-day proportion of the services provided compared to the total length of the program.

AMENDATORY SECTION (Amending WSR 91-01-056, filed 12/13/90, effective 12/13/90)

WAC 490-100-250 DEGREE-GRANTING PRIVATE VOCATIONAL SCHOOLS—APPLICABLE RULES. (See RCW 28C.10.040(4).) (1) Institutional accredited degree-granting private vocational schools.

(a) Pursuant to rules adopted by the higher education coordinating board, that agency will exempt from compliance with chapter 28B.85 RCW those degree programs that are covered by the institution's accreditation. For purposes of this exemption, the board recognizes those national and regional institutional accrediting agencies recognized by the council on postsecondary accreditation.

(b) The state board for vocational education or its successor agency will process the application of an institutionally accredited degree-granting private vocational school which offers nondegree programs in accordance with chapter 28C.10 RCW. The license fee and bond or other security shall be based on the income derived from nondegree programs.

(2) Nonaccredited degree granting private vocational schools:

(a) The higher education coordinating board will process the application and collect the fee of nonaccredited degree-granting private vocational institutions when the majority of programs offered are degree programs. Non-degree programs will be reviewed by the state board for vocational education or its successor agency, as will student complaints regarding nondegree programs. A single surety bond or other security based on total tuition will be required and will name both agencies as obligees.

(b) The state board for vocational education or its successor agency will license nonaccredited degree-granting private vocational schools when the majority of programs offered are nondegree programs and collect fees based on annual income from nondegree programs; PROVIDED, That the minimum initial fee shall be eight hundred dollars and the minimum renewal fee shall be four hundred dollars. Degree programs will be reviewed by the higher education coordinating board, as will student complaints regarding degree programs. Contributions to the tuition recovery fund will be required under WAC ~~((490-800-180))~~ 490-100-180.

(3) If either the state board for vocational education or its successor agency or the higher education coordinating board revokes, suspends or fails to renew the license or authorization of an institution, it immediately will notify the other of such action.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 490-100-012 DUTIES OF THE AGENCY.

WSR 91-08-030
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
(Examining Board of Psychology)
 [Memorandum—March 28, 1991]

Please note the following changes to the meeting dates for the Examining Board of Psychology.

Cancel April 12 and 13 board meeting at Silverdale on the Bay, Silverdale, Washington.

A hearing is scheduled for April 26 - 28 at the WestCoast Ridpath Hotel, Spokane, Washington.

Cancel May 10 and 11 board meeting at Silverdale on the Bay, Silverdale, Washington.

A hearing is scheduled for May 10 and 11 at the Holiday Inn, Yakima, Washington.

WSR 91-08-031
RULES COORDINATOR
HIGHLINE COMMUNITY COLLEGE
 [Filed March 29, 1991, 2:33 p.m.]

As required by RCW 34.05.310(3), the designated rules coordinator for Highline Community College is located in the President's Office at Highline Community College, 2400 South 240th Street, Des Moines, WA 98198.

Edward M. Command
 President

WSR 91-08-032
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed March 29, 1991, 3:11 p.m.]

Original Notice.

Title of Rule: WAC 308-48-800 Funeral director/embalmer fees.

Purpose: To amend existing rules.

Statutory Authority for Adoption: RCW 18.39.175(4).

Summary: To bring renewal fees for crematories affiliated with funeral establishments in line with renewal fees for crematories affiliated with cemeteries.

Reasons Supporting Proposal: So that all crematories will have equal renewal fees.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Program Administrator, Bristol Court, (206) 586-4905.

Name of Proponent: Board of Funeral Directors and Embalmers, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides for crematory renewal fees based on cremations performed during previous 12 months so that all crematories will have equitable renewal fees. Fees generated will accrue in the funeral director/embalmer account.

Proposal Changes the Following Existing Rules: Changes crematory renewal fees from a flat rate of \$50.00 to a basic fee of \$50.00 plus fifty cents per cremation performed during the previous 12 months.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Department of Licensing, Professional Licensing Services, 3rd Floor Conference Room, 2424 Bristol Court, Olympia, WA, on May 7, 1991, at 9:00 a.m.

Submit Written Comments to: Jon Donnellan, Program Administrator, Board of Funeral Directors and Embalmers, P.O. Box 9012, Olympia, WA 98504, by May 6, 1991.

Date of Intended Adoption: May 7, 1991.

March 28, 1991
 Marsha Tadano Long
 Assistant Director

AMENDATORY SECTION (Amending WSR 91-01-006, filed 12/6/90, effective 1/6/91)

WAC 308-48-800 FUNERAL DIRECTOR/EMBALMER FEES. The following fees shall be charged by the professional licensing division of the department of licensing:

Title of fee	Fee
Embalmers:	
State examination or reexamination	\$150.00
Renewal	100.00
Late renewal penalty	50.00
Duplicate	15.00
Certification	25.00
Embalmer apprentice:	
Apprentice application	75.00
Apprentice renewal	45.00
Duplicate	15.00
Certification	25.00
Funeral director:	
State examination or reexamination	150.00
Renewal	100.00
Late renewal penalty	50.00
Duplicate	15.00
Certification	25.00
Funeral director apprentice:	
Apprentice application	75.00
Apprentice renewal	45.00
Duplicate license	15.00
Certification	25.00

Title of fee	Fee
Funeral establishment:	
Original application	350.00
Renewal	300.00
Branch registration and renewal	250.00
Preneed application	200.00
Preneed renewal:	
0-25 sales	25.00
26-99 sales	100.00
100 or more sales	150.00
Financial statement fee	50.00
Crematory endorsement registration	100.00
Crematory endorsement renewal \$50.00	((50.00))
<u>plus fifty cents per cremation performed during previous twelve-month period of June 1 to May 31.</u>	

WSR 91-08-033
PROPOSED RULES
POLLUTION LIABILITY
INSURANCE AGENCY

[Order 91-08—Filed March 29, 1991, 3:58 p.m.]

Original Notice.

Title of Rule: Chapter 374-50 WAC, Insurance eligibility assessment reimbursement.

Purpose: Provides for the program to cover the costs incurred in determining applicants' eligibility for pollution liability insurance.

Statutory Authority for Adoption: RCW 70.148.040.

Statute Being Implemented: Chapter 70.148 RCW as amended by chapter 64, Laws of 1990.

Summary: The rule provides for a program that covers the costs incurred in determining an applicants' eligibility for obtaining pollution liability insurance for their underground storage tanks.

Reasons Supporting Proposal: To determine that the state of Washington is reinsuring a viable risk.

Name of Agency Personnel Responsible for Drafting: Dick Roney, 1015 10th Avenue S.E., Olympia, WA, 586-5997; **Implementation and Enforcement:** James M. Sims, 1015 10th Avenue S.E., Olympia, WA, 586-5997.

Name of Proponent: Pollution Liability Insurance Agency, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 70.148 RCW provides... "The director may design the program to cover the costs incurred in determining whether a proposed applicant for pollution insurance under the program meets the underwriting standards of the insurer..." The rule therefore establishes a program in which the Pollution Liability Insurance Agency will participate in paying a portion of the costs incurred in testing a site for its insurability. In covering such costs, the director shall consider the financial resources of the applicant, shall take into consideration the economic impact of the discontinued use of the applicants' storage tank upon the affected community and shall provide such coverage within the revenue limits established.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Pollution Liability Insurance Agency, 1015 10th Avenue S.E., Olympia, WA 98504, on May 7, 1991, at 2:00 p.m.

Submit Written Comments to: James M. Sims, Director, Pollution Liability Insurance Agency, by May 6, 1991.

Date of Intended Adoption: May 8, 1991.

March 29, 1991
 James M. Sims
 Director

Chapter 374-50 WAC

INSURANCE ELIGIBILITY ASSESSMENT REIMBURSEMENT

NEW SECTION

WAC 374-50-010 **AUTHORITY AND PURPOSE.** This chapter is promulgated under the authority of RCW 70.148.040. Its purpose is to implement those provisions of RCW 70.148.035 relating to covering insurers' costs of determining the eligibility of applicants for pollution liability insurance under the pollution liability program.

NEW SECTION

WAC 374-50-020 **DEFINITIONS.** Unless the context requires otherwise, the following definitions shall apply:

(1) "Agency" means the pollution liability insurance agency created by chapter 70.148 RCW.

(2) "Director" means the director of the pollution liability insurance agency.

(3) "Insurer" means a commercial property and casualty insurance company or risk retention group with whom the agency has a contract to provide reinsurance.

(4) "Insurance eligibility assessment" means those actions required to determine the eligibility of an owner or operator for pollution liability insurance coverage by an insurer, including, but not limited to, evaluation of inventory control records, tightness testing of tanks and connected piping, soil sampling, and other physical or chemical tests.

(5) "Operator" means a person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank.

(6) "Owner" means a person who owns a petroleum underground storage tank.

(7) "Person" means an individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government or any department or agency of the federal government, or an Indian tribe or agency or entity of an Indian tribe.

(8) "Substantial economic impact" means elimination or substantial reduction of the availability of petroleum products or other goods or services in which petroleum products are a necessary part of the production or distribution process within a community or an area resulting from closure of one or more petroleum underground storage tanks.

NEW SECTION

WAC 374-50-030 **ELIGIBILITY FOR REIMBURSEMENT PROGRAM — WHO MAY APPLY.** Any person who is required to demonstrate financial responsibility for one or more petroleum underground storage tanks under 40 CFR Parts 280.90, 280.91, and 280.92 (the federal underground storage tank regulation), chapter 90.76 RCW, or other applicable laws, ordinances or rules AND who satisfies the criteria set forth in WAC 374-40-040 may apply for assistance in covering an insurer's costs of an insurance eligibility assessment under the program established by this chapter, except for:

(1) Persons whose compliance dates under 40 CFR Part 280.91 as now or hereafter amended, chapter 90.76 RCW or other laws, ordinances or rules precede the effective date of this chapter;

(2) The federal government or entities of the federal government;

(3) The State of Washington or entities of the State of Washington;

(4) Indian tribes or entities of Indian tribes;

(5) Counties, cities, towns, or special purpose districts including but not limited to fire districts, hospital districts, library districts, metropolitan park districts, park and recreation districts, and school districts, or entities of such governmental units; and

(6) Owners or operators of farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for non-commercial purposes.

NEW SECTION

WAC 374-50-040 ELIGIBILITY CRITERIA. (1) Persons eligible to apply for participation in the program established by this chapter must satisfy the following criteria:

(a) The applicant is eligible under WAC 374-50-030;

(b) The applicant is the owner or operator of one or more petroleum underground storage tanks located in the state of Washington;

(c) The applicant's tank or tanks are registered with the department of ecology and all required fees due under chapter 90.76 RCW, local ordinances if applicable, and any other applicable laws, ordinances or rules have been paid;

(d) The applicant is in compliance with all applicable technical and operating requirements under 40 CFR Part 280, Subparts B, C and D, applicable requirements of chapter 90.76 RCW and rules adopted thereunder, and other applicable laws, ordinances or rules effective on the date of application;

(e) The applicant is responsible for demonstrating financial responsibility for the tank or tanks under 40 CFR Parts 280.90, 280.91, and 280.92, chapter 90.76 RCW or other laws, ordinances or rules;

(f) The applicant has applied for pollution liability insurance from an insurer with whom the agency has a contract to provide reinsurance;

(g) The applicant affirms that he or she intends to purchase such insurance coverage if the tank, tanks, site, or sites to be insured satisfy the underwriting requirements of the insurer; and

(h) The applicant's net worth is five hundred thousand dollars or less, excepted as provided for in subsection (2) of this section.

(2) Additional consideration may be given to applications for reimbursement of insurance eligibility assessment costs when:

(a) The applicant fails to satisfy the net worth criterion in WAC 374-50-040 (1)(h), but can demonstrate through income tax returns or other acceptable means that such costs would result in unfair economic hardship; or

(b) The applicant demonstrates that closure of the petroleum underground storage tank or tanks would impose a substantial economic impact upon the community or area in which it is located.

NEW SECTION

WAC 374-50-050 REIMBURSEMENT LIMITS. (1) Insurers will be reimbursed for insurance eligibility assessment costs incurred on behalf of persons whose applications for participation in the program established by this chapter are approved according to the following schedule:

(a) For costs incurred on behalf of persons with net worth of two hundred fifty thousand dollars or less — seventy five percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of two thousand six hundred twenty five dollars;

(b) For costs incurred on behalf of persons with net worth greater than two hundred fifty thousand dollars but less than or equal to five hundred thousand dollars — fifty percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of one thousand seven hundred fifty dollars;

(c) For costs incurred on behalf of persons with net worth greater than five hundred thousand dollars whose applications for participation in this program have been accepted on the basis of WAC 374-50-040(2) — twenty five percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of eight hundred seventy five dollars.

(2) Within the limits of subsection (1) of this section, reimbursement for the following specific insurance eligibility assessment costs will be made at the indicated percentages of the following maximum amounts.

(a) Inventory control records evaluation — one hundred fifty dollars per site;

(b) Tank tightness testing — five hundred dollars per tank;

(c) Line tightness testing — one hundred fifty dollars per product line; and

(d) Soil or groundwater sampling — two hundred fifty dollars per sample.

(3) It is the intent of the program established by this chapter to assist as many owners or operators of petroleum underground storage tanks with limited economic resources as possible. Therefore, not more than one application for participation in the program established by this chapter will be approved for each such natural person or entity, regardless of the number of underground storage tanks owned or operated, whether directly or indirectly.

NEW SECTION

WAC 374-50-060 PROGRAM SCHEDULE. (1) The program established by this chapter will proceed according to the following schedule:

(a) Applications will be accepted by the agency beginning on December 1, 1990.

(b) Applications from persons with a financial responsibility compliance date of April 26, 1991 will be accepted until March 31, 1991.

(c) Applications from persons with a financial responsibility compliance date of October 26, 1991 will be accepted until September 30, 1991.

(d) No additional applications will be accepted after September 30, 1991 except by order of the director.

(2) Approval of applications and payments are contingent upon the availability of revenue. The director reserves the right to order termination of the program at any time that reimbursement commitments or payments exhaust the revenue available for the reimbursement.

NEW SECTION

WAC 374-60-070 APPLICATION PROCEDURE. (1) Information concerning the insurance eligibility assessment cost reimbursement program and forms or materials necessary for application may be obtained from:

Pollution Liability Insurance Agency
1015 - 10th Street, S.E.
Mail Stop EN - 12
Olympia, Washington 98504

(2) Application for participation in the program established by this chapter requires preparation and submission of the following:

(a) A completed asset and liability statement on a form provided by the agency;

(b) A statement of intent to purchase pollution liability insurance if the insurer's underwriting requirements are satisfied accompanied by a copy of the insurance application; and

(c) A statement from the potential insurer listing the underwriting tests and evaluations required.

(3) The agency will act upon applications as expeditiously as feasible unless additional information is required. If this is the case, the applicant will be notified and the application will be acted upon as expeditiously as feasible after receipt of the required additional information by the agency.

(4) Applicants and insurers will be notified of agency approval or disapproval by return mail. Persons whose applications are disapproved will be informed of the reason for such action.

(5) An applicant who disagrees with disapproval of his or her application may request review of the agency decision by the director. The applicant will be notified by mail of the director's decision as expeditiously as feasible after receipt by the agency of the request for review unless additional time is required. If additional time is required in order for the review to be completed, the applicant will be notified by mail.

NEW SECTION

WAC 374-50-080 PAYMENT OF REIMBURSEMENT. (1) Reimbursement of insurers for approved insurance eligibility assessment costs incurred on behalf of applicants accepted under the program established by this chapter will be made as expeditiously as feasible after receipt by the agency of the following information:

(a) A copy of the notification of agency approval of the applicant's application for the program established by this chapter;

(b) A copy of the invoice from the person or firm performing the insurance eligibility assessment services with a breakdown showing the cost of each test or service performed separately and an indication

thereon, or by separate receipt, that payment in full has been made by the insurer;

(c) A copy of the completed assessment report; and

(d) A copy of the face sheet of an issued pollution liability insurance policy if the applicant's tank, tanks, site or sites have satisfied the insurer's underwriting requirements.

(2) Persons on whose behalf reimbursement under the program created by this chapter has been made are required to maintain their insurance coverage in force for at least one year. If insurance coverage is not maintained for this period, the person is required to return a pro rata share of the reimbursement to the agency, with the share being that fraction of one year for which insurance coverage was not maintained in force.

(3) Persons who have applied for insurance in good faith but whose tank, tanks, site, or sites fail to satisfy the insurer's underwriting requirements will not be required to return reimbursement payments.

NEW SECTION

WAC 374-50-090 OTHER RESTRICTIONS. (1) Persons whose applications for the program established by this chapter are accepted will be responsible for the cost of all fuels or products required for tank or connected piping tightness testing.

(2) All testing and sampling must be performed by persons who are registered with and licensed by the Washington department of ecology. Until the licensing program is fully implemented, all testing and sampling will be done by a qualified hydrogeologist, geologist, licensed professional engineer, professional soil scientist, certified groundwater professional, or other qualified professional as determined by the department of ecology.

**WSR 91-08-034
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed March 29, 1991, 4:12 p.m.]**

Original Notice.

Title of Rule: WAC 388-83-033 Children—Eligible to eighteen years of age.

Purpose: To incorporate the increase standards level required by the 1991 federal poverty income guidelines.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The income standards are increased accordingly as to the percentage of increase in the general poverty income guidelines.

Reasons Supporting Proposal: Incorporate the 1991 federal poverty income guidelines that were issued on February 19, 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on May 7, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by May 7, 1991.

Date of Intended Adoption: May 21, 1991.

March 29, 1991

Rosemary Carr

Acting Director

Administrative Services

AMENDATORY SECTION (Amending Order 3105, filed 11/30/90, effective 12/31/90)

WAC 388-83-033 CHILDREN—ELIGIBLE TO EIGHTEEN YEARS OF AGE. (1) The department shall find a child who has not yet attained eighteen years of age eligible for Medicaid when the child meets citizenship, residence, and enumeration requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) A child born before October 1, 1983, who attains seven years of age, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income and resources are equal to or less than the AFDC income and resource standards;

(b) A child born after September 30, 1983, who attains six years of age, but has not attained eight years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. One hundred percent of the ((+1990)) 1991 poverty income guidelines is:

	FAMILY SIZE	MONTHLY
(i)	One	\$ ((523)) 552
(ii)	Two	\$ ((702)) 740
(iii)	Three	\$ ((880)) 928
(iv)	Four	\$ ((+058)) 1,117
(v)	Five	\$ ((+237)) 1,305
(vi)	Six	\$ ((+415)) 1,493
(vii)	Seven	\$ ((+593)) 1,682
(viii)	Eight	\$ ((+772)) 1,870

(ix) For family units with more than eight members, add \$((+78)) 188 to the monthly income for each additional member.

(c) A child who attains one year of age, but has not attained six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred thirty-three percent of the ((+990)) 1991 federal poverty income guidelines is:

	FAMILY SIZE	MONTHLY
(i)	One	\$ ((696)) 734
(ii)	Two	\$ ((933)) 984
(iii)	Three	\$ ((+170)) 1,234
(iv)	Four	\$ ((+408)) 1,486
(v)	Five	\$ ((+645)) 1,736
(vi)	Six	\$ ((+882)) 1,986
(vii)	Seven	\$ ((+119)) 2,237
(viii)	Eight	\$ ((+356)) 2,487

(ix) For family units with more than eight members, add \$((237)) 250 to the monthly income for each additional member.

(d) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the ((+990)) 1991 federal poverty income guidelines. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household and the mother remains eligible for medical assistance.

(b) Not consider citizenship, enumeration, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or enumeration, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the ((+990)) 1991 federal poverty income guidelines. See income guidelines as described under subsection (1)(b) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section except in subsection (1)(a) of this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

WSR 91-08-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed March 29, 1991, 4:15 p.m.]

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by May 7, 1991.

Date of Intended Adoption: May 21, 1991.

March 29, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

AMENDATORY SECTION (Amending Order 3060, filed 8/23/90, effective 9/23/90)

WAC 388-82-160 HOSPITAL PREMIUM INSURANCE ENROLLMENT FOR THE WORKING DISABLED. The department shall pay premiums for Medicare Part A for an individual:

(1) Who is not otherwise entitled for medical assistance;

(2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act;

(3) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC for an individual or a couple (individual with a spouse); and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding two hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. Two hundred percent of the ((+990)) 1991 poverty income guidelines is:

	Family Size	Monthly
(a)	One	\$((+046.00)) 1,104.00
(b)	Two	((+404.00)) 1,480.00

(c) For family units with three members or more, add \$((356.00)) 376.00 to the monthly income for each additional member.

WSR 91-08-036
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3156—Filed March 29, 1991, 4:17 p.m., effective April 1, 1991]

Date of Adoption: March 29, 1991.

Purpose: To incorporate the increase standards level required by the 1991 federal poverty income guidelines.

Citation of Existing Rules Affected by this Order: Amending WAC 388-82-160 Hospital premium insurance enrollment for the working disabled.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: [No information supplied by agency.]

Effective Date of Rule: April 1, 1991, 12:01 a.m.

March 29, 1991
 Rosemary Carr
 Acting Director
 Administrative Services

Original Notice.

Title of Rule: WAC 388-82-160 Hospital premium insurance enrollment for the working disabled.

Purpose: To incorporate the increase standards level required by the 1991 federal poverty income guidelines.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: The income standards are increased to \$1,103 for a one person family and to \$1,480 for a two person family. \$377 is added for three or more for each family member.

Reasons Supporting Proposal: Incorporate the 1991 federal poverty income guidelines that was issued on February 19, 1991.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance, 753-0529.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on May 7, 1991, at 10:00 a.m.

AMENDATORY SECTION (Amending Order 3060, filed 8/23/90, effective 9/23/90)

WAC 388-82-160 HOSPITAL PREMIUM INSURANCE ENROLLMENT FOR THE WORKING DISABLED. The department shall pay premiums for Medicare Part A for an individual:

- (1) Who is not otherwise entitled for medical assistance;
- (2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act;
- (3) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC for an individual or a couple (individual with a spouse); and
- (4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding two hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. Two hundred percent of the ((+990)) 1991 poverty income guidelines is:

	Family Size	Monthly
(a)	One	\$((+046.00))
<u>1,104.00</u>		
(b)	Two	((+404.00))
<u>1,480.00</u>		

(c) For family units with three members or more, add \$((+356.00)) 376.00 to the monthly income for each additional member.

**WSR 91-08-037
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3157—Filed March 29, 1991, 4:20 p.m., effective April 1, 1991]

Date of Adoption: March 29, 1991.

Purpose: To incorporate the increase standards level required by the 1991 federal poverty income guidelines.

Citation of Existing Rules Affected by this Order: Amending WAC 388-83-033.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To incorporate the 1991 federal poverty income guidelines that were issued on February 19, 1991.

Effective Date of Rule: April 1, 1991.

March 29, 1991
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 3105, filed 11/30/90, effective 12/31/90)

WAC 388-83-033 CHILDREN—ELIGIBLE TO EIGHTEEN YEARS OF AGE. (1) The department shall find a child who has not yet attained eighteen years of age eligible for Medicaid when the child meets citizenship, residence, and enumeration requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

- (a) A child born before October 1, 1983, who attains seven years of age, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income and resources are equal to or less than the AFDC income and resource standards;
- (b) A child born after September 30, 1983, who attains six years of age, but has not attained eight years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. One hundred percent of the ((+990)) 1991 poverty income guidelines is:

FAMILY SIZE MONTHLY

(i)	One	\$ ((523))	<u>552</u>
(ii)	Two	\$ ((702))	<u>740</u>
(iii)	Three	\$ ((880))	<u>928</u>
(iv)	Four	\$ ((+058))	<u>1,117</u>
(v)	Five	\$ ((+237))	<u>1,305</u>
(vi)	Six	\$ ((+415))	<u>1,493</u>
(vii)	Seven	\$ ((+593))	<u>1,682</u>
(viii)	Eight	\$ ((+772))	<u>1,870</u>

(ix) For family units with more than eight members, add \$((+78)) 188 to the monthly income for each additional member.

(c) A child who attains one year of age, but has not attained six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred thirty-three percent of the ((+990)) 1991 federal poverty income guidelines is:

FAMILY SIZE MONTHLY

(i)	One	\$ ((696))	<u>734</u>
(ii)	Two	\$ ((933))	<u>984</u>
(iii)	Three	\$ ((+170))	<u>1,234</u>
(iv)	Four	\$ ((+408))	<u>1,486</u>
(v)	Five	\$ ((+645))	<u>1,736</u>
(vi)	Six	\$ ((+882))	<u>1,986</u>
(vii)	Seven	\$ ((+119))	<u>2,237</u>
(viii)	Eight	\$ ((+356))	<u>2,487</u>

(ix) For family units with more than eight members, add ~~\$(237)~~ 250 to the monthly income for each additional member.

(d) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the ~~((1990))~~ 1991 federal poverty income guidelines. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household and the mother remains eligible for medical assistance.

(b) Not consider citizenship, enumeration, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or enumeration, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the ~~((1990))~~ 1991 federal poverty income guidelines. See income guidelines as described under subsection (1)(b) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section except in subsection (1)(a) of this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

WSR 91-08-038
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 91-07—Filed March 29, 1991, 4:28 p.m.]

Date of Adoption: March 29, 1991.

Purpose: To set forth policies and procedures governing the running start program.

Citation of Existing Rules Affected by this Order: WAC 392-121-184.

Statutory Authority for Adoption: RCW 28A.600.390.

Pursuant to notice filed as WSR 91-04-088 on February 6, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 29, 1991
 Judith A. Billings
 Superintendent of
 Public Instruction

NEW SECTION

WAC 392-121-184 RUNNING START PROGRAM REQUIREMENTS. The provisions of this chapter shall govern the substantiation of claims for running start program basic education allocation moneys to the extent the provisions of this chapter supplement and do not conflict with the provisions of chapter 392-127 WAC. See the special running start program definitions of full-time equivalent students in WAC 392-127-715 through 392-127-725, enrollment limitations in WAC 392-127-775, and related finance reporting requirements and limitations in WAC 392-127-795 through 392-127-820.

WSR 91-08-039
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Order 91-06—Filed March 29, 1991, 4:42 p.m.]

Date of Adoption: March 29, 1991.

Purpose: To revise allowable activities and objects for educational service district expenditures of 1990-91 Early intervention services moneys.

Citation of Existing Rules Affected by this Order: Amending WAC 392-140-257.

Statutory Authority for Adoption: RCW 28A.150.290.

Pursuant to notice filed as WSR 91-04-089 on February 6, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 29, 1991
 Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 36, filed 11/15/90, effective 12/16/90)

WAC 392-140-257 1990-91 EARLY INTERVENTION SERVICES ALLOCATION—DEFINITION—ALLOWABLE EXPENDITURES FOR 1990-91 EARLY INTERVENTION AND PREVENTION SERVICES. As used in WAC 392-140-250 through 392-140-267 "allowable expenditures for 1990-91 early intervention and prevention services" means expenditures meeting the following requirements:

(1) Expenditures are for services provided during the 1990-91 school year which include but are not limited to

services provided by school counselors, school psychologists, school nurses, school social workers, licensed mental health professionals, child psychiatrists, appropriate health care providers, and social service caseworkers or social workers on contract.

(2) Expenditures are for additional staff, to contract for staff or services, or to conduct training related to the district's early intervention and prevention program.

(3) Direct expenditures are accounted for as follows:

(a) School district expenditures are accounted for in the following program and activity combinations as defined in the Accounting Manual for Public School Districts in the State of Washington:

- (i) Program: 58 - Special and pilot programs
- (ii) Activity: 21 - Supervision-instruction
24 - Guidance and counseling
25 - Psych-speech-hearing
26 - Health services

(b) Educational service district expenditures are accounted for in the following program, activity, and object of expenditure combinations as defined in the Accounting Manual for Educational Service Districts in the State of Washington:

- (i) Program: 40 - Student counseling and testing
- (ii) Activity: 21 - Staff development
(~~51 - Supervision and coordination~~)
98 - General support
- (iii) Any object of expenditure but(~~:~~
~~0 - Debit transfer~~)
1 - Credit transfer

(4) Reasonable indirect expenditures attributable to early intervention and prevention services can be charged to the program.

WSR 91-08-040

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 90-56-Filed April 1, 1991, 9:10 a.m.]

Date of Adoption: April 1, 1991.

Purpose: This rule implements the collection of a \$35.00 annual fee from known and potential hazardous waste generators, and an additional fee from large quantity hazardous waste generators and hazardous substance users.

Citation of Existing Rules Affected by this Order: Amending chapter 173-305 WAC.

Statutory Authority for Adoption: Chapter 70.95E RCW.

Pursuant to notice filed as WSR 90-22-086 on November 6, 1990.

Changes Other than Editing from Proposed to Adopted Version: All changes are for editing, clarification, or an expanded explanation of what is required and/or how it is to be provided. No substantive changes were made.

Effective Date of Rule: Thirty-one days after filing.

April 1, 1991

Fred Olson

Deputy Director

AMENDATORY SECTION (Amending Order DE-83-38, filed 2/7/84)

WAC 173-305-010 PURPOSE. This ((chapter)) rule implements the provisions of chapter ((70.105A RCW (chapter 65, Laws of 1983 1st ex. sess.))) 70.95E RCW, establishing a means for funding ((hazardous waste control activities)) technical assistance and compliance education assistance to hazardous substance users and waste generators in this state. Technical assistance includes but is not limited to assistance in the preparation of plans and review of plans and related documents. The purpose of this chapter is to describe the methods by which the department of ecology will assess certain fees, to whom ((the)) fees will be assessed, the amount of such fees, provisions for exemption from and enforcement of fee assessments, ((coordination between)) responsibilities of the departments of ecology and revenue, and procedures for adjusting the fee(s). Copies of all rules, regulations, or statutes cited in this chapter are available from the Department of Ecology, Mailstop PV-11, Olympia, WA, 98504-8711.

AMENDATORY SECTION (Amending Order DE 83-38, filed 2/7/84)

WAC 173-305-015 APPLICABILITY. ((+ Gen-erat.)) The requirements of WAC 173-305-010 through ((173-305-020 and 173-305-080 through 173-305-090)) 173-305-120 apply to all persons who ((generate, recycle, transfer, treat, store, or dispose of hazardous wastes in this state.

~~(2) Generators:~~

~~(a) The requirements of WAC 173-305-030 through 173-305-050 apply only to those persons utilizing or operating identified sites.~~

~~(b) The requirements of WAC 173-305-030 through 173-305-050 do not apply to:~~

~~(i) Any person who is exclusively a small quantity generator (as described in chapter 173-303 WAC) during a calendar year;~~

~~(ii) Any person who accepts hazardous waste only from small quantity generators (as described in chapter 173-303 WAC) and who then sends such hazardous waste off-site in accordance with chapter 173-303 WAC, provided that the person does not originate his own hazardous waste; and~~

~~(iii) Any hazardous waste generated by a facility which is operating, for such hazardous waste, as a transfer facility under a permit administered pursuant to chapter 173-303 WAC, if such hazardous waste does not originate at the facility and has not been stored at the facility for more than one year.~~

For the purposes of (b) of this subsection, a person or facility originates a hazardous waste if such hazardous waste occurs as a result of a physical, chemical or biological process performed by the person or at the facility. A hazardous waste is not originated if, when it leaves a site, it is the same as when it arrived.

~~(3) Facilities. The requirements of WAC 173-305-060 through 173-305-070 apply only to those persons who operate facilities which are subject to a permit administered pursuant to chapter 173-303 WAC.~~

~~(4) Exclusions. The requirements of this chapter do not apply to:~~

~~(a) Hazardous wastes which are not subject to regulations adopted pursuant to chapter 70.105 RCW;~~

~~(b) Radioactive wastes; or~~

~~(c) Wastes generated primarily from the combustion of coal or other fossil fuels)) are known or potential generators, including state and local entities as well as instrumentalities of the United States. The requirements of WAC 173-305-010 through 173-305-050 and 173-305-210 through 173-305-240 apply to all persons required to prepare plans under RCW 70.95C.200.~~

AMENDATORY SECTION (Amending Order DE 83-38, filed 2/7/74)

WAC 173-305-020 DEFINITIONS. Any terms not specifically defined in this section shall, for the purposes of this chapter, have the same meaning as given in WAC 173-303-040. The following terms are defined for the purposes of this chapter:

~~((1)) "Annual gross income" of a business means the value proceeding or accruing during a calendar year by reason of the transaction of the business or service engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses)) "Additional fee" means the annual fee imposed under chapter 70.95E RCW against hazardous generators and hazardous substance users required to prepare plans;~~

~~"Base fee" means the annual fee imposed under chapter 70.95E RCW against known and potential generators of hazardous waste doing business in the state of Washington;~~

~~((2)) "Business activities" means activities of any person ((subject to the generator fee of WAC 173-305-030 and)) who is "engaging in business" as ((this)) the term is defined in chapters 82.04 and 82.16 RCW;~~

~~((3)) "Combined site" means any location which is both a facility and an identified site (as these terms are defined in this section);~~

~~(4)) "Dangerous waste" ((shall have the same definition as set forth in RCW 70.105.010(5) and)) means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes;~~

~~Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or~~

~~Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.~~

Dangerous wastes shall specifically include those wastes designated as dangerous by ((rules adopted pursuant to)) chapter ((70.105-RCW)) 173-303 WAC;

~~((5)) "Department" means the department of ecology;~~

"Emissions" means the substances released to the environment which must be reported under toxic chemical release reporting, 40 CFR Part 372;

"EPA/state identification number" means the number assigned by the environmental protection agency (EPA) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility;

~~((6)) "Extremely hazardous waste" ((shall have the same definition as set forth in RCW 70.105.010(6) and)) means any dangerous waste which:~~

Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:

Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife; and

Is highly toxic to man and wildlife;

If disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.

Extremely hazardous waste shall specifically include those wastes designated as extremely hazardous by ((rules adopted pursuant to)) chapter ((70.105-RCW)) 173-303 WAC;

~~((7)) "Facility" means ((all contiguous land, and structures, other appurtenances and improvements on the land used for recycling, transferring, treating, storing, or disposing of hazardous waste;~~

~~(8) "Fee" means the annual hazardous waste control and elimination assessment fee imposed under RCW 70.105A.030 and the fee for treatment, storage, and disposal facilities imposed under RCW 70.105A.040)) any geographical area that has been assigned an EPA/state identification number or in the case of a hazardous substance user, means all buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person;~~

~~((9)) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation;~~

~~((10)) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes but for the purposes of this chapter excludes all radioactive wastes or substances composed of both radioactive and hazardous components;~~

~~((11)) "Identified site" means the same or geographically contiguous property, which may be divided by a public or private right of way, provided that access between the properties occurs at an intersection and crosses, as opposed to goes along, the right of way. Noncontiguous properties owned by the same person but connected by a right of way will be considered a single identified site if the person controls the right of way and can prevent public access. For the purposes of this chapter, a property (or properties) will be an identified site~~

only if it meets the conditions described above in this subsection, and only if hazardous waste is generated there during a calendar year;

(12) "Interrelated facility" means multiple facilities owned or operated by the same person;

"Known generators" means persons that have notified the department, have received an EPA/state identification number and generate quantities of hazardous waste regulated under chapter 70.105 RCW.

"Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal organization;

((13) "SIC" means standard industrial classification and refers to the four digit numbers assigned to business activities from the federal Office of Management and Budget's "Standard Industrial Classification Manual," revised 1983;

(14) "Ton" means two thousand pounds; and

(15) "Manufacturer," "retailer," "wholesaler," and "person engaging in service activities" shall have the meanings attributed to such terms in chapter 82.04 RCW and shall include all persons taxable for such activities under that chapter.) "Plan" means the plan provided for in RCW 70.95C.200;

"Potential generators" means all persons whose primary business activities are identified by the department to be likely to generate any quantity of hazardous wastes.

"Price deflator" means the United States Department of Commerce Bureau of Economic Analysis, "Implicit Price Deflator for Gross National Product" for "Government Purchases of Goods and Services," for "State and Local Government."

"Primary business activity" means a business activity which accounts for more than fifty percent of a business' total gross receipts or in the case of more than two business activities, the activity which has the largest gross receipts. Where a business engages in multiple activities and one or more of those activities generate hazardous waste, the gross receipts from all waste generating activities will be combined to determine their ratio to the total gross receipts of the business.

"Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include:

Use constituting disposal;

Incineration; or

Use as a fuel.

"Substantially similar processes" means processes that are essentially interchangeable, inasmuch as they use similar equipment and materials and produce similar products or services and generate similar wastes.

"Waste generation site" means any geographical area that has been assigned an EPA/state identification number.

AMENDATORY SECTION (Amending Order DE 83-38, filed 2/7/84)

WAC 173-305-030 ((GENERATOR)) PENALTY FOR FAILURE TO PAY THE FEE((S)). ((This section describes the methods and criteria by which the department will: Determine the business activities that will be assessed generator fees (subsection (1) of this section); determine and apportion annual gross income (subsection (2) of this section); develop the generator fee schedule (subsection (3) of this section); assess fees (subsection (4) of this section); and provide for exemption from or reduction of a fee (subsection (5) of this section):

(1) Selection of businesses and generators. This subsection describes how the department will select those individuals and businesses who will be assessed a generator fee:

(a) List of business activities. The legislature provided the following list of business activities which may be assessed a generator fee:

(i) Exploring for, extracting, beneficiating, processing, or selling metallic or nonmetallic minerals;

(ii) Exploring for, extracting, processing, or selling coal;

(iii) Producing, distributing, or selling electricity;

(iv) Industrial or nonresidential contracting or heavy construction;

(v) Painting or sandblasting;

(vi) Producing, processing, or selling rubber or plastics;

(vii) Producing, processing, or selling glass, cement, or concrete;

(viii) Cutting, milling, producing, preparing, or selling lumber or wood products, including wooden furniture or fixtures;

(ix) Producing, preparing, or selling paper or allied products;

(x) Printing or publishing;

(xi) Synthesizing, producing, processing, preparing, or selling chemicals or allied products;

(xii) Exploring for, extracting, producing, processing, distributing, or selling petroleum or gas;

(xiii) Fabricating rubber or plastic products;

(xiv) Beneficiating, processing, or selling primary or secondary metals;

(xv) Fabricating metal products, including metal furniture or fixtures;

(xvi) Fabricating, constructing, preparing, installing, or selling machinery or supplies;

(xvii) Fabricating, constructing, installing, preparing, or selling electrical or electronic equipment, machinery, or supplies;

(xviii) Fabricating, producing, preparing, or selling transportation equipment;

(xix) Transporting by railroad, motor vehicle, or water vessel;

(xx) Telephone communication;

(xxi) Drycleaning, photofinishing, or furniture refinishing;

(xxii) Transferring, treating, storing, or disposing of solid, dangerous, or extremely hazardous wastes; and

(xxiii) ~~Repairing or servicing motor vehicles, railroad equipment, or water vessels.~~

(b) ~~Selecting businesses for assessment. The department will select businesses for assessing fees as described in this subsection. In general, two different mechanisms will be used to identify those persons who will be assessed a fee. For the purposes of this chapter, the groups selected by these two mechanisms will be named: Specific businesses (procedures for selection are described in (b)(i) of this subsection); and nonspecific businesses (procedures for selection are described in (b)(ii) of this subsection).~~

(i) ~~Specific businesses. Any person who has notified pursuant to chapter 173-303 WAC as a generator of hazardous wastes and who utilizes or operates an identified site will be assessed a generator fee.~~

(ii) ~~Nonspecific businesses. The department will develop a list of businesses by standard industrial classification (SIC) numbers. This list appears in WAC 173-305-040 and will be developed on the following bases:~~

(A) ~~The businesses are included in the legislative list of subsection (1)(a) of this section; and~~

(B) ~~The information on specific businesses that have notified and reported as hazardous waste generators supports the inclusion of SIC numbers on the list.~~

~~The department of revenue will provide the names and addresses of businesses which conduct activities specified in the SIC list as requested by the department of ecology. The department of ecology will notify these businesses in writing that they have been identified as possible generators of hazardous waste. They will be requested to submit to the department of ecology within thirty days either a written description of their wastes (including but not limited to type, source and quantity for each waste), or else a signed and dated certification that they do not generate hazardous waste. The certification will be as follows:~~

~~"I certify that I am familiar with the requirements of chapter 173-303 WAC, Dangerous waste regulations, and with the waste designation procedures thereof, and that I do not believe any of my wastes to be hazardous wastes based on my own knowledge and on my inquiry of those individuals responsible for performing such hazardous waste designation procedures."~~

~~The department of ecology will use the information submitted by the nonspecific businesses, and any other pertinent information, to determine which of those businesses are subject to a generator fee. If a person certifies that his business does not generate hazardous waste, then he will not be assessed a fee. If a person submits information which shows that he generates a hazardous waste, then he will be assessed a generator fee calculated according to the procedures for specific businesses, with the information he has submitted being used in lieu of an annual report. If a person does not submit either a certification or information on his wastes, then the department of ecology will conclude that he is utilizing or operating an identified site and he will be assessed a~~

~~generator fee calculated according to the procedures for nonspecific businesses.~~

(c) ~~Identified sites. For the purposes of this chapter, no property will be an identified site unless hazardous waste is generated there during a calendar year. Each identified site will be assessed one fee annually, the size of the fee to depend on the risk and quantity of the hazardous wastes generated there and the apportioned annual gross income of the site (see subsections (2) and (3) of this section). If one person utilizes or operates more than one identified site, he will be responsible for all fees assessed to his identified sites. To a reasonable extent, the department will attempt to determine all identified sites owned or operated by the same person. However, the department's inability to detect all identified sites owned or operated by the same person will not delay the issuance of assessments, nor will it form a just cause for refusal to pay an assessed fee.~~

(2) ~~Annual gross income (AGI); apportionment.~~

(a) ~~Annual gross income. AGI for each person's assessed business will be obtained from the department of revenue. The AGI obtained from the department of revenue for persons whose business activities earn income without as well as within the state will reflect the portion of total AGI attributable to activities within the state. Such attribution will be calculated pursuant to chapters 82.04 and 82.16 RCW. AGI reported to the department of ecology shall be used solely for the purpose of determining fee amounts. Confidentiality of AGI shall be maintained in accordance with department of revenue laws, regulations, and procedures.~~

(b) ~~Apportionment. Except as otherwise provided in (b)(ii) and (iii) of this subsection, the department shall apportion AGI for specific businesses among identified sites utilized or operated by an assessed person as described in (b)(i) of this subsection. In the case of nonspecific businesses, the person's AGI will be apportioned as if he had only one identified site, except as provided in subsection (5) of this section. Whenever an apportioned AGI is calculated to a fraction of a cent, the figure will be rounded to the nearest whole cent (e.g., \$27,611.5235 would be rounded to \$27,611.52).~~

(i) ~~The department will apportion AGI equally among a person's identified sites without regard to the amount or nature of business at the sites. This will be done by dividing the total AGI for the assessed person by the number of his identified sites. For example:~~

(A) ~~AGI reported for a person's business is \$7,252,320.18. The person utilizes four identified sites to conduct his activities. Thus, the apportioned AGI for each identified site would be \$1,813,080.05;~~

(B) ~~AGI reported for a person's business is \$58,112.45. His business is conducted at two locations, but only one is an identified site. Therefore, the apportioned AGI for his identified site would be \$58,112.45.~~

(ii) ~~Any person who is subject to a fee may request, through the procedure described in subsection (5) of this section, that the department reapportion AGI among his identified sites according to each identified site's share of AGI. His total AGI will still be apportioned only among~~

his identified sites. The share of his total AGI reapportioned to an identified site will be determined by multiplying his total AGI by a factor derived from dividing the AGI contributed from the identified site to the total AGI by the AGI contributed from all of his identified sites. The following formula will be used:

$$AGI(R) = AGI \times \frac{AGI(IS)}{AGI(TIS)}$$

Where

- AGI(R) = The share of AGI that will be reapportioned to an identified site
- AGI = Total AGI attributable to the person's business in the state
- AGI(IS) = The AGI contributed by the identified site to the total AGI
- AGI(TIS) = The sum of the AGI contributed by all of the person's identified sites

The following example shows how this reapportionment will work.

A generator's AGI for a calendar year is \$35,254,378.12. During that calendar year, he operates three identified sites at which hazardous wastes are generated. For this example, these sites will be identified as SA, SB, and SC. Site SA contributes \$5,464,212.04 to the generator's total AGI, site SB contributes \$2,372,011.09, site SC contributes \$675,283.87, and the balance of his AGI comes from other properties which are not identified sites. The sum of the AGI contributed by his three identified sites, AGI(TIS), is \$8,511,507.00. The share of the generator's AGI that will be reapportioned to site SA is calculated as $(\$35,254,378.12) \times (\$5,464,212.04 \div \$8,511,507.00) = \$22,632,584.03$. For site SB the reapportionment is calculated as $(\$35,254,378.12) \times (\$2,372,011.09 \div \$8,511,507.00) = \$9,824,790.82$. For site SC, the reapportionment is calculated as $(\$35,254,378.12) \times (\$675,283.87 \div \$8,511,507.00) = \$2,797,003.27$. Thus, site SA would be in the greater than \$10,000,000 AGI category, and sites SB and SC would be in the \$1,000,000 to \$10,000,000 AGI category.

The department will review a generator's request for reapportionment submitted under subsection (5) of this section, and based on information provided by the person requesting reapportionment, will determine the extent and amount of AGI to be reapportioned among his identified sites. The department will not grant reapportionment until all information reasonably necessary to do so has been provided to the department. The information which a person requesting reapportionment must provide will be specified by the department in writing to the person after the department has received his request.

(iii) The department may, on its own, initiate the reapportionment of an assessed person's AGI according to the share of total AGI contributed by each of his identified sites. To determine his reapportionment, the department will specify in writing to the person the information necessary to perform such reapportionment. The

department may, if it chooses, waive payment of a generator fee, or of penalties or both until reapportionment is complete.

(3) Criteria for generator fee amount. This subsection describes the specific risk classes for generators, provisions for modifying risk classes in certain cases, and general parameters for fee amounts. The specific generator fee amounts are established in WAC 173-305-040 and are related to the risk classes and general fee parameters set forth in this subsection:

(a) Generator fee parameters. Except as provided in WAC 173-305-080 and 173-305-090, the generator fee assessed for an identified site during a calendar year will not exceed:

(i) \$150.00 for each identified site with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each identified site with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each identified site with an apportioned annual gross income in excess of ten million dollars.

(b) Generator risk class. Seven generator risk classes are established. The risk classes shall be identified as G1, G2, G3, G4, G5, G6, and G7, and are graduated with G1 representing the lowest risk and G7 representing the highest risk. The classes depend on the type(s) of hazardous waste (extremely hazardous waste (EHW) or dangerous waste (DW)) and quantities generated at an identified site. The generator risk classes are defined as follows:

(i) G1—less than 1.0 ton of DW in a calendar year;

(ii) G2—less than 0.1 ton of EHW, or 1.0 ton or more but less than 2.0 tons of DW in a calendar year;

(iii) G3—0.1 ton or more but less than 0.2 ton of EHW, or 2.0 tons or more but less than 3.5 tons of DW in a calendar year;

(iv) G4—0.2 ton or more but less than 0.35 ton of EHW, or 3.5 tons or more but less than 5.5 tons of DW in a calendar year;

(v) G5—0.35 ton or more but less than 0.55 ton of EHW, or 5.5 tons or more but less than 23.5 tons of DW in a calendar year;

(vi) G6—0.55 ton or more but less than 2.35 tons of EHW, or 23.5 tons or more of DW in a calendar year; and

(vii) G7—2.35 tons or more of EHW in a calendar year.

(c) Assigning generator risk class. The department will assign the highest applicable generator risk class to an identified site. For example, if a person generates in a calendar year 150 pounds of EHW (risk class G2) and 20 tons of DW (risk class G5), his identified site will be assigned the generator risk class G5. The department may, on a case-by-case basis, determine that an identified site poses a greater risk than is reflected by the types and annual quantities of hazardous waste generated at the site. The department may make such a determination after considering the nature of the wastes generated, the proximity of the identified site to population centers, potential for release of the hazardous waste to the air,

land, or surface or ground water, and the safety of the generating and handling practices at the identified site. If the department makes such a determination, then it will assign a risk class that is one level higher than the risk class that would be assigned solely on the basis of waste types and quantities generated at the identified site. However, no risk class higher than G7 will ever be assigned. For example, an identified site might generate 1.2 tons of EHW, and thus have a generator risk class of G5. However, the department may assign the site a risk class of G6 (one class higher) because the site generates nerve gas wastes and is located over a sole source aquifer in the core of a major city. Upon reassigning a generator risk class to an identified site, the department will notify the person who utilizes or operates the site of his site's new risk class. Such notification will be in writing and will be included as part of the generator fee statement.

(4) Assessment of generator fees. This subsection describes the procedures for assessing generator fees.

(a) Generator fees will be assessed by the issuance of generator fee statements to persons whose businesses are selected for assessment pursuant to subsection (1) of this section. The department of ecology will provide a list of the businesses to be assessed to the department of revenue. The department of revenue will then prepare and send out the statements of generator fees, and will keep records on who has paid, how much was paid, who is late and, upon notice from the department of ecology, who has been exempted or whose fee has been reduced. If a second generator fee statement is necessary, due to exemption, reduction, reapportionment, etc., the department of ecology will provide the new information to the department of revenue, which will prepare and send out the second statement. A generator fee will be considered paid only after a valid check or money order for the full fee and any accrued interest has been delivered to the department of revenue.

(b)(i) A generator fee will be owed for each calendar year that a person utilizes or operates one or more identified sites. Generator fee statements will be issued by May 31 each year for fees owed for the preceding calendar year. The due date for payment of generator fees is June 30. This due date will be changed for the following reasons:

(A) As provided in subsection (5)(d) of this section, for each person who submits a request for waiver of fee; or

(B) In the event that generator fee statements are not issued by May 31 of a given year, or for fee statements issued pursuant to (b)(ii) of this subsection, the due date will be thirty days after those generator fee statements are issued for that year.

Any person who still owes a generator fee after the applicable due date may be subject to collection and enforcement actions.

(ii)(A) If a generator submits his annual report (pursuant to WAC 173-303-220) to the department and his report is late, then his generator fee statement may be issued after May 31.

(B) The department may discover that a person is a generator, but that he has not been complying with the applicable requirements of chapter 173-303 WAC and

has not been assessed a generator fee under this chapter 173-305 WAC. If the department determines this to be the case, then such person may be assessed a generator fee that is the total of the fees owed for each year, after December 31, 1982, in which he generated hazardous waste but did not pay a fee.

(c) For generator fees covering hazardous waste generation in calendar year 1983, the fees assessed shall be one-half of the full fees set forth in WAC 173-305-040. For every year thereafter, full generator fees will be assessed:

(d) The statement of generator fee provided by the department of revenue will be a form including, but not limited to, the following information:

(i) The name and address of the person responsible for paying the fee;

(ii) The amount of the generator fee assessed;

(iii) The number and class or classes of identified sites for which a fee is owed and the fee owed for each identified site (if more than one);

(iv) A copy of the fee schedule for generators (from WAC 173-305-040);

(v) A statement of the due date for payment of the fee and the interest and penalties that could be levied for nonpayment; and

(vi) The name, address, and telephone number of a department contact person for responding to questions about the fee.

(5) Exemption from and reduction of fees. This subsection describes who may be exempted from a fee, whose fees may be reduced, and how exemptions or reductions will be granted or denied. To initiate a request for exemption or reduction, the person subject to a fee who wishes to make such a request must complete, sign, date, and submit to the department the form titled request for waiver of fee (available from the department):

(a) The department will grant an exemption from the generator fee to any person for any site for which he has been assessed a fee but which is not an identified site. Before granting an exemption the department may request any information reasonably necessary to determine whether the exemption should be granted including, but not limited to, information on a person's waste streams, types, and quantities. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for exemption, or in penalties for late payment of his fee.

(b) The department will reduce the generator fee for any person who can demonstrate to the department that:

(i) The annual gross income apportioned to his identified sites is incorrect based on the share of each identified site's annual gross income; or

(ii) The fee assessed for his hazardous wastes is too high based on the criteria described in subsection (3) of this section; or

(iii) The person generates hazardous waste only once a year, or less frequently, as described in WAC 173-305-040 (1)(b).

Before granting a reduction, the department may request any information reasonably necessary to determine whether or how much reduction is appropriate including, but not limited to: The share of each identified site's annual gross income, or, for adjustment based on the criteria, information on hazardous waste types, quantities, and generation rates. Upon request by the department, a person must provide such information within thirty days of the department's request. The department may extend this time limit if it believes there is a reasonable basis for doing so. Failure to submit information on time may result in denial of the person's request for reduction, or in penalties for late payment of his fee.

(c) A request for waiver of fee must be submitted to the department by June 30 of the year in which a fee was assessed for the preceding calendar year. Failure to submit a request on time may result in collection and enforcement proceedings for failure to pay or late payment of a fee.

(d)(i) Upon receiving a completed, signed, and dated request for waiver of fee from a person, the department of ecology will temporarily waive the person's fee and will notify the department of revenue to delay collection or enforcement proceedings until the person's request has been processed. Except as provided in (c) of this subsection, no person who submits a timely request for waiver of fee shall be subject to any collection or enforcement actions while the department of ecology is making a final decision on that person's request. The department of ecology shall notify the person and the department of revenue regarding a final decision on exemption, reduction, and/or new due date (if any).

(ii) Any person who is ultimately exempted from payment of the generator fee will not be subject to any collection or enforcement actions.

(iii) If a person's generator fee is ultimately reduced but still owing, the final due date for payment of the fee will be either June 30 of the calendar year in which the fee was assessed, or thirty days after the department's final decision, whichever is later.

(e) If the department determines that a person has knowingly submitted false information regarding a request for waiver of fee, then any temporary waiver or payment deadline extension granted to such person will be deemed ineffective. The department may take enforcement actions against such person if his fee is still owed after June 30, regardless of any temporary waiver or deadline extension that the department may initially have granted.) If a known or potential generator or a person required to prepare a plan fails to pay all or any part of a fee imposed under this chapter, the department of revenue shall charge a penalty of three times the amount of the unpaid fee. The department of revenue shall waive any penalty in accordance with RCW 82.32-.105. Note: See WAC 458-20-228 for a discussion of the circumstances under which a penalty may be waived.

AMENDATORY SECTION (Amending Order DE 83-38, filed 2/7/84)

WAC 173-305-040 ((SCHEDULE)) **ADJUSTMENT OF ((GENERATOR)) FEES.** ((This section sets forth the amount of the generator fee to be assessed.

Subsection (1) of this section, describes the fees for specific businesses based on the criteria established in WAC 173-305-030(3) and annual gross income categories. Subsection (2) of this section, describes the fees for nonspecific businesses based on annual gross income categories.

(1) Schedule of generator fees for specific businesses.

(a) Matrix. The matrix at the end of this subsection sets the amount of the fees for generators in particular risk classes and annual gross income ranges. Based on the annual gross income and the apportionment of income among identified sites, and on the information obtained in hazardous waste annual reports, persons will be assessed generator fees from the matrix. By finding the risk class in the left column and reading over to the apportioned annual gross income, the department will determine the fee for each identified site. A person owning or controlling more than one identified site will be assessed for the sum of the fees for all of his identified sites.

Specific-Business Generator Fee Matrix
Apportioned Annual Gross Income¹

Risk Class ²	\$ -1,000,000.01 to \$10,000,000.00		More than \$10,000,000.00
	\$1,000,000.00 and less		
G1	\$15.00	\$100.00	\$1,000.00
G2	\$40.00	\$300.00	\$3,000.00
G3	\$65.00	\$500.00	\$5,000.00
G4	\$90.00	\$600.00	\$6,000.00
G5	\$115.00	\$675.00	\$6,750.00
G6	\$140.00	\$725.00	\$7,250.00
G7	\$150.00	\$750.00	\$7,500.00

¹ For procedures for apportioning annual gross income, see WAC 173-305-030(2).

² For procedures for determining risk class, see WAC 173-305-030(3).

(b) Once a year generator fee reduction. Any person whose annual hazardous waste quantity does not exceed either 2.0 tons of dangerous waste (DW) or 0.5 tons of extremely hazardous waste (EHW), and who generates hazardous waste only once a year at an identified site will, for that identified site, owe only one-half of the full generator fee that would have been assessed solely on the basis of waste type and quantity. A person generates hazardous waste only once a year if either: All of the person's hazardous wastes are generated during one month or less of a calendar year; or, in the case of a person who is usually a small quantity generator (as described in chapter 173-303 WAC), the person's hazardous wastes exceed the small quantity generator exclusion only once during a calendar year. To the extent practical, the department will try to make the above determinations when calculating a person's generator fee prior to assessment. Any person assessed a generator fee which does not include the above reduction and who believes that such reduction is applicable, may complete and submit the request for waiver of fee form as described in WAC 173-305-030(5).

(2) Schedule of generator fees for nonspecific businesses.

(a) SIC list. A list of SIC numbers appears at the end of this subsection. Any person whose business activity

has an SIC number appearing on this list will be assessed a generator fee if the department has concluded, according to WAC 173-305-030 (1)(b)(ii), that his nonspecific business utilizes or operates an identified site. The amount of the fee is established in (b) of this subsection. Procedures for apportioning annual gross income for nonspecific businesses are described in WAC 173-305-030 (2)(b).

SIC List

1000	2865	3412	3662	4600
1081	2869	3423	3670	4610
1099	2870	3429	3674	4613
1721	2873	3433	3676	4811
2400	2874	3441	3679	4910
2411	2875	3451	3691	4911
2421	2879	3452	3694	4922
2430	2891	3462	3700	4953
2434	2893	3469	3710	4959
2435	2899	3470	3711	5013
2436	2900	3471	3713	5039
2490	2911	3479	3714	5063
2491	2951	3490	3715	5084
2500	2992	3496	3720	5085
2510	2999	3498	3721	5098
2511	3000	3499	3724	5100
2512	3024	3500	3728	5160
2531	3069	3530	3731	5161
2599	3079	3531	3732	5171
2600	3111	3533	3736	5172
2611	3170	3536	3749	5191
2621	3200	3540	3764	5210
2631	3211	3541	3769	5211
2640	3293	3542	3811	5231
2641	3295	3544	3823	5261
2643	3296	3549	3825	5541
2651	3300	3551	3829	5931
2653	3312	3552	3841	5983
2654	3313	3555	3842	7212
2711	3315	3559	3861	7216
2800	3325	3573	3911	7349
2812	3331	3579	3993	7379
2813	3334	3582	3999	7391
3816	3339	3589	4011	7399
2819	3341	3599	4200	7500
2821	3353	3600	4210	7530
2831	3355	3610	4214	7539
2834	3356	3612	4226	7542
2841	3361	3622	4266	7692
2842	3398	3624	4400	7694
2843	3399	3639	4411	7699
2850	3400	3646	4463	8071
2851	3411	3661	4469	8911
				9511
				9621
				9641

(b) Schedule. The generator fees for nonspecific businesses are:

(i) \$150.00 for each person with an apportioned annual gross income not in excess of one million dollars;

(ii) \$750.00 for each person with an apportioned annual gross income in excess of one million dollars but not exceeding ten million dollars; and

(iii) \$7,500.00 for each person with an apportioned annual gross income in excess of ten million dollars.)

On an annual basis, the department shall adjust the fees provided for by this chapter, including the maximum annual fee and the maximum total fees, by conducting the calculation in subsection (1) of this section and taking the actions set forth in subsection (2) of this section:

(1) In November of each year, the base fee and the additional fee, or the fees as subsequently adjusted by this section, shall be multiplied by a factor equal to the most current quarterly "price deflator" available, divided by the "price deflator" used in the numerator the previous year. However, the "price deflator" used in the denominator for the first adjustment shall be divided by the second quarter "price deflator" for 1990.

(2) Each year by March 1, the schedule, as adjusted in subsection (1) of this section, will be published. The department will round the published fees to the nearest dollar.

AMENDATORY SECTION (Amending Order DE 83-38, filed 2/7/84)

WAC 173-305-050 ((COORDINATION WITH THE DEPARTMENT OF REVENUE)) GENERAL ADMINISTRATIVE PROVISIONS. ((The departments of ecology and revenue will frequently be transferring information and working together in the collection of generator fees. This section briefly describes some of the key areas in which the two agencies will coordinate. For the sake of clarity, they will be referred to in this section as ecology and revenue.

(1) The primary responsibilities of ecology are to set fees, determine which persons will be assessed, and establish procedures for adjusting assessments.

(2) The primary responsibility of revenue is to collect generator fees (but not facility fees).

(3) Figures on annual gross income for businesses will be obtained from revenue. Ecology will abide by whatever rules revenue may have regarding confidentiality of this information.

(4) Ecology will notify revenue promptly of any changes to generator fees for individuals or groups. Revenue will inform ecology of current amounts collected and placed in the hazardous waste control and elimination account, and of any generator fees that are overdue.

(5) Ecology will calculate any penalties or interest owed on overdue generator fees, will perform any adjustments to the generator fee owed by any individual, and will provide these figures to revenue for use in their collection proceedings.) The review provisions contained in chapter 82.32 RCW, except RCW 82.32.050 and 82.32.090, apply to the collection and enforcement of fees imposed pursuant to this chapter. Requests for administrative review should be directed to the Department of Revenue, Taxpayer Accounts Administration, Mailstop AX-02, Olympia, Washington 98504-0090. The review provisions of chapter 43.21B RCW do not apply to the administration of these fees.

NEW SECTION

WAC 173-305-110 FEES. (1) The fee imposed is a thirty-five dollar (or as adjusted by WAC 173-305-040) annual fee payable by known and potential generators of hazardous waste. The fee for the 1990 fee period shall be due on October 1, 1990, for any known or potential generator operating in Washington after March 22, 1990. The fee for the 1991 calendar year, and the 1990 fee period for any known or potential generator

who began business after October 1, 1990, shall be due February 28, 1992. The annual fee for calendar year 1992 and each calendar year thereafter shall be due on February 28 of the next succeeding year.

(2) The department will determine known generators based on the most current verified information available to the department.

(3) The department has determined potential generators to be those persons engaged in any of the following primary business activities:

Table 1

Primary Business Activities of Potential Generators

Primary business activities	Description
SOIL PREPARATION SERVICES:	Includes establishments primarily engaged in application of fertilizer, seed bed preparation, and other services for improving the soil for crop planting such as weed control.
CROP PROTECTING SERVICES:	Includes establishments primarily engaged in performing crop protecting services such as disease, weed, and insect control.
METAL MINING:	Includes establishments primarily engaged in mining, developing mines, or exploring for metallic minerals. These ores are valued chiefly for the metals contained, to be recovered for use as such or as constituents of alloys, chemicals, pigments, or other products. Includes mills which crush, grind, wash, dry, sinter, calcine, or leach ore, or perform gravity separation or flotation operations.
GENERAL BUILDING CONTRACTORS:	Includes general contractors and operative builders primarily engaged in the construction of nonresidential buildings.
HEAVY CONSTRUCTION, EXCLUDING BUILDINGS:	Includes general contractors primarily engaged in heavy construction other than building, such as highways and streets, bridges, sewers, railroads, irrigation products, flood control products and marine construction, and special trade contractors primarily engaged in activities of a type that are clearly specialized to such heavy construction and are not normally performed on buildings or building-related projects.
PAINTING:	Includes special trade contractors primarily engaged in painting.
FLOOR LAYING AND OTHER FLOOR WORK, NOT ELSEWHERE CLASSIFIED:	Includes special trade contractors primarily engaged in the installation of asphalt tile, linoleum, and resilient flooring, in laying, scraping, and finishing parquet and other hardwood flooring.
BEVERAGES:	Includes establishments primarily engaged in manufacturing malt beverages or malt byproducts; manufacturing wines, brandy, and brandy spirits including the blending of wines; manufacturing alcoholic liquors by distillation or by mixing liquors and other ingredients; manufacturing soft drinks and carbonated waters; and manufacturing flavoring extracts, syrups, powders, and related products.

TEXTILE MILL PRODUCTS: Includes establishments primarily engaged in performing any of the following operations: (1) preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage; (2) manufacturing broadwoven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yard; (3) dyeing and finishing fiber, yarn, fabrics, and knit apparel; (4) coating, waterproofing, or otherwise treating fabrics; (5) the integrated manufacture of knit apparel and other finished articles from yarn; and (6) the manufacture of felt goods, lace goods, nonwoven fabrics, and miscellaneous textiles.

SAWMILLS AND PLANING MILLS, GENERAL: Includes establishments primarily engaged in sawing rough lumber and timber from logs and bolts, or resawing cants and flitches into lumber, including box lumber and softwood cut stock; planing mills combined with sawmills; and separately operated planing mills which are engaged primarily in producing surfaced lumber and standard workings or patterns of lumber. This industry includes establishments primarily engaged in sawing lath and railroad ties and in producing tobacco hogshead stock, wood chips, and snow fence lath.

HARDWOOD DIMENSION AND FLOORING MILLS: Includes establishments primarily engaged in manufacturing hardwood dimension lumber and workings therefrom; and other hardwood dimension, semifabricated or ready for assembly; hardwood flooring; and wood frames for household furniture.

MILLWORK: Includes establishments primarily engaged in manufacturing fabricated wood millwork, including wood millwork covered with materials such as metal and plastics. Planing mills primarily engaged in producing millwork are included in this industry.

WOOD KITCHEN CABINETS: Includes establishments primarily engaged in manufacturing wood kitchen cabinets and wood bathroom vanities, generally for permanent installation.

HARDWOOD VENEER AND PLYWOOD: Includes establishments primarily engaged in producing commercial hardwood veneer and those primarily engaged in manufacturing commercial plywood or prefinished hardwood plywood. This includes nonwood backed or faced veneer and nonwood faced plywood.

SOFTWOOD VENEER AND PLYWOOD: Includes establishments primarily engaged in producing commercial softwood veneer and plywood, from veneer produced in the same establishment or from purchased veneer.

WOOD PRESERVING: Includes establishments primarily engaged in treating wood, sawed or planed in other establishments, with creosote or other preservatives to prevent decay and to protect against fire and insects. This industry also includes the cutting, treating, and selling of poles, posts and piling, but establishments primarily engaged in manufacturing other wood products, which they may also treat with preservatives, are not included.

RECONSTITUTED WOOD PRODUCTS: Includes establishments primarily engaged in manufacturing reconstituted

wood products. Important products of this industry are hardboard, particleboard, insulation board, medium density fiberboard, waferboard, and oriented strandboard.

WOOD PRODUCTS, NOT ELSEWHERE CLASSIFIED: Includes establishments primarily engaged in manufacturing wood products, not elsewhere classified, and products from rattan, reed, splint, straw, veneer, veneer strips, wicker, and willow.

FURNITURE AND FIXTURES: Includes establishments primarily engaged in manufacturing household, office, public building, and restaurant furniture; and office and store fixtures.

PAPER AND ALLIED PRODUCTS: Includes establishments primarily engaged in the manufacture of pulps from wood and other cellulose fibers, and from rags; the manufacture of paper and paperboard; and the manufacture of paper and paperboard into converted products, such as paper coated off the paper machine, paper bags, paper boxes, and envelopes. Also included are establishments primarily engaged in manufacturing bags of plastics film and sheet.

PRINTING AND PUBLISHING: Includes establishments primarily engaged in printing by one or more common processes, such as letterpress; lithography (including offset), gravure, or screen; and those establishments which perform services for the printing trade, such as bookbinding and platemaking and also includes establishments engaged in publishing newspapers, books, and periodicals.

CHEMICALS AND ALLIED PRODUCTS: Includes establishments primarily engaged in producing basic chemicals, and establishments manufacturing products by predominantly chemical processes.

PETROLEUM REFINING AND RELATED INDUSTRIES: Includes establishments primarily engaged in petroleum refining, manufacturing paving and roofing materials, and compounding lubricating oils and greases from purchased materials.

RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS: Includes establishments primarily engaged in manufacturing products from plastics resins and from natural, synthetic, or reclaimed rubber, gutta percha, balata, or butta siak.

STONE, CLAY, AND GLASS PRODUCTS: Includes establishments primarily engaged in manufacturing flat glass and other glass products, cement, structural clay products, pottery, concrete and gypsum products, cut stone, abrasive and asbestos products, and other products from materials taken principally from the earth in the form of stone, clay, and sand.

PRIMARY METAL INDUSTRIES: Includes establishments primarily engaged in smelting and refining ferrous and nonferrous metals from ore, pig, or scrap; in rolling, drawing, and alloying metals; in manufacturing castings and other basic metal products; and in manufacturing nails, spikes, and insulated wire and cable. This group includes the production of coke.

FABRICATED METAL PRODUCTS: Includes establishments primarily engaged in fabricating ferrous and nonferrous metal products, such as metal cans, tinware, handtools, cutlery, general hardware, nonelectric heating apparatus, fabricated structural metal products, metal forgings, metal stampings, ordnance (except vehicles and guided missiles), and a variety of metal and wire products, not elsewhere classified.

INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT: Includes establishments primarily engaged in manufacturing industrial and commercial machinery and equipment and computers.

ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT: Includes establishments primarily engaged in manufacturing machinery, apparatus, and supplies for the generation, storage, transmission, transformation, and utilization of electrical energy. Included are the manufacturing of electricity distribution equipment; electrical industrial apparatus; household appliances; electrical lighting and writing equipment; radio and television receiving equipment; communications equipment; electronic components and accessories; and other electrical equipment and supplies.

TRANSPORTATION EQUIPMENT: Includes establishments primarily engaged in manufacturing equipment for transportation of passengers and cargo by land, air, and water. Important products produced by establishments classified in this major group include motor vehicles, aircraft, guided missiles, and space vehicles, ships, boats, railroad equipment, and miscellaneous transportation equipment, such as motorcycles, bicycles, and snowmobiles.

INSTRUMENTS; MEASURING, ANALYZING, AND CONTROLLING PHOTOGRAPHIC, MEDICAL, AND OPTICAL GOODS; WATCHES AND CLOCKS: Includes establishments primarily engaged in manufacturing instruments (including professional and scientific) for measuring, testing, analyzing, and controlling, and their associated sensors and accessories; optical instruments and lenses; surveying and drafting instruments; hydrological, hydrographic, meteorological, and geophysical equipment; search, detection, navigation, and guidance systems and equipment; surgical, medical, and dental instruments, equipment, and supplies; ophthalmic goods; photographic equipment and supplies; and watches and clocks.

JEWELRY, SILVERWARE, AND PLATED WARE: Includes establishments primarily engaged in manufacturing jewelry and other articles made of precious metals with or without stones; and includes manufacturing flatware, hollowware, ecclesiastical ware, trophies, trays, and related products made of sterling silver; of metal plated with silver, gold, or other metal; of nickel silver; of pewter; or of stainless steel.

TOYS AND SPORTING GOODS: Includes establishments primarily engaged in manufacturing: Sporting and athletic goods such as fishing tackle, golf and tennis goods, skis and skiing equipment.

SIGNS AND ADVERTISING SPECIALTIES: Includes establishments primarily engaged in manufacturing electrical, mechanical, cutout, or plate signs and advertising displays, including neon signs, and advertising specialties.

RAILROAD TRANSPORTATION: Includes establishments furnishing transportation by line-haul railroad, and switching and terminal establishments.

LOCAL AND INTERURBAN PASSENGER TRANSIT: Includes establishments primarily engaged in furnishing local and suburban passenger transportation.

WATER TRANSPORTATION: Includes establishments primarily engaged in freight and passenger transportation on the open seas or inland waters, and establishments furnishing such incidental services as lighterage, towing, and canal operation. This major group also includes excursion boats, sightseeing boats, and water taxis.

TRANSPORTATION BY AIR: Includes establishments primarily engaged in furnishing domestic and foreign transportation by air and also those operating airports and flying fields and furnishing terminal services.

ELECTRIC SERVICES: Includes establishments primarily engaged in the generation, transmission, and/or distribution of electric energy for sale.

COMBINATION ELECTRIC AND GAS, AND OTHER UTILITY SERVICES: Includes establishments providing electric or gas services in combination with other services.

SANITARY SERVICES: Includes establishments primarily engaged in the collection and disposal of wastes conducted through a sewer system; and includes establishments primarily engaged in the collection and disposal of refuse by processing or destruction or in the operation of incinerators, waste treatment plants, landfills, or other sites for disposal of such materials.

MOTOR VEHICLES, PARTS, AND SUPPLIES: Includes establishments primarily engaged in the wholesale distribution of new and used passenger automobiles, trucks, trailers, and other motor vehicles, including motorcycles, motor homes, and snowmobiles; the wholesale distribution of motor vehicle supplies, accessories, tools and equipment except tires; and new motor vehicle parts; the distribution at wholesale or retail of used motor vehicle parts and those primarily engaged in dismantling motor vehicles for the purpose of selling parts.

ELECTRICAL APPARATUS AND EQUIPMENT, WIRING SUPPLIES, AND CONSTRUCTION MATERIALS: Includes establishments primarily engaged in the wholesale distribution of electrical power equipment for the generation, transmission, distribution, or control of electric energy; electrical construction materials for outside power transmission lines and for electrical systems; and electric light fixtures and bulbs.

MACHINERY, EQUIPMENT, AND SUPPLIES: Includes establishments primarily engaged in the wholesale distribution of construction or mining cranes, excavating machinery and equipment, power shovels, road construction and maintenance machinery, tractor-mounting equipment and other specialized machinery and equipment

used in the construction, mining, and logging industries; distribution of agricultural machinery and equipment for use in the preparation and maintenance of the soil, the planting and harvesting of crops, and other operations and processes pertaining to work on the farm or the lawn or garden; and dairy and other livestock equipment; wholesale distribution of industrial machinery and equipment.

MISCELLANEOUS DURABLE GOODS: Includes establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials.

CHEMICALS AND ALLIED PRODUCTS: Includes establishments primarily engaged in the wholesale distribution of plastics materials, and of unsupported plastics film, sheets, sheeting, rods, tubes, and other basic forms and shapes; whole distribution of chemicals and allied products, such as acids, industrial and heavy chemicals, dye stuffs, industrial salts, rosin, and turpentine.

PETROLEUM AND PETROLEUM PRODUCTS: Includes establishments primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas, from bulk liquid storage facilities; wholesale distribution of petroleum and petroleum products, except those with bulk liquid storage facilities. Included are packaged and bottled petroleum products distributors, truck jobbers, and others marketing petroleum and its products at wholesale, but without bulk liquid storage facilities.

FARM SUPPLIES: Includes establishments primarily engaged in the wholesale distribution of fertilizers, agricultural chemicals, and pesticides.

NEW AND USED CAR DEALERS: Includes establishments primarily engaged in the retail sale of new automobiles or new and used automobiles. These establishments frequently maintain repair departments and carry stocks of replacement parts, tires, batteries, and automotive accessories.

GASOLINE SERVICE STATIONS: Includes gasoline service stations primarily engaged in selling gasoline and lubricating oils.

LAUNDRY, CLEANING, AND GARMENT SERVICES: Includes establishments primarily engaged in operating mechanical laundries with steam or other power; linen supply; coin-operated laundries and drycleaning; drycleaning plants, except rug cleaning; carpet and upholstery cleaning; and industrial launderers. Establishments that solely operate coin-operated washing machines and dryers and establishments that solely clean carpets or rugs are not included.

DISINFECTING AND PEST CONTROL SERVICES: Includes establishments primarily engaged in disinfecting dwelling and other buildings, and in termite, insect, rodent, and other pest control, generally in dwellings or other buildings.

TRUCK RENTAL AND LEASING, WITHOUT DRIVERS: Includes establishments primarily engaged in short-term rental or extended-term leasing of trucks, truck tractors,

or semitrailers without drivers.

AUTOMOTIVE REPAIR SHOPS: Includes establishments primarily engaged in the repair of automotive tops, bodies, and interiors, or automotive painting and refinishing; customizing automobiles, trucks, and vans except on a factor basis; the installation, repair, or sale and installation of automotive exhaust systems; the repairing and retreading of automotive tires; installation, repair, or sales and installation of automotive transmission; general automotive repair; specialized automotive repair, such as fuel service (carburetor repair), brake relining, front end and wheel alignment, and radiator repair.

MISCELLANEOUS REPAIR SHOPS AND RELATED SERVICES: Includes establishments primarily engaged in general repair work by welding, including automotive welding; rewinding armatures and rebuilding or repairing electric motors; specialized repair services, such as bicycle repair, leather goods repair; lock and gun repair, including the making of lock parts or gun parts to individual order; musical instrument repair; septic tank cleaning; farm machinery repair; furnace cleaning; motorcycle repair; tank truck cleaning; taxidermists; tractor repair; and typewriter repair.

HOSPITALS: Includes establishments primarily engaged in providing diagnostic services, extensive medical treatment including surgical services, and other hospital services, as well as continuous nursing services; providing general medical and surgical services and other hospital services; providing diagnostic medical services and inpatient treatment for the mentally ill; providing diagnostic services, treatment, and other hospital services for specialized categories of patients, except mental.

MEDICAL LABORATORIES: Includes establishments primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient on prescription of a physician.

COLLEGES, UNIVERSITIES, PROFESSIONAL SCHOOLS, AND JUNIOR COLLEGES: Colleges, universities, and professional schools furnishing academic courses and granting academic degrees; or junior colleges and technical institutes furnishing academic, or academic and technical, courses, and granting associate academic degrees, certificates, or diplomas.

RESEARCH AND TESTING SERVICES: Includes establishments primarily engaged in commercial physical and biological research and development on a contract or fee basis; or performing noncommercial research into and dissemination of, information for public health, education, or general welfare; or providing testing services.

ENVIRONMENTAL QUALITY: Government establishments primarily engaged in regulation, planning, protection and conservation of air and water resources; solid waste management; water and air pollution control and prevention; flood control; drainage development, and consumption of water resources; coordination of these activities at intergovernmental levels; research necessary for air pollution abatement and control and conservation of water resources; and government establishments primarily engaged in regulation, supervision and control of land

use, including recreational areas; conservation and preservation of natural resources; control of wind and water erosion; and the administration and protection of publicly and privately owned forest lands, including pest control. Planning, management, regulation, and conservation of game, fish, and wildlife populations, including wildlife management areas and field stations; and other matters relating to the protection of fish, game, and wildlife. Establishments which only provide information and education services to others are not included.

NATIONAL SECURITY: Includes establishments of the armed forces, including the National Guard, primarily engaged in national security and related activities.

(4) A potential generator shall be exempt from the fee if the potential generator is entitled to the exemption in RCW 82.04.300 in the current calendar year.

NEW SECTION

WAC 173-305-120 RESPONSIBILITIES OF THE DEPARTMENTS OF ECOLOGY AND REVENUE. (1) The legislature has provided that the primary responsibilities of the department of ecology are to provide the department of revenue with a list of known generators and to determine the primary business activities of potential generators.

(2) The legislature has provided that the primary responsibility of the department of revenue is to collect the fees from known and potential generators as identified in subsection (1) of this section.

(3) The department of ecology will periodically amend the list of primary business activities of potential generators by reviewing the most current verified information that is available to the department.

PART C ADDITIONAL FEE

NEW SECTION

WAC 173-305-210 IMPOSITION OF FEE. (1) The fee is imposed on hazardous waste generators and hazardous substance users required to prepare plans under RCW 70.95E.030. The department may waive the fee for individual facilities when the amount owed is less than the estimated cost of collection. This provision does not waive the requirement to prepare a plan.

(2) The department will determine who specifically has to pay the fee each year and the amount of the fee based on the most current verified information available to the department. Note: Information collected on toxic emissions will not be verified.

(3) The total fees collected under RCW 70.95E.030 shall not exceed the department's cost of implementing RCW 70.95C.200.

(4) A person that develops a plan covering more than one interrelated facility as provided for in RCW 70.95C.200 shall be assessed fees only for the number of plans prepared. In instances where a person has interrelated facilities without substantially similar processes, a single document may be prepared for the convenience of management but the document must contain separate

detailed plans for each facility. In these cases, each detailed plan within the document shall be assessed a fee.

NEW SECTION

WAC 173-305-220 ADDITIONAL FEE. (1) The department shall calculate the adjusted fees, annual fee, and maximum total fees using the formula in subsection (3) of this section. The formula uses a risk factor of one for dangerous waste and emissions, and a multiplication factor of ten for extremely hazardous waste. For purposes of this section, hazardous waste reported on the annual dangerous waste generator report as having been either recycled on-site or recycled for beneficial use off-site, including initial amounts of hazardous substances introduced into a process and subsequently recycled for beneficial use, shall not be used in the calculation of hazardous waste generated. A facility may petition the director to exclude hazardous wastes recycled for beneficial use even if they were not reported as such on the annual dangerous waste generator report. Documentation from the hazardous waste handling facility that the hazardous waste was recycled for beneficial use must be submitted along with the petition.

(2) Fees in subsection (3) of this section are based on the following definitions:

(Note: The terms "dangerous waste" and "extremely hazardous waste" as used in this subsection utilize the same basic definition as in WAC 173-305-020, but are modified as follows for the fee calculation only.)

Dangerous waste is the number of pounds of dangerous waste reported which is not recycled for beneficial use, calculated so that wastewater discharged under permit by rule pursuant to WAC 173-303-802 is excluded.

Emissions is the number of pounds of emission reported under Toxic Chemical Release Reporting, 40 CFR Part 372, by a company. If emissions are reported in ranges, the middle value of the reported range will be used in the calculation.

Extremely hazardous waste is the number of pounds of extremely hazardous waste reported which is not recycled for beneficial use, calculated so that wastewater discharged under permit by rule pursuant to WAC 173-303-802 is excluded.

The priced deflator is the "Implicit Price Deflator for Gross National Product" for "Government Purchases of Goods and Services" for "State and Local Government."

The total risk pounds for a facility or set of interrelated facilities is equal to ten times the number of pounds of extremely hazardous waste generated plus the number of pounds of dangerous waste generated plus the number of pounds of emission reported by that facility.

(3) The annual fee for a facility or set of interrelated facilities shall be equal to the rate per risk pound times the total risk pounds. The rate for the risk pounds shall be calculated by the department so that the maximum total fee in (a) of this subsection can be obtained. The annual fee for each facility or set of interrelated facilities shall be subject to the limitations in (b) and (c) of this subsection.

(a) The maximum total fees collected shall be determined based on the maximum total fee for the previous

year multiplied by the most current price deflator and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment shall be the second quarter price deflator for 1990. The maximum total fees for 1990 shall be one million dollars.

(b) The maximum fee for any facility or interrelated facility shall be determined based on the maximum total fee for the previous year multiplied by the most current price deflator and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment shall be the second quarter price deflator for 1990. The maximum annual fee for 1990 shall be ten thousand dollars.

(c) The maximum annual fee for a generator that generates between two thousand six hundred forty and four thousand pounds of dangerous and extremely hazardous waste shall be determined based on the maximum total annual fee for the previous year multiplied by the most current price deflator and divided by the price deflator used in the numerator for the previous year. The price deflator used in the denominator for the first adjustment shall be the second quarter price deflator for 1990. The maximum annual fee for 1990 shall be fifty dollars.

NEW SECTION

WAC 173-305-230 DUE DATES. (1) Fees imposed by RCW 70.95E.030 shall be first due on July 1, 1991, for facilities that are required to prepare plans in 1992, on July 1, 1992, for facilities that are required to prepare plans in 1993, and on July 1, 1993, for facilities that are required to prepare plans in 1994. Fees for facilities that are required to prepare plans following 1994 shall be first due on July 1 of the year following the first year that they generate more than two thousand six hundred forty pounds of hazardous waste and/or are required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act.

(2) If a facility pays a fee in anticipation of preparing a plan the following year, and circumstances change so that the facility is no longer required to prepare a plan, the facility may request a refund of the fee from the department and, upon verification of the information submitted, it shall be granted. This request is made by letter to the department.

NEW SECTION

WAC 173-305-240 RESPONSIBILITIES OF THE DEPARTMENTS OF ECOLOGY AND REVENUE. (1) The legislature has provided that the primary responsibility of the department of ecology is to provide the department of revenue by April 30 of each year with a list of persons subject to the fee and the amount of their fee. The fees shall be calculated based on the formulas in WAC 173-305-220(3).

(2) The department of ecology shall subtract any overpayment of the fee in the previous year from the fee for the current year. The department shall also subtract any interest accrued on an overpayment from the fee for the current year if the overpayment was made due to an

error which was the responsibility of the department or an over estimate of rate per risk pound for the prior year.

(3) If there are resubmissions of hazardous waste annual reports and/or toxic release inventory reports, the department shall add any underpayment of the fee in previous years to the fee for the current year.

(4) The legislature has provided that the primary responsibility of the department of revenue is to collect the fees from those identified in subsection (1) of this section.

WSR 91-08-041

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 90-57—Filed April 1, 1991, 9:17 a.m.]

Date of Adoption: April 1, 1991.

Purpose: This rule implements the requirements for facility plans and related documents required from certain hazardous waste generators and hazardous substance users.

Citation of Existing Rules Affected by this Order: Amending chapter 173-307 WAC.

Statutory Authority for Adoption: Chapter 70.95C RCW.

Pursuant to notice filed as WSR 90-22-085 on November 6, 1990.

Changes Other than Editing from Proposed to Adopted Version: All changes are for editing, clarification, or an expanded explanation of what is required and/or how it is to be provided. No substantive changes were made.

Effective Date of Rule: Thirty-one days after filing.

April 1, 1991

Fred Olson

Deputy Director

Chapter 173-307 WAC PLANS

NEW SECTION

WAC 173-307-010 PURPOSE. This chapter implements chapter 70.95C RCW, an act relating to hazardous waste reduction. The act encourages voluntary efforts to redesign industrial, commercial, production, and other processes to result in the reduction or elimination of hazardous waste by-products and to maximize the in-process reuse or reclamation of valuable spent material. The act establishes a legislative policy to encourage reduction in the use of hazardous substances and reduction in the generation of hazardous waste whenever economically and technically practicable. It also adopts as a policy goal for Washington state the reduction of hazardous waste generation, through hazardous substance use reduction and waste reduction techniques, by fifty percent by 1995. Some individual facilities may have the ability to reduce the use of hazardous materials and the generation of hazardous wastes by far

greater than fifty percent while others may not be able to reduce by as much as fifty percent. Therefore, the fifty percent reduction goal is not applied as a regulatory requirement. The plans provided for in this chapter are intended to achieve, for each facility, the greatest reduction economically and technically practicable. The purpose of this chapter is to establish the specific elements required to be included in the documents required of hazardous waste generators and hazardous substance users under the act. The regulation also establishes completion dates and penalties that may be imposed if the documents are not adequately completed. Copies of all rules, regulations, or statutes cited in this chapter are available from the Department of Ecology, Mailstop PV-11, Olympia, Washington 98504-8711.

NEW SECTION

WAC 173-307-015 APPLICABILITY. (1) The requirements of WAC 173-307-010 through 173-307-140 apply to all hazardous substance users as defined in this chapter and to hazardous waste generators who generate more than two thousand six hundred forty pounds of hazardous waste per year, except for those facilities that are primarily treatment, storage, and disposal facilities or recycling facilities. For purposes of this section, hazardous waste reported on the annual dangerous waste generator report as having been either recycled on-site or recycled for beneficial use off-site and/or amounts of hazardous substances introduced into a process and subsequently recycled for beneficial use, shall not be used in the calculation of hazardous waste generated. A facility may petition the director to exclude hazardous wastes recycled for beneficial use even if they were not reported as such on the annual dangerous waste generator report. Documentation from the hazardous waste handling facility that the hazardous waste was recycled for beneficial use must be submitted along with the petition.

(2) Except as noted in subsection (3) of this section, each hazardous substance user and hazardous waste generator identified above must prepare one plan for each facility owned or operated.

(3) A person with multiple interrelated facilities where a significant majority of the processes are substantially similar, as defined in this chapter, may prepare a single plan covering one or more of those facilities.

(a) A person desiring to submit a single plan under this provision must first submit to the director documentation that a significant majority of the processes at the facilities are substantially similar processes in order to obtain approval prior to plan development.

(b) In instances where a person has interrelated facilities without substantially similar processes, a single document may be prepared, but it must contain separate detailed plans for each facility.

(4) Facilities required by this chapter to prepare plans are also required to pay a hazardous waste fee, as described in chapter 173-305 WAC. The requirements of WAC 173-305-010 through 173-305-050 and 173-305-210 through 173-305-240 specifically apply.

NEW SECTION

WAC 173-307-020 DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

"Closed-loop recycling" means that the entire process through completion of any reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance. Recycled materials are returned to the original process or processes.

"Dangerous waste" means any discarded, useless, unwanted, or abandoned nonradioactive substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

Dangerous wastes shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW.

"Department" means the department of ecology.

"Director" means the director of the department of ecology or the director's designee.

"EPA/state dangerous waste identification number" means the number assigned by the EPA (Environmental Protection Agency) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility.

"Extremely hazardous waste" means any dangerous waste which:

Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:

Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife; and

Is highly toxic to man and wildlife;

If disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.

Extremely hazardous waste shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW.

"Facility" means any geographical area that has been assigned an EPA/state dangerous waste identification number. In the case of a hazardous substance user not having an EPA/state dangerous waste identification number, facility means all buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person.

"Fee" means the annual hazardous waste fees imposed under RCW 70.95E.020 and 70.95E.030.

"Generate" means any act or process which produces hazardous waste or which first causes a hazardous waste to become subject to regulation.

"Hazardous substance" means any hazardous substance listed as a hazardous substance as of the effective date of this section pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act, and all ozone depleting compounds as defined by the Montreal Protocol of October 1987 and any further updates of the Montreal Protocol.

"Hazardous substance use reduction" means the reduction, avoidance, or elimination of the use or production of hazardous substances without creating substantial new risks to human health or the environment.

"Hazardous substance use reduction" includes proportionate changes in the usage of hazardous substances as the usage of a hazardous substance or hazardous substances changes as a result of production changes or other business changes.

"Hazardous substance user" means any facility required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act, except for those facilities which only distribute or use fertilizers or pesticides intended for commercial agricultural applications.

Note: This definition refers to those SARA Title III, Section 313 reporters who must prepare a plan, whereas the definition of hazardous substance refers to the substances that must be addressed in the plan.

"Hazardous waste" means and includes all dangerous and extremely hazardous wastes, but does not include radioactive wastes or a substance composed of both radioactive and hazardous components and does not include any hazardous waste generated as a result of a remedial action under state or federal law.

"Hazardous waste generator" or "generator" means any person generating hazardous waste(s) which are subject to regulation by the department.

"Hazardous waste reduction" means all in-facility practices that reduce, avoid, or eliminate the generation of hazardous wastes or the toxicity of hazardous wastes, prior to generation, without creating substantial new risks to human health or the environment.

"Interrelated facilities" means multiple facilities owned or operated by the same person.

"Office" means the office of waste reduction.

"Plan" means the plan provided for in RCW 70.95C.200.

"Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government, including any agency or officer thereof, and any Indian tribe or authorized tribal organization.

"Process" means one or a number of steps which produces an end product or service, or a component which is to be incorporated into an end product or service.

"Product" means any chemical or mixture of chemicals which is used by a facility in a production or service process.

Note: The term "product" as defined here and used throughout this chapter is not to be confused with the term "end product" which specifically refers to the "output" of a production process.

"Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include:

- Use constituting disposal;
- Incineration; or
- Use as a fuel.

"Recycling" means reusing waste materials and extracting valuable materials from a waste stream. Recycling does not include burning for energy recovery.

Note: While burning for energy recovery may be preferable to disposal, burning for energy recovery does not count as recycling for the purpose of chapter 70.95C RCW.

"Remedial action wastes" means hazardous wastes which result from the cleanup of sites under state or federal hazardous waste laws.

"Shifting of risks" means changing the character, location, or receptor of a toxic material without achieving a substantial reduction in the overall risk to health and safety or the environment.

"Substantially similar processes" means processes that are essentially interchangeable, inasmuch as they use similar equipment and materials and produce similar products or services and generate similar wastes.

"Treatment" means the physical, chemical, or biological processing of waste to render it completely innocuous, produce a recyclable by-product, reduce toxicity, or substantially reduce the volume of material requiring disposal as described in the priorities established in RCW 70.105.150. Treatment does not include incineration.

NEW SECTION

WAC 173-307-030 PLAN REQUIREMENTS.

This section establishes the specific elements required to be included in a plan. The purpose of a plan is to require serious consideration of ways in which processes and procedures may be modified to reduce dependence upon hazardous substances and/or the generation of hazardous wastes. All plans must consider options based on the following priorities: Hazardous substance use reduction and hazardous waste reduction, recycling, and treatment. The plans shall consist of the following parts:

(1) Part one. Part one shall include:

(a) A written policy articulating management and corporate support for the plan and a commitment to implement planned activities and achieve established goals.

(b) The plan scope and objectives.

(c) A description of the facility type, a description of product(s) made and/or services provided, and a statement or listing of the current level(s) of production or service activity in units of measure appropriate to the industry or activity; and

(d) A general overview of the processes used in production or service activities (a schematic drawing may be included).

(2) Part two. Part two shall include an identification of hazardous substances used and hazardous wastes generated, a description of the facility processes, a description of current reduction and recycling activities, an

identification of reduction, recycling, and treatment opportunities, an evaluation of those opportunities, a selection of proposed options, a policy to prevent shifting of risks, performance goals, and an implementation schedule. Specifically, Part two shall include:

(a) An identification and inventory of hazardous substances used and hazardous wastes generated, including a list, based on actual usage and generation during the most recent calendar year for which records are available, of the types and amounts of the following:

(i) Each hazardous waste generated, listed by dangerous waste number;

(ii) Each product used which contains a total of fifty percent or more of any combination of hazardous substances if 1,000 lbs. or more was used; each product used which contains a total of between twenty-five percent and forty-nine percent of hazardous substances if 4,000 lbs. or more was used; and each product used which contains a total of between ten and twenty-four percent of hazardous substances if 10,000 lbs. or more was used. Determinations of whether these quantities are met or exceeded shall be based on the best available information. This information may be included or referenced in the plan. Available information shall include any or all of the following as necessary to determine quantities of hazardous substances contained in products; information available from material safety data sheets, information furnished upon request from manufacturers or suppliers of hazardous substances or products containing hazardous substances, information obtained from the department, and information otherwise known by the facility owner or operator. Any product which contains less than ten percent of any hazardous substances need not be included in the list regardless of the amount of the product used.

The above inventory thresholds are repeated in the following tables:

INVENTORY THRESHOLD FOR HAZARDOUS WASTE

All Hazardous Waste Generated Shall Be Inventoried
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INVENTORY THRESHOLDS FOR HAZARDOUS SUBSTANCES

Concentration of Hazardous Substances in Product	Amount of Product Used Per Year
greater than 50%	1,000 lbs or more
> 25% but < 49%	4,000 lbs or more
> 10% but < 24%	10,000 lbs or more
< 10%	exempt

(iii) Office products and products which are used at the facility for routine janitorial or grounds maintenance related activities may be excluded from this list.

(iv) Hazardous substances used and hazardous wastes generated in laboratory research need not be listed.

Note: See Part two, (j) of this subsection for discussion on this issue.

(b) A detailed description of each process in the facility. Of the hazardous substances and hazardous wastes identified in (a) of this subsection, the description of processes required in this subsection, and the plan elements required in (d), (e), (f), (h), (i), and (j) of this subsection shall address the following:

(i) All products containing hazardous substances as listed in (a)(ii) of this subsection;

(ii) All dangerous waste streams five hundred pounds or greater, any smaller dangerous waste streams which individually represents ten percent or more of the total annual hazardous wastes, and all extremely hazardous waste streams subject to regulation by the department. If this combination equals less than ninety percent of the total hazardous wastes generated, then additional dangerous wastes generated at the facility shall be included until ninety percent of the total is reached.

The above planning thresholds are repeated in the following tables:

PLANNING THRESHOLDS FOR HAZARDOUS WASTE

Hazardous Waste Categories	Amount of Waste Generated Per Year
Extremely Hazardous Waste	All
Dangerous Waste	Each waste stream that is either: <ul style="list-style-type: none"> • > 500 lbs, or • < 500 lbs but > 10% of total HW generated; and, if necessary, additional DW to reach 90% of total HW generated

PLANNING THRESHOLDS FOR HAZARDOUS SUBSTANCES

Concentration of Hazardous Substances in Product	Amount of Product Used Per Year
> than 50%	1,000 lbs or more
> 25% but < 49%	4,000 lbs or more
> 10% but < 24%	10,000 lbs or more
< 10%	exempt

(c) A description of current reduction, recycling, and treatment activities and documentation of hazardous substance use reduction and hazardous waste reduction activities completed prior to the first plan due date specified in WAC 173-307-050;

(d) An identification, based on thorough research, of all reasonable opportunities for further hazardous substance use reduction, hazardous waste reduction, recycling, and treatment for each process. Thorough research shall include a review of available literature commonly available to that industry or trade. The full range of potentially feasible opportunities is to be identified without regard to possible impediments to implementing the opportunities. In identifying opportunities, consideration shall be given to alternative approaches which, in the judgment of the facility management, satisfy the same demand for end products or services but use substantially less hazardous substances or result in the generation of substantially less hazardous waste;

(e) An evaluation of the identified opportunities. The evaluation shall be conducted in the priority order identified in (e)(i) of this subsection. Consideration shall be given first to the highest priority option. A lower priority option shall be given consideration only after a determination is made that the higher priority option is inappropriate due to impediments to its implementation. Hazardous substance use reduction, hazardous waste reduction, and closed loop recycling options shall each be discussed separately from other recycling and treatment options. The evaluation of hazardous waste reduction opportunities must include an evaluation of hazardous substance use reduction options for those hazardous substances which subsequently result in hazardous waste streams as well as an evaluation of other options for the reduction in the generation of hazardous waste. The evaluation required under this subsection shall include an economic analysis, a technical evaluation, an analysis of whether, and if so how, the identified opportunity would result in a shifting of risk(s) from one part of a process, environmental medium, or product to another and an analysis of all impediments to implementing the opportunities. Evaluation of a particular opportunity is only required up to the point that an impediment is identified which is beyond the control of the facility owner/operator and which renders the opportunity invalid. In this case, this impediment together with any other known impediments shall be listed. The economic analysis shall seek to identify the total costs associated with the current hazardous substance use and hazardous waste generation, management and disposal, compared with comparable costs associated with implementing the alternatives.

(i) Priorities for consideration of opportunities are, in order, hazardous substance use reduction and hazardous waste reduction; recycling; and, treatment.

(ii) Impediments that shall be considered acceptable include, but are not limited to: Adverse impacts on product quality, legal or contractual obligations, economic and technical practicality, safety considerations, and the creation of substantial new risks to human health or the environment. A discussion of alternatives for eliminating impediments shall be included;

(f) A selection of options to be implemented in accordance with the evaluation conducted in (e) of this subsection. For each selected option, the process(es) it affects shall be identified, and estimates of the amount of hazardous substance use reduction and hazardous waste

reduction which would be achieved through implementation shall be stated, as well as the amount of hazardous wastes recycled or treated as a result of implementation shall be included;

(g) A written policy stating that in implementing the selected options whenever technically and economically practicable, risks will not be shifted from one part of a process, environmental medium, or product to another;

(h) Specific performance goals in each of the following categories, expressed in numeric terms:

(i) Hazardous substances to be reduced or eliminated from use;

(ii) Hazardous wastes to be reduced or eliminated through hazardous waste reduction techniques;

(iii) Materials or hazardous wastes to be recycled; and

(iv) Hazardous wastes to be treated.

If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable. Goals shall be set for a five-year period from the first reporting date (see (i) of this subsection regarding implementation activities that will take longer than five years);

(i) A five-year implementation schedule, which shall display planned implementation activities for each of the five calendar years following completion of the plan. Information to be provided shall include, but is not limited to, the options (or phases of options) being implemented and related milestones. Where complete implementation of a selected option will take longer than five years, the schedule shall contain relevant milestones within a five-year period and an estimated date of completion. The schedule may be in table form and organized by options within processes, if desired.

(j) A description of how those hazardous wastes that are not recycled or treated and the residues from recycling and treatment processes are managed may be included in the plan.

(k) Documentation of any research conducted in fulfillment of any of the above subdivisions of this subsection shall be available to the department upon request.

(l) For research laboratories, the plan may include, in lieu of all the detailed requirements of this subsection except for (c) of this subsection, a description of policies and procedures to be followed by laboratory personnel regarding the use of hazardous substances and the generation of hazardous wastes through laboratory research. These policies and procedures must be consistent with the waste reduction priorities as defined in this chapter.

(3) Part three. Part three shall provide a financial description of the plan, which shall identify costs and benefits realized from implementing selected options to the extent reasonably possible. Part three shall also include a description of accounting systems which will be used to identify hazardous substance use and hazardous waste management costs. Liability, compliance, and oversight costs must be estimated and factored into this accounting system.

(4) Part four. Part four of the plan shall include a description of personnel training and employee involvement

programs. Each facility required to write a plan is encouraged to advise its employees of the planning process and solicit comments or suggestions from its employees on hazardous substance use and waste reduction options.

NEW SECTION

WAC 173-307-040 EXECUTIVE SUMMARY.

Upon completion of a plan, the owner, chief executive officer, or other person with the authority to commit management to the plan, such as a facility manager, shall sign and submit an executive summary of the plan to the department. This summary shall be available from the department for public inspection upon request.

Executive summaries shall include the following information from the plan:

(1) A written policy articulating management and corporate support for the plan and a commitment to implement planned activities and achieve established goals.

(2) The plan scope and objectives.

(3) A description of the facility type and a summary of product(s) made and/or services provided.

(4) A summary of the processes used in production or service activities (a schematic drawing may be included).

(5) A list of the type and amount of each hazardous waste and hazardous substances as identified in WAC 173-307-030 (2)(a). For products used which contain hazardous substances, available information on types and amounts of the hazardous substances contained in the product shall be included.

(6) A brief description of the use and generation of the products and hazardous wastes listed in subsection (5) of this section in the processes described in subsection (4) of this section.

(7) A description of current reduction, recycling, and treatment activities, and documentation of hazardous substance use reduction and hazardous waste reduction activities completed before the first reporting date specified in WAC 173-307-050.

(8) A summary of all further hazardous substance use reduction, hazardous waste reduction, recycling, and treatment opportunities identified. Opportunities shall be identified first for hazardous substance use reduction and hazardous waste reduction, secondly for recycling, and lastly for treatment. A summary of all identified impediments to implementing opportunities shall be included. Impediments that shall be considered acceptable include, but are not limited to: Adverse impacts on product quality, legal or contractual obligation, economic and technical practicality, safety considerations, and shifting of risks from one part of a process, product, or environmental medium to another.

(9) A selection of options to be implemented, process(es) affected, and estimated reductions to be achieved.

(10) Specific performance goals, expressed in numeric terms for each of the categories listed below (assumptions on changing production or service activity levels during the period covered by the plan must be described):

(a) Hazardous substances to be reduced or eliminated from use;

(b) Hazardous wastes to be reduced or eliminated through waste reduction techniques;

(c) Materials or hazardous wastes to be recycled; and

(d) Hazardous wastes to be treated.

If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable. Goals shall be set for a five-year period from the first reporting date.

(11) A five-year implementation schedule which shall display planned implementation activities for each of the five calendar years following completion of the plan. Information to be provided shall include, but is not limited to, the options (or phases of options) being implemented and related milestones. The schedule may be in table form and organized by options within processes, if desired.

(12) A summary of costs and benefits realized from implementing selected options.

NEW SECTION

WAC 173-307-050 DUE DATES. Plans shall be completed and executive summaries submitted in accordance with the following schedule:

(1) Hazardous waste generators who generated more than fifty thousand pounds of hazardous waste in calendar year 1991 and hazardous substance users who were required to report in 1991, by September 1, 1992;

(2) Hazardous waste generators who generated between seven thousand and fifty thousand pounds of hazardous waste in calendar year 1992 and hazardous substance users who were required to report for the first time in 1992, by September 1, 1993;

(3) Hazardous waste generators who generated between two thousand six hundred forty and seven thousand pounds of hazardous waste in 1993 and hazardous substance users who were required to report for the first time in 1993, by September 1, 1994;

(4) Hazardous waste generators who have not been required to complete a plan on or prior to September 1, 1994, must complete a plan by September 1 of the year following the first year that they generate more than two thousand six hundred forty pounds of hazardous waste; and

(5) Hazardous substance users who have not been required to complete a plan on or prior to September 1, 1994, must complete a plan by September 1 of the year following the first year that they are required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act.

NEW SECTION

WAC 173-307-060 PLAN AVAILABILITY. Plans developed under chapter 173-307 WAC shall be kept at the facility and made available for review to authorized representatives of the department. The plan is not a public record under the public disclosure laws of the state of Washington contained in chapter 42.17 RCW.

NEW SECTION

WAC 173-307-070 PLAN AMENDMENTS AND UPDATES. (1) A plan must be kept reasonably current and may be amended in response to changes in facility operations, substances used, or wastes generated.

(a) Users or generators shall notify the department of an amended plan and submit amendments to their executive summary including an identification of which sections are being amended. The implementation schedule of the amended plan and new executive summary shall be within the original five-year timeline initiated by completion of the original plan.

(b) Even if a plan is amended, a five-year plan update will still be required five years from completion of the first plan, or from the last five-year update.

(2) Every five years, each plan shall be updated, and a new executive summary shall be submitted to the department. A plan update shall conform to the requirements for preparing reduction plans as specified in this chapter.

NEW SECTION

WAC 173-307-080 PROGRESS REPORTS. Progress reports shall be submitted to the department annually on September 1 following the due date of the plan. The purpose of the progress report is to provide information on quantities of hazardous waste and hazardous substances reduced in the prior twelve-month period.

(1) Progress reports shall include a discussion of:

(a) Performance goals. If numeric performance goals were listed in the plan, progress toward these goals shall be discussed. If numeric performance goals were not listed in the plan, progress made toward establishing numeric goals shall be discussed, and also progress made towards achieving the goals as stated in the plan. This discussion shall include:

(i) A description of reduction, recycling, and treatment options which were implemented.

(ii) A description of the process(es) impacted by each option.

(iii) A description of the quantities of hazardous substances reduced and hazardous waste reduced by each option. The units of measure, estimation techniques, and any assumptions used shall be described. Quantities reduced must be displayed in relation to changing production levels. The description shall also include a statement of the level of production or service activity in relation to the level of production or service activity stated in the plan at the time the plan was prepared.

Note: Factors not resulting in actual reductions, such as new estimating techniques, delistings of substances or hazardous wastes, and reclassifications of waste management techniques cannot be counted or claimed as reductions.

(iv) If measurement or estimation techniques are changed from the prior reports such that reductions are not additive for the five-year planning period, a methodology for converting prior reported reductions must be described and recalculations provided.

(b) Problems encountered in the implementation process. Problems shall be clearly identified and include a

discussion of steps taken or proposed to resolve problems. An update on problems reported in previous progress reports shall be included.

(2) Upon the request of two or more users or generators belonging to similar industrial classifications, the department may aggregate data contained in their annual progress reports for the purpose of developing a public record.

NEW SECTION

WAC 173-307-090 REVIEW PROCESS. A user or generator required to prepare a plan shall permit the director or a representative of the director to review the plan to determine its adequacy.

(1) The department may review a plan, executive summary, or an annual progress report to determine whether the plan, executive summary, or annual progress report is adequate and shall base its determination solely on whether the plan, executive summary, or annual progress report is complete and prepared in accordance with the provisions of this chapter and the requirements of chapter 70.95C RCW.

(2) If a hazardous substance user or hazardous waste generator fails to complete an adequate plan, executive summary, or annual progress report, the department shall notify the user or generator of the inadequacy, identifying specific deficiencies. For the purposes of this section, a deficiency may include failure to develop a plan, failure to submit an executive summary, or failure to submit an annual progress report. The department shall specify a reasonable time frame, of not less than ninety days, within which the user or generator shall complete a modified plan, executive summary, or annual progress report addressing the specified deficiencies.

(3) If the department determines that a modified plan, executive summary, or annual progress report is inadequate, the department may, within its discretion, either require further modification or enter an order pursuant to WAC 173-307-100.

NEW SECTION

WAC 173-307-100 PENALTIES. (1) If, after having received a list of specified deficiencies from the department, a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete modification of a plan, executive summary, or annual progress report within the time period specified by the department, the department may enter an order pursuant to chapter 34.05 RCW finding the user or generator not in compliance with the requirements of RCW 70.95C.200. When the order is final, the department shall notify the department of revenue to charge a penalty fee. The penalty fee shall be the greater of one thousand dollars or three times the amount of the user's or generator's previous year's fee, in addition to the current year's fee. If no fee was assessed the previous year, the penalty shall be the greater of one thousand dollars or three times the amount of the current year's fee. The penalty assessed under this subsection shall be collected

each year after the year for which the penalty was assessed until an adequate plan, executive summary, or annual progress report is completed.

(2) If a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete an adequate plan, executive summary, or annual progress report after the department has levied against the user or generator the penalty provided in subsection (1) of this section, the user or generator shall be required to pay a surcharge to the department whenever the user or generator disposes of a hazardous waste at any hazardous waste incinerator or hazardous waste landfill facility located in Washington state, until a plan, executive summary, or annual progress report is completed and determined to be adequate by the department. The surcharge shall be equal to three times the fee charged for disposal. The department shall furnish the incinerator and landfill facilities in Washington state with a list of Environmental Protection Agency/state identification numbers of the hazardous waste generators that are not in compliance with the requirements of RCW 70.95C.200.

NEW SECTION

WAC 173-307-110 APPEALS. A user or generator may appeal from a department order or a surcharge under RCW 70.95C.220 to the pollution control hearings board pursuant to chapter 43.21B RCW.

NEW SECTION

WAC 173-307-120 EXEMPTIONS. A person required to prepare a plan because of the quantity of hazardous waste generated may petition the director to be excused from this requirement. The person must demonstrate to the satisfaction of the director that the quantity of hazardous waste generated was due to unique circumstances not likely to be repeated and that the person is unlikely to generate sufficient hazardous waste to require a plan in the next five years.

NEW SECTION

WAC 173-307-130 PUBLIC DISCLOSURE. (1) The department shall make available for public inspection any executive summary or annual progress report submitted to the department. Any hazardous substance user or hazardous waste generator required to prepare an executive summary or annual progress report who believes that disclosure of any information contained in the executive summary or annual progress report may adversely affect the competitive position of the user or generator may request the department pursuant to RCW 43.21A.160 to delete from the public record those portions of the executive summary or annual progress report that may affect the user's or generator's competitive position. The department shall not disclose any information contained in an executive summary or annual progress report pending a determination of whether the department will delete any information contained in the report from the public record. This determination will be made within sixty days following a request for public inspection.

(2) Any ten persons residing within ten miles of a hazardous substance user or hazardous waste generator required to prepare a plan may file with the department a petition requesting the department to examine a plan to determine its adequacy. The department shall report its determination of adequacy to the petitioners and to the user or generator within a reasonable time. The department may deny a petition if the department has within the previous year determined the plan of the user or generator named in the petition to be adequate.

NEW SECTION

WAC 173-307-140 RECORDS. The department shall maintain a record of each plan, executive summary, or annual progress report it reviews, and a list of all plans, executive summaries, or annual progress reports the department has determined to be inadequate, including descriptions of corrective actions taken. This information shall be made available to the public.

WSR 91-08-042

NOTICE OF PUBLIC MEETINGS TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—March 29, 1991]

MEETING NOTICE FOR APRIL 1991
TRANSPORTATION IMPROVEMENT BOARD
TRANSPORTATION BUILDING
OLYMPIA, WASHINGTON 98504

Work session, 6:00 p.m., Thursday, April 18, 1991, in Olympia at the Best Western Aladdin Motor Inn, Cascade Room, 900 South Capitol Way.

TIB meeting, 9:00 a.m., Friday, April 19, 1991, in Olympia at the Transportation Building, Commission Board Room.

TIB field trip, 9:00 a.m. to 4:30 p.m., Thursday, May 16, 1991, in Yakima.

TIB work session, 6:00 p.m. Thursday, May 16, 1991, in Yakima at the Towne Plaza Hotel, 607 East Yakima Avenue, Yakima.

TIB meeting, 9:00 a.m., Friday, May 17, 1991, in Yakima at the Towne Plaza Hotel, 607 East Yakima Avenue, Yakima.

WSR 91-08-043

PREPROPOSAL COMMENTS DEPARTMENT OF REVENUE

[Filed April 1, 1991, 10:43 a.m.]

Subject of Possible Rule Making: WAC 458-20-199 Accounting methods.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Les Jaster, Rules Coordinator, Department of Revenue, Interpretation and Appeals, General Administration Building, Mailstop AX-02, Olympia,

Washington 98504. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on May 15, 1991, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The Department of Revenue plans to amend this WAC, the proposed changes are considered to be a clarification. The requirement now in the WAC which is identified as "Method three" which requires an accounts receivable adjustment to be made annually will be deleted. The rule will more clearly indicate that persons who maintain accounting records on an accrual basis must report taxes on that basis. A copy of the proposed rule is available upon request. Contact Roseanna Hodson, (206) 586-4281.

April 1, 1991
Les Jaster
Rules Coordinator

WSR 91-08-044

PREPROPOSAL COMMENTS DEPARTMENT OF REVENUE

[Filed April 1, 1991, 10:44 a.m.]

Subject of Possible Rule Making: WAC 458-20-127 Magazines and periodicals.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Les Jaster, Rules Coordinator, Department of Revenue, Interpretation and Appeals, General Administration Building, Mailstop AX-02, Olympia, Washington 98504. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on May 15, 1991, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The Department of Revenue plans to amend this WAC, the proposed changes are considered to be a clarification. The WAC will incorporate language from other WACs to more clearly state that out-of-state sellers of magazines and periodicals are taxable in the same manner as other sellers of tangible personal property who are located out-of-state and making sales into Washington. A draft of the rule is available upon request. Contact Roseanna Hodson, (206) 586-4281.

April 1, 1991
Les Jaster
Rules Coordinator

WSR 91-08-045

PREPROPOSAL COMMENTS DEPARTMENT OF REVENUE

[Filed April 1, 1991, 10:45 a.m.]

Subject of Possible Rule Making: WAC 458-20-166 Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.

Persons may comment on this subject in writing or by attending the public meeting. Written comments should be addressed to: Les Jaster, Rules Coordinator, Department of Revenue, Interpretation and Appeals, General Administration Building, Mailstop AX-02, Olympia, Washington 98504. Public meeting scheduled at: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on May 15, 1991, at 10:00 a.m. (Written comments will be accepted to this date.)

Other Information or Comments by Agency at this Time, if any: The Department of Revenue plans to amend this WAC, the proposed changes are considered to be a clarification. The changes will include a discussion as to when a hotel or motel is engaged in the telephone business. There will be new language added to discuss the hotel/motel tax and stadium tax. There will be a discussion on sales to the federal government. A copy of the rule draft is available upon request. The rule draft is for discussion purposes only. Contact Roseanna Hodson, (206) 586-4281.

April 1, 1991
 Les Jaster
 Rules Coordinator

WSR 91-08-046
 NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—March 29, 1991]

Please be advised that the April 17, 1991, planning and training session scheduled by the Washington State Human Rights Commission at the Sheraton-Spokane Hotel, Trentwood Mead Room, North 322 Spokane Falls Court, Spokane, has been cancelled. The regular business meeting scheduled at the Eastern Washington University Higher Education Center, Fourth Floor Mall, West 705 First at Wall, Spokane, Beginning at 9:00 a.m. on April 18, 1991, will be held as planned.

WSR 91-08-047
 NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—March 29, 1991]

The Washington State Human Rights Commission will hold its next regular commission meeting in Vancouver on May 15 and 16, 1991. The meeting on May 15, will be held at the Red Lion Inn at the Quay, the Quarterdeck Room, Foot of Columbia Street, Vancouver, beginning at 7:00 p.m. and will be a planning and training session only. The regular business meeting will be held at the Clark County Building, Commissioner's Hearing Room, 1013 Franklin, Second Floor, Vancouver, beginning at 9:00 a.m.

WSR 91-08-048
 NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE
 [Memorandum—March 28, 1991]

The date and time of the April 12, 1991, regular meeting of the board of trustees of Whatcom Community College, District Number Twenty-One, has been changed. The meeting has been rescheduled to April 15, 1991, at 3:00 p.m. in the Board Room at the Laidlaw Center, 237 West Kellogg Road, Bellingham, WA 98226.

WSR 91-08-049
 PROPOSED RULES
ESCROW COMMISSION
 [Filed April 1, 1991, 2:24 p.m.]

Original Notice.

Title of Rule: Amending WAC 308-128B-080 Escrow officer and agent fees.

Statutory Authority for Adoption: RCW 18.44.320.

Statute Being Implemented: RCW 18.44.080.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Mitchell, 2424 Bristol Court, Mailstop PB-01, Olympia, WA 98504, (206) 586-4681.

Name of Proponent: Escrow Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reduces and adjusts escrow registration fee schedule.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: WestCoast SeaTac Hotel, 18220 Pacific Highway South, Cascade Room, SeaTac, WA 98188, on May 8, 1991, at 1:30 p.m.

Submit Written Comments to: Robert Mitchell, 2424 Bristol Court, Mailstop PB-01, Olympia, WA 98504, by 5:00 p.m., May 6, 1991.

Date of Intended Adoption: May 8, 1991.

April 1, 1991
 Linda M. Moran
 Assistant Attorney General

AMENDATORY SECTION (Amending WSR 90-03-099, filed 1/24/90, effective 3/1/90)

WAC 308-128B-080 ESCROW OFFICER AND AGENT FEES. On ~~((March 1, 1990))~~ July 1, 1991, the following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Escrow officer:	
First examination	\$150.00
Reexamination	150.00
Original license	((200.00)) 160.00

Title of Fee	Fee
License renewal	((200.00)) <u>160.00</u>
Transfer of license, name or address change or license activation	25.00
Duplicate license	25.00
Escrow agent:	
Application and original certificate	((375.00)) <u>345.00</u>
Renewal	((375.00)) <u>345.00</u>
Late renewal with penalty	((562.50)) <u>517.50</u>
Transfer of certificate, name or address change	25.00
Duplicate certificate	25.00
Escrow agent branch office:	
Application and original license	((375.00)) <u>345.00</u>
Renewal	((375.00)) <u>345.00</u>
Late renewal with penalty	((562.50)) <u>517.50</u>
Transfer of license, name or address change	25.00
Duplicate license	25.00

WSR 91-08-050
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3113AAAA—Filed April 1, 1991, 5:00 p.m., effective May 1, 1991]

Date of Adoption: April 1, 1991.

Purpose: To extend the effective date of this permanent rule from April 1, to May 1, 1991.

Citation of Existing Rules Affected by this Order: Amending chapter 388-77 WAC, Family independence program.

Statutory Authority for Adoption: RCW 74.21.070.

Pursuant to notice filed as WSR 90-21-149 on October 24, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-77-010 is modified to include and clarify the definition of "good cause for late reporting." Although included by reference to the Washington Administrative Code (WAC) for the aid to families with dependent children program, some commenter felt that the definition should be set out specifically in FIP WAC; and WAC 388-77-500(2) is modified to limit the 185% gross income test to applications only. As proposed, the test would have applied to applications and to ongoing eligibility. The change is in response to and reflects the concerns raised by the legal services community.

Effective Date of Rule: May 1, 1991.

April 1, 1991
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-010 DEFINITION. Unless the context clearly requires otherwise, the definitions in WAC 388-77-010 apply throughout chapter 388-77 WAC. When using the definition for child, parent, stepparent, etc., this can stand for either singular or plural. Other definitions applicable to FIP are contained in chapters 388-22 and 388-49 WAC.

(1) "Assessment" means both a FIP orientation and an evaluation of the enrollee's readiness to pursue employment, education, or training and other services available to help the enrollee to achieve self-sufficiency. Normally, the orientation and the evaluation will each take one appointment.

(2) "Benchmark standard" means the basic monthly level of cash benefits, established according to family size, which equals the state's payment standard under the aid to families with dependent children program, plus food cash assistance as determined in WAC 388-77-820.

(3) "Dependent" means spouse, minor children or stepchildren, full-time students eighteen years of age and under nineteen years of age who are reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which nineteen years of age is reached.

(4) "Enrollee" means the head of household and/or family member of a family eligible to receive FIP cash assistance or other services under the family independence program.

(5) "Transitional benefits" means noncash benefits the enrollee is eligible to receive after eligibility for cash assistance no longer exists because of increased earnings.

(6) "Family independence program" means a demonstration project which remains within the AFDC system under Title IV of the federal Social Security Act and the Food Stamp Act.

(7) "Family independence program services" includes job readiness programs, job development, employment, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training on management of finances and use of credit.

(8) "FIP cash assistance" means the IV-A payment for the grant, additional requirements, and incentive and/or the cash equivalent for food stamps.

(9) "FIP noncash benefits" means benefits, such as medical or child care.

(10) "Full-time employment" means working one hundred fifty or more hours per month.

(11) "Good cause for late reporting" means any circumstance beyond the control of the enrollee. Good cause shall be determined by the department.

(12) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

~~((12) "Incapacity" for FIP means the existence of a physiological, emotional, and/or mental impairment, defect, illness, or loss which is supported by competent medical testimony and is of such a debilitating nature as to reduce substantially or eliminate the person's ability to support or care for his or her child or children.))~~

(13) "Incentive benefit payments" means those additional benefits payable to enrollees due to their participation in education, training, work programs, or employment.

(14) "Job" means a regularly performed lawful activity which generates a cash benefit for the enrollee.

(15) "Overpayment" means FIP cash assistance including food assistance, and/or medical benefits, received by the FIP assistance unit in excess of the amount for which the unit was eligible. An overpayment includes:

(a) "Intentional overpayment" means an overpayment resulting from a willful or knowing intent of the enrollee to receive or retain benefits to which the enrollee is not entitled;

(b) "Unintentional overpayment" means an overpayment that is not attributed to the applicant's/enrollee's willful intent to defraud the department.

(16) "Qualifying parent" means the parent in a two-parent household who earned the greater amount of income in the twenty-four-month period immediately preceding the month in which the application for FIP assistance is filed.

(17) "Self-sufficiency plan" means a written agreement between the employment security department or the department and the enrollee that may include activities specifically undertaken for self-support, and other items outlined in the employability plan or social services plan.

(18) "Subsidized employment" means employment for which FIP has provided the employer the financial resources, in whole or in part, to compensate an enrollee for the performance of work.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-320 RESOURCES—EXEMPT. In addition to those exempted under aid to families with dependent children in WAC 388-28-005 through 388-28-474 and 388-28-575, the department shall exempt ~~((the following resources for FIP Title IV-A assistance:~~

~~(1) The cash surrender value of life insurance;
(2) The cash surrender value of burial plots and pre-paid funeral agreements;~~

~~(3))~~ nonexempt real property as long as the enrollee is making a good faith effort to sell the property.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-500 INCOME—DETERMINATION OF NEED. (1) An applicant is not eligible for FIP cash assistance if nonexempt gross monthly income less disregards, as specified in AFDC, exceeds the payment standard and authorized additional requirements for AFDC in effect at the time of application:

(a) The department shall ~~((not))~~ apply the one hundred eighty-five percent gross income test in WAC 388-28-484(7) to the income of FIP applicants; and

(b) For the purpose of subsection (1) of this section, an applicant shall not have been a recipient of AFDC or an enrollee of FIP for ninety days prior to application.

(2) For FIP enrollees, the AFDC one hundred eighty-five percent gross income test and the AFDC payment standard test shall not apply.

(3) Unless the household qualifies for a hold-harmless payment, an enrollee shall not be eligible for IV-A FIP cash assistance if nonexempt monthly income less disregards exceeds the totals of:

(a) The payment standard for AFDC for the appropriate household size;

(b) Applicable incentives; and

(c) Authorized additional requirements.

(4) An enrollee shall not be eligible for FIP cash assistance when nonexempt income less deductions exceeds the benchmark plus applicable incentives and authorized additional requirements unless the household qualifies for a hold-harmless payment. For the purpose of subsection (4) of this section, the food assistance amount used in the benchmark shall be calculated at eighty percent of the thrifty food plan.

(5) The department shall determine the exempt or nonexempt status of all income.

AMENDATORY SECTION (Amending Order 2984, filed 5/31/90, effective 7/1/90)

WAC 388-77-515 INCOME—EXEMPT. In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt the following income from FIP:

(1) Higher education benefits;

~~((2) ((Earned income tax credit (EIC);~~

~~(3)))~~ The earnings of a child under eighteen years of age;

~~((4))~~ (3) Retroactive FIP benefits;

~~((5))~~ (4) Income tax refunds; and

~~((6) Loans, if there is a written agreement to repay;~~

~~(7) Income in-kind; and~~

~~(8))~~ (5) Gifts as follows:

(a) Small nonrecurring gifts, not to exceed thirty dollars per recipient in any quarter;

(b) Gifts to cover the costs of tuition, books, or fees; or

(c) Gifts to cover medical expenses for procedures used to eliminate barriers to employment.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-520 INCOME—DEDUCTIONS. (1) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

(2) The department shall not allow the ten percent earned income deduction if earnings are reported after the eighteenth of the process month without good cause.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-555 EARNED INCOME REPORTING. (1) The department shall send employed enrollees a form to report their gross earnings and hours worked. This section shall not apply to an employed child.

(2) Approved applicants who are employed shall begin to report their earnings and hours worked the month following the month of opening.

(3) Newly employed enrollees shall report earnings and hours worked in writing beginning the month following the month the department becomes aware of the earnings.

(4) The department shall:

(a) Issue advance and adequate notice of (~~suspension and~~) termination to an enrollee who fails to submit a written report and verify earned income and hours worked by the tenth of the process month;

(b) (~~Suspend~~) Terminate FIP cash assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the process month;

(c) (~~Terminate FIP assistance if an enrollee fails to submit a written report and verify earned income and hours worked by the end of the payment month. Assistance shall be terminated effective the end of the payment month; however, cash assistance shall not be provided for the payment month, and~~

(d) Reinstated assistance to the start of the payment month, suspend or terminate FIP assistance as appropriate when earned income and hours worked are reported and necessary verification is provided by the end of the payment month, and give advance and adequate notice of the action taken)) Disallow AFDC income disregards in the hold-harmless calculation if income is reported after the eighteenth of the process month without good cause.

(5) Earned income reporting shall apply to both the Title IV-A and food assistance portions of FIP in place of mandatory monthly reporting.

AMENDATORY SECTION (Amending Order 2683, filed 8/30/88)

WAC 388-77-600 STANDARDS OF ASSISTANCE—HOLD HARMLESS. (1) The department shall ensure no applicant or enrollee of FIP receives less financial assistance than he or she would otherwise have been entitled to receive as a sum of the AFDC and food stamp programs under the rules in effect January 1, 1988, and as adjusted to reflect all increases in:

(a) The federal food stamp allotment and deductions; and

(b) The Washington state payment standard for AFDC.

(2) The department shall compare the amount the household would have received under the AFDC program (excluding the allowance for the child care) with the FIP IV-A payment. If the AFDC payment amount is greater, the department shall issue a supplement to

bring the FIP IV-A payment up to the amount the household would have received on AFDC.

(3) Notwithstanding subsection (2) of this section, the department shall allow the AFDC child care deduction in the hold-harmless computation for the month of conversion to FIP and the month following if such deduction may be allowed for AFDC.

AMENDATORY SECTION (Amending Order 2757, filed 1/13/89)

WAC 388-77-610 STANDARDS OF ASSISTANCE—INCENTIVE STANDARDS. (1) The department shall provide enrollees who are teen parents in high school or enrollees who are employed with incentive benefits as follows:

(a) Five percent of the benchmark standard for pregnant or parenting teenage parents under twenty-two years of age who stay in:

(i) High school and progress toward graduation; and

(ii) Participate, when available, in parenting education approved by the office of the superintendent of public instruction or the department.

(b) Fifteen percent of the benchmark standard for enrollees working half time;

(c) Thirty-five percent of the benchmark standard for enrollees working full-time.

(2) As described under subsection (1) of this section, the department shall not provide employment incentives for:

(a) Earnings reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(b) Income that is exempt or disregarded.

(3) The department shall provide other FIP enrollees participating in education or training programs approved by ESD or the department with incentive benefits equaling five percent of the benchmark standard.

~~((3))~~ (4) The department shall allow self-employed enrollees with an approved self-employment plan fifteen percent or thirty-five percent of the benchmark standard based on:

(a) The enrollee's declaration of hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(b) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

~~((4))~~ (5) An enrollee's participation in job search skills development or job search activities shall not qualify the enrollee for an incentive under WAC 388-77-610.

~~((5))~~ (6) The department shall not allow more than one incentive per assistance unit. The department shall allow the incentive at the highest level for which the assistance unit qualifies.

~~((6))~~ (7) The department shall round incentive payments down to the nearest dollar.

~~((7))~~ (8) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

((8)) (9) For the purposes of the incentive computation, the department shall calculate the food assistance amount used in the benchmark at eighty percent of the thrifty food plan. The department shall round the product of the calculation of the eighty percent of the thrifty food plan down to the nearest dollar.

AMENDATORY SECTION (Amending Order 2630, filed 6/1/88)

WAC 388-77-615 STANDARDS OF ASSISTANCE—PAYMENT AMOUNTS. (1) To determine FIP Title IV-A cash assistance, the department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements(:

(a) ~~The department shall not pay grants less than one dollar, and~~

(b)). The department shall round the amount to be issued down to the nearest dollar.

(2) Payment amounts for enrollees, not in their own home, shall be as in WAC 388-29-125 through 388-29-280.

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-77-230 FAMILY INDEPENDENCE PROGRAM—INCAPACITY CRITERIA.

388-77-530 INCOME—NONRECURRING LUMP SUM PAYMENTS.

**WSR 91-08-051
PROPOSED RULES
DEPARTMENT OF FISHERIES**

[Filed April 2, 1991, 8:44 a.m.]

Continuance of WSR 91-03-153.

Title of Rule: Personal use rules.

Purpose: Continue adoption hearing.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Continue WAC 220-56-180 (6)(d) and (e), 220-56-235 (1)(b), and 220-57-425.

Reasons Supporting Proposal: Additional information needed before adoption.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, Mailstop AX-11, Olympia, 586-2429; Implementation: Gene DiDonato, Mailstop AX-11, Olympia, 753-6600; and Enforcement: Dayna Matthews, Mailstop AX-11, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 91-03-153.

Proposal Changes the Following Existing Rules: See WSR 91-03-153.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Date of Intended Adoption: April 29, 1991.

March 5, 1991

Joseph R. Blum

Director

**WSR 91-08-052
PROPOSED RULES
DEPARTMENT OF FISHERIES**

[Filed April 2, 1991, 8:47 a.m.]

Continuance of WSR 91-03-151.

Title of Rule: Personal use rules.

Purpose: Continuance.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Continue for adoption at a later date the following: WAC 220-57-195, 220-57-205, 220-57-210, 220-57-265, 220-57-425, 220-57-430, 220-57-435, 220-57-450, 220-57-455, 220-57-465, 220-57-470, and 220-57-490.

Reasons Supporting Proposal: Additional information is needed on coho returns.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, Mailstop AX-11, Olympia, 586-2429; Implementation: Gene DiDonato, Mailstop AX-11, Olympia, 753-6600; and Enforcement: Dayna Matthews, Mailstop AX-11, Olympia, 753-6585.

Name of Proponent: Washington State Department of Fisheries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 91-03-151.

Proposal Changes the Following Existing Rules: See WSR 91-03-151.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

See WSR 91-03-151.

Date of Intended Adoption: April 29, 1991.

March 5, 1991

Joseph R. Blum

Director

**WSR 91-08-053
PERMANENT RULES
DEPARTMENT OF FISHERIES**

[Order 91-18—Filed April 2, 1991, 8:52 a.m.]

Date of Adoption: March 5, 1991.

Purpose: Repeal rule.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-16-055.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 91-03-151 on January 23, 1991.

Effective Date of Rule: Thirty-one days after filing.
 March 29, 1991
 Joseph R. Blum
 Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-16-055 HOOK AND LINE—
 ANGLING.

WSR 91-08-054**PERMANENT RULES****DEPARTMENT OF FISHERIES**

[Order 91-13—Filed April 2, 1991, 8:57 a.m.]

Date of Adoption: March 5, 1991.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-16-220, 220-16-257, 220-20-010, 220-40-030, 220-40-031, 220-55-055, 220-55-065, 220-55-070, 220-55-075, 220-55-080, 220-55-086, 220-55-125, 220-56-100, 220-56-105, 220-56-115, 220-56-128, 220-56-175, 220-56-180, 220-56-185, 220-56-190, 220-56-205, 220-56-235, 220-56-240, 220-56-250, 220-56-282, 220-56-350, 220-56-380, 220-57-290, 220-57-340, 220-57-385, 220-57-460, 220-57-497, and 220-57A-035; and new WAC 220-57-313.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 91-03-153 on January 23, 1991.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-16-220, delete "true north" and add "to most westerly landfall on"; WAC 220-56-175, change "take" to "fish for" and change "Willapa Harbor" to "Willapa Bay"; WAC 220-56-180, include Atlantic salmon in all bag limits (except Bag Limit I); WAC 220-56-205, change treble hook permitted area to downstream from Bonneville Dam and delete three single hook in natural bait proposal; WAC 220-56-235, continue (1)(b) and restore aggregate bag limit; and WAC 220-56-350, delete "from" in (1)(f) and (h) and change July 16 to July 1 in (1)(h).

Effective Date of Rule: Thirty-one days after filing.
 March 28, 1991
 Joseph R. Blum
 Director

AMENDATORY SECTION (Amending Order 817, filed 5/29/69)

WAC 220-16-220 **GEOGRAPHICAL DEFINITIONS—WILLAPA ((HARBOR)) BAY**. The term "Willapa ((HARBOR)) Bay" shall be construed to include all the waters of Willapa ((HARBOR)) Bay outside the mouth of any tributary river or stream inside and easterly of a line ((projected)) from Leadbetter Point to Willapa Bay Channel Marker 8 (Buoy 8) and then to

the westerly most landfall on Cape Shoalwater ((Light)).

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-16-257 **RAZOR CLAM BEDS**. "Razor clam beds" are defined as that portion of Pacific Ocean beaches westerly of a line 500 feet seaward and parallel to the base of the primary dune or cliff or any portion of Pacific Ocean beaches posted as a razor clam bed and marked with boundary markers. The detached Willapa ((HARBOR)) Bay Spits that are north of ((Leadbetter)) Leadbetter Channel, west of Ellen Sands and south of the Willapa Ship Channel are also defined as "razor clam beds," as are those portions of the mouths of Grays Harbor and Willapa ((HARBOR)) Bay which contain razor clams.

AMENDATORY SECTION (Amending WSR 91-01-023, filed 12/10/90, effective 1/10/91)

WAC 220-20-010 **GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—SALMON, OTHER FOOD FISH AND SHELLFISH**. (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut (Hippoglossus stenolepis)

Pacific herring (Clupea harengus pallasi)

(except as prescribed
 in WAC 220-49-020)

Salmon
 Chinook (Oncorhynchus tshawytscha)
 Coho (Oncorhynchus kisutch)
 Chum (Oncorhynchus keta)
 Pink (Oncorhynchus gorbuscha)
 Sockeye (Oncorhynchus nerka)
 Masu (Oncorhynchus masu)

(4) It shall be unlawful for any person to fish for food fish or shellfish while in possession in the field of food

fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make or return any report (~~or return~~) required (~~of him~~) by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) It shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling unless otherwise provided.

(b) It shall be lawful to use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the food fish or shellfish while sorting commercial catches during the act of discarding those fish that are not going to be retained.

(c) It shall be lawful to use a spear in underwater spear fishing as provided for in WAC 220-56-160.

(d) It shall be lawful to use a spear to take carp as provided for in WAC 220-56-280.

(e) It shall be lawful to snag herring, smelt, anchovies, pilchard, sand lance, and squid when using baitfish jigger gear or squid jigs.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species and it is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel - within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles – inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner – within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound – between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass – between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend – westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation either licensed by the department of fisheries or bringing food fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

AMENDATORY SECTION (Amending Order 85-14, filed 3/1/85)

WAC 220-40-030 WILLAPA ((HARBOR)) BAY—SEASONS AND LAWFUL GEAR—VARIETIES OTHER THAN SALMON AND STURGEON.

(1) It shall be unlawful in Marine Fish-Shellfish Management and Catch Reporting Area 60C to fish for food fish, other than sturgeon and salmon, with purse seine or lampara gear exceeding 900 feet in length or having meshes of less than one-half inch stretch measure, or with drag seine gear exceeding 700 feet in length or having meshes of less than 4-1/2 inches stretch measure, except as provided in WAC 220-40-030(3). It is unlawful to fish for or possess salmon or sturgeon taken with purse seine, lampara, or drag seine gear.

(2) It shall be lawful to fish for and possess bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Area 60C, at any time with set line and hand line jig gear.

(3)(a) June 1 through October 31 – It shall be lawful to fish for and possess herring, anchovy, candlefish, or

pilchards taken for commercial purposes with purse seine or lampara in the waters of Willapa Bay, provided such gear shall not exceed 1,400 feet in length nor contain meshes less than one-half inch stretch measure. All species of fish other than herring, anchovy, candlefish and pilchard taken in operation with such purse seine or lampara gear must be immediately, with care, returned to the water.

(b) February 1 through March 15 – Closed to all commercial herring, anchovy, candlefish or pilchard fishing except dip bag net.

(c) It shall be lawful to fish for, take and possess herring, anchovy, candlefish, or pilchards with dip bag net gear at any time in the waters of Willapa Bay.

(4) It shall be lawful to retain for commercial purposes bottomfish taken incidental to any lawful commercial salmon fishery in Willapa ((HARBOR)) Bay Salmon Management and Catch Reporting Areas 2G, 2H, 2J, 2K, and 2M, and it shall be lawful to retain bottomfish taken incidental to any lawful sturgeon fishery in Marine Fish-Shellfish Management and Catch Reporting Area 60C.

(5) It shall be lawful to take, fish for and possess smelt taken with hand dip nets in any of the waters of Willapa ((HARBOR)) Bay except during weekly closed periods extending from 8:00 a.m. Thursday to 8:00 p.m. Saturday.

(6) It shall be lawful to take bottom fish with drag seine in Marine Fish-Shellfish Management and Catch Reporting Area 60C from March 1 through June 30.

AMENDATORY SECTION (Amending Order 90-77, filed 8/24/90, effective 9/24/90)

WAC 220-40-031 WILLAPA ((HARBOR)) BAY—SEASONS AND LAWFUL GEAR—STURGEON. It is unlawful to fish for or possess sturgeon taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Area 60C except at those times, with the gear, and subject to the provisions of this section:

(1) It is unlawful to take sturgeon by angling from any vessel that is engaged in commercial sturgeon fishing, has been engaged in commercial sturgeon fishing that same day, or has commercially caught sturgeon aboard.

(2) It is unlawful to retain sturgeon not of lawful size, as provided for in WAC 220-20-020(1), and all sturgeon in transit must not have head or tail removed.

(3) It is lawful to retain for commercial purposes sturgeon taken incidental to any lawful commercial salmon fishery in any Willapa ((HARBOR)) Bay Salmon Management and Catch Reporting Area except it is unlawful to retain white sturgeon taken prior to August 1st.

AMENDATORY SECTION (Amending Order 79-58, filed 8/10/79)

WAC 220-55-055 FREE LICENSE ISSUING PROCEDURE. A free razor clam license shall be issued by the license supervisor or a dealer designated by the department of fisheries, to any qualified applicant((;

~~upon receipt of the applicant's affidavit on a form provided by the department and payment of the dealer fee)). If a license is lost or becomes illegible, a new license must be obtained.~~

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-065 EXPIRATION. The expiration date of each resident or nonresident license and catch record card, unless otherwise provided, shall be December 31st of the year printed on the license or catch record card. In case of a free license, the license shall not expire, except a license issued to a person under 16 years of age shall expire on that person's 16th birthday. A two consecutive day ~~((combined))~~ personal use license ((and catch record card)) shall expire at the close of the day after the validation date, except when the validation date is December 31st, in which case the expiration date is also December 31st.

AMENDATORY SECTION (Amending Order 89-05, filed 3/20/89)

WAC 220-55-070 VALID CATCH RECORD CARD. A catch record card shall be invalid unless:

(1) The angler possesses the appropriate license stamp for the fishery in which the angler is participating, if a license stamp is required~~((is affixed to the recreational license form))~~. A ~~((sport catch record))~~ license stamp, issued by the department, is required to be affixed to the recreational license form of ~~((persons who do not meet))~~ the ~~((qualifications for issuance of a free personal use license, salmon catch record card (punchcard), or two consecutive day combined license and catch record card (punchcard) as set out in RCW 75.25.110. Qualifications for a free sturgeon catch record card (punchcard) are identical to those for a free salmon catch record card.~~

(2) The validation date is legibly written in ink on the face of the stamp, if required)) angler if it is an annual license stamp, or in the angler's possession if it is a stamp for a two consecutive day personal use license and the angler can offer proof of identification equivalent to that of a personal use license form. Absent such proof, the stamp must be affixed to a personal use license form.

(2) The catch record card number, if required, is written in ink across the face of the stamp.

(3) For two consecutive day licenses, the validation date is legibly written on the face of the stamp.

If the validation date is illegible or altered, or if the stamp affixed to the recreational license form has been mutilated, the catch record card is invalid. The department will not replace a lost or mutilated stamp.

AMENDATORY SECTION (Amending Order 89-05, filed 3/20/89)

WAC 220-55-075 ~~((SPORT CATCH RECORD))~~ SALMON AND STURGEON LICENSE STAMPS. ~~((A sport catch record))~~ Salmon and sturgeon license stamps shall be ~~((a stamp))~~ issued by the department of fisheries ~~((to be))~~. These stamps are not valid unless affixed to a recreational license form.

AMENDATORY SECTION (Amending Order 88-03, filed 2/4/88)

WAC 220-55-080 VALIDATION DATE. On a two consecutive day ~~((combined))~~ personal use license ((and catch record card)), the validation date shall be the first day on which an angler may fish for or possess foodfish.

AMENDATORY SECTION (Amending Order 90-05, filed 1/19/90, effective 2/19/90)

WAC 220-55-086 ~~TWO-CONSECUTIVE-DAY ((COMBINED)) PERSONAL USE LICENSE ((AND CATCH RECORD CARD))~~. A two consecutive day ~~((combined))~~ personal use license ((and catch record card (also referred to as a punchcard in chapter 75.25 RCW))) shall ~~((consist of a two consecutive day license))~~ be a stamp ((affixed to a recreational license form and the appropriate catch record card or a two consecutive day license stamp affixed to the appropriate catch record card)) issued by the department of fisheries. In addition to a personal use license, an angler must possess a catch record card, if required, appropriate for the species being fished for.

AMENDATORY SECTION (Amending Order 89-05, filed 3/20/89)

WAC 220-55-125 DUTIES OF A RECREATIONAL LICENSE DEALER. A license dealer shall, at the time of sale of a two consecutive day ~~((combined))~~ personal use license ((stamp)), write the validation date in ink on the face of the stamp, and it shall be unlawful ~~((for him))~~ to fail to do so.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-100 DEFINITIONS—PERSONAL USE. (1) "Personal-use possession" and "daily bag limits" are defined as the numbers or pounds of food fish or shellfish which may be taken in a single day or held in possession at one time, unless otherwise provided.

(2) A "single hook" is defined as a hook having a single point or barb; a "double hook" as a hook having two points or barbs on a common shank; and a "treble hook" as a hook having three points or barbs on a common shank.

(3) A "lure" is defined as any object made of animal, vegetable or mineral materials which has attached thereto one or more hooks and is used as bait while angling for food fish.

(4) The term "processed" as it applies in this chapter is defined as food fish or shellfish which have been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(5) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(6) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with one lure in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than one lure. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(7) The term "snag or snagging" is defined as any method of taking or attempting to take food fish with one or more hooks in such a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(8) The term "underwater spearfishing" is defined as any method of taking or attempting to take food fish by using any object or objects to impale or hook fish while the fisherman is swimming or floating in the water.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisherman is above the surface of the water.

(10) The term "natural bait," unless otherwise provided, is defined as a lure consisting of an animal or part of an animal with one single hook.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

(12) The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island.

(13) The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 near the mouth of the Columbia River.

(14) The term "Buoy 10 Fishery" is defined as a fishery between the down stream side of the Megler-Astoria Bridge and the Buoy 10 Line.

(15) The term "Channel Marker 13 Line" is defined as a true north-south line through Grays Harbor Channel Marker 13.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Germany Creek - Highway 4 Bridge.

Hoquiam River - Highway 101 Bridge.

Humtulsips River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.

Methow River - Highway 97 Bridge.

Mill Creek - Highway 4 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - Kenmore Highway Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River – Lynn Point 117 degrees true to the opposite shore.

Tucannon River – State Highway 261 Bridge.

Wallace River – The furthest downstream railroad bridge.

Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek – A line projected approximately 14 degrees true from the flashing light at the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River – Highway 14 Bridge.

Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River – Highway 101 Bridge.

Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon or baitfish.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(d) It is lawful to use two lines (two rods) to fish for salmon in Catch Record Card Areas 10, 11 and 13, and lawful to use a third line using baitfish jigger gear in these areas.

(2) It shall be unlawful for any person to take, fish for or possess food fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel except as follows:

(a) It is lawful to leave the pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(b) It is lawful to use an electric power-operated reel designed for sport fishing attached to a pole.

(c) It is lawful to fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) except use of hand lines is unlawful in those waters west of the mouth of the Sekiu River, the Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(3) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-128 FOOD FISH FISHING—CLOSED AREAS. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Bayview Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Bayview Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal within a radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery are closed December 1 through October 31. Those waters within 50 feet of the confluence are closed from November 1 through November 30.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of the Burlington Northern Railroad Bridge are closed to salmon angling. For food fish other than salmon, those waters easterly of the Burlington Northern Railroad Bridge are closed June 1 through September 30. During the period October 1 through May 31 it is lawful to fish for food fish other than salmon up to the mouth of the Lake Washington Ship Canal.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittendon Locks to the mouth of

the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-175 SALMON, STURGEON, AND HALIBUT CATCH RECORD CARDS. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to ~~((take))~~ fish for or possess for personal use anadromous salmon, Columbia River, Grays Harbor, or Willapa ~~((Harbor))~~ Bay sturgeon (including sturgeon taken from any tributary), or halibut taken from Catch Record Card Areas 5 through 13, a fisherman must obtain and have in his possession the appropriate catch record card (also referred to as punch card in chapter 75.25 RCW) as described in WAC 220-69-237, 220-69-238, and 220-69-239 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, when obtaining a catch record card shall completely, accurately, and legibly complete all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card.

(3) Immediately upon catching and possessing a salmon, sturgeon or halibut, the angler shall enter in the appropriate space the place, date of catch, species (catch type), and, for sturgeon, length.

(4) Every person possessing a catch record card shall by January 31 of the year following the year printed on the card return such card to the department of fisheries.

(5) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized fisheries department employee, exhibit said card to such officer or employee for inspection.

(6) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 12 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over ~~((+))~~ 12 inches in length Atlantic salmon (no minimum length).

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 12 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

(3) Code D: In waters having this code designation, the bag limit in any one day is six salmon including Atlantic salmon not less than 12 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.

(4) Code F: In waters having this code designation, the bag limit in any one day is two salmon including Atlantic salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

(5) Code G: In waters having this code designation, the bag limit is four salmon including Atlantic salmon, not more than two of which may be chinook salmon and the minimum size for chinook salmon is 22 inches in length.

(6) Code H: In waters having this code designation, the bag limit in any one day is three salmon including Atlantic salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 16 through June 15 in Catch Record Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except the daily bag limit in Catch Record Card Area 12 is three salmon of any species.

(7) Code I: In waters having this code designation, the bag limit, size restrictions, and opening and closing dates are the same as those for gamefish as regulated under Title 77 RCW by the Washington wildlife commission. Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

(8) The possession limit in all waters regulated under Bag Limits A, C, D, F, G, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the possession limit for gamefish as regulated under Title 77 RCW by the Washington wildlife commission.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-56-185 MARINE AREA CODES. The term "marine area code numbers" is defined as the catch

area for the salmon catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): West of the Megler-Astoria Bridge - north to Leadbetter Point. Effective January 1, 1989, Area 1 includes only waters west of the Buoy 10 Line and north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. (~~Effective January 1, 1989,~~) Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) (~~Effective January 1, 1989,~~) Area 2-1: Willapa Bay east of a line from Leadbetter Point to Willapa Channel Marker 8 (Buoy 8) then to the westerly most landfall on Cape Shoalwater.

(c) (~~Effective January 1, 1989,~~) Area 2-2: Grays Harbor east of a ~~((north-south))~~ line ~~((through Grays Harbor Channel Marker 13))~~ from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Navigation Buoy BW "R" - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

(b) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.).

(c) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (Fl red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS-SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound:

(a) Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, and 12 - Bag Limit H - open the entire year.

(b) Catch Record Card Areas 10, 11, and 13 - Bag Limit G - open the entire year.

(c) In the above waters there are specified closures as provided for in WAC 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla-Tatoosh Line - Bag Limit F except during the period April 16 through June 15 maximum size limit of 30 inches on chinook salmon if the waters described in this subsection are open - open concurrently with the ocean, and these waters will remain open through October 31 or until the ocean salmon quota for any species is taken.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 - Bag Limit F - when opened by emergency regulation.

(4) Grays Harbor (~~((waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin))~~) Catch Record Card Area 2-2 (a) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean Catch Record Card Area 2. Lawful to fish from the bank only of the north and south jetties 7 days per week when the recreational season is in progress in adjacent ocean waters, (b) Bag Limit A - August 16 through January 31: Waters of ~~((the Westport Boat Basin only))~~ Catch Record Card Area 2-2 east of the Channel Marker 13 Line.

(5) Willapa (~~((Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105))~~) Bay (Catch Record Card Area 2-1) (a) Open to salmon angling coincidentally with the season, bag

limit, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2), (b) Bag Limit A - August 16 through January 31.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-205 HOOK REGULATIONS—FRESHWATER SALMON ANGLING. It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook must not exceed 3/4 inch from point to shank except nonbuoyant lures used in the Columbia River downstream from Bonneville Dam may have treble hooks. Nonbuoyant natural bait lures may have up to two single hooks not exceeding 3/4 inch from point to shank.

(2) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(3) No leads, weights or sinkers may be attached below or less than 12 inches above a lure.

(4) All hooks must be attached within three inches of the bait or lure.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point.

(b) Rockfish - 15 fish.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) All other species - no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. ~~(((Punch)))~~ Catch Record Card Areas 5 through 7) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than ((2 of which may be lingcod and no more than 10 of which may be rockfish or surfperch. It is unlawful to possess lingcod less than

22 inches in length taken by angling. The daily bag limit taken by spear fishing may include no more than one lingcod in the 15 fish aggregate, with no size restriction.)):

Rockfish	10 fish
Surfperch	10 fish
Pacific cod	15 fish
Pollock	15 fish
Flatfish (except halibut)	15 fish
Lingcod	2 fish (1 fish if by spear fishing)

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island (~~(((Punch)))~~ Catch Record Card Areas 8-1 through 13) - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than ((1 of which may be lingcod, no more than 5 of which may be rockfish or walleye pollock, and no more than 10 of which may be surfperch or Pacific cod.)):

Rockfish	5 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	5 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish

(c) It is unlawful to possess lingcod less than 22 inches in length taken by angling.

(d) The daily bag limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-240 BAG LIMITS—OTHER FOOD FISH. It is unlawful for any one person to ~~((take))~~ fish for or possess in any one day more than the following quantities and sizes of food fish taken for personal use:

(1) Sturgeon: ~~((2 fish not less than 36 inches nor more than 72 inches in length state-wide, except.))~~

(a) 1 fish not less than 48 inches nor more than 66 inches in length in the Columbia River and tributaries upstream from ~~((a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary))~~ the Dalles Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) ~~((2 fish not less than 40 inches nor more than 72 inches in length in Grays Harbor and Willapa Bay and all rivers and streams draining into each.~~

(c) 2 fish not less than 40 inches nor more than 72 inches in length in the Columbia River and tributaries downstream from a line perpendicular to the river flow where the river becomes the Oregon/Washington boundary approximately 17.3 miles above McNary Dam.

~~(d) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.~~

~~(e) There is an annual personal use bag limit of 15 sturgeon.~~

~~(f) Effective January 1, 1991, the personal use daily bag limit and size limits for sturgeon are as follows:~~

~~Sturgeon:)) Except as provided for in subsection (1)(a) of this section, the state-wide daily limit for sturgeon is two fish in total, with the following size restrictions:~~

- ~~(i) Minimum size is 40 inches in length;~~
- ~~(ii) Maximum size is 72 inches in length;~~
- ~~(iii) Not more than one of the two fish may be less than 48 inches in length; and~~
- ~~(iv) Not more than one of the two fish may equal or exceed 48 inches in length.~~

~~(c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.~~

~~(d) There is an annual personal use bag limit of 15 sturgeon.~~

~~(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.~~

~~(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.~~

~~(4) All other food fish not otherwise provided for in this chapter: No limit.~~

AMENDATORY SECTION (Amending Order 89-26, filed 4/27/89)

WAC 220-56-250 LINGCOD—AREAS AND SEASONS. It is unlawful to take, fish for or possess lingcod for personal use except during the seasons and within the areas herein provided:

(1) Coastal area (a) ~~((Salmon Punch))~~ Catch Record Card Areas 1 through 3 - open the entire year, (b) ~~((Salmon Punch))~~ Catch Record Card Area 4 - April 16 through November 30.

(2) ~~((Salmon Punch))~~ Catch Record Card Areas 5, 6, and 7 - April 16 through November 30.

(3) ~~((Salmon Punch))~~ Catch Record Card Areas 8 through 13 - April 16 through May 31.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-282 STURGEON—LAWFUL GEAR. ~~((+))~~ It is unlawful to fish for sturgeon with other than natural bait and barbless hooks, and it is unlawful to use ~~((other))~~ more than two single barbless hooks per natural bait, or to use more than two natural baits.

~~((2))~~ It is unlawful to fish for sturgeon using barbed hooks in Grays Harbor and Willapa Bay and all rivers and streams draining into each, and in those waters of the Columbia River and tributaries upstream from a line perpendicular to the river flow where the river ceases to be the Oregon/Washington boundary approximately 17.3 miles above McNary Dam:))

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-350 HARDSHELL CLAMS, COCKLES, MUSSELS—AREAS AND SEASONS.

(1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that it is unlawful to take, dig for or possess such shellfish taken for personal use:

(a) West of the tip of Dungeness Spit from April 1 through October 31.

(b) Garrison Bay: All state-owned and federally-owned tidelands of Guss Island and those tidelands south of a boundary marker located approximately 1,010 yards southerly of Bell Point are closed to clam digging the entire year. Those tidelands north of the above-described boundary marker are open to harvest the entire year.

(c) Saltwater State Park—All state-owned tidelands at Saltwater State Park shall be closed to the personal use harvest of all species of clams from June 16 through December 31.

(d) Twanoh State Park—All state-owned tidelands at Twanoh State Park shall be closed to the personal use harvest of all species of clams ~~((from July 1))~~ April 16, 1991, through ((December 31)) April 15, 1992.

(e) Kayak Point County Park—All county-owned tidelands at Kayak Point County Park are closed except county tidelands north of the county fishing pier are open January 1 to June 15 of even-numbered years and county tidelands south of the pier are open January 1 to June 15 of odd-numbered years.

(f) ~~((The following areas))~~ Point Whitney—All state-owned tidelands at Point Whitney are closed to clam digging ((through)) July 16 through April 15((, 1991:

~~(i) All state-owned tidelands at Bywater Bay.~~

~~(ii) All state-owned tidelands at Point Whitney.~~

~~(iii) All state-owned tidelands at Eagle Creek).~~

(g) All state-owned tidelands at Camano Island State Park are closed to clam digging Sunday through Friday of each week.

(h) ~~((Penrose Point State Park))~~ Eagle Creek—All state-owned tidelands at ((Penrose Point State Park)) Eagle Creek are closed ((August 1, 1990, through August 31, 1990)) to clam digging July 1 through April 15.

(i) Port Townsend Ship Canal—The state-owned tidelands along the east shore of the canal between Port Townsend Bay and Oak Bay are closed to clam digging through April 15, 1992.

(j) Sequim Bay State Park—All tidelands at Sequim Bay State Park south of the boat ramp are closed to clam digging through April 15, 1992.

(k) Puget Sound state oyster reserves are closed to clam digging the entire year except the following areas are open for personal use clam harvest:

(i) Oakland Bay—The state-owned oyster reserve tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

(ii) Case Inlet—The state-owned oyster reserve tidelands on the east side of North Bay at the north end of the inlet.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-56-380 OYSTERS—AREAS AND SEASONS. (1) It is unlawful to take oysters for any purpose from state oyster reserves without written permission of the director of fisheries.

(2) It is unlawful to take or possess oysters for personal use from public tidelands from July 16 through September 15. In addition, it is unlawful to take or possess oysters taken from the following areas except during the periods indicated:

(a) Hood Canal south of a line from Misery Point to Quatsap Point – October 1 through June 30.

(b) ~~((Seal Rock Forest Service campground – May 16 through July 15.~~

~~(c) The following areas are closed through April 15, 1991:~~

~~((i)) Bywater Bay State Tidelands—((All state-owned tidelands)) May 16 through July 15.~~

~~((ii)) (c) Point Whitney—((All state-owned tidelands)) Closed April 16, 1991, through April 15, 1992.~~

(d) Kitsap Memorial State Park – May 16 through June 15.

(e) Scenic Beach State Park – April 16 through May 15.

(f) Department of fisheries tidelands at Hoodport Salmon Hatchery – closed year round.

(g) Eagle Creek – April 1 through April 30.

(h) Brown Point – Closed April ~~((+)) 16, 1991, through ((May)) April 15, 1992.~~

~~((i) Twanoh State Park – January 1 through June 30. Open to harvest Thursday through Sunday of each week.))~~

(3) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-290 ICICLE RIVER. Special Bag Limit: Two salmon per day, minimum size 12 inches – May 16 through June 30: Downstream from a point 400 feet below Leavenworth National Fish Hatchery to fishing boundary markers at the mouth of the Icicle River.

NEW SECTION

WAC 220-57-313 KENNEDY CREEK. Special Bag Limit – 2 adult salmon – October 1 through November 30: Downstream from the Highway 101 Bridge to mouth. Barbless hooks only.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-340 NEMAH RIVER. (1) Middle Nemah, Bag Limit A – July 1 through January 31: Downstream from the department of natural resources bridge on the Middle Nemah A Line Road.

(2) North Nemah – Bag Limit A – October ~~((+6)) 1~~ through January 31: Downstream from lower bridge on dead end Lower Nemah Road to the mouth.

(3) South Nemah – Bag Limit A – July 1 through January 31: Downstream from the confluence of the Middle Nemah to the mouth.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-385 QUILLAYUTE RIVER. Bag Limit A – May ~~((+6)) 1~~ through November 30: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-460 SOLEDUCK RIVER. Bag Limit A – May ~~((+6)) 1~~ through November 30: Downstream from the concrete pump station at the Soleduck Hatchery.

AMENDATORY SECTION (Amending Order 90-14, filed 3/1/90, effective 4/1/90)

WAC 220-57-497 WENATCHEE RIVER. Special bag limit: 2 salmon per day, minimum size 12 inches – May 16 through June 15. Downstream from the mouth of the Icicle River to the Highway 2 Bridge at Leavenworth.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57A-035 CHELAN LAKE (CHELAN COUNTY). Special Bag Limit ((f)) 2 chinook salmon per day, minimum size 15 inches.

WSR 91-08-055

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed April 2, 1991, 10:52 a.m.]

Date of Adoption: March 29, 1991.

Purpose: To provide for a waiver provision to WAC 180-44-050, pertaining to the 30 minutes before and after school requirement for teachers.

Citation of Existing Rules Affected by this Order: Amending WAC 180-44-050.

Statutory Authority for Adoption: RCW 28A.600.010.

Pursuant to notice filed as WSR 91-05-068 on February 19, 1991.

Effective Date of Rule: Thirty-one days after filing.

April 1, 1991
Dr. Monica Schmidt
Executive Director
Secretary

AMENDATORY SECTION (Amending SBE 44-4-24, filed 3/29/65, effective 4/29/65)

WAC 180-44-050 REGULATORY PROVISIONS RELATING TO RCW ((~~28A.04.120(6) AND 28A.58.101~~)) 28A.305.130(6) AND 28A.600.010—SCHOOL DAY AS RELATED TO THE TEACHER.

(1) Teachers and other certificated personnel are required to be at their respective schools for the benefit of pupils and patrons at least thirty minutes before the opening of school in the morning and at least thirty minutes after the closing of school in the afternoon.

(2) A district may apply for a waiver from the provisions of this section. The state board may grant a waiver if the district demonstrates the need for the waiver by meeting the procedural criteria of developing a local plan which identifies: The rationale and justification for the need for the waiver; an explicit statement as to how the "before and after" thirty minutes will be reallocated, and district assurance that the reallocated time will be used to enhance the educational program for all students; the goals and objectives, and anticipated outcomes associated with the proposed reallocation. Additionally, each district shall supply written assurance that appropriate supervision of students will not be curtailed. Each approval shall be valid for three school years.

WSR 91-08-056
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed April 2, 1991, 10:55 a.m.]

Date of Adoption: March 29, 1991.

Purpose: To add suspension and voluntary surrender to this rule.

Citation of Existing Rules Affected by this Order: Amending WAC 180-86-100.

Statutory Authority for Adoption: RCW 28A.410.010.

Pursuant to notice filed as WSR 91-05-024 on February 12, 1991.

Effective Date of Rule: Thirty-one days after filing.

April 1, 1991
Dr. Monica Schmidt
Executive Director
Secretary

AMENDATORY SECTION (Amending WSR 90-02-076, filed 1/2/90, effective 2/2/90)

WAC 180-86-100 REPRIMAND OR CERTIFICATE SUSPENSION OR REVOCATION—INITIATION OF PROCEEDINGS. The initiation of reprimand, suspension, or revocation proceedings by the superintendent of public instruction shall commence as a result of the following:

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that a certificate holder has had a professional license revoked or suspended by a licensing agency, has voluntarily surrendered a license or has been arrested, charged, or convicted for any felony offense included within WAC 180-75-081(1), the superintendent of public instruction or the designated administrative officer shall cause an investigation.

(2) In all other cases, the initiation of investigative proceedings shall commence only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school. Such written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected certificate holder with a copy of such written complaint and a copy of WAC 180-86-180.

WSR 91-08-057
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION

[Filed April 2, 1991, 1:35 p.m.]

Date of Adoption: April 2, 1991.

Purpose: To discourage state development on flood plains whenever there is a practical alternative, and to comply with state and federal flood plain requirements to obtain federal financial assistance and flood insurance when necessary. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

Statutory Authority for Adoption: Chapters 43.19 and 43.17 RCW.

Pursuant to notice filed as WSR 91-05-101 on February 20, 1991.

Changes Other than Editing from Proposed to Adopted Version: Subsection (3) of WAC 236-100-013 Definitions, is changed to delete the words, "property or properties," from the definition of the word "facility"; and subsection (2) of WAC 236-100-016, is changed to add the phrase, "from the elevation requirements of WAC 236-100-015." These changes are suggested for the purpose of clarification: The words property or properties as used in the definition of the term, "facility," subsection (3) of WAC 236-100-013, is confusing and should be removed to clarify the definition; and the phrase added to subsection (2) of WAC 236-100-016, is intended to clarify and emphasize that exemptions are only granted from the more stringent elevation requirements of this proposed WAC, and this does not include exemptions from the minimum regulations of the National Flood Insurance Program.

Effective Date of Rule: Thirty-one days after filing.
 March 28, 1991
 Gary Alexander
 Assistant Director

Chapter 236-100 WAC
FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

NEW SECTION

WAC 236-100-001 **AUTHORITY.** Pursuant to the authority granted by RCW 43.19.19361, 43.19.19368, and 43.17.060, the director of the department of general administration establishes the following risk management standards to be followed by all state agencies on flood mitigation.

NEW SECTION

WAC 236-100-010 **PURPOSE.** The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

NEW SECTION

WAC 236-100-011 **OBJECTIVES.** The objectives of these flood mitigation standards are:

- (1) To protect the people and the property of the state from unnecessary loss due to flood;
- (2) To restore and preserve the natural and beneficial values served by flood plains;
- (3) To minimize the impact of state development on wet lands and known flood plains;
- (4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;
- (5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and
- (6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

NEW SECTION

WAC 236-100-012 **APPLICATION.** These standards apply uniformly to:

- (1) All state agencies;

(2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and

(3) New leases except for existing leases or renewed leases.

NEW SECTION

WAC 236-100-013 **DEFINITIONS.** (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate, including but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 236-100-001 through 236-100-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the assistant director of the division of risk management, department of general administration, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, that is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred.

NEW SECTION

WAC 236-100-014 **RESPONSIBILITIES OF EACH STATE AGENCY.** (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the

fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC 236-100-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

NEW SECTION

WAC 236-100-015 FLOOD MITIGATION STANDARDS. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 CFR Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

(a) One foot above the one hundred-year flood elevation; or

(b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 236-100-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the division of risk management pursuant to WAC 236-100-016(2).

NEW SECTION

WAC 236-100-016 EXEMPTIONS. (1) Exemptions from the elevation requirements of WAC 236-100-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC 236-100-015 must be granted by the department of general administration, division of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of General Administration, Division of Risk Management, Second Floor, 2420 Bristol Court SW, MS: FS-24, Olympia, Washington 98504. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of General Administration, 218 General Administration Building, MS: AX-22, Olympia, Washington 98504 within thirty days of the date of the denial letter.

WSR 91-08-058

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Order 2081—Filed April 2, 1991, 3:03 p.m.]

Date of Adoption: April 2, 1991.

Purpose: Amend area descriptions and restrictions, change permit requirements, housekeeping.

Citation of Existing Rules Affected by this Order: Amending WAC 16-230-150, 16-230-160, 16-230-170, 16-230-180, and 16-230-190.

Statutory Authority for Adoption: Chapters 15.58 and 17.21 RCW.

Pursuant to notice filed as WSR 91-04-078 on February 6, 1991.

Changes Other than Editing from Proposed to Adopted Version: Delete reference to Area 3.

Effective Date of Rule: Thirty-one days after filing.

April 2, 1991

Michael V. Schwisow
for C. Alan Pettibone
Director

AMENDATORY SECTION (Amending Order 1598, filed 4/26/79)

WAC 16-230-150 AREA UNDER ORDER—RESTRICTED USE DESICCANTS AND

DEFOLIANTS. (1) Area under order: All counties located east of the crest of the Cascade Mountains (~~(including additional restrictions for Walla Walla County)~~).

(2) Restricted use desiccants and defoliants: The following desiccants and defoliants are ~~((by this order))~~ declared to be restricted use desiccants and defoliants in the area under order: ~~((6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidiinium dibromide, herein and commonly referred to as))~~ Diquat; Paraquat ~~((dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride, herein and commonly referred to as Paraquat; Mono (N,N-dimethylalkylamine) salt of 7-oxabicyclo (2.2.1) heptane-2,3-dicarboxylic acid, herein and commonly referred to as the amine salt of)); and Endothal((; and Dinoseb (2-sec-Butyl-4,6-dinitrophenol), herein and commonly referred to as Dinitro))~~).

(3) Additional restrictions shall apply for certain areas of Walla Walla County (see WAC 16-230-190).

AMENDATORY SECTION (Amending Order 1938, filed 7/2/87)

WAC 16-230-160 DESICCANTS AND DEFOLIANTS—GROUND EQUIPMENT—NOZZLE AND PRESSURE REQUIREMENTS FOR THE ENTIRE AREA UNDER ORDER. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Nozzle requirements – a minimum orifice diameter of ~~((0.072))~~ .052 inches shall be used for application of all restricted use desiccants and defoliants: PROVIDED, That ~~((applications of Dinitro may use a minimum orifice diameter of 0.052 inches: PROVIDED FURTHER, That))~~ a RD-2 Raindrop nozzle shall be allowed.

(2) Pressure requirements – maximum pressure at the nozzles for all applications of restricted use desiccants and defoliants shall be 30 psi.

(3) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply restricted use desiccants and defoliants within the area as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives, and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.

(4) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliants.

AMENDATORY SECTION (Amending Order 1767, filed 7/6/82)

WAC 16-230-170 DESICCANTS AND DEFOLIANTS—AERIAL EQUIPMENT—BOOM LENGTH, PRESSURE, NOZZLE REQUIREMENT, NOZZLE HEIGHT OF DISCHARGE AND SMOKE DEVICE REQUIREMENTS FOR THE ENTIRE AREA UNDER ORDER. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Boom length restrictions:

(a) Fixed wing: The working boom length shall not exceed 3/4 of the distance from the center of aircraft to wing tip on each side of aircraft.

(b) Helicopters: The working boom length shall not exceed 6/7 of the distance from the center of rotor to rotor tip on each side of the aircraft for rotors 40 feet or under or 3/4 of the distance from the center of rotor to rotor tip on each side of the aircraft where the rotor exceeds 40 feet while applying restricted use desiccants and defoliants.

(2) Pressure restrictions: Maximum pressure at the nozzles for all aerial applications of restricted use desiccants and defoliants shall be 25 psi.

(3) Nozzle requirements for applications of restricted use desiccants and defoliants:

(a) Fixed wing:

(i) Aircraft shall not be equipped with core plates or any device or mechanism which would cause a sheet, cone, fan or other dispersion of the discharged material. Nozzle orifices shall not be less than 0.094 inches: PROVIDED, That the RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of 0.156 inches;

(ii) Nozzles shall be directed downward and backward 135 degrees from the direction of flight.

(b) Helicopter:

(i) Straight stream jet nozzles, without core plates, with a minimum orifice diameter of 0.063 inches;

(ii) Straight stream jet nozzles with a minimum orifice diameter of 0.125 inches with No. 46 core plates or larger;

(iii) RD8-46 Raindrop® nozzles may be used with a minimum orifice diameter of ~~((0.156))~~ .075 inches;

(iv) Nozzles shall be directed downward and backward 135 degrees from the direction of flight for applications over 50 miles per hour and 90 degrees downward and backward for applications under 50 miles per hour.

(4) Height of discharge requirements by aircraft of restricted use desiccants and defoliants: The nozzles must be closed while either descending onto or ascending from the target field, and also ascending or descending over an obstacle or obstruction within the target field that would alter the height of application more than ten feet.

(5) Smoke device requirements: All aircraft applying restricted use desiccants and defoliants shall utilize a smoke device to determine wind directions and temperature inversion situations.

(6) The Washington state department of agriculture may issue a permit upon receipt of a written request to apply restricted use desiccants and defoliants within the area under order as described in WAC 16-230-150 with nozzles, nozzle type, drift control additives and/or arrangements other than those allowed herein. The director will consider safety factors and the possible exposure to susceptible crops in the areas of proposed application before a permit will be issued.

(7) Diesel and other fuel oils are prohibited in all tank mixes with desiccants and defoliants.

(8) Aerial applications of desiccants and defoliants are prohibited within a distance of one mile of the city limits of any incorporated city or town and the same

distance from the center of any unincorporated city or town comprised of ten or more inhabited, closely grouped residences.

AMENDATORY SECTION (Amending Order 1682, filed 4/4/80)

WAC 16-230-180 DESICCANTS AND DEFOLIANTS—WEATHER AND EVENING CUTOFF REQUIREMENTS. The following requirements apply to the entire area under order as listed in WAC 16-230-150:

(1) Weather conditions: Restricted use desiccants and defoliant shall not be applied when there is a temperature inversion, or if wind or weather conditions are such that damage could result to susceptible crops or ornamentals: PROVIDED, That aircraft applications of Paraquat shall be prohibited until the temperature inversion ceiling at the site of application is 1,000 feet or greater. Aircraft must be equipped with thermometers to detect the height of the inversion.

(2) Evening cutoff: All applications of restricted use desiccants and defoliant shall be prohibited from three hours prior to sunset to one hour after sunrise the following morning ((except for applications of Paraquat in Area 2 and 3 of Walla Walla County (see WAC 16-230-190))): PROVIDED, That ground applications ((of Dinitro may begin at sunrise the following morning)) in Area 2 of Walla Walla County may begin at sunrise: PROVIDED FURTHER, That ground applications may be allowed at other times by obtaining a written permit from the department.

AMENDATORY SECTION (Amending Order 1938, filed 7/2/87)

WAC 16-230-190 RESTRICTIONS ON THE USE OF DESICCANTS AND DEFOLIANTS IN WALLA WALLA COUNTY. The following restrictions shall apply in Walla Walla County:

(1) Area 1 description – town of Walla Walla and vicinity: This area includes all lands lying within the town of Walla Walla and vicinity beginning at the Washington ((state line at the common boundary line between Sections 15 and 16, T6N, R34E, north along Hoon Road and continuing north on McDonald Bridge Road; across U.P.R.R. and Highway 12; thence north four miles more or less to the northwest corner of Section 10, T7N, R34E; thence east twenty miles to the northeast corner of Section 11, T7N, R37E; thence south seven miles more or less to the Washington-Oregon state line; thence west)) -Oregon border and the west section line of Section 15, T6N, R34E; thence north along section lines and McDonald Road approximately seven miles to the southwest corner of Section 3, T7N, R34E; thence east along section lines approximately twenty miles to the southeast corner of Section 2, T7N, R37E; thence south approximately seven miles to the Washington-Oregon border; thence west approximately twenty miles to point of beginning.

(2) Area 1 restrictions:

((a)) During the period of February 15 through November 1 of any year, any aerial or ground application of ((Paraquat or Diquat or any mixture containing Paraquat or Diquat)) restricted use desiccants and defoliant shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

((b)) The loading and/or mixing of dinitro, Paraquat or Diquat for aerial application is prohibited on any airstrip, airfield or any location within Area 1 of Walla Walla County. Aerial application equipment used for dinitro, Paraquat or Diquat applications shall be decontaminated prior to bringing the application equipment back into Area 1 of Walla Walla County. PROVIDED; That the loading and/or mixing of Paraquat shall be allowed at the Walla Walla airport and those aircraft are restricted to exit and enter the airport to the north over Sections 10 and 11, T7N, R36E. PROVIDED FURTHER, That the department may issue a permit for loading and mixing of dinitro at a specified location and between specified dates upon receipt of a written request.

(c) Aerial applications of dinitro are prohibited during the period of August 25 through October 31 of any year.

(d) During the period of August 25 through October 31 of any year, diesel and other fuel oils shall be prohibited in dinitro tank mixes.

(e) During the period of August 25 through October 31 of any year, the ground application of dinitro or any mixture containing dinitro shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(f) During the period of August 1 through August 24 of any year, aerial applications of dinitro are prohibited within one-half mile of commercially grown alfalfa hay: PROVIDED, That the department may issue permits for aerial application within these areas:

(g) During the period of August 1 through October 31 of any year, any person applying dinitro shall keep records on forms prescribed by the director which shall include the following:

(i) The name and address of the person for whom the pesticide was applied;

(ii) The location of the land and number of acres where dinitro was applied;

(iii) The year, month, day, and time that dinitro was applied;

(iv) The product name of the dinitro applied;

(v) The direction and estimated velocity of the wind and temperature at the time the dinitro was applied;

(vi) The amount of dinitro applied per acre;

(vii) The type of carrier(s) and number of gallons per acre applied.

(h) The records required by (g) of this subsection shall be completed and available to the department the same day dinitro was applied. These records shall be kept for a period of one year from the date of application of dinitro. The director upon written request shall forthwith be furnished a copy of the records.

(i) Applications of dinitro by licensed commercial applicators shall be exempt from (g) and (h) of this subsection. PROVIDED, That the licensed applicator's records shall comply with RCW 17.21.100 and WAC 16-

~~228-190(1) through 16-228-190(4). PROVIDED FURTHER, That such records shall include the number of acres of application:))~~

(3) Area 2 description - southern portion of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington-Oregon border and the west section line of Section ((14, T6N, R33E; thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence east along the Dodd Road to the Touchet River; thence northerly along the Touchet River to north section line of Section 6, T8N, R34E; thence east along section lines twenty-two miles more or less to the northeast corner of Section 2, T8N, R37E; thence south along section lines seven miles more or less to the southeast corner of Section 2, T7N, R37E; thence west along section lines twenty miles more or less to the southwest corner of Section 3, T7N, R34E; thence south along section lines seven miles more or less to the Washington-Oregon border; thence west along the border five miles more or less)) 18, T6N, R33E; thence north along section lines approximately eight miles to the intersection with Nine Mile Road in Section 6, T7N, R33E; thence northeast along Nine Mile Road and Dodd Road approximately four miles to the intersection with the Touchet North Road in Section 23, T8N, R33E; thence northerly along the Touchet North Road approximately two miles to the Touchet River near the southeast corner of Section 11, T8N, R33E; thence northeasterly along the Touchet River approximately three miles to the north section line of Section 6, T8N, R34E; thence east along section lines approximately twenty-two miles to the northeast corner of Section 2, T8N, R37E; thence south along section lines approximately seven miles to the southeast corner of Section 2, T7N, R37E; thence west along section lines approximately twenty miles to the southwest corner of Section 3, T7N, R34E; thence south along section lines approximately seven miles to the Washington-Oregon border; thence west along the border approximately nine miles to the point of beginning.

(4) Area 2 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, any aerial application of Paraquat or any mixture containing Paraquat shall have prior approval by obtaining a written permit from the Washington state department of agriculture.

(ii) Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature the following morning has risen at least 10 degrees above the night low temperature:

(b) Diquat restrictions:

During the period of February 15 through November 1 of any year, any application of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only ((upon obtaining a permit from the Washington state department of agriculture:

(c) Dinitro restrictions:

(i) During the period of August 1 through August 24 of any year, aerial applications of dinitro are prohibited within one-half mile of commercially grown alfalfa hay: PROVIDED, That the department may issue permits for aerial application within these areas. The permits, if issued, may in addition to other application restrictions prohibit certain carriers or diluents for the dinitro:

(ii) During the period of August 25 through October 31 of any year, aerial applications of dinitro or any mixes containing dinitro are prohibited: PROVIDED, That the department may issue a written permit for such aerial applications:

(d) Records required by subsection (2)(g) through (i) of this section shall also apply to applications of dinitro in Area 2:

(5) Area 3 description - an area lying west of Area 2 in the southern part of Walla Walla County: This area includes all lands lying within an area encompassed by a line beginning at the Washington-Oregon border and the east section line of Section 15, T6N, R33E; thence north along the section lines five miles more or less to the Touchet River North Road; thence north on the Touchet River North Road five miles more or less to the Dodd Road; thence southwest along the Dodd Road and Maxwell Road four miles more or less to its intersection with the western section line of Section 6, T7N, R33E; thence south along the section lines eight miles more or less to the Washington-Oregon border; thence east along the Washington-Oregon border four miles more or less to the point of beginning:

(6) Area 3 restrictions:

(a) Paraquat restrictions:

(i) During the period of February 15 through November 1 of any year, any application of Paraquat or any mixture containing Paraquat shall have prior approval by obtaining a written permit from the Washington state department of agriculture:

(ii) Any application of Paraquat or any mixture containing Paraquat is hereby prohibited from three hours prior to sunset until the temperature the following morning has risen at least 10 degrees above the night low temperature:

(b) Diquat restrictions:

During the period of February 15 through November 1 of any year, any application of Diquat or any mixture containing Diquat is hereby restricted to ground apparatus only upon obtaining a written permit from the Washington state department of agriculture:

(c) Dinitro restrictions:

During the period of August 1 through October 31 of any year, aerial applications of dinitro are prohibited within one-half mile from the center of the town of Touchet, and within one-half mile of commercially grown alfalfa hay: PROVIDED, That the Washington state department of agriculture may issue permits for aerial applications within these areas:

(d) Records required by subsection (2)(g) through (i) of this section shall also apply to applications of dinitro in Area 3)).

WSR 91-08-059
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(By the Code Reviser's Office)
 [Filed April 2, 1991, 3:15 p.m.]

WAC 402-70-010, 402-70-020, 402-70-030, 402-70-040, 402-70-045, 402-70-050, 402-70-055, 402-70-060, 402-70-062, 402-70-064, 402-70-066, 402-70-068, 402-70-070, 402-70-077, 402-70-080, 402-70-085, 402-70-090, 440-44-050, 440-44-057, 440-44-058, 440-44-059, 440-44-060 and 440-44-062, proposed by the Department of Health in WSR 90-19-067, appearing in issue 90-19 of the State Register, which was distributed on October 3, 1990, is withdrawn by the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 91-08-060
WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION
(By the Code Reviser's Office)
 [Filed April 2, 1991, 3:16 p.m.]

WAC 480-12-322, proposed by the Utilities and Transportation Commission in WSR 90-19-121, appearing in issue 90-19 of the State Register, which was distributed on October 3, 1990, is withdrawn by the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 91-08-061
PERMANENT RULES
DEPARTMENT OF WILDLIFE
 [Order 490—Filed April 2, 1991, 4:33 p.m.]

Date of Adoption: March 8, 1991.

Purpose: To establish official hunting hours for all game species and small game hunting seasons for 1991-92, 1992-93, and 1993-94.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Pursuant to notice filed as WSR 91-03-134 on January 23, 1991.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-228

1991-92, 1992-93, and 1993-94 Official hunting hours and small game seasons differ from the proposed version filed with the code reviser in the following specifics. "Open Day" changed to "Opening Day" on 1991-92, 1992-93, and 1993-94 Official hunting hours table; delete coyote from hunting hour restrictions; Eastern Washington bobcat pursuit only hunting seasons modified by adding Jan. 16-31 in 1992, 1993, and 1994; combine language restricting hound hunting activities during modern firearm deer or elk seasons as follows: It is unlawful to hunt any wildlife at night or game animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire deer or elk season except for the following areas and dates . . . Chelan and Okanogan exceptions deleted; Eastern Washington raccoon pursuit seasons modified by adding Feb. 1-29, 1992, Feb. 1-28, 1993, and Feb. 1-28, 1994 in GMUs 111, 121, 148, and 154; coyote section amended to read: Coyotes are unclassified wildlife, and as such, may be taken year-round except from September 15 to November 30 in the following closed areas: Pasayten Wilderness, Glacier Peak Wilderness, GMU 426, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker/Snoqualmie, Okanogan, and Wenatchee National Forests; a possession limit of 15 cock pheasants was added to the upland bird seasons. The closing dates for eastern Washington, ring-necked pheasant was changed to end Dec. 15 in 1991, Dec. 20 in 1992 and Dec. 19 in 1993; the possession limit for western Washington quail season was increased to 30; the following special restriction was added to turkey seasons. "Turkey season is open for shotgun and bow and arrow hunting only. Each successful hunter must complete and return a game harvest report card to the Department of Wildlife within ten days after taking a turkey"; bird dog training season exceptions changed to Sept. 28-Nov. 30, 1991, Oct. 3-Nov. 30, 1992, and Oct. 2-Nov. 31, 1993, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. . . .; steel shot requirements added to September Canada goose season; possession limits category added to rabbits and hares; bag limits for Falconry upland bird seasons modified as follows: pheasants-2, partridge-6, forest grouse-3 per day; separate and specific mourning dove seasons for falconers adopted; tag requirement section deleted; and seasons for 1992 and 1993 are adopted with the intent that the Wildlife Commission will annually review any specific issues for biological or recreational concerns.

Effective Date of Rule: Thirty-one days after filing.

April 2, 1991
 Curt Smitch
 for John C. McGlenn
 Chairman

NEW SECTION

WAC 232-28-228 1991-92, 1992-93, AND 1993-94 OFFICIAL HUNTING HOURS AND SMALL GAME SEASONS

1991-92 OFFICIAL HUNTING HOURS*
September 1, 1991 to January 31, 1992

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time				
Sun. Sept. 1 – Sun. Sept. 8	6:00	7:45	5:45	7:30
Mon. Sept. 9 – Sun. Sept. 15	6:10	7:30	6:00	7:15
Mon. Sept. 16 – Sun. Sept. 22	6:20	7:15	6:10	7:00
Mon. Sept. 23 – Sun. Sept. 29	6:30	7:00	6:20	6:45
Mon. Sept. 30 – Sun. Oct. 6	6:40	6:45	6:30	6:35
Mon. Oct. 7 – Fri. Oct. 11	6:50	6:30	6:40	6:20
Opening** Sat. Oct. 12	7:00	6:20	6:50	6:05
Weekend Sun. Oct. 13	7:00	6:20	6:50	6:05
Mon. Oct. 14 – Sun. Oct. 20	7:00	6:20	6:50	6:05
Mon. Oct. 21 – Sat. Oct. 26	7:10	6:05	7:00	5:55
Pacific Standard Time				
Sun. Oct. 27	6:10	5:05	6:00	4:55
Mon. Oct. 28 – Sun. Nov. 3	6:20	4:55	6:10	4:50
Mon. Nov. 4 – Sun. Nov. 10	6:30	4:45	6:20	4:30
Mon. Nov. 11 – Sun. Nov. 17	6:40	4:35	6:30	4:20
Mon. Nov. 18 – Sun. Nov. 24	6:50	4:25	6:40	4:15
Mon. Nov. 25 – Sun. Dec. 1	7:00	4:20	6:50	4:10
Mon. Dec. 2 – Sun. Dec. 8	7:10	4:20	7:00	4:10
Mon. Dec. 9 – Sun. Dec. 15	7:15	4:20	7:05	4:10
Mon. Dec. 16 – Sun. Dec. 22	7:20	4:20	7:10	4:10
Mon. Dec. 23 – Sun. Dec. 29	7:25	4:25	7:10	4:15
Mon. Dec. 30 – Sun. Jan. 5	7:25	4:30	7:15	4:15
Mon. Jan. 6 – Sun. Jan. 12	7:25	4:35	7:15	4:25
Mon. Jan. 13 – Sun. Jan. 19	7:20	4:45	7:10	4:35
Mon. Jan. 20 – Sun. Jan. 26	7:15	4:55	7:05	4:45
Mon. Jan. 27 – Fri. Jan. 31	7:10	5:00	7:00	4:50

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day – In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington – Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington – Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1992-93 OFFICIAL HUNTING HOURS*
September 1, 1992 to January 31, 1993

Dates (Inclusive)				Western Washington		Eastern Washington	
				A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time							
Tue. Sept.	1	- Sun. Sept.	6	6:00	7:45	5:50	7:35
Mon. Sept.	7	- Sun. Sept.	13	6:10	7:35	6:00	7:20
Mon. Sept.	14	- Sun. Sept.	20	6:20	7:20	6:05	7:05
Mon. Sept.	21	- Sun. Sept.	27	6:30	7:05	6:15	6:50
Mon. Sept.	28	- Sun. Oct.	4	6:40	6:50	6:25	6:35
Mon. Oct.	5	- Sun. Oct.	11	6:45	6:35	6:25	6:25
Mon. Oct.	12	- Fri. Oct.	16	6:55	6:20	6:45	6:10
Opening**		Sat. Oct.	17	6:55	6:20	6:35	6:25
Weekend		Sun. Oct.	18	6:55	6:20	6:35	6:25
Mon. Oct.	19	- Sat. Oct.	24	7:05	6:10	6:55	6:00
Pacific Standard Time							
Sun. Oct.	25			6:10	5:00	6:00	4:50
Mon. Oct.	26	- Sun. Nov.	1	6:20	4:55	6:05	4:45
Mon. Nov.	2	- Sun. Nov.	8	6:30	4:45	6:15	4:35
Mon. Nov.	9	- Sun. Nov.	15	6:40	4:35	6:30	4:25
Mon. Nov.	16	- Sun. Nov.	22	6:50	4:30	6:40	4:15
Mon. Nov.	23	- Sun. Nov.	29	7:00	4:25	6:50	4:10
Mon. Nov.	30	- Sun. Dec.	6	7:10	4:20	6:55	4:10
Mon. Dec.	7	- Sun. Dec.	13	7:15	4:20	7:05	4:05
Mon. Dec.	14	- Sun. Dec.	20	7:20	4:20	7:10	4:10
Mon. Dec.	21	- Sun. Dec.	27	7:25	4:20	7:15	4:10
Mon. Dec.	28	- Sun. Jan.	3	7:25	4:30	7:15	4:15
Mon. Jan.	4	- Sun. Jan.	10	7:25	4:35	7:15	4:25
Mon. Jan.	11	- Sun. Jan.	17	7:25	4:45	7:10	4:30
Mon. Jan.	18	- Sun. Jan.	24	7:20	4:55	7:05	4:40
Mon. Jan.	25	- Sun. Jan.	31	7:10	5:00	7:00	4:50

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1993-94 OFFICIAL HUNTING HOURS*
September 1, 1993 to January 31, 1994

Dates (Inclusive)				Western Washington		Eastern Washington	
				A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time							
Wed. Sept.	1	- Sun. Sept.	5	6:00	7:45	5:45	7:35
Mon. Sept.	6	- Sun. Sept.	12	6:05	7:35	5:50	7:20
Mon. Sept.	13	- Sun. Sept.	19	6:15	7:20	6:05	7:10
Mon. Sept.	20	- Sun. Sept.	26	6:25	7:10	6:15	6:50
Mon. Sept.	27	- Sun. Oct.	3	6:35	6:50	6:25	6:40
Mon. Oct.	4	- Sun. Oct.	10	6:45	6:40	6:35	6:25
Mon. Oct.	11	- Fri. Oct.	15	6:50	6:25	6:45	6:15

Dates (Inclusive)				Western Washington		Eastern Washington	
				A.M.	to P.M.	A.M.	to P.M.
Opening**	Sat.	Oct.	16	6:50	6:25	6:45	6:15
Weekend	Sun.	Oct.	17	6:50	6:25	6:45	6:15
Mon. Oct. 18 -	Sun. Oct.	24		7:05	6:15	6:55	6:00
Mon. Oct. 25 -	Sat. Oct.	30		7:15	6:00	7:05	5:45
Pacific Standard Time							
Sun. Oct. 31 -	Sun. Nov.	7		6:25	4:45	6:15	4:35
Mon. Nov. 8 -	Sun. Nov.	14		6:35	4:40	6:25	4:25
Mon. Nov. 15 -	Sun. Nov.	21		6:50	4:30	6:35	4:20
Mon. Nov. 22 -	Sun. Nov.	28		7:00	4:25	6:45	4:10
Mon. Nov. 29 -	Sun. Dec.	5		7:05	4:20	6:50	4:10
Mon. Dec. 6 -	Sun. Dec.	12		7:10	4:20	7:00	4:05
Mon. Dec. 13 -	Sun. Dec.	19		7:20	4:20	7:05	4:05
Mon. Dec. 20 -	Sun. Dec.	26		7:25	4:25	7:10	4:10
Mon. Dec. 27 -	Sun. Jan.	2		7:30	4:25	7:15	4:15
Mon. Jan. 3 -	Sun. Jan.	9		7:30	4:35	7:15	4:20
Mon. Jan. 10 -	Sun. Jan.	16		7:25	4:40	7:10	4:30
Mon. Jan. 17 -	Sun. Jan.	23		7:20	4:50	7:05	4:45
Mon. Jan. 24 -	Mon. Jan.	31		7:15	5:00	7:00	4:50

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Sept. 1-30, Nov. 20-Dec. 14, 1991 and Jan. 16-31, 1992; Sept. 1-30, Nov. 25-Dec. 14, 1992 and Jan. 16-31, 1993; Sept. 1-30, Nov. 24-Dec. 14, 1993 and Jan. 16-31, 1994; except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; and Sept. 1-Oct. 15, 1993.

OPEN SEASON

(Bobcat may be killed)

Oct. 12-31, 1991 and Dec. 15, 1991-Jan. 15, 1992; Oct. 17-31, 1992 and Dec. 15, 1992-Jan. 15, 1993; Oct. 16-31, 1993 and Dec. 15, 1993-Jan. 15, 1994.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Aug. 1-Oct. 11, 1991; Aug. 1-Oct. 16, 1992; Aug. 1-Oct. 15, 1993; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)

Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-March 15, 1993; Oct. 16, 1993-March 15, 1994; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or game animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season EXCEPT for the following areas and dates. (This does not permit the hunting of deer or elk with the use of hounds.)

Eastern Washington

	1991	1992	1993
GMUs 100-124.	Oct. 2-9	Oct. 7-14	Oct. 6-13
GMUs 127-185.	Nov. 14-21	Nov. 12-19	Nov. 11-18
Yakima County within two (2) miles of the Yakima River below Union Gap.	Oct. 12-29	Oct. 17-Nov. 3	Oct. 16-Nov. 2
Whitman and Lincoln counties.	Oct. 26-Nov. 10	Oct. 31-Nov. 15	Oct. 30-Nov. 14

Western Washington

Oct. 12-Nov. 24, 1991; Oct. 17-Nov. 22, 1992; Oct. 16-Nov. 21, 1993; in GMU 405 (west of Highway 9), GMUs 454, 627, 633, and the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill raccoon with use of hounds during early archery seasons.

Raccoon may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill raccoon with use of hounds during early muzzleloader seasons.

Eastern WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; Sept. 1-Oct. 15, 1993; except CLOSED to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest.

Feb. 1-29, 1992; Feb. 1-28, 1993; and Feb. 1-28, 1994, in GMUs 111, 121, 148, and 154.

OPEN SEASON

(Raccoon may be killed)

Oct. 12, 1991-Jan. 15, 1992; Oct. 17, 1992-Jan. 15, 1993; Oct. 16, 1993-Jan. 15, 1994.

Western WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Aug. 1-Oct. 11, 1991; Aug. 1-Oct. 16, 1992; Aug. 1-Oct. 15, 1993; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed)

Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-Mar. 15, 1993; Oct. 16, 1993-Mar. 15, 1994; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-Mar. 15, 1993; Oct. 16, 1993-Mar. 15, 1994, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

COYOTE

Coyotes are unclassified wildlife and, as such, may be taken year-round EXCEPT from September 15 to November 30 in the following closed areas: Pasayten Wilderness, Glacier Peak Wilderness, GMU 426, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Forest Grouse may not be killed with centerfire rifles or centerfire pistols EXCEPT during modern firearm deer or elk seasons.

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1-Dec. 31 during 1991, 1992, and 1993; except CLOSED in GMU 522.

UPLAND BIRDSEastern WashingtonRing-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 12-Dec. 15, 1991; Noon Oct. 17-Dec. 20, 1992; Noon Oct. 16-Dec. 19, 1993.

Chukar and Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) chukar or gray partridges per day, with a total of eighteen (18) chukar or gray partridges in possession at any time; straight or mixed bag.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 21-Oct. 11, 1991; Sept. 26-Oct. 16, 1992; Sept. 25-Oct. 15, 1993.

Regular Season: Noon Oct. 12, 1991 - Jan. 12, 1992; Noon Oct. 17, 1992 - Jan. 10, 1993; Noon Oct. 16, 1993 - Jan. 9, 1994.

Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time.

Noon Oct. 12, 1991 - Jan. 12, 1992; Noon Oct. 17, 1992 - Jan. 10, 1993; Noon Oct. 16, 1993 - Jan. 9, 1994.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two (2) cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Sept. 28–Nov. 30, 1991; Oct. 3–Nov. 30, 1992; and Oct. 2–Nov. 30, 1993; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 12, 1991; Oct. 17, 1992; Oct. 16, 1993; except CLOSED in GMU 522.

Special Restriction: Hunting is restricted on weekend mornings at Lake Terrell, Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) wildlife areas. Only hunters with western Washington upland bird licenses marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered weekend days. Only hunters with western Washington upland bird licenses marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters 14 years of age or younger may hunt during either weekend day morning provided they are accompanied by an adult with appropriately marked upland bird license.

Quail

Bag and Possession Limits: Two (2) quail per day, with a total of thirty (30) quail in possession at any time.

Oct. 12–Nov. 30, 1991; Oct. 17–Nov. 30, 1992; Oct. 16–Nov. 30, 1993; except CLOSED in GMU 522.

TURKEY

Bag and Possession Limits: One (1) turkey of either sex per calendar year (Jan. 1–Dec. 31).

Klickitat and Skamania counties: Nov. 22–26, 1991; Nov. 20–24, 1992; Nov. 19–23, 1993.

Special Restriction: Turkey season is open for shotgun and bow-and-arrow hunting only. Each successful hunter must complete and return a game harvest report card to the Department of Wildlife within ten days after taking a turkey.

BIRD DOG TRAINING SEASON Aug. 1, 1991–Mar. 15, 1992; Aug. 1, 1992–Mar. 15, 1993; and Aug. 1, 1993–Mar. 15, 1994, except from Sept. 28–Nov. 30, 1991, Oct. 3–Nov. 30, 1992, and Oct. 2–Nov. 31, 1993, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Game birds may be taken only during established bird hunting seasons.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: Two (2) Canada geese per day with a total of four (4) in possession at any time.

Sept. 1–10, 1991; Sept. 1–10, 1992; Sept. 1–10, 1993.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington–Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to the Washington–Oregon border on the Astoria–Megler bridge, upstream along the Washington–Oregon border to the point of origin.

Permit Requirement: All hunters participating in this season are required to obtain written authorization from the Department of Wildlife. Application forms are available from Department offices and must be delivered to a Department office no later than 5:00 p.m. or postmarked on or before August 1 of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by October 15 of the hunt year will be ineligible to participate in the following year September Canada goose season.

Steel Shot Requirement: It is unlawful to possess while hunting for or to take geese with shotshells or a muzzleloader shotgun loaded with any metal other than steel in the open area of the September Canada goose season.

BAND-TAILED PIGEON

Bag and possession limits: Two (2) band-tailed pigeons per day and in possession at any time.

Western Washington: Sept. 21–29, 1991; Sept. 19–27, 1992; Sept. 18–26, 1993, except CLOSED in GMU 522.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain written authorization from the Department of Wildlife. Application forms are available from Department offices and must be delivered to a Department office no later than 5:00 p.m. or postmarked on or before August 1, of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by October 31 of the hunt year will be ineligible to participate in the following year band-tailed pigeon season.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1–15 during 1991, 1992, and 1993; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and White-tailed Jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994 except CLOSED in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) Black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, and waterfowl during established seasons.

Statewide: Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; Sept. 1-Oct. 15, 1993; and the month of December each year.

Rabbit and Hare - Falconry

Daily bag: Ten (10) rabbits or hares per day: straight or mixed bag.

Statewide: Aug. 1, 1991-March 15, 1992; Aug. 1, 1992-March 15, 1993; Aug. 1, 1993-March 15, 1994, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

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 91-08-062

ATTORNEY GENERAL OPINION

Cite as: AGO 1991 No. 14

[March 28, 1991]

SUPERVISOR OF BANKING—BANKS AND BANKING—INSURANCE

The state Supervisor of Banking acted within his authority in adopting WAC 50-12-310 through -370 which relate to insurance activities by state-chartered banks and trust companies.

Requested by:

Honorable Peter von Reichbauer
Chairman
Financial Institutions and
Insurance Committee
408 John A. Cherberg Building
Olympia, Washington 98504

WSR 91-08-063 WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed April 3, 1991, 11:07 a.m.]

The department is withdrawing WSR 91-04-043, dated January 31, 1991. WAC 388-24-050 will be revised at a later date.

Rosemary Carr
Acting Director
Administrative Services

WSR 91-08-064 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Filed April 3, 1991, 11:09 a.m.]

Original Notice.

Title of Rule: WAC 388-49-600 Notices to households.

Purpose: To conform WAC 388-49-600 with Public Law 101-508. The computer matching and privacy protection amendments of 1990.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: WAC 388-49-600 deletes subsection (1)(b) which previously imposed a 30 day response time for adverse action notices resulting from computer matches with the federal government.

Reasons Supporting Proposal: Roll back the time limit for clients to respond to notices of adverse action from 30 days to 10 days for adverse actions resulting from computer matches conducted between DSHS and the federal government.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Income Assistance, 753-4912.

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

Rule is necessary because of federal law, Public Law 101-508, page H12520.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on May 7, 1991, at 10:00 a.m.

Submit Written Comments to: Troyce Warner, Chief, Office of Issuances, Department of Social and Health Services, Mailstop OB-33H, Olympia, Washington 98504, by May 7, 1991.

Date of Intended Adoption: May 21, 1991.

April 3, 1991
Rosemary Carr
Acting Director
Administrative Services

AMENDATORY SECTION (Amending Order 2967, filed 4/11/90, effective 5/12/90)

WAC 388-49-600 NOTICES TO HOUSEHOLDS. (1) The department shall notify a certified household of any change:

- (a) At least ten days before the change; or
(b) ~~((At least thirty days before the change if the information causing the change is derived from computer matches the department conducts with federal agencies; or~~
(c)) By the date benefits are to be received for a household reporting changes on the monthly report.
(2) The department is not required to provide advance notice when:
(a) The federal or state government makes mass changes;
(b) The department determines all household members have died;
(c) The household moves from the state;
(d) The department restored lost benefits and previously notified the household in writing when the increased allotment would terminate;
(e) The department notified the household at the time of certification that allotments would vary from month to month;
(f) The household's benefits are reduced because a public assistance grant is approved; or
(g) A household member is disqualified for intentional program violation or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

WSR 91-08-065

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 91-19—Filed April 3, 1991, 11:47 a.m., effective April 3, 1991]

Date of Adoption: April 3, 1991.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available and these rules are adopted to conform with regulations adopted by the treaty tribes to harvest their allotment of available sturgeon.

Effective Date of Rule: 12:00 noon, April 3, 1991.

April 3, 1991
Judith Merchant
Deputy Director
for Joseph R. Blum
Director

NEW SECTION

WAC 220-32-05700G COLUMBIA RIVER STURGEON SEASONS ABOVE BONNEVILLE. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful

for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may:

(a) Fish for sturgeon using set line gear effective 12:00 noon April 3 until 12:00 noon May 4, 1991.

(2) During the season specified in subsection 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(3) During the season specified in subsection 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line.

(b) With hooks less than the minimum size of 9/0.

(c) With treble hooks.

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection 1:

(a) Area 1F (Bonneville Pool) shall include those water of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

WSR 91-08-066

PROPOSED RULES

DEPARTMENT OF NATURAL RESOURCES

[Filed April 3, 1991, 2:07 p.m.]

Original Notice.

Title of Rule: Chapter 332-08 WAC, Adjudicative proceedings before the Department of Natural Resources (DNR).

Purpose: To conform the DNR's rules on adjudicative proceedings to the Administrative Procedure Act, chapter 34.05 RCW.

Statutory Authority for Adoption: RCW 34.05.220 (1)(a).

Statute Being Implemented: Chapter 34.05 RCW.

Summary: This proposal conforms the DNR's rules on adjudicative proceedings before the DNR to the Administrative Procedure Act, chapter 34.05 RCW.

Reasons Supporting Proposal: The DNR's current procedural rules are outmoded and do not reflect current practice before the DNR under the Administrative Procedure Act, chapter 34.05 RCW. The DNR seeks to conform its procedural rules to current law and to achieve uniformity in proceedings before it.

Name of Agency Personnel Responsible for Drafting: Fronda Woods, Assistant Attorney General, Mailstop PB-71, Highways-Licenses Building, Olympia, Washington 98504, (206) 586-3692; Implementation and Enforcement: James A. Stearns, Supervisor, Department of Natural Resources, 201 John A. Cherberg Building, Mailstop QW-21, Olympia, WA 98504, (206) 753-5331.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal would repeal existing rules for procedure and practice before the DNR, and would conform DNR's procedural rules to the Administrative Procedure Act, chapter 34.05 RCW.

Proposal Changes the Following Existing Rules: Proposed WAC 332-08-105 differs from model rule WAC 10-08-035 by requiring that applications for adjudicative proceedings be in writing and specify the basis for the appeal and the issue to be adjudicated. The administrator of the Department of Natural Resources (DNR) finds that, because of the complexity of cases and the range of issues that come before the DNR, written statements of appeal are necessary to enable the DNR to carry out its responsibilities under the statutes it administers and the Administrative Procedure Act.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Large Conference Room, 218 General Administration Building, Capitol Campus, Olympia, WA, on May 7, 1991, at 7:00 p.m.

Submit Written Comments to: Dave Dietzman, SEPA Center, Mailstop LB-13, Olympia, Washington 98504, by May 9, 1991.

Date of Intended Adoption: May 13, 1991.

April 2, 1991

James A. Stearns

Department Supervisor

REPEALER

The following sections of Chapter 332-08 of the Washington Administrative Code are hereby repealed:

332-08-010 APPEARANCE AND PRACTICE BEFORE AGENCY—WHO MAY APPEAR.

332-08-020 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE IN CERTAIN PROCEEDINGS MAY BE LIMITED TO ATTORNEYS.

332-08-040 APPEARANCE AND PRACTICE BEFORE AGENCY—STANDARDS OF ETHICAL CONDUCT.

332-08-050 APPEARANCE AND PRACTICE BEFORE AGENCY—APPEARANCE BY FORMER EMPLOYEE OF DEPARTMENT OR FORMER MEMBER OF THE ATTORNEY GENERAL'S STAFF.

332-08-060 APPEARANCE AND PRACTICE BEFORE AGENCY—FORMER EMPLOYEE AS EXPERT WITNESS.

332-08-070 COMPUTATION OF TIME.

332-08-080 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.

332-08-090 SERVICE OF PROCESS—BY WHOM SERVED.

332-08-100 SERVICE OF PROCESS—UPON WHOM SERVED.

332-08-110 SERVICE OF PROCESS—SERVICE UPON PARTIES.

332-08-120 SERVICE OF PROCESS—METHOD OF SERVICE.

332-08-130 SERVICE OF PROCESS—WHEN SERVICE COMPLETE.

332-08-140 SERVICE OF PROCESS—FILING WITH AGENCY.

332-08-150 SUBPOENAS WHERE PROVIDED BY LAW—FORM.

332-08-160 SUBPOENAS WHERE PROVIDED BY LAW—ISSUANCE TO PARTIES.

332-08-170 SUBPOENAS WHERE PROVIDED BY LAW—SERVICE.

332-08-180 SUBPOENAS WHERE PROVIDED BY LAW—FEES.

332-08-190 SUBPOENAS WHERE PROVIDED BY LAW—PROOF OF SERVICE.

332-08-200 SUBPOENAS WHERE PROVIDED BY LAW—QUASHING.

332-08-210 SUBPOENAS WHERE PROVIDED BY LAW—ENFORCEMENT.

332-08-220 SUBPOENAS WHERE PROVIDED BY LAW—GEOGRAPHICAL SCOPE.

332-08-230 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RIGHT TO TAKE.

332-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SCOPE.

332-08-250 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—OFFICER BEFORE WHOM TAKEN.

332-08-260 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION.

332-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—PROTECTION OF PARTIES AND DEPENDENTS.

332-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—ORAL EXAMINATION AND CROSS-EXAMINATION.

332-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION.

332-08-300 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN.

332-08-310 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT.

332-08-320 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—FEES OF OFFICERS AND DEPENDENTS.

332-08-330 DEPOSITIONS UPON INTERROGATORIES—SUBMISSION OF INTERROGATORIES.

332-08-340 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION.

332-08-350 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN.

332-08-360 DEPOSITIONS UPON INTERROGATORIES—PROVISIONS OF DEPOSITION RULE.

332-08-370 OFFICIAL NOTICE—MATTERS OF LAW.

332-08-380 OFFICIAL NOTICE—MATERIAL FACTS.

332-08-390 PRESUMPTIONS.

332-08-400 STIPULATIONS AND ADMISSIONS OF RECORD.

332-08-410 FORM AND CONTENT OF DECISIONS IN CONTESTED CASES.

332-08-420 DEFINITION OF ISSUES BEFORE HEARING.

332-08-430 PREHEARING CONFERENCE RULE.

- 332-08-440 PREHEARING CONFERENCE RULE—RECORD OF.
- 332-08-450 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.
- 332-08-460 EXCERPTS FROM DOCUMENTARY EVIDENCE.
- 332-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES.
- 332-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.
- 332-08-500 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC 332-08-470 OR 332-08-480.
- 332-08-510 CONTINUANCES.
- 332-08-520 RULES OF EVIDENCE—ADMISSIBILITY CRITERIA.
- 332-08-530 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.
- 332-08-540 PETITIONS FOR RULE MAKING, AMENDMENT, OR REPEAL—WHO MAY PETITION.
- 332-08-550 PETITIONS FOR RULE MAKING, AMENDMENT, OR REPEAL—REQUISITES.
- 332-08-560 PETITIONS FOR RULE MAKING, AMENDMENT, OR REPEAL—AGENCY MUST CONSIDER.
- 332-08-570 PETITIONS FOR RULE MAKING, AMENDMENT, OR REPEAL—NOTICE OF DISPOSITION.
- 332-08-580 DECLARATORY RULINGS.
- 332-08-590 FORMS.

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

NEW SECTION

WAC 332-08-005 ADOPTION OF MODEL RULES OF PROCEDURE. In adjudicative proceedings pursuant to RCW 34.05.413 through 34.05.476, the Department of Natural Resources adopts the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended. Those rules are contained in chapter 10-08 WAC. Other rules adopted in this chapter supplement those model rules. Where the rules of this chapter conflict with those of chapter 10-08 WAC, the rules of this chapter shall govern.

NEW SECTION

WAC 332-08-015 DEFINITIONS. (1) "BAP" means brief adjudicative proceeding" as described in RCW 34.05.482 through RCW 34.05.494.

(2) "Department" means the department of natural resources.

(3) Where the rules of this chapter use words defined in RCW 34.05.010, those definitions shall govern.

NEW SECTION

WAC 332-08-025 INAPPLICABILITY TO PROPRIETARY DECISIONS. Under RCW 34.05.010(3), no sales, leases, contracts, or other proprietary decisions in the management of public lands or real property interests are agency actions that are the subject of adjudicative proceedings. Accordingly, the department will not commence adjudicative proceedings for proprietary decisions, including, but not limited to, actions taken under the terms of geoduck harvesting agreements, aquatic lands leases, easements, rights of way, permits to use state-owned land and resources, timber sale contracts, mineral prospecting leases, mining contracts, or other proprietary agreements to which the department is a party, unless the agreement specifically provides otherwise.

NEW SECTION

WAC 332-08-105 ADJUDICATIVE PROCEEDINGS — APPLICATION. An application for an adjudicative proceeding before the department under RCW 34.05.413 through RCW 34.05.476 must be in writing, and must be signed by the applicant or the applicant's

representative. The application must specify the factual basis for appeal and the issue to be adjudicated in the proceeding.

NEW SECTION

WAC 332-08-115 APPLICATION FOR ADJUDICATIVE PROCEEDING — TIME LIMIT. Time limits for filing applications for adjudicative proceedings shall be as follows:

(1) An application for an adjudicative proceeding concerning the disapproval of a reclamation plan under RCW 78.44.100 must be filed with the department within thirty days of the date of disapproval.

(2) An application for an adjudicative proceeding concerning a civil penalty issued under RCW 78.44.160 must be filed with the department within thirty days of the date the applicant receives the civil penalty notice, or within thirty days of the date the applicant receives the department's notice of disposition of an application for remission or mitigation of the civil penalty.

(3) Applications for adjudicative proceedings concerning notices to comply issued under RCW 76.09.090 and WAC 222-46-030 (forest practices), performance bond amount determinations under RCW 78.44.120 (surface mining), and notices of deficiency issued under RCW 78.44.140 (surface mining) are governed by WAC 332-08-515.

(4) In all other cases, unless otherwise provided by statute, applications for adjudicative proceedings must be filed with the department within thirty days of the action that is the subject of the appeal.

NEW SECTION

WAC 332-08-125 APPLICATION FOR ADJUDICATIVE PROCEEDING — PLACE OF FILING. (1) An application for adjudicative proceeding concerning surface mining operations under chapter 78.44 RCW must be filed at the following address:

ATTN: Regulatory Programs Manager
Division of Geology and Earth Resources
Department of Natural Resources
4224 S.E. 6th Avenue, Rowesix Bldg. 1
Lacey, WA 98503

(2) Applications for adjudicative proceedings concerning notices to comply issued under RCW 76.09.090 and WAC 222-46-030 (forest practices), performance bond amount determinations under RCW 78.44.120 (surface mining), and notices of deficiency issued under RCW 78.44.140 (surface mining) are governed by WAC 332-08-515.

(3) Applications for adjudicative proceedings in all other cases must be filed at the following address:

Office of the Supervisor
Department of Natural Resources
201 John A. Cherberg Bldg., Mailstop QW-21
Olympia, WA 98504

NEW SECTION

WAC 332-08-305 EXHIBITS. Any party intending to offer documentary evidence during the hearing shall prepare two copies of each document to be offered, and shall furnish one copy to the opposing party no later than the date set for the hearing. The presiding officer may exclude from evidence documents that fail to conform to this requirement, unless the offering party shows good cause for the failure.

NEW SECTION

WAC 322-08-315 BURDEN OF PROOF. (1) Unless otherwise ordered by the presiding officer or required by law, the burden of proof shall be as follows:

(a) In proceedings concerning the denial of an application for a surface mining permit or disapproval of a reclamation plan under RCW 78.44.100, the applicant has the burden of proof.

(b) In proceedings concerning the modification of a reclamation plan under RCW 78.44.100, the department has the burden of proof.

(c) In proceedings concerning a permit cancellation under RCW 78.44.140, the department has the burden of proof.

(d) In civil penalty proceedings and proceedings concerning stop work orders under RCW 78.44.160, the department has the burden of proof.

(e) In all other cases, the proponent of an order has the burden of proof.

(2) Unless otherwise ordered by the presiding officer or required by law, the standard of proof shall be a preponderance of the evidence.

NEW SECTION

WAC 322-08-405 PETITIONS FOR REVIEW OF INITIAL ORDERS — FINAL ORDERS. (1) Except in brief adjudicative proceedings, initial orders in all adjudicative proceedings before the department will become final without further action by the department unless, within twenty days of the date of service of the initial order, a petition for review is filed at the address given below:

Office of the Supervisor
Department of Natural Resources
201 John A. Cherberg Bldg., Mailstop QW-21
Olympia, WA 98504

The provisions of WAC 10-08-211 apply to petitions for review of initial orders.

(2) WAC 332-08-545 governs review of orders in brief adjudicative proceedings.

NEW SECTION

WAC 332-08-505 BRIEF ADJUDICATIVE PROCEEDINGS—MATTERS TO WHICH SUBJECT. The department adopts the provisions of RCW 34.05.482 through 34.05.494 for the matters listed in this section. The department may use brief adjudicative proceedings (BAPs) where their use will violate no provision of law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. The department may use BAPs for the following matters:

- (1) Review of notices to comply issued under RCW 76.09.090 and WAC 222-46-030.
- (2) Review of performance bond amount determinations under RCW 78.44.120.
- (3) Review of notices of deficiency issued under RCW 78.44.140.

NEW SECTION

WAC 332-08-515 BRIEF ADJUDICATIVE PROCEEDINGS—APPLICATION PROCEDURE. (1) An application for a BAP must be in writing, and must specify the factual basis for appeal and the issue to be adjudicated in the proceeding.

(2) An application for a BAP concerning a notice to comply issued under RCW 76.09.090 and WAC 222-46-030 must be filed within fifteen days after the date of service of the notice to comply. The application must be filed at the following address:

Office of the Supervisor
Department of Natural Resources
201 John A. Cherberg Bldg., Mailstop QW-21
Olympia, WA 98504

(3) An application for a BAP concerning a performance bond amount determination under RCW 78.44.120 must be filed within fifteen days after service of the performance bond amount determination. The application must be filed at the following address:

ATTN: Regulatory Programs Manager
Division of Geology and Earth Resources
Department of Natural Resources
4224 S.E. 6th Avenue, Rowsix Bldg. 1
Lacey, WA 98503

Upon receiving an application for a BAP concerning a performance bond amount determination, the department may choose to use the formal procedures of RCW 34.05.413 through RCW 34.05.476 and WAC 332-08-005 through WAC 332-08-405, and may choose not to use BAP procedures.

(4) An application for a BAP concerning a notice of deficiency issued under RCW 78.44.140 must be filed within fifteen days after service of the notice of deficiency. The application must be filed at the following address:

ATTN: Regulatory Programs Manager
Division of Geology and Earth Resources
Department of Natural Resources
4224 S.E. 6th Avenue, Rowsix Bldg. 1
Lacey, WA 98503

Upon receiving an application for a BAP concerning a notice of deficiency, the department may choose to use the formal procedures of RCW 34.05.413 through RCW 34.05.476 and WAC 332-08-005

through WAC 332-08-405, and may choose not to use BAP procedures.

NEW SECTION

WAC 332-08-525 BRIEF ADJUDICATIVE PROCEEDINGS—HEARING. (1) In BAPs concerning notices to comply issued under RCW 76.09.090 and WAC 222-46-030, the department shall schedule a hearing on a date not more than 20 days after receiving an application for a BAP.

(2) In all other brief adjudicative proceedings, the department shall, within ten days of receiving an application for a BAP, schedule a hearing.

NEW SECTION

WAC 332-08-535 BRIEF ADJUDICATIVE PROCEEDINGS—DECISION. (1) Within ten days of a hearing on a notice to comply issued under RCW 76.09.090 and WAC 222-46-030, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by the applicant.

(2) In all other brief adjudicative proceedings, within ten days of the hearing, the presiding officer shall serve upon each party an initial order, containing a brief written statement of the department's decision and the reasons for the decision.

NEW SECTION

WAC 332-08-545 BRIEF ADJUDICATIVE PROCEEDINGS—REVIEW. (1) The operator, forest land owner, or timber owner subject to a final order of the department on a notice to comply issued under RCW 76.09.090 and WAC 222-46-030 may, within thirty days from the date of the order, appeal to the forest practices appeals board. The provisions of chapter 223-08 WAC govern such appeals.

(2) In all other brief adjudicative proceedings, a party affected by an initial order of the department may request administrative review of the initial order. A request for administrative review must be in writing, and must be filed at the following address within twenty-one days after the date of service of the initial order:

Office of the Supervisor
Department of Natural Resources
201 John A. Cherberg Bldg., Mailstop QW-21
Olympia, WA 98504

The initial order becomes a final order if no review is taken.

WSR 91-08-067**PROPOSED RULES****STATE BOARD OF EDUCATION**

[Filed April 3, 1991, 2:35 p.m.]

Original Notice.

Title of Rule: Chapter 180-26 WAC, State assistance in providing school plant facilities—Educational specifications and site selection; and chapter 180-29 WAC, State assistance in providing school plant facilities—Procedural regulations.

Purpose: To delete reference to a repealed WAC section.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: RCW 28A.525.164.

Summary: Amendment deletes reference to repealed WAC 180-26-055(2).

Reasons Supporting Proposal: Eliminates reference in WAC 180-26-060 and 180-29-107 to a repealed WAC section.

Name of Agency Personnel Responsible for Drafting: Terrence Michalson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6729; Implementation: Michael Roberts, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6702; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above, WAC 180-26-060 and 180-29-107 are amended to remove reference to a repealed WAC section.

Proposal Changes the Following Existing Rules: Eliminates reference to a repealed WAC section.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Islands/San Juan Room, Northwest ESD, Mount Vernon, Washington, on May 16, 1991, at 8:30 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by May 13, 1991.

Date of Intended Adoption: May 17, 1991.

April 3, 1991

Dr. Monica Schmidt
Executive Director

AMENDATORY SECTION (Amending WSR 90-24-068, filed 12/5/90, effective 1/5/91)

WAC 180-26-060 LOSS OF PRELIMINARY FUNDING STATUS. All districts granted preliminary funding status for a project pursuant to WAC 180-26-050 shall request approval to bid such project pursuant to WAC 180-29-107 within one year of receiving preliminary funding status or shall have such status withdrawn. A district with a project so withdrawn may reapply pursuant to WAC 180-26-050 (~~(or 180-26-055(2))~~) for such status.

AMENDATORY SECTION (Amending Order 24-85, filed 11/27/85)

WAC 180-29-107 BID OPENING—SUPERINTENDENT OF PUBLIC INSTRUCTION APPROVAL. (1) A school district shall not open bids until receiving written approval of the superintendent of public instruction. Such approval shall not be granted if more than one year has passed since the project received preliminary funding status pursuant to WAC 180-26-050 (~~(or 180-26-055(2))~~).

(2) The superintendent of public instruction shall grant approval if moneys are available for state assistance and the required documents pursuant to WAC 180-29-075, 180-29-080, 180-29-085, 180-29-090, 180-29-095, and 180-29-100 are complete.

(3) If the superintendent of public instruction determines that the required documents are incomplete, the superintendent of public instruction shall hold the project and notify the school district in writing as to the incomplete items.

(4) If moneys are not available for state assistance in construction, the school district shall notify the superintendent of public instruction that they are proceeding with their own moneys with the expectation that they will be reimbursed as per WAC 180-27-057.

WSR 91-08-068

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 3, 1991, 2:39 p.m.]

Original Notice.

Title of Rule: Chapter 180-27 WAC, State assistance in providing school plant facilities—Definition of a portable facility and definition of building condemnation.

Purpose: To amend definition of portable school facility and change building condemnation to hazard abatement.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: RCW 28A.525.164.

Summary: Amendment adds clarifying language to definition of "portable facility."

Reasons Supporting Proposal: Amendments provide further clarification of "portable facility" and provides technically correct building abatement terminology as opposed to "condemnation."

Name of Agency Personnel Responsible for Drafting: Terrence Michalson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6729; Implementation: Michael Roberts, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6702; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above, WAC 180-27-018 Definition—Portable facility, was created in 1989 to distinguish portable facilities from permanent facilities. Amendment further defines portable facilities as capable of being trailable [trailerable], demountable and relocatable to other locations; and WAC 180-27-058 and 180-27-115, change the term "building condemnation" to the technically correct term of "hazard abatement."

Proposal Changes the Following Existing Rules: Adds clarifying language to the definition of "portable facility" and substitutes the correct terminology of hazard abatement for building condemnation.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Islands/San Juan Room, Northwest ESD, Mount Vernon, Washington, on May 16, 1991, at 8:30 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by May 13, 1991.

Date of Intended Adoption: May 17, 1991.

April 3, 1991

Dr. Monica Schmidt
Executive Director

AMENDATORY SECTION (Amending WSR 90-01-076, filed 12/19/89, effective 12/19/89)

WAC 180-27-018 DEFINITION—PORTABLE FACILITY. As used in this chapter, "portable facility" means any factory-built structure, transportable in one or more sections, which requires a chassis to

be transported, and is designed to be used as an educational space with or without a permanent foundation when connected to the required utilities. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

AMENDATORY SECTION (Amending WSR 90-24-068, filed 12/5/90, effective 1/5/91)

WAC 180-27-058 STATE ASSISTANCE—PRIORITIES. The priority system for the funding of school construction projects during a priority approval process imposed by order of the state board of education shall be as follows:

(1) Priority one: New construction projects in districts with un-housed students other than those in priority two. Projects within this priority shall be ranked as follows: The project with the highest percentage of un-housed students in the district by grade level on the date of project approval pursuant to WAC 180-25-040 shall be ranked highest—i.e., projected enrollment times authorized space allocation as calculated pursuant to WAC 180-27-035 divided by capacity of existing buildings as calculated pursuant to WAC 180-27-050(1). In the event two or more districts possess an equal percentage of un-housed students, the district with the greatest number of un-housed students shall be ranked the highest.

(2) Priority two: New construction projects in districts with un-housed students due to the need to replace a building. In the event the district is precluded from educating students in a facility due to bona fide (~~condemnation procedures~~) abatement procedure and order to vacate, such related space requirement shall be treated as un-housed students in priority one. Projects with this priority shall be ranked as follows: The project with the highest percentage of un-housed students in the district by grade level on the date of project approval pursuant to WAC 180-25-040 shall be ranked highest. In the event two or more districts possess an equal percentage of un-housed students, the district with the greatest number of un-housed students shall be ranked the highest.

(3) Priority three: All projects with secured local capital funding and authority to proceed pursuant to WAC 180-25-040 as of September 30, 1985, which are not included in priority one or two pursuant to this section. Projects within this priority shall be ranked pursuant to the priority system in effect as of September 30, 1985: PROVIDED, That the authority to proceed pursuant to WAC 180-25-040 and the priority three ranking of any such project shall lapse and be null and void as of July 2, 1991, unless approval to open bids for the project has been granted pursuant to WAC 180-29-107 prior to that date.

(4) Priority four: New construction of vocational-technical institutes and interdistrict cooperative vocational skill center facilities. Projects within this priority shall be ranked as follows: The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest. Funding allocations for this priority shall not exceed ten percent of the available funds remaining after funding eligible projects in priorities one and two or for one vocational-technical institute or interdistrict skill center project, whichever is greater.

(5) Priority five: Modernization projects in districts with no un-housed students and not funded under priority three. Projects within this priority shall be ranked as follows: The project with the highest percentage of projected student occupancy shall be ranked the highest—i.e., projected enrollment times authorized space allocation as calculated pursuant to WAC 180-27-035 divided by capacity of existing buildings as calculated pursuant to WAC 180-27-050(1). In the event two or more projects possess an equal percentage, the highest ranking shall be given to the project with the earliest date of project approval pursuant to WAC 180-25-040. For the purpose of ranking within this subsection vocational technical institute and interdistrict cooperative facilities other than interdistrict transportation cooperatives shall be considered as independent school district projects: PROVIDED, That under no circumstances should this priority receive less than sixty percent of funds available for priorities four and five.

(6) Priority six: New construction of interdistrict cooperative facilities which are not included in priority three, four, or seven. The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked the highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest.

(7) Priority seven: Interdistrict transportation cooperatives. Projects within this priority shall be ranked as follows: The project with the earliest date of project approval pursuant to WAC 180-25-040 shall be ranked the highest. In the event two or more projects possess the same project approval date, the project with the earliest date of application received in the office of superintendent of public instruction shall be ranked the highest.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-27-115 SUPPORT LEVEL—ADDITIONAL ASSISTANCE. State assistance in addition to the amount determined pursuant to WAC 180-27-020 and 180-27-055 may be allowed for the purposes and in accordance with the requirements set forth in this section: PROVIDED, That in no case shall the state assistance exceed one hundred percent of the amount calculated for matching purposes: PROVIDED FURTHER, That for projects that would qualify for additional state assistance under subsections (1) through (8) of this section, for which the local match was secured or for which the local match special bond or levy election was filed with the county auditor prior to January 27, 1989, shall receive additional state assistance at ninety percent of the approved square foot cost allowance. In each of the following exceptions, either at the time the project is approved pursuant to WAC 180-25-040 or at any time prior to receiving secured funding status pursuant to WAC 180-29-107, state board of education approval is required:

(1) (~~Act of condemnation of a building~~) A school facility subject to abatement and an order to vacate.

A school district required to replace a school facility determined to be hazardous to the safety and health of school children and staff—as evidenced by reports of architects or engineers licensed to practice in the state of Washington, the health agency having jurisdiction, and/or the fire marshal and building official having jurisdiction—shall be eligible for additional assistance if the voters of the school district authorize the issuance of bonds and/or the levying of excess taxes to meet the statutory limits. If the state board of education determines that the voters of the school district have authorized the issuance of bonds to its legal limit, the board shall provide state financial assistance for the remaining cost of the building to a level not exceeding the area cost allowance set forth in WAC 180-27-060.

(2) Loss of building by fire.

A school district which has lost a school facility by fire shall be eligible for additional state assistance consideration if the district first applies toward the project all insurance payments received for the loss of the structure and the voters of the school district authorize the issuance of bonds and/or the levying of excess taxes to meet the statutory limits. If the state board of education determines that the district is deficient in capital moneys and cannot legally bond for the moneys needed to replace the number of square feet for which it is eligible, the state board of education shall provide state financial assistance for the remaining cost of the project to a level not exceeding the area cost allowance set forth in WAC 180-27-060.

(3) Facilities for handicapped children.

A school district which admits handicapped children from without the district shall be eligible for additional state assistance in construction of school facilities: PROVIDED, That (a) handicapped children who spend less than one hundred minutes per school day in a facility designated by the school district board of directors as special purpose space shall not be counted, and (b) the additional allocation shall be seventy-five percent of the approved square foot cost allowance for out-of-district handicapped students.

(4) Vocational-technical facilities.

A school district which has a vocational-technical institute shall be eligible for additional state assistance in construction of vocational-technical institute facilities: PROVIDED, That the additional assistance in excess of the amount allocable under the statutory formula shall be seventy-five percent of the total approved project cost determined to be eligible for state matching purposes.

(5) Interdistrict cooperative centers.

In the financing of interdistrict cooperative projects as set forth in chapter 180-31 WAC, the state board of education shall allocate at seventy-five percent of the total approved project cost determined eligible for state matching purposes if the planned school facility meets the following criteria:

(a) Provides educational opportunities, including vocational skills programs, not otherwise provided;

- (b) Avoids unnecessary duplication of specialized or unusually expensive educational programs or facilities; or
- (c) Improves racial balance within and among participating districts.
- (6) School housing emergency.

A school district found by the state board of education to have a school housing emergency requiring an allocation of state moneys in excess of the amount allocable under the statutory formula may be considered for an additional allocation of moneys: **PROVIDED**, That the school district must have authorized the issuance of bonds to its legal capacity to meet the statutory and state board of education fiscal requirements for state assistance in providing school facilities.

The total amount of state moneys allocated shall be the total approved project cost determined eligible for state matching purposes multiplied by the districts' regular match rate as calculated pursuant to RCW 28A.525.166 plus twenty percent and not to exceed ninety percent in total: **PROVIDED FURTHER**, That at any time thereafter when the state board of education finds that the financial position of such district has improved, the amount of such additional allocation shall be deducted, under conditions prescribed by the state board of education from any future state school facility construction funds which might otherwise be provided to such district.

- (7) Improved school district organization.

If two or more school districts reorganize into a single school district and the construction of new school facilities results in the elimination of a small high school with a full-time equivalent enrollment in grades 9-12 of less than four hundred students and/or an elementary school with a full-time equivalent enrollment of less than one hundred students, the state board of education shall match the total approved cost of the project at seventy-five percent.

- (8) Racial imbalance.

Any school district that contains a school facility which is racially imbalanced as defined in WAC 180-26-025 or which contains a school facility that would have been racially imbalanced as defined in WAC 180-26-025 but for a transportation program designed to eliminate racial imbalance shall receive seventy-five percent of the total approved cost of construction if the building project meets one of the following standards:

(a) In the case of a school district which contains a racially imbalanced school facility the district must demonstrate that, as a result of new construction or modernization, the particular school facility will no longer be racially imbalanced, that the combined minority enrollment in the particular school facility will be reduced by more than ten percentage points, and that the above stated results will be obtained as a direct result of increased enrollment of nonminority students in the particular school facility.

(b) In the case of a school district which contains a school facility that would have been racially imbalanced but for a transportation program designed to eliminate racial imbalance, the district must demonstrate that, as a result of new construction or modernization, the district will continue to contain no school plant facility which is racially imbalanced and that the expense of transportation within the district for a stated period of years will be significantly less than without the new construction or modernization. For the purpose of demonstrating eligibility of a particular school plant facility pursuant to this subsection, a district shall demonstrate that a particular school plant facility would have been racially imbalanced but for a transportation program by producing demographic data that demonstrate what the racial balance for its population would have been within the proximity attendance area of the particular school plant facility. For the purpose of demonstrating that the expense of transportation within the district for a stated period of time will be significantly less pursuant to this subsection, a district shall demonstrate savings in to and from transportation costs, as the term "to and from" transportation is defined in WAC 392-141-120, by comparing expenses for such transportation for the school year immediately preceding the school year in which approval by the state board of education pursuant to this subsection with the amount that would have been expended for such transportation for the previous school year if the new construction or modernization was in place. In the alternative, the district shall demonstrate savings in to and from transportation by comparing such previous year's expenditures with the amount that would have been expended for such transportation if the particular school plant facility was closed. In either case, in order to demonstrate the amount of savings necessary to qualify for additional state assistance pursuant to this subsection, the district must demonstrate savings in to and from transportation for the

school year of comparison equal to or exceeding five percent of the additional state assistance resulting from application of this subsection to modernization of such school plant facility or equal to or exceeding two and one-half percent of the additional state assistance resulting from application of this subsection to new construction, including new construction authorized pursuant to the replacement option of WAC 180-33-042.

When an improvement in racial balance within a school district pursuant to this section involves construction or modernization of one or more school facilities, all such school facilities shall be included in the application.

WSR 91-08-069

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 3, 1991, 2:42 p.m.]

Original Notice.

Title of Rule: Chapter 180-27 WAC, State assistance in providing school plant facilities—Basic state support.

Purpose: To authorize local school districts to use assessed development impact fees as a portion of required local match money.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: RCW 28A.525.164.

Summary: Amendment allows local school districts to utilize assessed development fees as a part of the districts local match money for construction of plant facilities.

Reasons Supporting Proposal: Amendment provides for the use of assessed development fees by local school districts.

Name of Agency Personnel Responsible for Drafting: Terrence Michalson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6729; Implementation: Michael Roberts, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6702; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above, WAC 180-27-032, allows local school districts to use assessed developer fees to be a part of the required local match money for construction of eligible plant facilities.

Proposal Changes the Following Existing Rules: Allows local districts to use developer fees in addition to local bond issue proceeds as local matching money for construction of school plant facilities.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Islands/San Juan Room, Northwest ESD, Mount Vernon, Washington, on May 16, 1991, at 8:30 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by May 13, 1991.

Date of Intended Adoption: May 17, 1991.

April 3, 1991
Dr. Monica Schmidt
Executive Director

NEW SECTION

WAC 180-27-032 GROWTH IMPACT FEES. Notwithstanding the financial requirements of WAC 180-27-030, districts may use growth impact fees as provided for in RCW 58.17.060 and 58.17.110 to assist in capital construction projects. The collected impact fees may be used by the district as local match funding for state assisted capital projects.

WSR 91-08-070
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed April 3, 1991, 2:44 p.m.]

Original Notice.

Title of Rule: Chapter 180-25 WAC, State assistance in providing school plant facilities—State study and survey; and chapter 180-33 WAC, State assistance in providing school plant facilities—Modernization.

Purpose: To amend rules removing capital cost of deferred maintenance from applications for state funding, extending age requirements for modernization from 20 years to 30 years on post 1992 buildings and establishment of a minimum expenditure for facility maintenance.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: RCW 28A.525.164.

Summary: Amendments establish a minimum expenditure for maintenance of K-12 school facilities and provides for a reduction in future state funding assistance for facilities not receiving adequate maintenance funding by the school district.

Reasons Supporting Proposal: Amendments provide for school district protection of capital investment in school facilities through preventive maintenance.

Name of Agency Personnel Responsible for Drafting: Greg Lee, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6729; Implementation: Michael Roberts, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6702; and Enforcement: David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above, WAC 180-25-025, amendment requires more specific facilities information and cost analysis of systems and subsystems in the facilities which have deteriorated due to deferred maintenance; WAC 180-33-013, requires replacement value of building to be determined; WAC 180-33-015, amendment inserts added criteria of deferred maintenance in post 1992 facilities and systems and subsystems in determining eligibility for state financial assistance; WAC 180-33-020,

establishes state assistance formula. Amendment authorizes a deduction as per WAC 180-33-023; WAC 180-33-023, establishes state assistance reductions for modernization of post 1992 facilities which do not comply with preventive maintenance level; and WAC 180-33-035, amendment removes capital costs associated with deferred maintenance for state assistance for modernization.

Proposal Changes the Following Existing Rules: Extends eligibility on school facilities for modernization from 20 to 30 years and reduces the level and eligibility of post 1992 facilities which do not receive a prescribed minimum level of preventive maintenance expenditure.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Islands/San Juan Room, Northwest ESD, Mount Vernon, Washington, on May 16, 1991, at 8:30 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by May 13, 1991.

Date of Intended Adoption: May 17, 1991.

April 3, 1991
Dr. Monica Schmidt
Executive Director

AMENDATORY SECTION (Amending WSR 90-04-031, filed 1/30/90, effective 3/2/90)

WAC 180-25-025 STATE STUDY AND SURVEY—CONTENT. The study and survey to be conducted by the superintendent of public instruction with the cooperation of the local school district shall include the following:

(1) An inventory and area analysis of existing school facilities within the district (~~and the physical condition of such facilities~~), a description of the types and kinds of systems and subsystems used in those facilities and their physical condition;

(2) A long-range (i.e., minimum of six years) educational and facilities plan setting forth the projected facility needs and priorities of the district based on the educational plan;

(3) Demographic data including population projections and projected economic growth and development;

(4) The ability of such district to provide capital funds by local effort;

(5) The existence of a school housing emergency;

(6) The need to improve racial balance and/or to avoid creation or aggravation of racial imbalance;

(7) The type and extent of ((the)) new and/or additions to existing school facilities required and the urgency of need for such facilities;

(8) A cost/benefit analysis on the need to modernize and/or replace existing school facilities in order to meet current educational needs and the current state building code;

(9) The need and the estimated capital cost to restore, to design specifications, the major systems and subsystems in the facilities that have deteriorated due to deferred maintenance.

(10) A determination from data as to whether the district is eligible to receive funds from the state board of education for the construction and/or modernization of its school facilities; **PROVIDED, That modernization requests included in a project application for any building that was accepted by the school district board of directors after January 1, 1993, shall be subject to the limitations on basic state assistance as determined in chapter 180-33 WAC;**

~~((+0))~~ (11) A determination of the amount of space and the estimated state financial assistance the district is eligible to receive;

~~((+1))~~ (12) A determination of the district's time line for completion of the school facilities project;

~~((+2))~~ (13) An inventory of accessible unused or underutilized school facilities in neighboring school districts and the physical condition of such school facilities;

~~((+3))~~ (14) The need for adjustments of school attendance areas among or within such districts; and

~~((+4))~~ (15) Such other matters as the superintendent of public instruction deems pertinent to a decision by the state board of education in the allocation of funds for school facilities. Cooperation by the applicant school district in conducting the study and survey is a requisite for the superintendent of public instruction to complete the study and survey and to establish the eligibility of the district for state assistance in school facility construction.

NEW SECTION

WAC 180-33-013 ANNUALLY DETERMINED BUILDING REPLACEMENT VALUE. The annually determined building replacement value for any building in any year is the state determined maximum area cost allowance for July of that year times the gross square footage determined under WAC 180-27-040.

AMENDATORY SECTION (Amending Order 26-85, filed 11/27/85)

WAC 180-33-015 ELIGIBILITY FOR STATE FINANCIAL ASSISTANCE. (1) In order to be eligible for state financial assistance, a modernization project shall have as its principal purpose one or more of the following:

(a) Bringing a facility into compliance with current building and health codes when so required by state or local health or safety officials;

(b) Changing the grade span grouping by facility by the addition, deletion, or combination thereof of two or more grades within the affected facility; or

(c) The reduction of the number of operating school facilities in a district by combining the remaining school facilities through modernization and new capital construction so as to achieve more cost effective and efficient operation in the combined school facility or facilities. In order to be eligible for state financial assistance, such a project shall result in additional space for at least 100 additional pupils and the following enrollment in any combined facility:

- (i) Elementary school facility—500 pupils;
- (ii) Middle or junior high school facility—700 pupils;
- (iii) Senior high school facility—850 pupils;

PROVIDED, That modernization projects in school districts with a high school enrollment of less than 850 pupils need not comply with the enrollment figures set forth above: PROVIDED FURTHER, That unless the district meets an exception provided in WAC 180-33-043 or demonstrates the existence of un housed students, state financial assistance for the new construction component of a combined modernization and new construction project shall be limited to the provision of WAC 180-33-040.

(2) School districts shall certify that a proposed modernization project will extend the life of the modernized school facility by at least twenty years.

(3) School districts shall be ineligible for state assistance for modernization of any school facility accepted by the school district board of directors prior to January 1, 1993, where the principal purpose of ~~((a))~~ that modernization project is to:

(a) ~~((Solve delayed maintenance problems;))~~ Restore building systems and subsystems that have deteriorated due to deferred maintenance;

(b) Perform piecemeal work on one section or system of a school facility;

(c) Modernize a facility or any section thereof which has been constructed within the previous twenty years;

(d) Modernize a facility or any section thereof which has received state assistance under the authority of this chapter within the previous twenty years;

(e) To modernize a senior high school facility in a district with a senior high school where there is existing space available to serve the students involved or affected in a neighboring senior high school without, in the judgment of the state board of education, an undue increase in the cost of transporting the students to and from school, decrease in educational opportunity, or proportional increase in the cost of instruction pursuant to chapter 180-25 WAC.

(4) School facilities accepted by the school district board of directors after January 1, 1993, shall be ineligible for state assistance for modernization of the facility or any section thereof where:

(a) The facility was constructed and occupied within the previous thirty years;

(b) The facility received state assistance under the authority of this chapter within the previous thirty years.

AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

WAC 180-33-020 FORMULA FOR DETERMINING THE AMOUNT OF STATE ASSISTANCE. State assistance in an approved modernization project shall be derived by applying the percentage of state assistance determined pursuant to provisions of RCW 28A.525.166 and WAC 180-27-025 to the eligible cost which shall be calculated by multiplying the approved square foot area of the modernization project by the area cost allowance for state support, less any deductions as set forth in WAC 180-33-023 if applicable, by the factor in WAC 180-33-040 set forth, any cost in excess thereof shall be financed entirely by the school district.

NEW SECTION

WAC 180-33-023 STATE ASSISTANCE IN POST 1992 FACILITIES. State assistance for modernization of school facilities accepted by the school district board of directors after January 1, 1993, shall be limited according to the following conditions:

(1) A school facility shall be ineligible for state assistance if the total expenditures for maintenance of plant and equipment during the fifteen-year period immediately preceding the project application was below one-half of one percent of the total of the annually determined building replacement values during the same period;

(2) The allowable cost per square foot used to determine the amount of state assistance in any modernization project where the total expenditures for maintenance of plant and equipment during the fifteen-year period immediately preceding the project application was at least one-half but less than two percent of the total of the annually determined building replacement values during the same period shall be reduced as follows:

(a) The allowable cost per square foot shall be reduced by twenty-two and one-half percent where the above expenditure is at least one-half but less than one percent;

(b) The allowable cost per square foot shall be reduced by fifteen percent where the above expenditure is at least one but less than one and one-half percent;

(c) The allowable cost per square foot shall be reduced by seven and one-half percent where the above expenditure is at least one and one-half but less than two percent;

(3) No reduction in the allowable cost per square foot shall be applied to any modernization project where the total expenditures for maintenance of plant and equipment during the fifteen-year period immediately preceding the project application was two percent, or greater, of the total of the annually determined building replacement values during the same period;

(4) A district shall not be allowed to replace a school facility through new construction in lieu of modernization under WAC 180-33-042 where the total expenditures for maintenance of plant and equipment during the fifteen-year period immediately preceding the project application was below two percent of the total of the annually determined building replacement values during the same period.

AMENDATORY SECTION (Amending Order 26-85, filed 11/27/85)

WAC 180-33-035 MINIMUM PROJECT—FORTY PERCENT OF REPLACEMENT COSTS. State assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. ~~((Said))~~ The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance. The estimated cost of replacement ~~((cost))~~ shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the area cost allowance of state support at projected time of bid as in WAC 180-27-045 set forth.

WSR 91-08-071
PROPOSED RULES
STATE BOARD OF EDUCATION
 [Filed April 3, 1991, 2:47 p.m.]

Original Notice.

Title of Rule: Chapter 180-26 WAC, State assistance in providing school plant facilities—On-site review and acceptance conditions of proposed school facilities sites.

Purpose: To amend acceptance criteria by adding a requirement to contact local building official.

Statutory Authority for Adoption: RCW 28A.525.020.

Statute Being Implemented: RCW 28A.525.164.

Summary: Amendment requires local school district to contact local building official as an added site review requirement.

Reasons Supporting Proposal: Amendment insures local building officials are notified of pending school facilities location and design allowing for possible scheduling of plan reviews in advance of permit process.

Name of Agency Personnel Responsible for Drafting: Terrence Michalson, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6729; **Implementation:** Michael Roberts, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6702; and **Enforcement:** David Moberly, Superintendent of Public Instruction, Old Capitol Building, (206) 753-6742.

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See above, WAC 180-26-020, requires local school district to contact local building official as part of the site review acceptance criteria. It is expected that this will create improved communication between school districts and permitting officials.

Proposal Changes the Following Existing Rules: Adds the requirement of school districts to contact the local building official as part of the site review on school facilities construction locations.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Islands/San Juan Room, Northwest ESD, Mount Vernon, Washington, on May 16, 1991, at 8:30 a.m.

Submit Written Comments to: Dr. Monica Schmidt, State Board of Education, Old Capitol Building, FG-11, Olympia, Washington 98504, by May 13, 1991.

Date of Intended Adoption: May 17, 1991.

April 3, 1991

Dr. Monica Schmidt
Executive Director

AMENDATORY SECTION (Amending Order 10-83, filed 10/17/83)

WAC 180-26-020 SITE CONDITIONS—ACCEPTANCE CRITERIA. The superintendent of public instruction shall conduct an on-site review and evaluation of a proposed site in the case of new construction and an existing site in the case of modernization. The superintendent of public instruction shall accept a site that meets the following conditions:

(1) The school district provides certification by legal counsel retained by the district that the property upon which the school facility is or will be located is free of all encumbrances that would detrimentally interfere with the construction, operation, and useful life of the school facility;

(2) The minimum acreage of the site shall be five usable acres and one additional usable acre for each one hundred students or portion thereof of projected maximum enrollment plus an additional five usable acres if the school contains any grade above grade six. In computing the minimum acreage of the site, the district may include public property in close proximity to the site if, as a matter of public policy the property is available for school purposes and the district is committed to using such facilities: **PROVIDED**, That a site consisting of less than the minimum usable acreage calculated as per the provisions of this subsection shall be approved by the state board of education if the district demonstrates the following:

(a) The health and safety of the students are not in jeopardy;

(b) The internal spaces within the proposed facility are adequate for the proposed educational program;

(c) The neighborhood in which the school facility is or will be situated is not detrimentally impacted by lack of parking for students, employees, and the public; ~~((and))~~

(d) The physical education and recreational programs on the school site are compatible with less than the minimum prescribed acreage; and

(e) That the school district has contacted the appropriate local building authorities and requested a predesign conference;

(3) The school district has retained the services of a geotechnical engineer for the purpose of conducting a limited subsurface investigation to gather basic information regarding potential foundation performance and a report has been reviewed by the school district board of directors;

(4) The site has been approved by the following agencies:

(a) The health agency having jurisdiction;

(b) The local planning commission or authority having jurisdiction; and

(c) The state department of ecology.

WSR 91-08-072

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY**

[Memorandum—April 3, 1991]

**Flood Control Assistance Account Program (FCAAP)
Grant Priorities**

The State Department of Ecology is evaluating and prioritizing FCAAP grant applications for the 1991-93 biennium. Included are applications for assistance for local comprehensive flood control management planning (CFCMP's) and for maintenance of flood control facilities. The following schedule has been established:

Friday, May 3, 1991, a proposed priority list for grant funding will be available at the offices of the Department of Ecology, Flood Plain Management Section, located in Baran Hall, St. Martin's College in Lacey, Washington, phone (206) 459-6791. A copy of the proposed priority list will be mailed to all grant applicants.

Friday, May 17, 1991, a public hearing on the proposed priority list will be held at 1:30 p.m. in the conference room of the Department of Ecology's nuclear and mixed waste management program, located on the second floor of the Capitol Finance Center, 99 South Sound Center, Lacey, WA.

Friday, May 24, 1991, deadline for written comments on proposed priority list. Mail to Jerry Louthain, Department of Ecology, Flood Plain Management Section, Mailstop PV-11, Olympia, Washington 98504-8711.

Wednesday, May 29, 1991, final funding priority list available at Department of Ecology, Flood Plain Management Section.

WSR 91-08-073
PROPOSED RULES
HORSE RACING COMMISSION

[Filed April 3, 1991, 3:15 p.m.]

Original Notice.

Title of Rule: WAC 260-20-080 Exclusion of certain horses, five years old or older; 260-32-190 Temporary suspension; and 260-75-010, Satellite locations daily fee.

Purpose: WAC 260-20-080, repeal an outmoded rule; WAC 260-32-190, bring into uniformity the temporary jockey suspension rule; and WAC 260-75-010, implement a daily fee for satellite locations.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: WAC 260-20-080 Exclusion of certain horses, five years old or older, would repeal an outmoded rule eliminating certain horses five years old or older from being barred from racing because of certain restrictive criteria; WAC 260-32-190 Temporary suspension, would bring Washington state into compliance with a request from unanimously carried vote by the national organization representing the jockeys; and WAC 260-75-010 Satellite locations daily fee, would implement a daily fee for satellite operation which take in less than \$400,000 per day.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Crowley, Executive Secretary, Olympia, Washington, (206) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 260-20-080, repeal an outmoded rule; WAC 260-32-190, will bring temporary jockey suspension into uniformity throughout the United States; and WAC 260-75-010, institute a daily fee for satellite locations.

Proposal Changes the Following Existing Rules: WAC 260-32-190 change existing rule to bring into uniformity the temporary jockey suspension throughout the industry.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

The enactment above is not anticipated to affect more than 20 percent of all industries nor more than 10 percent of any one industry as defined by section 2(3) chapter by Laws of 1982. Therefore, a small business economic impact statement has not been prepared.

Hearing Location: Radisson Suites Hotel, 17001 Pacific Highway South, Seattle, WA 98188, on May 7, 1991, at 1:00 p.m.

Submit Written Comments to: John Crowley, Washington Horse Racing Commission, 3700 Martin Way, Suite 101, Olympia, WA 98506, by May 6, 1991.

Date of Intended Adoption: May 7, 1991.

April 3, 1991
John Crowley
Executive Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 260-20-080 EXCLUSION OF CERTAIN HORSES, FIVE YEARS OR OLDER.

AMENDATORY SECTION (Amending Rules of Racing, filed 4/21/91)

WAC 260-32-190 TEMPORARY SUSPENSION. (~~A jockey under temporary suspension shall not ride in a race for any one during the period of his suspension, except with the permission of the stewards he may ride out his stake engagements. Said engagement or engagements must be in writing, and filed with the commission prior to the commission of the offense for which said jockey is under suspension.~~

~~Jockeys while under temporary suspension in any other state shall not be permitted to ride stake engagements in Washington unless the racing rules of that state permit said jockey to ride stake engagements while under temporary suspension.~~

~~A jockey temporarily suspended may, with the approval of the stewards, be permitted to exercise or gallop horses during the morning hours and to lodge on the grounds of the association at night, but he shall be refused admission to any part of the racing course or stands during such periods of time as the stewards may order.)~~ (1) If a jockey is suspended for an offense not involving fraud, and the suspension is for ten (10) days or less, then the jockey may ride in those stakes races, futurity races, futurity trials, or other races which are designated by the respective stewards as races in which the jockey may compete, even though under suspension.

(2) Official rulings for riding infractions not involving fraud, with sanctions of suspension for ten (10) days or less shall state the term of the suspension shall not prohibit participation in designated as races.

(3) A listing of the designated races shall be posted in the jockey's room, and any other such place deemed appropriate by the stewards.

(4) A suspended jockey must be named at the time of entry to participate in any designated race.

(5) A day in which a jockey participated in a designated race while on suspension shall count as a suspension day.

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

Reviser's note: The typographical errors 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 260-75-010 SATELLITE LOCATIONS DAILY FEE. All licensees of the Washington Horse Racing Commission that operate satellite locations pursuant to RCW 67.16.100, shall pay daily a fee of One Hundred Fifty Dollars (\$150.00), per site, to the Commission. This fee will be used by the Commission to cover the costs of administering the Satellite Racing Program in Washington; provided that, if the daily mutuel handle of the licensee from all locations is in excess of Four Hundred Thousand Dollars (\$400,000.00) the Commission may defer payment of this fee for such day.

WSR 91-08-074
PERMANENT RULES
WILDLIFE COMMISSION

[Order 488—Filed April 3, 1991, 3:49 p.m.]

Date of Adoption: March 8, 1991.

Purpose: To protect Tolt River wild summer-run steelhead from being harvested as they migrate through the Snoqualmie and mainstem Tolt rivers. This regulation will also provide a sanctuary for wild summer-runs when they reach their spawning grounds in the north and south forks of the Tolt River.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61810.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Pursuant to notice filed as WSR 91-03-136 on January 23, 1991.

Effective Date of Rule: Thirty-one days after filing.

March 29, 1991

John C. McGlenn
 Chairman

NEW SECTION

WAC 232-28-61817 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—TOLT AND SNOQUALMIE RIVERS. Notwithstanding the provisions of WAC 232-28-618, the following regulations apply to the game fish season for the Tolt and Snoqualmie rivers:

TOLT RIVER, from its mouth to the USGS trolley cable at the confluence of the North and South Forks: June 1 – last day of Feb. season. TROUT – catch limit – 2, min. lgth. 12". WILD STEELHEAD RELEASE and BAIT PROHIBITED, June 1–Nov. 30, see page 5.

From the USGS trolley cable to the mouth of Yellow Creek on the North Fork, and to the dam on the South Fork: CLOSED WATERS.

North Fork above Yellow Creek and the South Fork above the dam: June 1–Oct. 31 season. TROUT – catch limit – 2, min. lgth. 12". BAIT PROHIBITED.

SNOQUALMIE RIVER, from its mouth to the falls: June 1 – Mar. 31 season. TROUT – catch limit – 2, min. lgth. 12". WILD STEELHEAD RELEASE and BAIT PROHIBITED, June 1 – Nov. 30, see page 5. Fishing from any floating device prohibited Nov. 1 – Mar. 31 from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about 1/4 mile. NOTE: Waters within the Puget Power tunnel at the falls are CLOSED.

From Snoqualmie Falls, including the North and South Forks: TROUT – catch limit – 2, min. lgth. 12". BAIT PROHIBITED. Additional Nov. 1–last day of Feb. season for WHITEFISH only.

Middle Fork Snoqualmie from mouth to source including all tributaries: Catch-and-Release Only, Selective Fishery Regulations, see page 5.

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-61810 1990-92 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS – TOLT RIVER

WSR 91-08-075
PERMANENT RULES
WILDLIFE COMMISSION

[Order 489—Filed April 3, 1991, 3:52 p.m., effective September 1, 1991]

Date of Adoption: March 8, 1991.

Purpose: The purpose of this regulation is to clarify the requirement for hunter orange clothing for certain types of upland game bird and big game hunting, effective September 1, 1991. Firearm-related hunting accident statistics for Washington indicate that misidentification and other vision-related causes (victim in line of fire, victim covered by shooter swinging on game, etc.) are the major contributing causes of accidents. Accidents involving big game and upland bird hunting together comprise the majority of firearm-related hunting accidents. There is no upper limit or other controlling mechanism regulating the number of hunters in the field during general hunting seasons. Although the use of fluorescent hunter orange clothing does not limit hunter numbers, it does serve as a valuable aid in increasing hunter visibility while in the field. The required use of hunter orange is expected to reduce certain categories of firearms-related hunting accidents. The experience of other states which require hunter orange clothing for hunters generally shows a significant reduction in firearm-related hunting accidents.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-055.

Statutory Authority for Adoption: RCW 77.12.010 and 77.12.040.

Pursuant to notice filed as WSR 91-03-137 on January 23, 1991.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-12-055 differs from the proposed version filed with the code reviser in the following respects: In subsection (1), added the language: or rabbits, so that (1) now reads Except as authorized in section (4), it is unlawful to hunt upland birds or rabbits during any upland game bird season unless the hunter is wearing fluorescent hunter orange clothing. This language was added so that rabbit hunting, which often occurs in conjunction with upland game bird hunting, would be included in the hunter orange clothing requirement; and in subsection (3), added the language: forest grouse, so that (3) now reads: It is unlawful to hunt bear, bobcat, raccoon, fox, coyote, rabbit, forest grouse or hare during those times and in those places open to the taking of deer or elk during a modern firearm season, unless the hunter is wearing fluorescent hunter orange clothing. This language was added so that hunting of forest grouse, which occurs in conjunction with other forms of big and small game hunting during a modern firearm season, would be included in the hunter orange clothing requirement.

Effective Date of Rule: September 1, 1991.
 March 29, 1991
 John C. McGlenn
 Chairman

AMENDATORY SECTION (Amending Order 467, filed 11/5/90)

WAC 232-12-055 HUNTING - HUNTER ORANGE CLOTHING REQUIREMENTS Effective September 1, 1991

1) Except as authorized in section (4), it is unlawful to hunt upland birds or rabbits ((with modern firearms)) during any upland game bird season unless the hunter is wearing fluorescent hunter orange clothing.

2) It is unlawful to hunt deer or elk during the modern firearm seasons in any manner unless the hunter is wearing fluorescent hunter orange clothing.

3) It is unlawful to hunt bear, bobcat, raccoon, fox, coyote, rabbit, forest grouse or hare during those times and in those places open to the taking of deer or elk during a modern firearm season, unless the hunter is wearing fluorescent hunter orange clothing.

4) Persons who are hunting upland game birds during an upland game bird season with a muzzleloading firearm, bow and arrow or falconry are not required to wear fluorescent hunter orange clothing.

5) Wearing fluorescent hunter orange clothing means: a minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist and visible from all sides.

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 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.

Title of Rule: Amending WAC 232-28-228 1991-92, 1992-93, and 1993-94 Official hunting hours and small game seasons.

Purpose: To amend the 1991-92, 1992-93, and 1993-94 Ring-necked pheasant hunting seasons in eastern Washington.

Statutory Authority for Adoption: RCW 77.12.040 and 77.04.055.

Statute Being Implemented: RCW 77.12.040 and 77.04.055.

Summary: Amends the 1991-92, 1992-93, and 1993-94 Ring-necked pheasant hunting seasons in eastern Washington that were adopted (WAC 232-28-228) on March 9, 1991. This proposed rule extends the closing dates in eastern Washington:

Reasons Supporting Proposal: Within identified hunting seasons in eastern Washington, advises hunters of the proper time, place, and manner of taking ring-necked pheasants.

Name of Agency Personnel Responsible for Drafting and Implementation: Tom Juelson, AD, Wildlife Management Division, Olympia, (206) 753-5728; and Enforcement: Dan Wyckoff, AD, Wildlife Enforcement Division, Olympia, (206) 753-5728.

Name of Proponent: Washington Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amends the time, place, and manner for public hunting opportunities of ring-necked pheasant in eastern Washington.

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

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: Aladdin Motor Inn, 900 Capitol Way South, Olympia, WA 98501, on May 18, 1991, at 8:30 a.m.

Submit Written Comments to: Pamela K. Madson, 600 Capitol Way North, Olympia, WA 98501-1091, by May 9, 1991.

Date of Intended Adoption: May 18, 1991.

April 3, 1991

Pamela K. Madson

Administrative Rules Officer

WSR 91-08-076

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed April 3, 1991, 3:55 p.m.]

Original Notice.

AMENDATORY SECTION (Amending Order 490, filed 4/2/91)

WAC 232-28-228 1991-92, 1992-93, AND 1993-94 OFFICIAL HUNTING HOURS AND SMALL GAME SEASONS

1991-92 OFFICIAL HUNTING HOURS*

September 1, 1991 to January 31, 1992

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time				
Sun. Sept. 1 - Sun. Sept. 8	6:00	7:45	5:45	7:30
Mon. Sept. 9 - Sun. Sept. 15	6:10	7:30	6:00	7:15
Mon. Sept. 16 - Sun. Sept. 22	6:20	7:15	6:10	7:00
Mon. Sept. 23 - Sun. Sept. 29	6:30	7:00	6:20	6:45
Mon. Sept. 30 - Sun. Oct. 6	6:40	6:45	6:30	6:35
Mon. Oct. 7 - Fri. Oct. 11	6:50	6:30	6:40	6:20
Opening** Sat. Oct. 12	7:00	6:20	6:50	6:05

Dates (Inclusive)	Western Washington			Eastern Washington							
	A.M.	to	P.M.	A.M.	to	P.M.					
Weekend	Sun.	Oct.	13	7:00		6:20	6:50		6:05		
Mon. Oct.	14	- Sun.	Oct.	20	7:00		6:20	6:50		6:05	
Mon. Oct.	21	- Sat.	Oct.	26	7:10		6:05	7:00		5:55	
Pacific Standard Time											
Sun. Oct.	27						6:10		5:05	6:00	4:55
Mon. Oct.	28	- Sun.	Nov.	3	6:20		4:55	6:10		4:50	
Mon. Nov.	4	- Sun.	Nov.	10	6:30		4:45	6:20		4:30	
Mon. Nov.	11	- Sun.	Nov.	17	6:40		4:35	6:30		4:20	
Mon. Nov.	18	- Sun.	Nov.	24	6:50		4:25	6:40		4:15	
Mon. Nov.	25	- Sun.	Dec.	1	7:00		4:20	6:50		4:10	
Mon. Dec.	2	- Sun.	Dec.	8	7:10		4:20	7:00		4:10	
Mon. Dec.	9	- Sun.	Dec.	15	7:15		4:20	7:05		4:10	
Mon. Dec.	16	- Sun.	Dec.	22	7:20		4:20	7:10		4:10	
Mon. Dec.	23	- Sun.	Dec.	29	7:25		4:25	7:10		4:15	
Mon. Dec.	30	- Sun.	Jan.	5	7:25		4:30	7:15		4:15	
Mon. Jan.	6	- Sun.	Jan.	12	7:25		4:35	7:15		4:25	
Mon. Jan.	13	- Sun.	Jan.	19	7:20		4:45	7:10		4:35	
Mon. Jan.	20	- Sun.	Jan.	26	7:15		4:55	7:05		4:45	
Mon. Jan.	27	- Fri.	Jan.	31	7:10		5:00	7:00		4:50	

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1992-93 OFFICIAL HUNTING HOURS*

September 1, 1992 to January 31, 1993

Dates (Inclusive)	Western Washington			Eastern Washington							
	A.M.	to	P.M.	A.M.	to	P.M.					
Daylight Savings Time											
Tue. Sept.	1	- Sun.	Sept.	6	6:00		7:45	5:50		7:35	
Mon. Sept.	7	- Sun.	Sept.	13	6:10		7:35	6:00		7:20	
Mon. Sept.	14	- Sun.	Sept.	20	6:20		7:20	6:05		7:05	
Mon. Sept.	21	- Sun.	Sept.	27	6:30		7:05	6:15		6:50	
Mon. Sept.	28	- Sun.	Oct.	4	6:40		6:50	6:25		6:35	
Mon. Oct.	5	- Sun.	Oct.	11	6:45		6:35	6:25		6:25	
Mon. Oct.	12	- Fri.	Oct.	16	6:55		6:20	6:45		6:10	
Opening**	Sat.	Oct.	17	6:55		6:20	6:35		6:25		
Weekend	Sun.	Oct.	18	6:55		6:20	6:35		6:25		
Mon. Oct.	19	- Sat.	Oct.	24	7:05		6:10	6:55		6:00	
Pacific Standard Time											
Sun. Oct.	25						6:10		5:00	6:00	4:50
Mon. Oct.	26	- Sun.	Nov.	1	6:20		4:55	6:05		4:45	
Mon. Nov.	2	- Sun.	Nov.	8	6:30		4:45	6:15		4:35	
Mon. Nov.	9	- Sun.	Nov.	15	6:40		4:35	6:30		4:25	
Mon. Nov.	16	- Sun.	Nov.	22	6:50		4:30	6:40		4:15	
Mon. Nov.	23	- Sun.	Nov.	29	7:00		4:25	6:50		4:10	
Mon. Nov.	30	- Sun.	Dec.	6	7:10		4:20	6:55		4:10	
Mon. Dec.	7	- Sun.	Dec.	13	7:15		4:20	7:05		4:05	
Mon. Dec.	14	- Sun.	Dec.	20	7:20		4:20	7:10		4:10	
Mon. Dec.	21	- Sun.	Dec.	27	7:25		4:20	7:15		4:10	
Mon. Dec.	28	- Sun.	Jan.	3	7:25		4:30	7:15		4:15	
Mon. Jan.	4	- Sun.	Jan.	10	7:25		4:35	7:15		4:25	
Mon. Jan.	11	- Sun.	Jan.	17	7:25		4:45	7:10		4:30	
Mon. Jan.	18	- Sun.	Jan.	24	7:20		4:55	7:05		4:40	
Mon. Jan.	25	- Sun.	Jan.	31	7:10		5:00	7:00		4:50	

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day - In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.

- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1993-94 OFFICIAL HUNTING HOURS*
September 1, 1993 to January 31, 1994

Dates (Inclusive)	Western Washington		Eastern Washington	
	A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time				
Wed. Sept. 1 – Sun. Sept. 5	6:00	7:45	5:45	7:35
Mon. Sept. 6 – Sun. Sept. 12	6:05	7:35	5:50	7:20
Mon. Sept. 13 – Sun. Sept. 19	6:15	7:20	6:05	7:10
Mon. Sept. 20 – Sun. Sept. 26	6:25	7:10	6:15	6:50
Mon. Sept. 27 – Sun. Oct. 3	6:35	6:50	6:25	6:40
Mon. Oct. 4 – Sun. Oct. 10	6:45	6:40	6:35	6:25
Mon. Oct. 11 – Fri. Oct. 15	6:50	6:25	6:45	6:15
Opening** Sat. Oct. 16	6:50	6:25	6:45	6:15
Weekend Sun. Oct. 17	6:50	6:25	6:45	6:15
Mon. Oct. 18 – Sun. Oct. 24	7:05	6:15	6:55	6:00
Mon. Oct. 25 – Sat. Oct. 30	7:15	6:00	7:05	5:45
Pacific Standard Time				
Sun. Oct. 31 – Sun. Nov. 7	6:25	4:45	6:15	4:35
Mon. Nov. 8 – Sun. Nov. 14	6:35	4:40	6:25	4:25
Mon. Nov. 15 – Sun. Nov. 21	6:50	4:30	6:35	4:20
Mon. Nov. 22 – Sun. Nov. 28	7:00	4:25	6:45	4:10
Mon. Nov. 29 – Sun. Dec. 5	7:05	4:20	6:50	4:10
Mon. Dec. 6 – Sun. Dec. 12	7:10	4:20	7:00	4:05
Mon. Dec. 13 – Sun. Dec. 19	7:20	4:20	7:05	4:05
Mon. Dec. 20 – Sun. Dec. 26	7:25	4:25	7:10	4:10
Mon. Dec. 27 – Sun. Jan. 2	7:30	4:25	7:15	4:15
Mon. Jan. 3 – Sun. Jan. 9	7:30	4:35	7:15	4:20
Mon. Jan. 10 – Sun. Jan. 16	7:25	4:40	7:10	4:30
Mon. Jan. 17 – Sun. Jan. 23	7:20	4:50	7:05	4:45
Mon. Jan. 24 – Mon. Jan. 31	7:15	5:00	7:00	4:50

*These are lawful hunting hours for all game animals and game birds during established seasons.

**Opening Day – In Eastern Washington, upland bird and waterfowl seasons open at noon. In Western Washington, upland bird and waterfowl seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington – Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington – Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Before September 1 and after January 31, the lawful hunting hours for all game animals and game birds during their respective hunting seasons are one-half hour before sunrise to sunset.
- 4) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to sunset.
- 5) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Sept. 1-30, Nov. 20-Dec. 14, 1991 and Jan. 16-31, 1992; Sept. 1-30, Nov. 25-Dec. 14, 1992 and Jan. 16-31, 1993; Sept. 1-30, Nov. 24-Dec. 14, 1993 and Jan. 16-31, 1994; except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; and Sept. 1-Oct. 15, 1993.

OPEN SEASON

(Bobcat may be killed)

Oct. 12-31, 1991 and Dec. 15, 1991-Jan. 15, 1992; Oct. 17-31, 1992 and Dec. 15, 1992-Jan. 15, 1993; Oct. 16-31, 1993 and Dec. 15, 1993-Jan. 15, 1994.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)

Aug. 1-Oct. 11, 1991; Aug. 1-Oct. 16, 1992; Aug. 1-Oct. 15, 1993; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)

Oct. 12, 1991-Mar. 15, 1992; Oct. 17, 1992-March 15, 1993; Oct. 16, 1993-March 15, 1994; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or game animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season EXCEPT for the following areas and dates. (This does not permit the hunting of deer or elk with the use of hounds.)

Eastern Washington

	<u>1991</u>	<u>1992</u>	<u>1993</u>
GMUs 100-124.	Oct. 2-9	Oct. 7-14	Oct. 6-13
GMUs 127-185.	Nov. 14-21	Nov. 12-19	Nov. 11-18
Yakima County within two (2) miles of the Yakima River below Union Gap.	Oct. 12-29	Oct. 17-Nov. 3	Oct. 16-Nov. 2
Whitman and Lincoln counties.	Oct. 26-Nov. 10	Oct. 31-Nov. 15	Oct. 30-Nov. 14

Western Washington

Oct. 12–Nov. 24, 1991; Oct. 17–Nov. 22, 1992; Oct. 16–Nov. 21, 1993; in GMU 405 (west of Highway 9), GMUs 454, 627, 633, and the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill raccoon with use of hounds during early archery seasons.

Raccoon may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill raccoon with use of hounds during early muzzleloader seasons.

Eastern WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Sept. 1–Oct. 11, 1991; Sept. 1–Oct. 16, 1992; Sept. 1–Oct. 15, 1993; except CLOSED to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest.

Feb. 1–29, 1992; Feb. 1–28, 1993; and Feb. 1–28, 1994, in GMUs 111, 121, 148, and 154.

OPEN SEASON

(Raccoon may be killed)

Oct. 12, 1991–Jan. 15, 1992; Oct. 17, 1992–Jan. 15, 1993; Oct. 16, 1993–Jan. 15, 1994.

Western WashingtonPURSUIT-ONLY SEASON

(Raccoon may not be killed or injured).

Aug. 1–Oct. 11, 1991; Aug. 1–Oct. 16, 1992; Aug. 1–Oct. 15, 1993; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed)

Oct. 12, 1991–Mar. 15, 1992; Oct. 17, 1992–Mar. 15, 1993; Oct. 16, 1993–Mar. 15, 1994; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 12, 1991–Mar. 15, 1992; Oct. 17, 1992–Mar. 15, 1993; Oct. 16, 1993–Mar. 15, 1994, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

COYOTE

Coyotes are unclassified wildlife and, as such, may be taken year-round EXCEPT from September 15 to November 30 in the following closed areas: Pasayten Wilderness, Glacier Peak Wilderness, GMU 426, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Forest Grouse may not be killed with centerfire rifles or centerfire pistols EXCEPT during modern firearm deer or elk seasons.

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1–Dec. 31 during 1991, 1992, and 1993; except CLOSED in GMU 522.

UPLAND BIRDSEastern WashingtonRing-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 12–Dec. ((+5)) 31, 1991; Noon Oct. 17–Dec. ((20)) 31, 1992; Noon Oct. 16–Dec. ((+9)) 31, 1993.

Chukar and Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) chukar or gray partridges per day, with a total of eighteen (18) chukar or gray partridges in possession at any time; straight or mixed bag.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna – Colfax – Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 21–Oct. 11, 1991; Sept. 26–Oct. 16, 1992; Sept. 25–Oct. 15, 1993.

Regular Season: Noon Oct. 12, 1991 – Jan. 12, 1992; Noon Oct. 17, 1992 – Jan. 10, 1993; Noon Oct. 16, 1993 – Jan. 9, 1994.

Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time.

Noon Oct. 12, 1991 – Jan. 12, 1992; Noon Oct. 17, 1992 – Jan. 10, 1993; Noon Oct. 16, 1993 – Jan. 9, 1994.

Western WashingtonRing-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two (2) cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Sept. 28–Nov. 30, 1991; Oct. 3–Nov. 30, 1992; and Oct. 2–Nov. 30, 1993; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 12, 1991; Oct. 17, 1992; Oct. 16, 1993; except CLOSED in GMU 522.

Special Restriction: Hunting is restricted on weekend mornings at Lake Terrell, Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) wildlife areas. Only hunters with western Washington upland bird licenses marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered weekend days. Only hunters with western Washington upland bird licenses marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters 14 years of age or younger may hunt during either weekend day morning provided they are accompanied by an adult with appropriately marked upland bird license.

Quail

Bag and Possession Limits: Two (2) quail per day, with a total of thirty (30) quail in possession at any time.

Oct. 12–Nov. 30, 1991; Oct. 17–Nov. 30, 1992; Oct. 16–Nov. 30, 1993; except CLOSED in GMU 522.

TURKEY

Bag and Possession Limits: One (1) turkey of either sex per calendar year (Jan. 1–Dec. 31).

Klickitat and Skamania counties: Nov. 22–26, 1991; Nov. 20–24, 1992; Nov. 19–23, 1993.

Special Restriction: Turkey season is open for shotgun and bow-and-arrow hunting only. Each successful hunter must complete and return a game harvest report card to the Department of Wildlife within ten days after taking a turkey.

BIRD DOG TRAINING SEASON Aug. 1, 1991–Mar. 15, 1992; Aug. 1, 1992–Mar. 15, 1993; and Aug. 1, 1993–Mar. 15, 1994, except from Sept. 28–Nov. 30, 1991, Oct. 3–Nov. 30, 1992, and Oct. 2–Nov. 31, 1993, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Game birds may be taken only during established bird hunting seasons.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: Two (2) Canada geese per day with a total of four (4) in possession at any time.

Sept. 1-10, 1991; Sept. 1-10, 1992; Sept. 1-10, 1993.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington-Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to the Washington-Oregon border on the Astoria-Megler bridge, upstream along the Washington-Oregon border to the point of origin.

Permit Requirement: All hunters participating in this season are required to obtain written authorization from the Department of Wildlife. Application forms are available from Department offices and must be delivered to a Department office no later than 5:00 p.m. or postmarked on or before August 1 of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by October 15 of the hunt year will be ineligible to participate in the following year September Canada goose season.

Steel Shot Requirement: It is unlawful to possess while hunting for or to take geese with shotshells or a muzzleloader shotgun loaded with any metal other than steel in the open area of the September Canada goose season.

BAND-TAILED PIGEON

Bag and possession limits: Two (2) band-tailed pigeons per day and in possession at any time.

Western Washington: Sept. 21-29, 1991; Sept. 19-27, 1992; Sept. 18-26, 1993, except CLOSED in GMU 522.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain written authorization from the Department of Wildlife. Application forms are available from Department offices and must be delivered to a Department office no later than 5:00 p.m. or postmarked on or before August 1, of the hunt year. With the authorization, hunters will receive a hunter activity and harvest report form. Return of the harvest report form is mandatory. Those hunters not returning the harvest report form to the Department of Wildlife by October 31 of the hunt year will be ineligible to participate in the following year band-tailed pigeon season.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15 during 1991, 1992, and 1993; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and White-tailed Jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994 except CLOSED in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) Black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Sept. 1, 1991-March 15, 1992; Sept. 1, 1992-March 15, 1993; Sept. 1, 1993-March 15, 1994.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, and waterfowl during established seasons.

Statewide: Sept. 1-Oct. 11, 1991; Sept. 1-Oct. 16, 1992; Sept. 1-Oct. 15, 1993; and the month of December each year.

Rabbit and Hare - Falconry

Daily bag: Ten (10) rabbits or hares per day: straight or mixed bag.

Statewide: Aug. 1, 1991-March 15, 1992; Aug. 1, 1992-March 15, 1993; Aug. 1, 1993-March 15, 1994, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

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 91-08-077
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 3, 1991, 4:45 p.m.]

Original Notice.

Title of Rule: New section WAC 246-815-031 Dental hygiene expanded functions education requirement for licensure implementation.

Purpose: To establish implementation date for requiring the didactic and clinical competency in the expanded functions area of education for dental hygiene licensure.

Statutory Authority for Adoption: RCW 18.29.130(6).

Statute Being Implemented: RCW 18.29.021 (1)(a).

Summary: Establishes implementation date for requiring the didactic and clinical competency in the expanded functions area of education for dental hygiene licensure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Lewis, 1300 S.E. Quince Street, Olympia, WA, (206) 586-1867.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To establish implementation date for requiring the didactic and clinical competency in the expanded functions area of education requirement for dental hygiene licensure. This will allow more time for the educational programs to be established and approved. Therefore, providing the avenue for this education to be acquired.

Proposal does not change existing rules.

No small business economic impact statement is required for this proposal by chapter 19.85-RCW.

Hearing Location: OB-2 Auditorium, 12th and Franklin, Olympia, Washington, on May 7, 1991, at 1:30 p.m.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, 1300 S.E. Quince Street, Mailstop EY-16, Olympia, WA 98504, by May 5, 1991.

Date of Intended Adoption: May 8, 1991.

April 3, 1991
 Pamela Campbell Mead
 for Kristine Gebbie
 Secretary

NEW SECTION

WAC 246-815-031 DENTAL HYGIENE EXPANDED FUNCTIONS EDUCATION REQUIREMENT FOR LICENSURE IMPLEMENTATION The dental hygiene education requirement for licensure regarding the didactic and clinical competency of the expanded functions referenced in WAC 246-815-030 (1)(a)-(d), (2) and (3) shall become effective February 1, 1992.

WSR 91-08-078
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed April 3, 1991, 4:49 p.m.]

Original Notice.

Title of Rule: WAC 246-802-990 Acupuncture fees; 246-815-990 Dental hygiene fees; 246-822-990 Dietitian and nutritionist fees; 246-826-990 Health care assistant fees; 246-834-990 Midwifery fees; 246-838-990 Practical nurse fees; 246-845-990 Nursing pool fees; 246-847-990 Occupational therapy fees; 246-851-990 Optometry fees; 246-853-990; Osteopathic fees; 246-915-990 Physical therapy fees; 246-922-990 Podiatry fees; 246-924-990 Psychology fees; 308-50-440 Hearing aid fitter/dispenser fees; 360-12-128 Retired pharmacist license; and 360-18-020 Pharmacist fees.

Purpose: Fees for health profession licenses are proposed to support the proposed 1991-93 biennium budget.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

Summary: Fees are modified for the professions on WAC 246-802-990 Acupuncture fees; 246-815-990 Dental hygiene fees; 246-822-990 Dietitian and nutritionist fees; 246-826-990 Health care assistant fees; 246-834-990 Midwifery fees; 246-838-990 Practical nurse fees; 246-845-990 Nursing pool fees; 246-847-990 Occupational therapy fees; 246-851-990 Optometry fees; 246-853-990; Osteopathic fees; 246-915-990 Physical therapy fees; 246-922-990 Podiatry fees; 246-924-990 Psychology fees; 308-50-440 Hearing aid fitter/dispenser fees; 360-12-128 Retired pharmacist license; and 360-18-020 Pharmacist fees.

Reasons Supporting Proposal: Fee changes are required to fund the 1991-93 program budgets.

Name of Agency Personnel Responsible for Drafting: Chris R. Rose, 1300 S.E. Quince Street, 753-3234; Implementation and Enforcement: Ron Weaver, 1300 S.E. Quince Street, 753-7007.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will change license fees to generate revenue to fund the 1991-93 program budgets.

Proposal Changes the Following Existing Rules: The proposal amends licensing fees for selected professions.

No small business economic impact statement is required for this proposal by chapter 19.85 RCW.

Hearing Location: May 7, 1991, at 5:00 p.m. - 8:00 p.m., Best Western Executive Inn - Fife, 5700 Pacific Highway East, Tacoma, WA 98424; and on May 8, 1991, at 2:00 p.m. - 5:00 p.m., Holiday Inn West, 4212 Sunset Boulevard, Spokane, WA 99204.

Submit Written Comments to: Leslie Baldwin, 1300 Quince Street S.E., Mailstop EY-16, Olympia, WA 98504, by May 6, 1991.

Date of Intended Adoption: May 10, 1991.

April 3, 1991
 Pamela J. Mead
 for Kristine M. Gebbie
 Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-802-990 ACUPUNCTURE FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application <u>nonrefundable</u>	((\$125.00)) \$200.00
Written examination	((125.00)) 150.00
Practical examination	((250.00)) 275.00
Annual license renewal	((450.00)) 610.00
Late renewal penalty	100.00
Duplicate license	15.00
Certification	25.00
Acupuncture training program application	500.00
Partial retake of exam—Practical	175.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-815-990 DENTAL HYGIENE FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application examination and reexamination	\$200.00
Renewal	((75.00)) 95.00
Late renewal penalty	60.00
Credentialing application	300.00
Duplicate license	15.00
Certification	35.00
Education program evaluation	200.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-822-990 DIETITIAN AND NUTRITIONIST FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title	Fee
Application	((85.00)) \$100.00
Renewal	((75.00)) 80.00
Late renewal	25.00
Certification	25.00

Title	Fee
Duplicate	15.00
((Reexamination	75.00))

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-826-990 HEALTH CARE ASSISTANT FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
((Initial)) First certification	((25.00))
	\$40.00
((Continuing certification)) Renewal	((25.00))
	40.00
Recertification	35.00
Duplicate	15.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-834-990 MIDWIFERY FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Initial application <u>nonrefundable</u>	((337.50))
	\$375.00
Examination	375.00
Reexamination (second subsequent or more)	375.00
Renewal	((275.00))
	325.00
Late renewal penalty	((275.00))
	325.00
Duplicate license	15.00
Certification	25.00
Application fee—Midwife—in-training program	75.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-838-990 PRACTICAL NURSE FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application (examination and reexamination)	((55.00))
	\$65.00
License renewal	((31.00))
	35.00
Late renewal penalty	35.00
Inactive renewal	20.00
Inactive late renewal penalty	20.00
Endorsement - reciprocity	((55.00))
	65.00
Duplicate license	20.00
Certification	40.00
Interim permits	15.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-845-990 NURSING POOL FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title	Fee
Registration application	\$ 125.00
Registration renewal	125.00
Late renewal penalty	75.00
Duplicate registration	15.00

AMENDATORY SECTION (Amending Order 135, filed 2/12/91, effective 3/15/91)

WAC 246-847-990 OCCUPATIONAL THERAPY FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
Occupational therapist:	
Application fee (nonrefundable)	\$ 90.00
Initial license	80.00
License renewal	125.00
Limited permit fee	40.00
Late renewal fee	60.00
Duplicate	15.00
Certification	25.00
Occupational therapy assistant:	
Application fee (nonrefundable)	((60.00))
	90.00
Initial license	((50.00))
	80.00
License renewal	((60.00))
	125.00
Late renewal fee	((40.00))
	60.00
Limited permit fee	((20.00))
	40.00
Duplicate	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order 137, filed 2/26/91, effective 3/29/91)

WAC 246-851-990 OPTOMETRY FEES. The following fees shall be charged by the professional licensing division of the department of ~~((licensing))~~ health:

Title of Fee	Fee
<u>Application—Nonrefundable</u>	\$100.00
Examination ((or reexamination)) /initial license	((100.00))
	250.00
((Initial license	150.00))
Reexamination/initial license	250.00
License renewal	160.00
Late renewal	45.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-853-990 OSTEOPATHIC FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Osteopath:	
Renewal	((300.00))
	\$410.00
Duplicate	15.00
Certification	25.00
Osteopathic physician:	
Endorsement application	((400.00))
	500.00
License renewal	((300.00))
	410.00
Late renewal penalty	50.00
Flex exam/state exam application	600.00
Endorsement/state exam application	500.00
Retake flex I	300.00
Retake flex II	350.00
Reexam	100.00
Duplicate license	15.00
Certification	25.00

Title of Fee	Fee
Osteopathic physician assistant:	
Application	150.00
Renewal	50.00
Duplicate license	15.00

AMENDATORY SECTION (Amending Order 128, filed 2/7/91, effective 3/10/91)

WAC 246-915-990 PHYSICAL THERAPY FEES. The following fees shall be charged by the professional licensing services division of the department of health:

Title of Fee	Fee
Application— ((Fee)) <u>Nonrefundable</u>	(\$100.00) \$150.00
License renewal	((35.00)) 70.00
Late renewal penalty	((35.00)) 70.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order 134, filed 2/12/91, effective 3/15/91)

WAC 246-922-990 PODIATRY FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application (examination and reexamination)	\$500.00
Reciprocity application	400.00
License renewal	650.00
Inactive license renewal	135.00
Late renewal penalty	((10.00)) 100.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order 133, filed 2/12/91, effective 3/15/91)

WAC 246-924-990 PSYCHOLOGY FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application— <u>Nonrefundable</u>	((100.00)) \$250.00
Application—Written examination (initial and retake)	((200.00)) 225.00
Application—Oral examination (initial and retake)	((200.00)) 250.00
Renewal	((210.00)) 275.00
Late renewal penalty	((50.00)) 100.00
Duplicate license	((15.00)) 25.00
Certificate of qualification application	((100.00)) 250.00
Written examination	((200.00)) 225.00
Oral examination	((200.00)) 250.00
Certification	25.00
Renewal	((210.00)) 275.00

Title of Fee	Fee
Renewal penalty	((50.00)) 100.00
Amendment of certificate of qualification	30.00

AMENDATORY SECTION (Amending Order 029, filed 2/7/90, effective 3/10/90)

WAC 308-50-440 HEARING AID FITTER/DISPENSER FEES. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Trainee:	
Initial application	((300.00)) \$350.00
Trainee transfer of sponsor—Within fifteen days	100.00
Trainee transfer of sponsor—Over fifteen days	((150.00)) 200.00
Extension of trainee license	200.00
Fitter/dispenser:	
Examination or reexamination (full)	500.00
Partial reexamination	((250.00)) 300.00
Initial license	((250.00)) 300.00
Renewal	((325.00)) 500.00
Late renewal penalty	((325.00)) 400.00
Duplicate license	15.00
Certification	25.00

AMENDATORY SECTION (Amending Order 203, filed 12/2/86)

WAC 360-12-128 RETIRED PHARMACIST LICENSE. (1) Any pharmacist who has been licensed in the state for twenty-five consecutive years, who wishes to retire from the practice of pharmacy, may apply to the board of pharmacy for a retired pharmacist license. The fee for the original retired pharmacist license shall be twenty dollars.

(2) The holder of a retired pharmacist license shall not be authorized to practice pharmacy and need not comply with the continuing education requirements of chapter 360-11 WAC.

(3) A retired pharmacist license shall be granted to any qualified applicant and shall entitle such person to receive mailings from the board of pharmacy: PROVIDED, That lawbook updates shall not be mailed without charge.

(4) In order to reactivate a retired pharmacist license, the holder must comply with the provision of WAC 360-12-130.

(5) The annual renewal fee for a retired pharmacist license shall be ~~((twenty))~~ twenty-five dollars.

AMENDATORY SECTION (Amending Order 222, filed 1/23/89)

WAC 360-18-020 FEES. The following fees shall be charged by the board of pharmacy:

(a) PHARMACY LOCATION	
Original pharmacy fee	((165.00)) \$285.00
Original pharmacy assistant utilization fee	((35.00)) 50.00
Renewal pharmacy fee	((85.00)) 200.00
Renewal pharmacy assistant utilization fee	((35.00)) 75.00
Penalty pharmacy fee	((165.00)) 275.00

(b) VENDOR		(j) PHARMACY INTERN	
Original fee	((40.00))	Original registration fee	15.00
	60.00	Renewal registration fee	15.00
Renewal fee	((40.00))	(k) CONTROLLED SUBSTANCES ACT (CSA)	
	60.00	REGISTRATIONS	
Penalty fee	((40.00))	Dispensing registration fee (i.e. pharmacies)	((35.00))
	60.00		65.00
(c) PHARMACIST		Dispensing renewal fee (i.e. pharmacies)	((30.00))
Exam fee (full exam)	((175.00))		55.00
	275.00	Distributors registration fee (i.e. wholesalers)	((50.00))
Reexamination fee (jurisprudence portion)	((25.00))		90.00
	40.00	Distributors renewal fee (i.e. wholesalers)	((50.00))
Original license fee	((75.00))		90.00
	125.00	Manufacturers registration fee	((50.00))
Renewal fee, active and inactive license	((61.00))		90.00
	115.00	Manufacturers renewal fee	((50.00))
Penalty fee	((60.00))		90.00
	115.00	Physician assistant registration fee	15.00
Reciprocity fee	250.00	Physician assistant renewal fee	10.00
Certification of license status to other states	((10.00))	ARNP with prescriptive authorization registration fee	((15.00))
	20.00		20.00
(d) SHOPKEEPER		ARNP with prescriptive authorization renewal fee	((10.00))
(i) SHOPKEEPER – sixteen or more drugs			20.00
Original fee	((10.00))	Sodium pentobarbital for animal euthanization registration fee	((20.00))
	25.00		30.00
Renewal fee	((10.00))	Sodium pentobarbital for animal euthanization renewal fee	((15.00))
	25.00		30.00
Penalty fee	((5.00))	(l) LEGEND DRUG SAMPLE – distributor registration fees	
	10.00	Original fee	((125.00))
(ii) SHOPKEEPER – with differential hours			285.00
Original fee	((10.00))	Renewal fee	((85.00))
	25.00		200.00
Renewal fee	((10.00))	(m) POISON MANUFACTURER/SELLER – license fees	
	25.00	Original fee	((20.00))
Penalty fee	((5.00))		30.00
	10.00	Renewal fee	((20.00))
(e) DRUG MANUFACTURER			30.00
Original fee	((250.00))	(n) Facility inspection fee	((100.00))
	450.00		150.00
Renewal fee	((250.00))	(o) PRECURSOR CONTROL PERMIT	
	450.00	Original fee	((40.00))
Penalty fee	((250.00))		50.00
	450.00	Renewal fee	((40.00))
(f) DRUG WHOLESALER – full line			50.00
Original fee	((250.00))		50.00
	450.00		
Renewal fee	((250.00))		
	450.00		
Penalty fee	((250.00))		
	450.00		
(g) DRUG WHOLESALER – OTC only			
Original fee	((150.00))		
	250.00		
Renewal fee	((150.00))		
	250.00		
Penalty fee	((150.00))		
	250.00		
(h) DRUG WHOLESALER – export			
Original fee	((250.00))		
	450.00		
Renewal fee	((250.00))		
	450.00		
Penalty	((250.00))		
	450.00		
(i) PHARMACY ASSISTANT – Level "A"			
Original fee	((30.00))		
	40.00		
Renewal fee	((20.00))		
	30.00		

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

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.

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 show the sequence of the document within the issue.

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1-06-040	AMD-P	91-06-067	1-08-490	REP-P	91-06-067	16-156-035	AMD-P	91-05-006
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1-08-030	REP-P	91-06-067	1-08-530	REP-P	91-06-067	16-160-020	NEW	91-05-007
1-08-040	REP-P	91-06-067	1-08-540	REP-P	91-06-067	16-160-030	NEW	91-05-007
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1-08-120	REP-P	91-06-067	16-80-007	NEW-P	91-05-076	16-228-164	AMD	91-06-019
1-08-130	REP-P	91-06-067	16-80-007	NEW	91-08-027	16-230-110	REP-P	91-02-106
1-08-140	REP-P	91-06-067	16-80-010	NEW-P	91-05-076	16-230-110	REP	91-06-019
1-08-150	REP-P	91-06-067	16-80-010	NEW	91-08-027	16-230-115	REP-P	91-02-106
1-08-160	REP-P	91-06-067	16-80-015	NEW-P	91-05-076	16-230-115	REP	91-06-019
1-08-170	REP-P	91-06-067	16-80-015	NEW	91-08-027	16-230-120	REP-P	91-02-106
1-08-180	REP-P	91-06-067	16-80-020	NEW-P	91-05-076	16-230-120	REP	91-06-019
1-08-190	REP-P	91-06-067	16-80-020	NEW	91-08-027	16-230-150	AMD-P	91-04-078
1-08-200	REP-P	91-06-067	16-80-025	NEW-P	91-05-076	16-230-150	AMD	91-08-058
1-08-210	REP-P	91-06-067	16-80-025	NEW	91-08-027	16-230-150	AMD-P	91-04-078
1-08-220	REP-P	91-06-067	16-80-030	NEW-P	91-05-076	16-230-160	AMD	91-08-058
1-08-230	REP-P	91-06-067	16-80-030	NEW	91-08-027	16-230-170	AMD-P	91-04-078
1-08-240	REP-P	91-06-067	16-80-035	NEW-P	91-05-076	16-230-170	AMD	91-08-058
1-08-250	REP-P	91-06-067	16-80-035	NEW	91-08-027	16-230-180	AMD-P	91-04-078
1-08-260	REP-P	91-06-067	16-80-040	NEW-P	91-05-076	16-230-180	AMD	91-08-058
1-08-270	REP-P	91-06-067	16-80-040	NEW	91-08-027	16-230-190	AMD-P	91-04-078
1-08-280	REP-P	91-06-067	16-80-045	NEW-P	91-05-076	16-230-190	AMD	91-08-058
1-08-290	REP-P	91-06-067	16-80-045	NEW	91-08-027	16-230-400	AMD-P	91-02-106
1-08-300	REP-P	91-06-067	16-80-047	NEW-P	91-05-076	16-230-400	AMD	91-06-019
1-08-310	REP-P	91-06-067	16-80-047	NEW	91-08-027	16-230-410	AMD-P	91-02-106
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1-08-330	REP-P	91-06-067	16-80-050	NEW	91-08-027	16-230-440	AMD-P	91-02-106
1-08-340	REP-P	91-06-067	16-154	AMD-P	91-05-006	16-230-440	AMD	91-06-019
1-08-350	REP-P	91-06-067	16-154-010	AMD-P	91-05-006	16-230-450	AMD-P	91-02-106
1-08-360	REP-P	91-06-067	16-154-020	AMD-P	91-05-006	16-230-450	AMD	91-06-019
1-08-370	REP-P	91-06-067	16-154-030	NEW-P	91-05-006	16-230-460	AMD-P	91-02-106
1-08-380	REP-P	91-06-067	16-154-040	NEW-P	91-05-006	16-230-460	AMD	91-06-019
1-08-390	REP-P	91-06-067	16-154-050	NEW-P	91-05-006	16-230-470	AMD-P	91-02-106
1-08-400	REP-P	91-06-067	16-154-060	NEW-P	91-05-006	16-230-470	AMD	91-06-019
1-08-410	REP-P	91-06-067	16-154-070	NEW-P	91-05-006	16-230-475	REP-P	91-02-106
1-08-420	REP-P	91-06-067	16-154-080	NEW-P	91-05-006	16-230-475	REP	91-06-019
1-08-430	REP-P	91-06-067	16-154-090	NEW-P	91-05-006	16-230-605	AMD-P	91-02-106
1-08-440	REP-P	91-06-067	16-154-100	NEW-P	91-05-006	16-230-605	AMD	91-06-019
1-08-450	REP-P	91-06-067	16-154-110	NEW-P	91-05-006	16-230-610	AMD-P	91-02-106
1-08-460	REP-P	91-06-067	16-154-120	NEW-P	91-05-006	16-230-610	AMD	91-06-019
1-08-470	REP-P	91-06-067	16-156-005	AMD-P	91-05-006	16-230-615	AMD-P	91-02-106
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16-231-238	REP	91-06-019	16-232-120	AMD-P	91-02-106	16-482-006	NEW-P	91-03-105
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16-231-620	AMD	91-06-019	16-333-235	NEW	91-08-015	16-486-045	REP-P	91-07-036
16-231-700	AMD-P	91-02-106	16-333-240	NEW-P	91-04-068	16-494-001	AMD-P	91-04-066
16-231-700	AMD	91-06-019	16-333-240	NEW	91-08-015	16-494-001	AMD	91-08-017
16-231-705	AMD-P	91-02-106	16-333-245	NEW-P	91-04-068	16-494-010	AMD-P	91-04-066
16-231-705	AMD	91-06-019	16-333-245	NEW	91-08-015	16-494-010	AMD	91-08-017
16-231-715	AMD-P	91-02-106	16-354-005	AMD-P	91-04-067	16-494-012	NEW-P	91-04-066
16-231-715	AMD	91-06-019	16-354-005	AMD	91-08-016	16-494-012	NEW	91-08-017
16-231-720	AMD-P	91-02-106	16-354-010	AMD-P	91-04-067	16-494-013	NEW-P	91-04-066
16-231-720	AMD	91-06-019	16-354-010	AMD	91-08-016	16-494-013	NEW	91-08-017
16-231-800	AMD-P	91-02-106	16-354-020	AMD-P	91-04-067	16-494-015	REP-P	91-04-066
16-231-800	AMD	91-06-019	16-354-020	AMD	91-08-016	16-494-015	REP	91-08-017
16-231-805	AMD-P	91-02-106	16-354-030	AMD-P	91-04-067	16-494-020	AMD-P	91-04-066

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
132K-16-290	NEW-P	91-03-150	154-300-070	NEW-P	91-02-098	173-224-015	AMD-P	91-03-080
132K-16-300	NEW-E	91-03-084	154-300-070	NEW	91-05-084	173-224-030	AMD-P	91-03-080
132K-16-300	NEW-P	91-03-150	154-300-080	NEW-P	91-02-098	173-224-040	AMD-P	91-03-080
132K-16-310	NEW-E	91-03-084	154-300-080	NEW	91-05-084	173-224-050	AMD-P	91-03-080
132K-16-310	NEW-P	91-03-150	154-300-090	NEW-P	91-02-098	173-224-090	AMD-P	91-03-080
132K-16-320	NEW-E	91-03-084	154-300-090	NEW	91-05-084	173-270-010	NEW-P	91-04-091
132K-16-320	NEW-P	91-03-150	154-300-100	NEW-P	91-02-098	173-270-020	NEW-P	91-04-091
132K-16-330	NEW-E	91-03-084	154-300-100	NEW	91-05-084	173-270-030	NEW-P	91-04-091
132K-16-330	NEW-P	91-03-150	154-300-110	NEW-P	91-02-098	173-270-040	NEW-P	91-04-091
132K-16-340	NEW-E	91-03-084	154-300-110	NEW	91-05-084	173-270-050	NEW-P	91-04-091
132K-16-340	NEW-P	91-03-150	154-300-120	NEW-P	91-02-098	173-270-060	NEW-P	91-04-091
132K-16-350	NEW-E	91-03-084	154-300-120	NEW	91-05-084	173-270-070	NEW-P	91-04-091
132K-16-350	NEW-P	91-03-150	173-16-064	NEW-P	91-04-069	173-270-080	NEW-P	91-04-091
132K-16-360	NEW-E	91-03-084	173-16-064	NEW-W	91-05-042	173-270-090	NEW-P	91-04-091
132K-16-360	NEW-P	91-03-150	173-19-120	AMD-W	91-02-112	173-270-100	NEW-P	91-04-091
132K-16-370	NEW-E	91-03-084	173-19-2207	AMD-P	91-03-144	173-303-016	AMD	91-07-005
132K-16-370	NEW-P	91-03-150	173-19-230	AMD	91-03-145	173-303-017	AMD	91-07-005
132K-16-380	NEW-E	91-03-084	173-19-250	AMD	91-03-149	173-303-040	AMD	91-07-005
132K-16-380	NEW-P	91-03-150	173-19-280	AMD-P	91-03-141	173-303-045	AMD	91-07-005
132K-16-390	NEW-E	91-03-084	173-19-3203	AMD	91-03-147	173-303-070	AMD	91-07-005
132K-16-390	NEW-P	91-03-150	173-19-3205	AMD	91-03-146	173-303-071	AMD	91-07-005
132K-16-400	NEW-E	91-03-084	173-19-3208	AMD	91-03-148	173-303-072	AMD	91-07-005
132K-16-400	NEW-P	91-03-150	173-19-3209	AMD	91-04-070	173-303-081	AMD	91-07-005
132K-16-410	NEW-E	91-03-084	173-19-3210	AMD	91-04-071	173-303-084	AMD	91-07-005
132K-16-410	NEW-P	91-03-150	173-19-350	AMD-P	91-03-143	173-303-090	AMD	91-07-005
132K-16-420	NEW-E	91-03-084	173-19-360	AMD	91-04-072	173-303-103	AMD	91-07-005
132K-16-420	NEW-P	91-03-150	173-19-360	AMD-P	91-05-063	173-303-110	AMD	91-07-005
132K-16-430	NEW-E	91-03-084	173-19-360	AMD-C	91-06-094	173-303-120	AMD	91-07-005
132K-16-430	NEW-P	91-03-150	173-19-4205	AMD-P	91-04-079	173-303-145	AMD	91-07-005
132K-16-440	NEW-E	91-03-084	173-160-040	AMD-E	91-04-073	173-303-160	AMD	91-07-005
132K-16-440	NEW-P	91-03-150	173-166	AMD-C	91-02-099	173-303-200	AMD	91-07-005
132K-16-450	NEW-E	91-03-084	173-166	AMD	91-03-081	173-303-201	AMD	91-07-005
132K-16-450	NEW-P	91-03-150	173-166-010	AMD	91-03-081	173-303-210	AMD	91-07-005
132K-16-460	NEW-E	91-03-084	173-166-020	AMD	91-03-081	173-303-220	AMD	91-07-005
132K-16-460	NEW-P	91-03-150	173-166-030	AMD	91-03-081	173-303-230	AMD	91-07-005
132K-16-470	NEW-E	91-03-084	173-166-040	AMD	91-03-081	173-303-320	AMD	91-07-005
132K-16-470	NEW-P	91-03-150	173-166-050	AMD	91-03-081	173-303-360	AMD	91-07-005
132K-16-480	NEW-E	91-03-084	173-166-060	AMD	91-03-081	173-303-380	AMD	91-07-005
132K-16-480	NEW-P	91-03-150	173-166-070	AMD	91-03-081	173-303-390	AMD	91-07-005
132K-16-490	NEW-E	91-03-084	173-166-080	NEW	91-03-081	173-303-400	AMD	91-07-005
132K-16-490	NEW-P	91-03-150	173-166-090	NEW	91-03-081	173-303-500	AMD	91-07-005
132K-16-500	NEW-E	91-03-084	173-166-100	NEW	91-03-081	173-303-510	RE-AD	91-07-005
132K-16-500	NEW-P	91-03-150	173-166-110	NEW	91-03-081	173-303-515	RE-AD	91-07-005
132K-16-510	NEW-E	91-03-084	173-166-120	NEW	91-03-081	173-303-520	RE-AD	91-07-005
132K-16-510	NEW-P	91-03-150	173-166-130	NEW	91-03-081	173-303-525	AMD	91-07-005
132K-16-520	NEW-E	91-03-084	173-166-140	NEW	91-03-081	173-303-550	AMD	91-07-005
132K-16-520	NEW-P	91-03-150	173-204	NEW-C	91-03-094	173-303-560	RE-AD	91-07-005
132K-16-530	NEW-E	91-03-084	173-204	NEW-C	91-06-098	173-303-600	AMD	91-07-005
132K-16-530	NEW-P	91-03-150	173-204-100	NEW	91-08-019	173-303-610	AMD	91-07-005
132K-16-540	NEW-E	91-03-084	173-204-110	NEW	91-08-019	173-303-620	AMD	91-07-005
132K-16-540	NEW-P	91-03-150	173-204-120	NEW	91-08-019	173-303-630	AMD	91-07-005
132K-16-550	NEW-E	91-03-084	173-204-130	NEW	91-08-019	173-303-645	AMD	91-07-005
132K-16-550	NEW-P	91-03-150	173-204-200	NEW	91-08-019	173-303-650	RE-AD	91-07-005
132K-16-560	NEW-E	91-03-084	173-204-300	NEW	91-08-019	173-303-680	NEW	91-07-005
132K-16-560	NEW-P	91-03-150	173-204-310	NEW	91-08-019	173-303-800	AMD	91-07-005
132S-30-036	AMD-P	91-02-101	173-204-315	NEW	91-08-019	173-303-802	AMD	91-07-005
132S-30-036	AMD	91-08-001	173-204-320	NEW	91-08-019	173-303-805	AMD	91-07-005
132Y-400-010	NEW	91-05-012	173-204-330	NEW	91-08-019	173-303-806	AMD	91-07-005
132Y-400-020	NEW	91-05-012	173-204-340	NEW	91-08-019	173-303-807	AMD	91-07-005
132Y-400-030	NEW	91-05-012	173-204-350	NEW	91-08-019	173-303-808	AMD	91-07-005
132Y-400-040	NEW	91-05-012	173-204-400	NEW	91-08-019	173-303-810	AMD	91-07-005
143-06-130	AMD-P	91-04-090	173-204-410	NEW	91-08-019	173-303-830	AMD	91-07-005
143-06-130	AMD	91-07-033	173-204-415	NEW	91-08-019	173-303-902	PREP	91-08-018
154-300-005	NEW-P	91-02-098	173-204-420	NEW	91-08-019	173-303-9903	AMD	91-07-005
154-300-005	NEW	91-05-084	173-204-500	NEW	91-08-019	173-303-9904	AMD	91-07-005
154-300-010	NEW-P	91-02-098	173-204-510	NEW	91-08-019	173-303-9906	AMD	91-07-005
154-300-010	NEW	91-05-084	173-204-520	NEW	91-08-019	173-303-9907	AMD	91-07-005
154-300-020	NEW-P	91-02-098	173-204-530	NEW	91-08-019	173-305-010	REP-E	91-03-139
154-300-020	NEW	91-05-084	173-204-540	NEW	91-08-019	173-305-010	AMD	91-08-040
154-300-030	NEW-P	91-02-098	173-204-550	NEW	91-08-019	173-305-01001	NEW-E	91-03-139
154-300-030	NEW	91-05-084	173-204-560	NEW	91-08-019	173-305-015	REP-E	91-03-139
154-300-040	NEW-P	91-02-098	173-204-570	NEW	91-08-019	173-305-015	AMD	91-08-040
154-300-040	NEW	91-05-084	173-204-580	NEW	91-08-019	173-305-01501	NEW-E	91-03-139
154-300-050	NEW-P	91-02-098	173-204-590	NEW	91-08-019	173-305-020	REP-E	91-03-139
154-300-050	NEW	91-05-084	173-204-600	NEW	91-08-019	173-305-020	AMD	91-08-040
154-300-060	NEW-P	91-02-098	173-204-610	NEW	91-08-019	173-305-02001	NEW-E	91-03-139
154-300-060	NEW	91-05-084	173-204-620	NEW	91-08-019	173-305-030	REP-E	91-03-139

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182-16-050	NEW-P 91-04-087	212-55-001	REP-E 91-06-021	212-56A-100	NEW-P 91-06-020
182-18-005	NEW-P 91-05-079	212-55-005	REP-P 91-06-020	212-56A-100	NEW-E 91-06-021
182-18-010	NEW-P 91-05-079	212-55-005	REP-E 91-06-021	212-56A-105	NEW-P 91-06-020
182-18-020	NEW-P 91-05-079	212-55-010	REP-P 91-06-020	212-56A-105	NEW-E 91-06-021
182-18-030	NEW-P 91-05-079	212-55-010	REP-E 91-06-021	212-56A-110	NEW-P 91-06-020
182-18-040	NEW-P 91-05-079	212-55-015	REP-P 91-06-020	212-56A-110	NEW-E 91-06-021
182-18-050	NEW-P 91-05-079	212-55-015	REP-E 91-06-021	212-56A-115	NEW-P 91-06-020
182-18-060	NEW-P 91-05-079	212-55-020	REP-P 91-06-020	212-56A-115	NEW-E 91-06-021
182-18-070	NEW-P 91-05-079	212-55-020	REP-E 91-06-021	212-56A-120	NEW-P 91-06-020
182-18-080	NEW-P 91-05-079	212-55-025	REP-P 91-06-020	212-56A-120	NEW-E 91-06-021
182-18-090	NEW-P 91-05-079	212-55-025	REP-E 91-06-021	212-56A-125	NEW-P 91-06-020
182-18-100	NEW-P 91-05-079	212-55-030	REP-P 91-06-020	212-56A-125	NEW-E 91-06-021
182-18-110	NEW-P 91-05-079	212-55-030	REP-E 91-06-021	212-56A-130	NEW-P 91-06-020
182-18-120	NEW-P 91-05-079	212-55-035	REP-P 91-06-020	212-56A-130	NEW-E 91-06-021
182-18-130	NEW-P 91-05-079	212-55-035	REP-E 91-06-021	212-56A-135	NEW-P 91-06-020
182-18-140	NEW-P 91-05-079	212-55-040	REP-P 91-06-020	212-56A-135	NEW-E 91-06-021
182-18-150	NEW-P 91-05-079	212-55-040	REP-E 91-06-021	212-56A-140	NEW-P 91-06-020
182-18-160	NEW-P 91-05-079	212-55-045	REP-P 91-06-020	212-56A-140	NEW-E 91-06-021
192-12-300	AMD-E 91-03-054	212-55-045	REP-E 91-06-021	220-12-020	AMD-P 91-05-102
192-12-305	REP-E 91-03-054	212-55-050	REP-P 91-06-020	220-16-055	REP-P 91-03-151
192-12-310	REP-E 91-03-054	212-55-050	REP-E 91-06-021	220-16-055	REP 91-08-053
192-12-320	AMD-E 91-03-054	212-55-055	REP-P 91-06-020	220-16-220	AMD-P 91-03-153
192-12-330	AMD-E 91-03-054	212-55-055	REP-E 91-06-021	220-16-220	AMD 91-08-054
192-12-370	NEW-E 91-03-054	212-55-060	REP-P 91-06-020	220-16-257	AMD-P 91-03-153
196-24-060	AMD-P 91-07-064	212-55-060	REP-E 91-06-021	220-16-257	AMD 91-08-054
196-24-095	AMD-P 91-05-078	212-55-065	REP-P 91-06-020	220-20-010	AMD-P 91-03-153
196-24-095	AMD-C 91-06-018	212-55-065	REP-E 91-06-021	220-20-010	AMD 91-08-054
196-24-097	NEW-P 91-05-078	212-55-070	REP-P 91-06-020	220-20-01700A	NEW-E 91-03-108
196-24-097	NEW-C 91-06-018	212-55-070	REP-E 91-06-021	220-32-05100D	REP-E 91-04-031
196-24-098	PREP 91-05-041	212-55-075	REP-P 91-06-020	220-32-05100E	NEW-E 91-04-031
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196-26-030	AMD-P 91-07-065	212-55-080	REP-P 91-06-020	220-32-05700G	NEW-E 91-08-065
204-53-010	NEW 91-05-019	212-55-080	REP-E 91-06-021	220-33-01000V	NEW-E 91-05-005
212-12-010	AMD-W 91-05-043	212-55-085	REP-P 91-06-020	220-33-01000V	REP-E 91-05-036
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212-54-005	REP-E 91-06-021	212-55-095	REP-P 91-06-020	220-40-031	AMD-P 91-03-153
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212-54-010	REP-E 91-06-021	212-56A-001	NEW-P 91-06-020	220-44-050	AMD-P 91-03-152
212-54-015	REP-P 91-06-020	212-56A-001	NEW-E 91-06-021	220-44-050	AMD 91-07-050
212-54-015	REP-E 91-06-021	212-56A-005	NEW-P 91-06-020	220-44-05000I	REP-E 91-08-023
212-54-020	REP-P 91-06-020	212-56A-005	NEW-E 91-06-021	220-44-05000J	NEW-E 91-08-023
212-54-020	REP-E 91-06-021	212-56A-010	NEW-P 91-06-020	220-48-01500E	NEW-E 91-05-037
212-54-025	REP-P 91-06-020	212-56A-010	NEW-E 91-06-021	220-49-063	AMD-P 91-02-108
212-54-025	REP-E 91-06-021	212-56A-015	NEW-P 91-06-020	220-49-063	AMD 91-05-016
212-54-030	REP-P 91-06-020	212-56A-015	NEW-E 91-06-021	220-52-020	AMD-P 91-05-102
212-54-030	REP-E 91-06-021	212-56A-020	NEW-P 91-06-020	220-52-030	AMD-P 91-05-102
212-54-035	REP-P 91-06-020	212-56A-020	NEW-E 91-06-021	220-52-03000G	NEW-E 91-08-024
212-54-035	REP-E 91-06-021	212-56A-030	NEW-P 91-06-020	220-52-040	AMD-P 91-05-102
212-54-040	REP-P 91-06-020	212-56A-030	NEW-E 91-06-021	220-52-046	AMD-P 91-05-102
212-54-040	REP-E 91-06-021	212-56A-035	NEW-P 91-06-020	220-52-060	AMD-P 91-05-102
212-54-045	REP-P 91-06-020	212-56A-035	NEW-E 91-06-021	220-52-069	AMD-P 91-05-102
212-54-045	REP-E 91-06-021	212-56A-040	NEW-P 91-06-020	220-52-071	AMD-P 91-05-102
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212-54-050	REP-E 91-06-021	212-56A-045	NEW-P 91-06-020	220-52-07300I	REP-E 91-04-029
212-54-055	REP-P 91-06-020	212-56A-045	NEW-E 91-06-021	220-52-07300J	NEW-E 91-04-029
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212-54-065	REP-P 91-06-020	212-56A-055	NEW-E 91-06-021	220-55-065	AMD-P 91-03-153
212-54-065	REP-E 91-06-021	212-56A-060	NEW-P 91-06-020	220-55-065	AMD 91-08-054
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212-54-080	REP-P 91-06-020	212-56A-070	NEW-E 91-06-021	220-55-080	AMD-P 91-03-153
212-54-080	REP-E 91-06-021	212-56A-075	NEW-P 91-06-020	220-55-080	AMD 91-08-054
212-54-085	REP-P 91-06-020	212-56A-075	NEW-E 91-06-021	220-55-086	AMD-P 91-03-153
212-54-085	REP-E 91-06-021	212-56A-080	NEW-P 91-06-020	220-55-086	AMD 91-08-054
212-54-090	REP-P 91-06-020	212-56A-080	NEW-E 91-06-021	220-55-125	AMD-P 91-03-153
212-54-090	REP-E 91-06-021	212-56A-085	NEW-P 91-06-020	220-55-125	AMD 91-08-054
212-54-095	REP-P 91-06-020	212-56A-085	NEW-E 91-06-021	220-56-100	AMD-P 91-03-153
212-54-095	REP-E 91-06-021	212-56A-090	NEW-P 91-06-020	220-56-100	AMD 91-08-054
212-54-100	REP-P 91-06-020	212-56A-090	NEW-E 91-06-021	220-56-105	AMD-P 91-03-153
212-54-100	REP-E 91-06-021	212-56A-095	NEW-P 91-06-020	220-56-105	AMD 91-08-054
212-55-001	REP-P 91-06-020	212-56A-095	NEW-E 91-06-021	220-56-115	AMD-P 91-03-153

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220-56-128	AMD-P	91-03-153	220-69-264	AMD	91-05-015	232-28-61817	NEW	91-08-074
220-56-128	AMD	91-08-054	220-69-26401	AMD	91-05-015	232-28-61818	NEW-E	91-08-009
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308-31-560	AMD-P	91-05-089	308-52-270	DECOD	91-06-030	308-54-060	DECOD	91-06-060
308-31-570	DECOD	91-03-095	308-52-320	DECOD	91-06-030	308-54-070	DECOD	91-06-060
308-31-570	AMD-P	91-05-089	308-52-400	DECOD	91-06-030	308-54-080	DECOD	91-06-060
308-42-075	AMD	91-05-004	308-52-405	DECOD	91-06-030	308-54-090	DECOD	91-06-060
308-48-800	AMD-P	91-08-032	308-52-406	DECOD	91-06-030	308-54-095	DECOD	91-06-060
308-50-010	DECOD-P	91-07-058	308-52-410	DECOD	91-06-030	308-54-100	DECOD	91-06-060
308-50-020	DECOD-P	91-07-058	308-52-415	DECOD	91-06-030	308-54-110	DECOD	91-06-060
308-50-035	DECOD-P	91-07-058	308-52-420	DECOD	91-06-030	308-54-120	DECOD	91-06-060
308-50-040	DECOD-P	91-07-058	308-52-425	DECOD	91-06-030	308-54-125	DECOD	91-06-060
308-50-090	DECOD-P	91-07-058	308-52-500	DECOD	91-06-030	308-54-130	DECOD	91-06-060
308-50-100	DECOD-P	91-07-058	308-52-502	DECOD	91-06-030	308-54-150	DECOD	91-06-060
308-50-110	DECOD-P	91-07-058	308-52-504	DECOD	91-06-030	308-54-155	DECOD	91-06-060
308-50-120	DECOD-P	91-07-058	308-52-510	DECOD	91-06-030	308-54-160	DECOD	91-06-060
308-50-130	DECOD-P	91-07-058	308-52-515	DECOD	91-06-030	308-54-162	DECOD	91-06-060
308-50-140	DECOD-P	91-07-058	308-52-530	DECOD	91-06-030	308-54-170	DECOD	91-06-060
308-50-150	DECOD-P	91-07-058	308-52-540	DECOD	91-06-030	308-54-180	DECOD	91-06-060
308-50-160	DECOD-P	91-07-058	308-52-570	DECOD	91-06-030	308-54-200	DECOD	91-06-060
308-50-170	DECOD-P	91-07-058	308-52-580	DECOD	91-06-030	308-54-205	DECOD	91-06-060
308-50-180	DECOD-P	91-07-058	308-52-590	REP	91-06-027	308-54-220	DECOD	91-06-060
308-50-190	DECOD-P	91-07-058	308-52-600	DECOD	91-06-030	308-54-225	DECOD	91-06-060
308-50-200	DECOD-P	91-07-058	308-52-610	DECOD	91-06-030	308-54-230	DECOD	91-06-060
308-50-210	DECOD-P	91-07-058	308-52-620	DECOD	91-06-030	308-54-240	DECOD	91-06-060
308-50-220	DECOD-P	91-07-058	308-52-630	DECOD	91-06-030	308-54-250	DECOD	91-06-060
308-50-240	DECOD-P	91-07-058	308-52-640	DECOD	91-06-030	308-54-315	AMD-P	91-05-025
308-50-250	DECOD-P	91-07-058	308-52-650	DECOD	91-06-030	308-54-315	DECOD	91-06-058
308-50-260	DECOD-P	91-07-058	308-52-660	DECOD	91-06-030	308-54-320	DECOD	91-06-060
308-50-270	DECOD-P	91-07-058	308-52-680	DECOD	91-06-030	308-56A-090	NEW	91-03-088
308-50-280	DECOD-P	91-07-058	308-52-690	DECOD	91-06-030	308-56A-150	AMD	91-04-024
308-50-290	DECOD-P	91-07-058	308-53	DECOD-C	91-03-116	308-56A-460	AMD	91-04-025
308-50-295	AMD-P	91-07-057	308-53-010	DECOD	91-06-025	308-57-005	NEW	91-04-026
308-50-295	DECOD-P	91-07-058	308-53-020	DECOD	91-06-028	308-57-010	NEW	91-04-026
308-50-295	AMD-W	91-07-059	308-53-030	DECOD	91-06-025	308-57-020	NEW	91-04-026
308-50-310	AMD-P	91-07-057	308-53-070	DECOD	91-06-025	308-57-030	NEW	91-04-026
308-50-310	DECOD-P	91-07-058	308-53-075	DECOD	91-06-025	308-57-110	NEW	91-04-026
308-50-310	AMD-W	91-07-059	308-53-084	DECOD	91-06-025	308-57-120	NEW	91-04-026
308-50-320	DECOD-P	91-07-058	308-53-085	DECOD	91-06-025	308-57-130	NEW	91-04-026
308-50-330	DECOD-P	91-07-058	308-53-100	DECOD	91-06-025	308-57-140	NEW	91-04-026
308-50-350	DECOD-P	91-07-058	308-53-110	DECOD	91-06-025	308-57-210	NEW	91-04-026
308-50-380	DECOD-P	91-07-058	308-53-120	DECOD	91-06-025	308-57-220	NEW	91-04-026
308-50-390	DECOD-P	91-07-058	308-53-123	DECOD	91-06-025	308-57-230	NEW	91-04-026
308-50-400	DECOD-P	91-07-058	308-53-125	DECOD	91-06-025	308-57-240	NEW	91-04-026
308-50-410	DECOD-P	91-07-058	308-53-135	DECOD	91-06-025	308-57-310	NEW	91-04-026
308-50-420	DECOD-P	91-07-058	308-53-140	DECOD	91-06-025	308-57-320	NEW	91-04-026
308-50-430	DECOD-P	91-07-058	308-53-145	DECOD	91-06-025	308-57-410	NEW	91-04-026
308-50-440	AMD-P	91-08-078	308-53-146	DECOD	91-06-025	308-57-420	NEW	91-04-026
308-50-500	DECOD-P	91-07-058	308-53-150	DECOD	91-06-025	308-57-430	NEW	91-04-026
308-52-010	DECOD	91-06-030	308-53-151	DECOD	91-06-025	308-57-440	NEW	91-04-026
308-52-030	DECOD	91-06-030	308-53-155	DECOD	91-06-025	308-58-010	AMD	91-04-025
308-52-040	DECOD	91-06-030	308-53-165	DECOD	91-06-025	308-58-020	AMD	91-04-025
308-52-100	DECOD	91-06-030	308-53-170	DECOD	91-06-025	308-66-152	AMD	91-03-019
308-52-120	DECOD	91-06-030	308-53-175	DECOD	91-06-025	308-66-156	NEW	91-03-092
308-52-132	DECOD	91-06-030	308-53-180	DECOD	91-06-025	308-77-080	REP	91-03-018
308-52-135	AMD-E	91-04-033	308-53-200	DECOD	91-06-025	308-77-100	AMD	91-03-018
308-52-135	AMD-P	91-04-055	308-53-205	DECOD	91-06-025	308-77-250	AMD	91-03-017
308-52-135	DECOD	91-06-030	308-53-210	DECOD	91-06-025	308-91-030	AMD-E	91-02-109

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
308-91-030	AMD-P	91-02-110	308-120-710	DECOD	91-07-049	308-124A-430	AMD	91-07-029
308-91-030	AMD	91-06-093	308-120-720	DECOD	91-07-049	308-124H-010	AMD-P	91-03-047
308-91-090	AMD-E	91-02-109	308-120-730	DECOD	91-07-049	308-124H-010	AMD	91-07-029
308-91-090	AMD-P	91-02-110	308-120-740	DECOD	91-07-049	308-124H-025	AMD-P	91-03-047
308-91-090	AMD	91-06-093	308-120-750	DECOD	91-07-049	308-124H-025	AMD	91-07-029
308-91-095	NEW-E	91-02-109	308-120-760	DECOD	91-07-049	308-124H-540	AMD-P	91-03-047
308-91-095	NEW-P	91-02-110	308-120-770	DECOD	91-07-049	308-124H-540	AMD	91-07-029
308-91-095	NEW	91-06-093	308-120-780	DECOD	91-07-049	308-125-010	NEW	91-04-074
308-91-150	AMD-E	91-02-109	308-120-800	DECOD	91-07-049	308-125-020	NEW	91-04-074
308-91-150	AMD-P	91-02-110	308-120-810	DECOD	91-07-049	308-125-030	NEW	91-04-074
308-91-150	AMD	91-06-093	308-121-110	DECOD	91-07-049	308-125-040	NEW	91-04-074
308-93-670	NEW	91-03-089	308-121-120	DECOD	91-07-049	308-125-050	NEW	91-04-074
308-94-035	AMD-P	91-03-142	308-121-130	DECOD	91-07-049	308-125-060	NEW	91-04-074
308-96A-046	AMD	91-04-025	308-121-140	DECOD	91-07-049	308-125-070	NEW	91-04-074
308-96A-056	AMD	91-04-025	308-121-145	DECOD	91-07-049	308-125-080	NEW	91-04-074
308-96A-070	AMD	91-04-025	308-121-150	DECOD	91-07-049	308-125-090	NEW	91-04-074
308-96A-073	NEW	91-04-025	308-121-155	DECOD	91-07-049	308-125-100	NEW	91-04-074
308-96A-074	NEW	91-04-025	308-121-160	DECOD	91-07-049	308-125-110	NEW	91-04-074
308-96A-075	AMD	91-04-025	308-121-165	DECOD	91-07-049	308-125-120	NEW	91-04-074
308-96A-345	AMD	91-04-024	308-121-170	DECOD	91-07-049	308-125-130	NEW	91-04-074
308-96A-350	AMD	91-04-024	308-121-175	DECOD	91-07-049	308-125-140	NEW	91-04-074
308-96A-380	AMD	91-04-024	308-121-180	DECOD	91-07-049	308-125-150	NEW	91-04-074
308-96A-505	NEW	91-03-091	308-122-001	DECOD	91-04-020	308-125-160	NEW	91-04-074
308-96A-510	NEW	91-03-091	308-122-005	DECOD	91-04-020	308-125-170	NEW	91-04-074
308-96A-520	NEW	91-03-091	308-122-006	DECOD	91-04-020	308-125-180	NEW	91-04-074
308-96A-530	NEW	91-03-091	308-122-060	DECOD	91-04-020	308-125-190	NEW	91-04-074
308-96A-540	NEW	91-03-091	308-122-200	DECOD	91-04-020	308-125-200	NEW	91-04-074
308-96A-550	NEW	91-03-091	308-122-200	AMD	91-04-021	308-125-210	NEW	91-04-074
308-96A-560	NEW	91-03-091	308-122-211	DECOD	91-04-020	308-128B-080	AMD-P	91-08-049
308-120-100	DECOD	91-07-049	308-122-215	DECOD	91-04-020	308-138-055	REP-P	91-03-117
308-120-100	AMD	91-07-067	308-122-220	DECOD	91-04-020	308-171-001	DECOD	91-05-027
308-120-161	DECOD	91-07-049	308-122-225	DECOD	91-04-020	308-171-001	AMD-P	91-05-088
308-120-162	DECOD	91-07-049	308-122-230	DECOD	91-04-020	308-171-002	DECOD	91-05-027
308-120-163	DECOD	91-07-049	308-122-235	DECOD	91-04-020	308-171-003	DECOD	91-05-027
308-120-164	DECOD	91-07-049	308-122-275	DECOD	91-05-028	308-171-010	DECOD	91-05-027
308-120-165	DECOD	91-07-049	308-122-280	DECOD	91-04-020	308-171-010	AMD-P	91-05-088
308-120-166	DECOD	91-07-049	308-122-350	DECOD	91-04-020	308-171-020	DECOD	91-05-027
308-120-168	AMD	91-07-032	308-122-360	DECOD	91-04-020	308-171-020	AMD-P	91-05-088
308-120-168	DECOD	91-07-049	308-122-360	AMD	91-04-021	308-171-040	DECOD	91-05-027
308-120-170	DECOD	91-07-049	308-122-370	DECOD	91-04-020	308-171-041	DECOD	91-05-027
308-120-180	DECOD	91-07-049	308-122-380	REP	91-04-021	308-171-041	AMD-P	91-05-088
308-120-185	DECOD	91-07-049	308-122-390	REP	91-04-021	308-171-045	DECOD	91-05-027
308-120-186	DECOD	91-07-049	308-122-400	REP	91-04-021	308-171-100	DECOD	91-05-027
308-120-270	DECOD	91-07-049	308-122-410	REP	91-04-021	308-171-101	DECOD	91-05-027
308-120-275	DECOD	91-07-048	308-122-420	REP	91-04-021	308-171-102	DECOD	91-05-027
308-120-300	DECOD	91-07-049	308-122-430	DECOD	91-04-020	308-171-103	DECOD	91-05-027
308-120-305	DECOD	91-07-049	308-122-440	DECOD	91-04-020	308-171-103	AMD-P	91-05-088
308-120-315	DECOD	91-07-049	308-122-450	DECOD	91-04-020	308-171-104	DECOD	91-05-027
308-120-325	DECOD	91-07-049	308-122-500	REP	91-04-021	308-171-200	DECOD	91-05-027
308-120-335	DECOD	91-07-049	308-122-505	DECOD	91-04-020	308-171-201	DECOD	91-05-027
308-120-338	DECOD	91-07-049	308-122-510	DECOD	91-04-020	308-171-202	DECOD	91-05-027
308-120-345	DECOD	91-07-049	308-122-515	DECOD	91-04-020	308-171-300	DECOD	91-05-027
308-120-360	DECOD	91-07-049	308-122-515	AMD	91-04-021	308-171-301	DECOD	91-05-027
308-120-365	REP	91-07-049	308-122-520	DECOD	91-04-020	308-171-302	DECOD	91-05-027
308-120-400	DECOD	91-07-049	308-122-520	AMD	91-04-021	308-171-310	DECOD	91-05-030
308-120-410	DECOD	91-07-049	308-122-525	DECOD	91-04-020	308-171-320	DECOD	91-05-027
308-120-420	DECOD	91-07-049	308-122-530	DECOD	91-04-020	308-171-330	DECOD	91-05-027
308-120-430	DECOD	91-07-049	308-122-535	DECOD	91-04-020	308-173-210	DECOD	91-07-049
308-120-440	DECOD	91-07-049	308-122-540	DECOD	91-04-020	308-173-220	DECOD	91-07-049
308-120-450	DECOD	91-07-049	308-122-545	DECOD	91-04-020	308-173-230	DECOD	91-07-049
308-120-505	DECOD	91-07-049	308-122-600	DECOD	91-04-020	308-173-240	DECOD	91-07-049
308-120-506	DECOD	91-07-049	308-122-610	DECOD	91-04-020	308-173-245	DECOD	91-07-049
308-120-525	DECOD	91-07-049	308-122-620	DECOD	91-04-020	308-173-250	DECOD	91-07-049
308-120-530	DECOD	91-07-049	308-122-630	DECOD	91-04-020	308-173-255	DECOD	91-07-049
308-120-535	DECOD	91-07-049	308-122-640	DECOD	91-04-020	308-173-260	DECOD	91-07-049
308-120-540	DECOD	91-07-049	308-122-650	DECOD	91-04-020	308-173-265	DECOD	91-07-049
308-120-545	DECOD	91-07-049	308-122-660	DECOD	91-04-020	308-173-270	DECOD	91-07-049
308-120-550	DECOD	91-07-049	308-122-660	AMD	91-04-021	308-173-275	DECOD	91-07-049
308-120-555	DECOD	91-07-049	308-122-670	DECOD	91-04-020	308-173-280	DECOD	91-07-049
308-120-560	DECOD	91-07-049	308-122-670	AMD	91-04-021	314-16-125	AMD-P	91-05-085
308-120-565	DECOD	91-07-049	308-122-680	DECOD	91-04-020	314-20-020	AMD-P	91-05-086
308-120-565	AMD	91-07-067	308-122-690	DECOD	91-04-020	314-20-020	AMD	91-08-022
308-120-570	DECOD	91-07-049	308-122-695	DECOD	91-04-020	314-52-015	AMD-C	91-03-007
308-120-575	DECOD	91-07-049	308-122-700	DECOD	91-04-020	314-52-015	AMD-W	91-04-085
308-120-610	AMD	91-07-032	308-122-710	DECOD	91-04-020	315-04-205	NEW-P	91-07-070
308-120-620	DECOD	91-07-049	308-122-720	DECOD	91-04-020	315-06-120	AMD	91-03-036
308-120-700	DECOD	91-07-049	308-124A-430	AMD-P	91-03-047	315-11-200	REP	91-03-034

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
315-11-201	REP	91-03-034	315-11-632	NEW	91-06-074	332-08-545	NEW-P	91-08-066
315-11-202	REP	91-03-034	315-11-640	NEW-P	91-07-070	332-08-550	REP-P	91-08-066
315-11-210	REP	91-03-034	315-11-641	NEW-P	91-07-070	332-08-560	REP-P	91-08-066
315-11-211	REP	91-03-034	315-11-642	NEW-P	91-07-070	332-08-570	REP-P	91-08-066
315-11-212	REP	91-03-034	315-11-650	NEW-P	91-07-070	332-08-580	REP-P	91-08-066
315-11-220	REP	91-03-034	315-11-651	NEW-P	91-07-070	332-08-590	REP-P	91-08-066
315-11-221	REP	91-03-034	315-11-652	NEW-P	91-07-070	352-12-010	AMD-P	91-03-142
315-11-222	REP	91-03-034	315-11-660	NEW-P	91-07-070	352-12-020	AMD-P	91-03-142
315-11-230	REP	91-03-034	315-11-661	NEW-P	91-07-070	352-12-030	AMD-P	91-03-142
315-11-231	REP	91-03-034	315-11-662	NEW-P	91-07-070	352-32-010	AMD-P	91-03-142
315-11-232	REP	91-03-034	315-12-140	REP	91-03-035	352-32-035	AMD-P	91-03-142
315-11-240	REP	91-03-034	315-12-145	NEW	91-03-036	352-32-045	AMD-P	91-03-142
315-11-241	REP	91-03-034	332-08-005	NEW-P	91-08-066	352-32-200	AMD-P	91-03-140
315-11-242	REP	91-03-034	332-08-010	REP-P	91-08-066	352-32-200	AMD	91-07-014
315-11-250	REP	91-03-034	332-08-015	NEW-P	91-08-066	352-32-210	AMD-P	91-03-140
315-11-251	REP	91-03-034	332-08-020	REP-P	91-08-066	352-32-210	AMD	91-07-014
315-11-252	REP	91-03-034	332-08-025	NEW-P	91-08-066	352-32-250	AMD-P	91-03-142
315-11-260	REP	91-03-034	332-08-040	REP-P	91-08-066	352-32-252	AMD-P	91-03-142
315-11-261	REP	91-03-034	332-08-050	REP-P	91-08-066	352-32-270	AMD-P	91-03-142
315-11-262	REP	91-03-034	332-08-060	REP-P	91-08-066	356-06-040	AMD-C	91-03-068
315-11-270	REP	91-03-034	332-08-070	REP-P	91-08-066	356-06-040	AMD-W	91-05-081
315-11-271	REP	91-03-034	332-08-080	REP-P	91-08-066	356-10-050	AMD	91-03-070
315-11-272	REP	91-03-034	332-08-090	REP-P	91-08-066	356-15-020	AMD-P	91-04-046
315-11-280	REP	91-03-034	332-08-100	REP-P	91-08-066	356-15-020	AMD-C	91-07-054
315-11-281	REP	91-03-034	332-08-105	NEW-P	91-08-066	356-15-080	AMD	91-03-069
315-11-282	REP	91-03-034	332-08-110	REP-P	91-08-066	356-15-130	AMD	91-05-083
315-11-290	REP	91-03-034	332-08-115	NEW-P	91-08-066	356-18-112	AMD-C	91-05-082
315-11-291	REP	91-03-034	332-08-120	REP-P	91-08-066	356-18-112	AMD	91-07-055
315-11-292	REP	91-03-034	332-08-125	NEW-P	91-08-066	356-22-130	AMD	91-03-071
315-11-300	REP	91-03-034	332-08-130	REP-P	91-08-066	356-22-230	AMD-C	91-03-068
315-11-301	REP	91-03-034	332-08-140	REP-P	91-08-066	356-22-230	AMD-W	91-05-081
315-11-302	REP	91-03-034	332-08-150	REP-P	91-08-066	356-30-260	AMD-C	91-05-082
315-11-310	REP	91-03-034	332-08-160	REP-P	91-08-066	356-30-260	AMD	91-07-055
315-11-311	REP	91-03-034	332-08-170	REP-P	91-08-066	356-30-305	AMD-C	91-05-082
315-11-312	REP	91-03-034	332-08-180	REP-P	91-08-066	356-30-305	AMD	91-07-055
315-11-320	REP	91-03-034	332-08-190	REP-P	91-08-066	360-08	DECOD-W	91-06-037
315-11-321	REP	91-03-034	332-08-200	REP-P	91-08-066	360-10	DECOD-W	91-06-037
315-11-322	REP	91-03-034	332-08-210	REP-P	91-08-066	360-10-030	AMD-P	91-05-091
315-11-330	REP	91-03-034	332-08-220	REP-P	91-08-066	360-10-050	AMD-P	91-05-091
315-11-331	REP	91-03-034	332-08-230	REP-P	91-08-066	360-10-060	AMD-P	91-05-091
315-11-332	REP	91-03-034	332-08-240	REP-P	91-08-066	360-11	DECOD-W	91-06-037
315-11-340	REP	91-03-034	332-08-250	REP-P	91-08-066	360-12	DECOD-W	91-06-037
315-11-341	REP	91-03-034	332-08-260	REP-P	91-08-066	360-12-128	AMD-P	91-08-078
315-11-342	REP	91-03-034	332-08-270	REP-P	91-08-066	360-13	DECOD-W	91-06-037
315-11-350	REP	91-03-034	332-08-280	REP-P	91-08-066	360-15	DECOD-W	91-06-037
315-11-351	REP	91-03-034	332-08-290	REP-P	91-08-066	360-16	DECOD-W	91-06-037
315-11-352	REP	91-03-034	332-08-300	REP-P	91-08-066	360-16A	DECOD-W	91-06-037
315-11-360	REP	91-03-034	332-08-305	NEW-P	91-08-066	360-17	DECOD-W	91-06-037
315-11-361	REP	91-03-034	332-08-310	REP-P	91-08-066	360-17-010	AMD-W	91-05-049
315-11-362	REP	91-03-034	332-08-315	NEW-P	91-08-066	360-17-040	AMD-W	91-05-049
315-11-370	REP	91-03-034	332-08-320	REP-P	91-08-066	360-17-070	AMD-W	91-05-049
315-11-371	REP	91-03-034	332-08-330	REP-P	91-08-066	360-17-075	NEW-W	91-05-049
315-11-372	REP	91-03-034	332-08-340	REP-P	91-08-066	360-17-095	NEW-W	91-05-049
315-11-380	REP	91-03-034	332-08-350	REP-P	91-08-066	360-17-100	AMD-W	91-05-049
315-11-381	REP	91-03-034	332-08-360	REP-P	91-08-066	360-18	DECOD-W	91-06-037
315-11-382	REP	91-03-034	332-08-370	REP-P	91-08-066	360-18-020	AMD-P	91-08-078
315-11-390	REP	91-03-034	332-08-380	REP-P	91-08-066	360-19	DECOD-W	91-06-037
315-11-391	REP	91-03-034	332-08-390	REP-P	91-08-066	360-20	DECOD-W	91-06-037
315-11-392	REP	91-03-034	332-08-400	REP-P	91-08-066	360-20-220	NEW-P	91-07-056
315-11-590	AMD	91-03-036	332-08-405	NEW-P	91-08-066	360-21	DECOD-W	91-06-037
315-11-591	AMD	91-03-036	332-08-410	REP-P	91-08-066	360-23	DECOD-W	91-06-037
315-11-610	NEW	91-03-036	332-08-420	REP-P	91-08-066	360-32	DECOD-W	91-06-037
315-11-611	NEW	91-03-036	332-08-430	REP-P	91-08-066	360-33	DECOD-W	91-06-037
315-11-611	AMD-P	91-03-112	332-08-440	REP-P	91-08-066	360-35-010	NEW	91-04-056
315-11-611	AMD	91-06-074	332-08-450	REP-P	91-08-066	360-35-020	NEW	91-04-056
315-11-612	NEW	91-03-036	332-08-460	REP-P	91-08-066	360-35-030	NEW	91-04-056
315-11-620	NEW-P	91-03-112	332-08-470	REP-P	91-08-066	360-35-040	NEW	91-04-056
315-11-620	NEW	91-06-074	332-08-480	REP-P	91-08-066	360-35-050	NEW	91-04-056
315-11-621	NEW-P	91-03-112	332-08-500	REP-P	91-08-066	360-35-060	NEW	91-04-056
315-11-621	NEW	91-06-074	332-08-505	NEW-P	91-08-066	360-35-070	NEW	91-04-056
315-11-622	NEW-P	91-03-112	332-08-510	REP-P	91-08-066	360-35-080	NEW	91-04-056
315-11-622	NEW	91-06-074	332-08-515	NEW-P	91-08-066	360-35-090	NEW	91-04-056
315-11-630	NEW-P	91-03-112	332-08-520	REP-P	91-08-066	360-35-100	NEW	91-04-056
315-11-630	NEW	91-06-074	332-08-525	NEW-P	91-08-066	360-35-110	NEW	91-04-056
315-11-631	NEW-P	91-03-112	332-08-530	REP-P	91-08-066	360-36	DECOD-W	91-06-037
315-11-631	NEW	91-06-074	332-08-535	NEW-P	91-08-066	360-38	DECOD-W	91-06-037
315-11-632	NEW-P	91-03-112	332-08-540	REP-P	91-08-066	360-40	DECOD-W	91-06-037

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360-46	DECOD-W 91-06-037	371-08-190	REP 91-03-028	388-49-420	AMD-P 91-05-071
360-47	DECOD-W 91-06-037	371-08-195	AMD 91-03-028	388-49-470	AMD 91-06-004
360-48	DECOD-W 91-06-037	371-08-196	AMD 91-03-028	388-49-480	AMD-P 91-05-072
360-49	DECOD-W 91-06-037	371-08-200	AMD 91-03-028	388-49-505	AMD-P 91-04-035
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360-54	DECOD-W 91-06-037	371-08-215	AMD 91-03-028	388-53	AMD 91-06-006
360-60	DECOD-W 91-06-037	371-08-220	AMD 91-03-028	388-53-010	AMD 91-06-006
365-90-010	AMD 91-04-017	371-08-230	AMD 91-03-028	388-53-050	AMD 91-06-006
365-90-020	AMD 91-04-017	371-08-240	AMD 91-03-028	388-76-030	AMD-P 91-05-070
365-90-030	REP 91-04-017	371-08-245	REP 91-03-028	388-76-040	AMD-P 91-05-070
365-90-040	AMD 91-04-017	371-12	REP-C 91-03-027	388-76-087	AMD-P 91-05-070
365-90-050	REP 91-04-017	371-12-010	REP 91-03-028	388-77-010	AMD 91-04-041
365-90-070	AMD 91-04-017	371-12-020	REP 91-03-028	388-77-010	AMD 91-05-010
365-90-080	AMD 91-04-017	371-12-030	REP 91-03-028	388-77-010	AMD 91-05-058
365-90-090	AMD 91-04-017	371-12-040	REP 91-03-028	388-77-010	AMD 91-08-050
365-190-010	NEW 91-07-041	371-12-050	REP 91-03-028	388-77-230	REP 91-04-041
365-190-020	NEW 91-07-041	371-12-060	REP 91-03-028	388-77-230	REP 91-05-010
365-190-030	NEW 91-07-041	371-12-070	REP 91-03-028	388-77-230	REP 91-05-058
365-190-040	NEW 91-07-041	371-12-080	REP 91-03-028	388-77-230	REP 91-08-050
365-190-050	NEW 91-07-041	371-12-090	REP 91-03-028	388-77-320	AMD 91-04-041
365-190-060	NEW 91-07-041	371-12-100	REP 91-03-028	388-77-320	AMD 91-05-010
365-190-070	NEW 91-07-041	371-12-110	REP 91-03-028	388-77-320	AMD 91-05-058
365-190-080	NEW 91-07-041	371-12-120	REP 91-03-028	388-77-320	AMD 91-08-050
371-08	AMD-C 91-03-027	371-12-130	REP 91-03-028	388-77-500	AMD 91-04-041
371-08-001	NEW 91-03-028	374-50-010	NEW-P 91-08-033	388-77-500	AMD 91-05-010
371-08-002	NEW 91-03-028	374-50-020	NEW-P 91-08-033	388-77-500	AMD 91-05-058
371-08-005	AMD 91-03-028	374-50-030	NEW-P 91-08-033	388-77-500	AMD 91-08-050
371-08-010	AMD 91-03-028	374-50-040	NEW-P 91-08-033	388-77-515	AMD 91-04-041
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371-08-032	AMD 91-03-028	374-50-090	NEW-P 91-08-033	388-77-520	AMD 91-05-010
371-08-033	NEW 91-03-028	388-11-220	AMD-P 91-06-040	388-77-520	AMD 91-05-058
371-08-035	AMD 91-03-028	388-11-220	AMD-E 91-06-048	388-77-520	AMD 91-08-050
371-08-040	AMD 91-03-028	388-14-275	AMD-P 91-06-097	388-77-530	REP 91-04-041
371-08-045	REP 91-03-028	388-14-385	AMD-P 91-04-002	388-77-530	REP 91-05-010
371-08-065	AMD 91-03-028	388-14-385	AMD-E 91-04-003	388-77-530	REP 91-05-058
371-08-071	AMD 91-03-028	388-14-415	AMD-P 91-04-002	388-77-530	REP 91-08-050
371-08-075	AMD 91-03-028	388-14-415	AMD-E 91-04-003	388-77-555	AMD 91-04-041
371-08-080	AMD 91-03-028	388-14-435	NEW-P 91-04-002	388-77-555	AMD 91-05-010
371-08-085	AMD 91-03-028	388-14-435	NEW-E 91-04-003	388-77-555	AMD 91-05-058
371-08-095	REP 91-03-028	388-14-440	NEW-P 91-04-002	388-77-555	AMD 91-08-050
371-08-100	AMD 91-03-028	388-14-440	NEW-E 91-04-003	388-77-600	AMD 91-04-041
371-08-102	REP 91-03-028	388-14-445	NEW-P 91-04-002	388-77-600	AMD 91-05-010
371-08-104	AMD 91-03-028	388-14-445	NEW-E 91-04-003	388-77-600	AMD 91-05-058
371-08-105	REP 91-03-028	388-14-450	NEW-P 91-04-002	388-77-610	AMD 91-08-050
371-08-106	NEW 91-03-028	388-14-450	NEW-E 91-04-003	388-77-610	AMD 91-04-041
371-08-110	REP 91-03-028	388-15-208	AMD-S 91-04-039	388-77-610	AMD 91-05-010
371-08-115	REP 91-03-028	388-15-208	AMD 91-08-011	388-77-610	AMD 91-05-058
371-08-120	REP 91-03-028	388-15-209	AMD-S 91-04-039	388-77-615	AMD 91-08-050
371-08-125	AMD 91-03-028	388-15-209	AMD 91-08-011	388-77-615	AMD 91-04-041
371-08-130	AMD 91-03-028	388-15-212	AMD-S 91-04-039	388-77-615	AMD 91-05-010
371-08-131	REP 91-03-028	388-15-212	AMD 91-08-011	388-77-615	AMD 91-05-058
371-08-132	REP 91-03-028	388-15-215	AMD-S 91-04-039	388-77-615	AMD 91-08-050
371-08-135	REP 91-03-028	388-15-215	AMD 91-08-011	388-81-030	AMD 91-07-011
371-08-140	AMD 91-03-028	388-15-216	AMD-S 91-04-039	388-82-010	AMD 91-06-003
371-08-144	AMD 91-03-028	388-15-216	AMD 91-08-011	388-82-140	AMD 91-07-011
371-08-146	NEW 91-03-028	388-24-050	AMD-E 91-04-042	388-82-160	AMD-P 91-08-035
371-08-147	NEW 91-03-028	388-24-050	AMD-P 91-04-043	388-82-160	AMD-E 91-08-036
371-08-148	NEW 91-03-028	388-24-050	AMD-C 91-08-010	388-83-013	AMD-P 91-06-042
371-08-155	AMD 91-03-028	388-24-050	AMD-W 91-08-063	388-83-013	AMD-E 91-06-046
371-08-156	AMD 91-03-028	388-28-575	AMD 91-06-007	388-83-032	AMD-P 91-06-043
371-08-160	REP 91-03-028	388-29-125	AMD-P 91-06-041	388-83-032	AMD-E 91-06-047
371-08-162	NEW 91-03-028	388-29-125	AMD-E 91-06-045	388-83-033	AMD-P 91-08-034
371-08-163	REP 91-03-028	388-33-376	AMD-P 91-07-068	388-83-033	AMD-E 91-08-037
371-08-165	AMD 91-03-028	388-42-150	AMD 91-06-005	388-83-041	NEW-P 91-05-008
371-08-175	REP 91-03-028	388-44-145	AMD-C 91-03-039	388-83-041	NEW-E 91-05-009
371-08-180	AMD 91-03-028	388-44-145	AMD-C 91-04-047	388-83-130	AMD-P 91-06-043
371-08-183	AMD 91-03-028	388-44-145	AMD-C 91-06-055	388-83-130	AMD-E 91-06-047
371-08-184	NEW 91-03-028	388-49-020	AMD-P 91-05-074	388-84-105	AMD 91-05-011
371-08-186	AMD 91-03-028	388-49-190	AMD-P 91-05-073	388-86-00901	AMD-P 91-04-040
371-08-187	AMD 91-03-028	388-49-310	AMD-P 91-07-069	388-86-00901	AMD-E 91-04-044
371-08-188	AMD 91-03-028	388-49-330	AMD-P 91-05-075	388-86-00901	AMD 91-08-012

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388-87-070	AMD-P	91-06-044	388-155-380	NEW	91-04-048	392-115-155	NEW	91-07-007
388-87-070	AMD-E	91-06-049	388-155-390	NEW	91-04-048	392-121-108	AMD	91-02-096
388-87-070	RESCIND	91-06-056	388-155-400	NEW	91-04-048	392-121-133	AMD	91-02-096
388-87-072	AMD-P	91-06-044	388-155-410	NEW	91-04-048	392-121-136	AMD	91-02-096
388-87-072	AMD-E	91-06-049	388-155-420	NEW	91-04-048	392-121-182	AMD	91-02-096
388-87-072	RESCIND	91-06-056	388-155-430	NEW	91-04-048	392-121-184	NEW-P	91-04-088
388-92-045	AMD-P	91-05-008	388-155-440	NEW	91-04-048	392-121-184	NEW	91-08-038
388-92-045	AMD-E	91-05-009	388-155-450	NEW	91-04-048	392-121-265	AMD	91-02-097
388-95-320	AMD-P	91-05-034	388-155-460	NEW	91-04-048	392-121-268	AMD	91-02-097
388-95-320	AMD-E	91-05-035	388-155-470	NEW	91-04-048	392-121-269	NEW	91-02-097
388-95-337	AMD	91-07-011	388-155-480	NEW	91-04-048	392-121-270	AMD	91-02-097
388-95-360	AMD	91-07-011	388-155-490	NEW	91-04-048	392-121-272	AMD	91-02-097
388-95-380	AMD-P	91-05-008	388-155-500	NEW	91-04-048	392-121-280	AMD	91-02-097
388-95-380	AMD-E	91-05-009	390-20-0101	AMD-C	91-06-034	392-121-295	AMD	91-02-097
388-99-020	AMD	91-07-011	390-24-031	NEW-P	91-07-027	392-121-297	REP	91-02-097
388-99-040	AMD-P	91-05-008	391-101-015	NEW	91-02-095	392-121-299	AMD	91-02-097
388-99-040	AMD-E	91-05-009	392-115-005	NEW-P	91-03-001	392-121-500	NEW	91-07-006
388-150-005	AMD-P	91-03-127	392-115-005	NEW	91-07-007	392-121-505	NEW	91-07-006
388-150-005	AMD-E	91-03-128	392-115-010	NEW-P	91-03-001	392-121-510	NEW	91-07-006
388-150-005	AMD	91-07-013	392-115-010	NEW	91-07-007	392-121-515	NEW	91-07-006
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388-150-100	AMD-E	91-03-128	392-115-015	NEW	91-07-007	392-121-525	NEW	91-07-006
388-150-100	AMD	91-07-013	392-115-020	NEW-P	91-03-001	392-121-530	NEW	91-07-006
388-150-180	AMD-P	91-03-127	392-115-020	NEW	91-07-007	392-121-535	NEW	91-07-006
388-150-180	AMD-E	91-03-128	392-115-025	NEW-P	91-03-001	392-121-540	NEW	91-07-006
388-150-180	AMD	91-07-013	392-115-025	NEW	91-07-007	392-121-545	NEW	91-07-006
388-150-210	AMD-P	91-03-127	392-115-030	NEW-P	91-03-001	392-122-010	AMD	91-03-118
388-150-210	AMD-E	91-03-128	392-115-030	NEW	91-07-007	392-122-100	AMD	91-03-118
388-150-210	AMD	91-07-013	392-115-035	NEW-P	91-03-001	392-122-106	AMD	91-03-118
388-150-280	AMD-P	91-03-127	392-115-035	NEW	91-07-007	392-122-107	AMD	91-03-118
388-150-280	AMD-E	91-03-128	392-115-040	NEW-P	91-03-001	392-122-110	AMD	91-03-118
388-150-280	AMD	91-07-013	392-115-040	NEW	91-07-007	392-122-115	REP	91-03-118
388-150-390	AMD-P	91-03-127	392-115-045	NEW-P	91-03-001	392-122-120	AMD	91-03-118
388-150-390	AMD-E	91-03-128	392-115-045	NEW	91-07-007	392-122-125	REP	91-03-118
388-150-390	AMD	91-07-013	392-115-050	NEW-P	91-03-001	392-122-145	AMD	91-03-118
388-150-450	AMD-P	91-03-127	392-115-050	NEW	91-07-007	392-122-165	NEW	91-03-118
388-150-450	AMD-E	91-03-128	392-115-055	NEW-P	91-03-001	392-122-200	AMD	91-03-118
388-150-450	AMD	91-07-013	392-115-055	NEW	91-07-007	392-122-206	NEW	91-03-118
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388-155-005	NEW	91-04-048	392-115-060	NEW	91-07-007	392-122-215	REP	91-03-118
388-155-010	NEW	91-04-048	392-115-065	NEW-P	91-03-001	392-122-230	AMD	91-03-118
388-155-020	NEW	91-04-048	392-115-065	NEW	91-07-007	392-122-235	AMD	91-03-118
388-155-040	NEW	91-04-048	392-115-070	NEW-P	91-03-001	392-122-240	REP	91-03-118
388-155-050	NEW	91-04-048	392-115-070	NEW	91-07-007	392-122-245	REP	91-03-118
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388-155-090	NEW	91-04-048	392-115-080	NEW	91-07-007	392-122-605	AMD	91-03-118
388-155-100	NEW	91-04-048	392-115-085	NEW-P	91-03-001	392-122-610	AMD	91-03-118
388-155-110	NEW	91-04-048	392-115-085	NEW	91-07-007	392-122-700	AMD	91-03-118
388-155-120	NEW	91-04-048	392-115-090	NEW-P	91-03-001	392-122-800	AMD	91-03-118
388-155-130	NEW	91-04-048	392-115-090	NEW	91-07-007	392-122-805	AMD	91-03-118
388-155-140	NEW	91-04-048	392-115-095	NEW-P	91-03-001	392-122-910	NEW	91-03-118
388-155-150	NEW	91-04-048	392-115-095	NEW	91-07-007	392-125-014	NEW-P	91-03-050
388-155-160	NEW	91-04-048	392-115-100	NEW-P	91-03-001	392-125-014	NEW	91-07-063
388-155-165	NEW	91-04-048	392-115-100	NEW	91-07-007	392-125-015	AMD-P	91-03-050
388-155-170	NEW	91-04-048	392-115-105	NEW-P	91-03-001	392-125-015	AMD	91-07-063
388-155-180	NEW	91-04-048	392-115-105	NEW	91-07-007	392-125-020	AMD-P	91-03-050
388-155-190	NEW	91-04-048	392-115-110	NEW-P	91-03-001	392-125-020	AMD	91-07-063
388-155-200	NEW	91-04-048	392-115-110	NEW	91-07-007	392-125-025	AMD-P	91-03-050
388-155-210	NEW	91-04-048	392-115-115	NEW-P	91-03-001	392-125-025	AMD	91-07-063
388-155-220	NEW	91-04-048	392-115-115	NEW	91-07-007	392-125-026	NEW-P	91-03-050
388-155-230	NEW	91-04-048	392-115-120	NEW-P	91-03-001	392-125-026	NEW	91-07-063
388-155-240	NEW	91-04-048	392-115-120	NEW	91-07-007	392-125-027	NEW-P	91-03-050
388-155-250	NEW	91-04-048	392-115-125	NEW-P	91-03-001	392-125-027	NEW	91-07-063
388-155-260	NEW	91-04-048	392-115-125	NEW	91-07-007	392-125-030	AMD-P	91-03-050
388-155-270	NEW	91-04-048	392-115-130	NEW-P	91-03-001	392-125-030	AMD	91-07-063
388-155-280	NEW	91-04-048	392-115-130	NEW	91-07-007	392-125-085	AMD-P	91-03-050
388-155-290	NEW	91-04-048	392-115-135	NEW-P	91-03-001	392-125-085	AMD	91-07-063
388-155-295	NEW	91-04-048	392-115-135	NEW	91-07-007	392-127-700	NEW	91-03-129
388-155-310	NEW	91-04-048	392-115-140	NEW-P	91-03-001	392-127-703	NEW	91-03-129
388-155-320	NEW	91-04-048	392-115-140	NEW	91-07-007	392-127-705	NEW	91-03-129
388-155-330	NEW	91-04-048	392-115-145	NEW-P	91-03-001	392-127-710	NEW	91-03-129
388-155-340	NEW	91-04-048	392-115-145	NEW	91-07-007	392-127-715	NEW	91-03-129
388-155-350	NEW	91-04-048	392-115-150	NEW-P	91-03-001	392-127-720	NEW	91-03-129
388-155-360	NEW	91-04-048	392-115-150	NEW	91-07-007	392-127-725	NEW	91-03-129

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
392-127-730	NEW	91-03-129	402-70-010	AMD-W	91-08-059	434-42-920	REP-E	91-07-002
392-127-735	NEW	91-03-129	402-70-020	AMD-W	91-08-059	434-42-920	NEW-W	91-07-003
392-127-740	NEW	91-03-129	402-70-030	AMD-W	91-08-059	434-42-925	NEW-P	91-03-125
392-127-745	NEW	91-03-129	402-70-040	NEW-W	91-08-059	434-42-925	NEW-E	91-03-126
392-127-750	NEW	91-03-129	402-70-045	NEW-W	91-08-059	434-42-925	REP-E	91-07-002
392-127-755	NEW	91-03-129	402-70-050	AMD-W	91-08-059	434-42-925	NEW-W	91-07-003
392-127-760	NEW	91-03-129	402-70-055	NEW-W	91-08-059	434-42-930	NEW-P	91-03-125
392-127-765	NEW	91-03-129	402-70-060	NEW-W	91-08-059	434-42-930	NEW-E	91-03-126
392-127-770	NEW	91-03-129	402-70-062	NEW-W	91-08-059	434-42-930	REP-E	91-07-002
392-127-775	NEW	91-03-129	402-70-064	NEW-W	91-08-059	434-42-930	NEW-W	91-07-003
392-127-780	NEW	91-03-129	402-70-066	NEW-W	91-08-059	434-42-935	NEW-P	91-03-125
392-127-785	NEW	91-03-129	402-70-068	NEW-W	91-08-059	434-42-935	NEW-E	91-03-126
392-127-790	NEW	91-03-129	402-70-070	AMD-W	91-08-059	434-42-935	REP-E	91-07-002
392-127-795	NEW	91-03-129	402-70-077	NEW-W	91-08-059	434-42-935	NEW-W	91-07-003
392-127-800	NEW	91-03-129	402-70-080	AMD-W	91-08-059	434-42-940	NEW-P	91-03-125
392-127-805	NEW	91-03-129	402-70-085	NEW-W	91-08-059	434-42-940	NEW-E	91-03-126
392-127-810	NEW	91-03-129	402-70-090	AMD-W	91-08-059	434-42-940	REP-E	91-07-002
392-127-815	NEW	91-03-129	415-100-041	NEW	91-03-013	434-42-940	NEW-W	91-07-003
392-127-820	NEW	91-03-129	415-100-045	NEW	91-03-013	434-42-945	NEW-P	91-03-125
392-127-825	NEW	91-03-129	415-100-051	NEW	91-03-013	434-42-945	NEW-E	91-03-126
392-127-830	NEW	91-03-129	415-100-055	NEW	91-03-013	434-42-945	REP-E	91-07-002
392-140-257	AMD-P	91-04-089	415-104-201	NEW	91-03-014	434-42-945	NEW-W	91-07-003
392-140-257	AMD	91-08-039	415-104-205	NEW	91-03-014	434-42-950	NEW-P	91-03-125
392-140-340	NEW	91-02-094	415-104-211	NEW	91-03-014	434-42-950	NEW-E	91-03-126
392-140-341	NEW	91-02-094	415-104-215	NEW	91-03-014	434-42-950	REP-E	91-07-002
392-140-342	NEW	91-02-094	415-108-320	NEW	91-03-015	434-42-950	NEW-W	91-07-003
392-140-343	NEW	91-02-094	415-108-322	NEW	91-03-015	434-42-955	NEW-P	91-03-125
392-140-345	NEW	91-02-094	415-108-324	NEW	91-03-015	434-42-955	NEW-E	91-03-126
392-140-346	NEW	91-02-094	415-108-326	NEW	91-03-015	434-42-955	REP-E	91-07-002
392-140-347	NEW	91-02-094	415-112-720	NEW	91-03-016	434-42-955	NEW-W	91-07-003
392-140-348	NEW	91-02-094	415-112-722	NEW	91-03-016	434-42-960	NEW-P	91-03-125
392-140-349	NEW	91-02-094	415-112-725	NEW	91-03-016	434-42-960	NEW-E	91-03-126
392-140-350	NEW	91-02-094	415-112-727	NEW	91-03-016	434-42-960	REP-E	91-07-002
392-140-351	NEW	91-02-094	415-114-010	NEW-P	91-06-089	434-42-960	NEW-W	91-07-003
392-140-352	NEW	91-02-094	415-114-020	NEW-P	91-06-089	434-42-965	NEW-P	91-03-125
392-140-353	NEW	91-02-094	415-114-030	NEW-P	91-06-089	434-42-965	NEW-E	91-03-126
392-140-354	NEW	91-02-094	415-114-040	NEW-P	91-06-089	434-42-965	REP-E	91-07-002
392-140-355	NEW	91-02-094	415-114-050	NEW-P	91-06-089	434-42-965	NEW-W	91-07-003
392-140-356	NEW	91-02-094	415-114-060	NEW-P	91-06-089	434-42-970	NEW-P	91-03-125
392-140-357	NEW	91-02-094	419-14-030	AMD-P	91-03-107	434-42-970	NEW-E	91-03-126
392-140-358	NEW	91-02-094	419-14-030	AMD	91-06-063	434-42-970	REP-E	91-07-002
392-140-359	NEW	91-02-094	419-14-040	AMD-P	91-03-107	434-42-970	NEW-W	91-07-003
392-140-360	NEW	91-02-094	419-14-040	AMD	91-06-063	434-42-975	NEW-P	91-03-125
392-140-361	NEW	91-02-094	419-14-090	AMD-P	91-03-107	434-42-975	NEW-E	91-03-126
392-140-362	NEW	91-02-094	419-14-090	AMD	91-06-063	434-42-975	REP-E	91-07-002
392-140-363	NEW	91-02-094	419-14-100	AMD-P	91-03-107	434-42-975	NEW-W	91-07-003
392-140-364	NEW	91-02-094	419-14-100	AMD	91-06-063	434-42-980	NEW-P	91-03-125
392-140-365	NEW	91-02-094	419-14-110	AMD-P	91-03-107	434-42-980	NEW-E	91-03-126
392-140-366	NEW	91-02-094	419-14-110	AMD	91-06-063	434-42-980	REP-E	91-07-002
392-140-367	NEW	91-02-094	419-18-030	AMD-P	91-03-106	434-42-980	NEW-W	91-07-003
392-140-368	NEW	91-02-094	419-18-030	AMD	91-06-062	434-42-985	NEW-P	91-03-125
392-140-369	NEW	91-02-094	419-18-040	AMD-P	91-03-106	434-42-985	NEW-E	91-03-126
392-140-370	NEW	91-02-094	419-18-040	AMD	91-06-062	434-42-985	REP-E	91-07-002
392-140-371	NEW	91-02-094	419-18-050	AMD-P	91-03-106	434-42-985	NEW-W	91-07-003
392-140-372	NEW	91-02-094	419-18-050	AMD	91-06-062	440-44-050	REP-W	91-08-059
392-140-373	NEW	91-02-094	419-18-060	AMD-P	91-03-106	440-44-057	REP-W	91-08-059
392-140-374	NEW	91-02-094	419-18-060	AMD	91-06-062	440-44-058	REP-W	91-08-059
392-140-375	NEW	91-02-094	419-18-070	AMD-P	91-03-106	440-44-059	REP-W	91-08-059
392-140-376	NEW	91-02-094	419-18-070	AMD	91-06-062	440-44-060	REP-W	91-08-059
392-140-377	NEW	91-02-094	434-42-900	NEW-P	91-03-125	440-44-062	REP-W	91-08-059
392-140-378	NEW	91-02-094	434-42-900	NEW-E	91-03-126	446-65-005	NEW-E	91-06-050
392-140-379	NEW	91-02-094	434-42-900	REP-E	91-07-002	446-65-005	NEW	91-06-066
392-140-380	NEW	91-02-094	434-42-900	NEW-W	91-07-003	446-65-010	NEW-E	91-06-050
392-140-381	NEW	91-02-094	434-42-905	NEW-P	91-03-125	446-65-010	NEW	91-06-066
392-140-390	NEW	91-02-094	434-42-905	NEW-E	91-03-126	446-75-010	NEW-P	91-07-045
392-140-391	NEW	91-02-094	434-42-905	REP-E	91-07-002	446-75-010	NEW-E	91-07-046
392-140-392	NEW	91-02-094	434-42-905	NEW-W	91-07-003	446-75-020	NEW-P	91-07-045
392-140-393	NEW	91-02-094	434-42-910	NEW-P	91-03-125	446-75-020	NEW-E	91-07-046
392-145-015	AMD-P	91-03-074	434-42-910	NEW-E	91-03-126	446-75-030	NEW-P	91-07-045
392-145-030	AMD-P	91-06-032	434-42-910	REP-E	91-07-002	446-75-030	NEW-E	91-07-046
392-145-030	AMD	91-06-032	434-42-910	NEW-W	91-07-003	446-75-040	NEW-P	91-07-045
392-160-015	AMD-P	91-07-062	434-42-915	NEW-P	91-03-125	446-75-040	NEW-E	91-07-046
392-160-020	AMD-P	91-07-062	434-42-915	NEW-E	91-03-126	446-75-050	NEW-P	91-07-045
392-160-040	AMD-P	91-07-062	434-42-915	REP-E	91-07-002	446-75-050	NEW-E	91-07-046
392-202-003	AMD	91-03-119	434-42-920	NEW-W	91-07-003	446-75-060	NEW-P	91-07-045
400-12	PREP	91-05-066	434-42-920	NEW-P	91-03-125	446-75-060	NEW-E	91-07-046
				NEW-E	91-03-126	446-75-070	NEW-P	91-07-045

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
446-75-070	NEW-E	91-07-046	448-13-110	NEW-S	91-03-123	458-14-145	REP	91-07-040
446-75-080	NEW-P	91-07-045	448-13-110	NEW	91-06-022	458-14-150	REP	91-07-040
446-75-080	NEW-E	91-07-046	448-13-120	NEW-S	91-03-123	458-14-152	REP	91-07-040
448-12-010	REP-S	91-03-123	448-13-120	NEW	91-06-022	458-14-155	REP	91-07-040
448-12-010	REP	91-06-022	448-13-130	NEW-S	91-03-123	458-20-109	PREP	91-03-057
448-12-015	REP-S	91-03-123	448-13-130	NEW	91-06-022	458-20-110	PREP	91-03-058
448-12-015	REP	91-06-022	448-13-140	NEW-S	91-03-123	458-20-126	PREP	91-04-062
448-12-016	REP-S	91-03-123	448-13-140	NEW	91-06-022	458-20-127	PREP	91-08-044
448-12-016	REP	91-06-022	448-13-150	NEW-S	91-03-123	458-20-151	PREP	91-04-061
448-12-020	REP-S	91-03-123	448-13-150	NEW	91-06-022	458-20-163	AMD	91-05-040
448-12-020	REP	91-06-022	448-13-160	NEW-S	91-03-123	458-20-166	PREP	91-08-045
448-12-030	REP-S	91-03-123	448-13-160	NEW	91-06-022	458-20-199	PREP	91-08-043
448-12-030	REP	91-06-022	448-13-170	NEW-S	91-03-123	458-20-227	AMD	91-05-039
448-12-040	REP-S	91-03-123	448-13-170	NEW	91-06-022	458-20-237	AMD	91-05-038
448-12-040	REP	91-06-022	448-13-180	NEW-S	91-03-123	458-30-262	AMD	91-04-001
448-12-050	REP-S	91-03-123	448-13-180	NEW	91-06-022	458-40-660	AMD-P	91-06-052
448-12-050	REP	91-06-022	448-13-190	NEW-S	91-03-123	458-40-660	AMD-E	91-06-053
448-12-055	REP-S	91-03-123	448-13-190	NEW	91-06-022	460-16A-102	AMD	91-04-008
448-12-055	REP	91-06-022	448-13-200	NEW-S	91-03-123	460-16A-200	NEW	91-04-008
448-12-060	REP-S	91-03-123	448-13-200	NEW	91-06-022	460-16A-205	NEW	91-04-008
448-12-060	REP	91-06-022	448-13-210	NEW-S	91-03-123	460-17A-030	AMD	91-04-009
448-12-070	REP-S	91-03-123	448-13-210	NEW	91-06-022	460-17A-070	AMD	91-04-009
448-12-070	REP	91-06-022	448-13-220	NEW-S	91-03-123	460-31A-410	REP	91-04-012
448-12-075	REP-S	91-03-123	448-13-220	NEW	91-06-022	460-31A-415	REP	91-04-012
448-12-075	REP	91-06-022	448-14-010	REP-P	91-03-124	460-31A-420	REP	91-04-012
448-12-080	REP-S	91-03-123	448-14-020	REP-P	91-03-124	460-31A-425	REP	91-04-012
448-12-080	REP	91-06-022	448-14-030	REP-P	91-03-124	460-31A-430	REP	91-04-012
448-12-090	REP-S	91-03-123	448-15-010	NEW-P	91-03-124	460-31A-435	REP	91-04-012
448-12-090	REP	91-06-022	448-15-020	NEW-P	91-03-124	460-31A-440	REP	91-04-012
448-12-100	REP-S	91-03-123	448-15-030	NEW-P	91-03-124	460-31A-445	REP	91-04-012
448-12-100	REP	91-06-022	448-15-040	NEW-P	91-03-124	460-31A-450	REP	91-04-012
448-12-210	REP-S	91-03-123	448-15-050	NEW-P	91-03-124	460-31A-455	REP	91-04-012
448-12-210	REP	91-06-022	448-15-060	NEW-P	91-03-124	460-31A-460	REP	91-04-012
448-12-220	REP-S	91-03-123	448-15-070	NEW-P	91-03-124	460-31A-465	REP	91-04-012
448-12-220	REP	91-06-022	448-15-080	NEW-P	91-03-124	460-31A-470	REP	91-04-012
448-12-230	REP-S	91-03-123	456-09-210	AMD-P	91-04-084	460-31A-475	REP	91-04-012
448-12-230	REP	91-06-022	456-09-210	AMD	91-07-038	460-31A-480	REP	91-04-012
448-12-240	REP-S	91-03-123	456-09-325	AMD-P	91-04-084	460-31A-485	REP	91-04-012
448-12-240	REP	91-06-022	456-09-325	AMD	91-07-038	460-31A-490	REP	91-04-012
448-12-250	REP-S	91-03-123	456-09-365	AMD-P	91-04-084	460-31A-495	REP	91-04-012
448-12-250	REP	91-06-022	456-09-365	AMD	91-07-038	460-31A-500	REP	91-04-012
448-12-260	REP-S	91-03-123	456-10-360	AMD-P	91-04-083	460-31A-505	REP	91-04-012
448-12-260	REP	91-06-022	456-10-360	AMD	91-07-039	460-31A-510	REP	91-04-012
448-12-270	REP-S	91-03-123	456-10-547	NEW-P	91-04-083	460-31A-515	REP	91-04-012
448-12-270	REP	91-06-022	456-10-547	NEW	91-07-039	460-31A-520	REP	91-04-012
448-12-280	REP-S	91-03-123	458-14-010	REP	91-07-040	460-31A-525	REP	91-04-012
448-12-280	REP	91-06-022	458-14-020	REP	91-07-040	460-31A-530	REP	91-04-012
448-12-290	REP-S	91-03-123	458-14-030	REP	91-07-040	460-31A-535	REP	91-04-012
448-12-290	REP	91-06-022	458-14-040	REP	91-07-040	460-31A-540	REP	91-04-012
448-12-300	REP-S	91-03-123	458-14-045	REP	91-07-040	460-31A-545	REP	91-04-012
448-12-300	REP	91-06-022	458-14-050	REP	91-07-040	460-31A-550	REP	91-04-012
448-12-320	REP-S	91-03-123	458-14-052	REP	91-07-040	460-31A-555	REP	91-04-012
448-12-320	REP	91-06-022	458-14-055	REP	91-07-040	460-31A-560	REP	91-04-012
448-12-330	REP-S	91-03-123	458-14-060	REP	91-07-040	460-31A-565	REP	91-04-012
448-12-330	REP	91-06-022	458-14-062	REP	91-07-040	460-31A-570	REP	91-04-012
448-12-340	REP-S	91-03-123	458-14-065	REP	91-07-040	460-31A-575	REP	91-04-012
448-12-340	REP	91-06-022	458-14-070	REP	91-07-040	460-31A-580	REP	91-04-012
448-13-010	NEW-S	91-03-123	458-14-075	REP	91-07-040	460-31A-585	REP	91-04-012
448-13-010	NEW	91-06-022	458-14-080	REP	91-07-040	460-31A-590	REP	91-04-012
448-13-020	NEW-S	91-03-123	458-14-085	REP	91-07-040	460-31A-595	REP	91-04-012
448-13-020	NEW	91-06-022	458-14-086	REP	91-07-040	460-31A-600	REP	91-04-012
448-13-030	NEW-S	91-03-123	458-14-090	REP	91-07-040	460-31A-605	REP	91-04-012
448-13-030	NEW	91-06-022	458-14-091	REP	91-07-040	460-31A-610	REP	91-04-012
448-13-040	NEW-S	91-03-123	458-14-092	REP	91-07-040	460-31A-615	REP	91-04-012
448-13-040	NEW	91-06-022	458-14-094	REP	91-07-040	460-31A-620	REP	91-04-012
448-13-050	NEW-S	91-03-123	458-14-098	REP	91-07-040	460-31A-625	REP	91-04-012
448-13-050	NEW	91-06-022	458-14-100	REP	91-07-040	460-31A-630	REP	91-04-012
448-13-060	NEW-S	91-03-123	458-14-110	REP	91-07-040	460-31A-635	REP	91-04-012
448-13-060	NEW	91-06-022	458-14-115	REP	91-07-040	460-31A-640	REP	91-04-012
448-13-070	NEW-S	91-03-123	458-14-120	REP	91-07-040	460-31A-645	REP	91-04-012
448-13-070	NEW	91-06-022	458-14-121	REP	91-07-040	460-31A-650	REP	91-04-012
448-13-080	NEW-S	91-03-123	458-14-122	REP	91-07-040	460-31A-655	REP	91-04-012
448-13-080	NEW	91-06-022	458-14-125	REP	91-07-040	460-31A-660	REP	91-04-012
448-13-090	NEW-S	91-03-123	458-14-126	REP	91-07-040	460-31A-665	REP	91-04-012
448-13-090	NEW	91-06-022	458-14-130	REP	91-07-040	460-31A-670	REP	91-04-012
448-13-100	NEW-S	91-03-123	458-14-135	REP	91-07-040	460-31A-675	REP	91-04-012
448-13-100	NEW	91-06-022	458-14-140	REP	91-07-040	460-31A-680	REP	91-04-012

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
460-31A-685	REP	91-04-012	463-28-060	AMD	91-03-090	478-276-040	AMD-P	91-04-058
460-31A-690	REP	91-04-012	463-28-080	AMD	91-03-090	478-276-060	AMD-P	91-04-058
460-31A-695	REP	91-04-012	463-38-041	AMD	91-03-090	478-276-080	AMD-P	91-04-058
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